



DIALOGUE AND DEBATE: SYMPOSIUM

# Rule in the New European Union

Floris de Witte 

LSE Law School, The London School of Economics and Political Science, London, UK  
Email: [f.e.de-witte@lse.ac.uk](mailto:f.e.de-witte@lse.ac.uk)

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## Abstract

This article suggests that the economically activist tendencies of the European Union are not just a temporary response to exogenous crises, but part of a long-term transformation of the EU into a governance structure that is increasingly equipped for forms of more direct rule over its territory, economy, and citizens, albeit still in an incomplete and contested manner. This transformation hinges on three interlocking processes that feed into each other and accelerate: (i) the rise of EU-level material, financial, and institutional infrastructure; (ii) the significant centralisation of EU power; and (iii) novel narrations about the 'point' of the EU that stabilise its authority. This transformation of the EU brings with it new challenges for its authority. Using the work by Charles Tilly, who focuses on the way in which trust networks are integrated in rule, this article distinguishes between the EU's ability to rule by way of coercion, by way of capital and by way of commitment. It is suggested that while the EU's ability to rule by way of coercion and capital have grown, it remains difficult to envisage how the EU may stably reproduce commitments structures that would allow it to transition into a stable and democratic structure of governance.

**Keywords:** European Union Law; EU governance; EU institutions; EU democracy

## 1. Introduction

The new activist EU is usually presented as a consequence of relatively recent exogenous pressures exerted on the integration project, which push it to be more resilient, more independent, and more strategic. There is, however, a longer story to be told, of the EU gradually strengthening and making more sophisticated its centre. This story is one that focuses on state-building and system closure, and comprises not just the more activist economic forms of governance, but also the articulation of values, the centralisation of institutional, economic, and regulatory power, a rise in the EU's infrastructural capacity, and the production of narrative strategies that legitimate Europe's sovereignty. Combined, these three processes have equipped the EU for new forms of rule, which is increasingly less mediated and controlled by domestic infrastructures and institutions while remaining dependent on them for implementation. This is a different form of governance compared to the one the EU has developed over the past six decades (Section 2).

The emergence of this 'new' European Union that is equipped for more direct rule has implications for how its political authority is sourced and re-produced. Using Charles Tilly's work on trust networks and their role in stabilising and legitimising governance, in which he distinguishes between 'coercion', 'capital', and 'commitment' as processes that stabilise institutional arrangements, this paper explores the forms of political authority which the governance techniques associated with the 'new' EU rely on. It will be argued that while the EU's reliance on coercive and financial instruments has grown, its institutional ability to produce or be receptive to democratic commitments has not. This should not come as a surprise: whenever the

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EU has, historically, relied on coercion and capital to shore up its authority, the return has seldomly been commitment. For the EU to be able to move from a compliance structure that depends on coercion and capital to one that is more solidly rooted in commitment and produces democratic forms of authority, the challenge is to integrate trust networks within the EU apparatus, which presupposes radical reforms to the EU's legal and political structures. The sheer radicalness – and thereby implausibility – of such reforms suggest that, in the medium term, the EU's direction of travel is towards a form of rule that is neither democratic nor stable (Section 3).

## 2. Re-structuring Europe

The EU's new activist governance is typically presented, including in this symposium, as a counterpoint to the decades-long trajectory in which the EU (and EU law) was understood to deliberately constrain such forms of government on the national, European, and international levels. Whether through its competition and state aid rules or market freedoms; in the form of securing monetary stability or a commitment to 'open' global trade; as a side-effect of joint-decision traps, or simply as a widely-shared political preference among the Member States and EU institutions; the active intervention of the Member States or the EU in the market society was significantly curtailed.<sup>1</sup>

As many papers in this symposium indicate, the inflection point in this narration takes the form of COVID-19, which generated unprecedented activist government intervention in the market.<sup>2</sup> The relative success of such intervention in insulating markets and workers from the initial economic shock of lockdowns, the relative ease of agreement towards EU-wide redistributive programs that would, but for COVID-19, have been considered utopian, and the other large-scale challenges that loomed large as COVID-19 faded away – ranging from Russia's invasion of Ukraine and the climate catastrophe to the trade wars and new security architecture for the EU – all converge to suggest, perhaps tentatively, the birth of a new paradigm wherein activist (economic) government, including resource-driven centralisation and industrial policy formation, is back at the centre of the political imagination. And as many have highlighted, such fundamental changes of policy direction of the EU (and any polity, for that matter) inevitably lead to changes to the institutional structure that supports it.<sup>3</sup> This paper works through the implications of this assumption that form follows content: that *what* the EU does has an effect on *how* the EU does it.

Merely focusing on the period since (roughly) 2020 risks, this paper suggests, missing something. The longer story to be told is one wherein the EU has been gradually strengthening its core for decades. In other contexts, this would be called state-building.<sup>4</sup> In EU studies, this has usually been defined not in terms of state-building – which comes with certain assumptions on the role of cultural identity and social solidarity – but on the basis of processes of system closure and centre formation.<sup>5</sup> In the traditional account, system closure (meaning the strengthening of the ability of a system to control entry and exit to a political system) triggers a process of internal institutional sophistication. System closure speaks to the ability of a political system to control entry and exit to that system; not (only) in territorial terms, but mainly in terms of governance capacity. A practical way of thinking

<sup>1</sup>M Dani, 'Activist Government Redux: Exceptional or Structural?' 2 (2023) European Law Open 1.

<sup>2</sup>A-M Porras-Gomez, 'The EU Recovery Instrument and the Constitutional Implications of its Expenditure' 19 (2023) EUConst 1.

<sup>3</sup>K McNamara, 'Transforming Europe? The EU's Industrial Policy and Geopolitical Turn' 31 (2023) Journal of European Public Policy 3; A Steinbach, 'The EU's Turn to "Strategic Autonomy": Leeway for Policy Action and Points of Conflict' 34 (2023) European Journal of International Law 976.

<sup>4</sup>For an example of scholars that *do* call our attention to the state-building literature: D Kelemen and K McNamara, 'State-Building and the European Union: Markets, War, and Europe's Uneven Political Development' 55 (2022) Comparative Political Studies 963.

<sup>5</sup>S Bartolini, *Restructuring Europe* (Oxford University Press 2005); M Ferrera, *The Boundaries of Welfare* (Oxford University Press 2006).

about this is that any new concern, crisis, or opportunity will lead to demands by citizens, business or governments that the centre (the EU, in our case) deals with it rather than alternative governance structures. This process tends to construe a strong centre that can establish and command binding authority while institutionalising and producing forms of loyalty from constituents.<sup>6</sup> Scholars such as Bartolini and Ferrera have indicated how this process can be traced – in an incipient and partial form – in the EU well before the crisis decades. From the mid 2000s, however, this process has sped up and is now supercharged due to the geopolitical, security, and trade pressures of Russia’s invasion and Trump’s re-election. To put it as simple as possible: the creation of a strong centre in the EU may have long been a mere consequence of a range of policy choices and unconnected democratisation efforts,<sup>7</sup> but it has now become an explicit objective of the EU and its Member States.

Tracing this process over the last two decades in the EU, we can distinguish three interlocking processes: (i) the gradual strengthening of the EU’s legal, financial, and material infrastructure; (ii) the centralisation of institutional power and resources; and (iii) the narrative turn towards emphasising the EU’s autonomy, interests, and values. It goes beyond this contribution to trace the pathologies of and the interaction within and between these processes. On a very general level, however, what emerges is an EU that for a while has been very active in building many of the preconditions for activist government that rules much more directly – that is, mediated practically but less and less substantively by its Member States. The intervention after COVID-19, or the more recent turn towards activist industrial policy, in a way, made use of the fact that much of the groundwork for this form of response had *already* been laid. As we will see, at the same time, the EU’s move towards direct rule is incomplete and contested. Most strikingly, it seems that the EU is a type of polity with limited capacity to internalise political contestation and social conflict. But before we move to describe the elements that are missing in this long view of the birth of a ‘new’ European Union, let us trace its component parts in more detail.

#### **A. The EU’s infrastructure**

The past decades have seen the creation, strengthening, and increasing sophistication of the EU’s infrastructure. This takes the form of its bordering practices, its capital markets regulation, the creation of a health union, and the many policy instruments that aim to de-risk and re-shore its industries. All these processes may seem unconnected, and are indeed often presented and defended as *ad hoc* strategies to navigate actual or perceived policy threats to the EU. However, taken together, these processes indicate a proclivity towards the establishment of infrastructural frameworks – material, regulatory, financial – that allow for much more efficient policy control than the EU’s traditional alternative, which is to rely on domestic infrastructural resources. Let me give three examples of this trend.

A first form of infrastructure that the EU has been developing focuses on securitising its external borders. This takes place both internally and externally. Internally, we can trace the increase in power and resources going to Frontex and a sophistication of the technological, material and practical support that it offers domestic law enforcement structures.<sup>8</sup> The staff numbers at Frontex have grown from 500 in 2017 to a projected 10,000 in 2027,<sup>9</sup> increasing its ability to respond to pressures at the EU’s external borders. The judicial deference in response to

<sup>6</sup>M Ferrera, H Kriesi and W Schelke, ‘Maintaining the EU’s Compound Polity During the Long Crisis Decade’ 31 (2023) *Journal of European Public Policy* 708.

<sup>7</sup>Kelemen and McNamara (n 4).

<sup>8</sup>S Leonard and C Kaunert, ‘The Securitisation of Migration in the European Union: Frontex and its Evolving Security Practices’, in V Bello and S Leonard (eds), *The Spiralling of the Securitisation of Migration in the European Union* (Routledge 2023).

<sup>9</sup><<https://www.europarl.europa.eu/news/nl/press-room/20190327IPR33413/eu-border-and-coast-guard-agency-10-000-operational-staff-by-2027>> accessed 6 November 2025.

the securitisation of the EU's borders is, on that view, not surprising: what matters above all else is strengthening the infrastructure in repelling (irregular) migration.<sup>10</sup> Externally, the border infrastructure takes shape in the form of bi-lateral agreements with states on the EU's periphery, in which EU resources are offered in return for coercive control over migrant movements, so that neither the migrants enter the EU's territory nor their legal subjectivity enables the jurisdiction of the EU.<sup>11</sup> The increasing talk of the creation of EU 'return hubs' in countries outside of the EU and with questionable human rights records (or, more accurately, detention centres that escape the attention and jurisdiction of the EU and its public) are another example of the way in which the EU's physical border and security infrastructure is rapidly developing. Despite the temporary (and increasing) suspensions of Schengen by Member States (and the deferential assessment of the Commission in this regard), it is difficult to miss the infrastructural construction of external borders that aim to deflect non-EU migrants.

A second example is the creation of the EU's capital markets infrastructure. In response to the Eurozone crisis, a new financial ecosystem has emerged on the European level. The EU's capital markets union and banking union, the tremendous increase in power of the ECB and ESMA, the near-perpetual re-working of the rulebook all offer indications of how the EU – through harder and softer law – stimulates the emergence of a specific financial infrastructure on the European level that is more stable and more resilient than its decentralised predecessor.<sup>12</sup> Unmistakably, however, the 'new' EU capital market is also one that is more *European*: it is an ecosystem of increasing harmonisation, centralisation, and also politicisation, wherein the diverse and distinct policy demands placed on the capital markets – whether resilience, investor protection, or supervision – risk being subsumed into a centralising path-dependency that centres on the desire to create financial and fiscal infrastructures to 'unlock' Europe's capital markets.<sup>13</sup> The ability for the EU's actors – Member States, start-ups, venture capitalists – to more easily extract and inject money from the EU's markets, on this view, presupposes the creation of a whole new infrastructure. Many of the EU's more resource-driven policies, such as Next Gen EU, the Green Deal, and ReArmEU of course also structurally depend on (as well as legitimate the development of) this infrastructure.

A third example is the aspect of the COVID-response that has so far received less attention: the creation of an EU health union, which comprises of an enhanced mandate for the ECDC and EMA, as well as the establishment of HERA – an agency responsible for ensuring that the EU is prepared for future health emergencies. But the EU health union is also premised on much more far-reaching centralisation, such as in joint procurement of medical resources, targeted investment in health systems, and the creation of a European Health Data Space, wherein data sharing in research, development, and patient information is made possible. The large-scale data collection and sharing that is central to this effort is, of course, not without its problems, nor is the increasing centralisation of basic bio-political determinants, such as the acceptable level of risk, the idealisation of particular forms of health, and the subsuming of medical resources within such centralised institutional forms.<sup>14</sup> Control over the (resources required for) individual and public health, then, is another way in which the EU's centralised infrastructure has become stronger.

Other examples are the infrastructure required for the climate transition (including CBAM, the Chips Act, the Clean Industrial Act and the Critical Raw Materials Act), the legislation that aims to

<sup>10</sup>A Wallerman Ghavanini, 'The CJEU's Give-and-Give Relationship with Executive Actors in Times of Crisis' 2 (2023) European Law Open 284.

<sup>11</sup>R Lehrer, 'The EU-Turkey 'Deal': Legal Challenges and Pitfalls' 57 (2019) International Migration 176.

<sup>12</sup>N Moloney, 'EU Financial Market Regulation a Decade on from the Financial-Crisis-Era Reforms: Crisis, Uncertainty, and Capacity' 42 (2023) Yearbook of European Law 169.

<sup>13</sup>*Ibid.*, 182.

<sup>14</sup>E Brooks, A de Ruijter, S Greer and S Rozenblum, 'EU Health Policy in the Aftermath of COVID-19: Neofunctionalism and Crisis-Driven Integration' 30 (2023) Journal of European Public Policy 721.

re-shore industries and re-construct industrial capacity,<sup>15</sup> or the Nature Restoration Act's drive to physically re-construct parts of the EU's landscape to protect its biodiversity. The establishment of a European Defence Fund to the tune of 150 billion Euro, including joint procurement and joint borrowing, is yet another example of much more direct EU rule and infrastructure creation,<sup>16</sup> as is the 20 billion Euro project to build five AI 'gigafactories' across Europe.<sup>17</sup>

The message is clear: the EU has for decades slowly built up infrastructural capacity throughout its policy domains. It has created a structure that allows for much more significant centralised control and direct rule over its territory, its people, and its economy.

### ***B. Centralising power and resources***

A second interlocking process relates to the increased centralisation of the EU's institutional and financial capacity. This centralisation has already been noted in the section above – wherein the different EU crises have led to the establishment of more EU-level institutions in stabilising the financial markets, preparing for global health threats, or delivering on the EU's green transition. The institutional component of this development, moreover, had already been noted more generally, wherein executive actors in the EU are amassing power, often exercised with limited control from judicial and representative institutions, and wherein future institutional and financial reform proposals invariable focus on further capacity-construction at the central level.

The institutional part of this story is relatively well-rehearsed. Partially due to the rise in domestic contestation of the integration project and social conflict around the policies associated to the European Union,<sup>18</sup> intergovernmental institutions have re-claimed power in the determination of the priorities, direction and scope of integration.<sup>19</sup> The European Council, for example, has been argued to increasingly encroach on the Commission's legislative monopoly,<sup>20</sup> to perpetuate crisis-management as a strategy to legitimate its emergency politics,<sup>21</sup> and to circumvent legislative frameworks by use of international law to retain as much decision-making power as possible.<sup>22</sup> Other executive institutions, such as the ECB, have, likewise, seen their power significantly strengthened.<sup>23</sup> What is striking about this concentration of institutional power at the European level is not just that it is presented as necessary, even inevitable, in order to secure the EU's policy ambitions,<sup>24</sup> but also that judicial actors or representative institutions have been unable or unwilling to impose control and accountability within this framework. There is, in short, a clear process of policy spill-over with centripetal institutional tendencies.<sup>25</sup>

There may appear to be a strange ambiguity in the centralisation of power in intergovernmental institutions on the European level. For some, this is an explanation of the EU's ability to stabilise its rule despite its many crises, suggesting that the distributive and

<sup>15</sup>S Bauerle Danzman and S Meunier, 'The EU's Geoeconomic Turn: From Policy Laggard to Institutional Innovator' 62 (2024) *Journal of Common Market Studies* 1097.

<sup>16</sup>Joint White Paper for European Defence Readiness 2030 (JOIN (2025) 120 final, 19.03.2025).

<sup>17</sup><[https://commission.europa.eu/topics/eu-competitiveness/ai-continent\\_en](https://commission.europa.eu/topics/eu-competitiveness/ai-continent_en)> accessed 6 November 2025.

<sup>18</sup>F De Witte, 'Interdependence and Contestation in European Integration' 3 (2018) *European Papers* 475.

<sup>19</sup>C Bickerton, D Hodson and U Puetter, 'The New Intergovernmentalism: European Integration in the Post-Maastricht Era' 53 (2014) *Journal of Common Market Studies* 703.

<sup>20</sup>P Bocquillon and M Dobbels, 'An Elephant on the 13<sup>th</sup> Floor of the Berlaymont? European Council and Commission Relations in Legislative Agenda Setting' 21 (2014) *Journal of European Public Policy* 20.

<sup>21</sup>C Kreuder-Sonnen and J White, 'Europe and the Transnational Politics of Emergency' 29 (2021) *Journal of European Public Policy* 953.

<sup>22</sup>T Martinelli, 'Intergovernmental Action Above, Below and Alongside the European Union' (EUI PhD 2022).

<sup>23</sup>M Dawson and A Maricut-Akbik, 'Accountability in the EU's Para-Regulatory State: The Case of the Economic and Monetary Union' 17 (2021) *Regulation & Governance* 142.

<sup>24</sup>Bauerle Danzman and Meunier (n 15).

<sup>25</sup>*Ibid.*

politically salient elements of the EU's decisions had been signed off by the Member States.<sup>26</sup> Another way of reading these processes, however, would be to highlight how the interdependencies among Member States produced by the processes of system closure and centre formation are exactly the reason *why* such decisions need now be taken at the European level. For our story, in a way, what matters less is the relative intergovernmental or supranational character of decision-making in the EU. What matters more is that all salient decisions are now taken on the European level: this is an indication of the solidification of the EU as centre formation.<sup>27</sup>

The centralisation of resources, meanwhile, is most clearly visible, of course, in the NGEU programme. This programme, to the tune of €750 billion, is centralised both in so far that the Commission takes this money directly from the primary markets (with liability falling on the Member States) and that the conditions for disbursement are set, negotiated and controlled by the Commission, albeit in close cooperation with the Member States. This structure has the consequence of allowing the Commission to mainstream some of its policy ambitions – towards greening and digitalising the economy – within the NGEU projects.<sup>28</sup> While Member States retained significant power in the disbursement and control of the funding (which was heavily criticised by the Court of Auditors<sup>29</sup>), NGEU is nevertheless proof that the EU *can*, institutionally and legally, both accrue and discharge budgetary and fiscal capacities.<sup>30</sup> The legitimacy for the SAFE loan facility of 150 billion is clearly and explicitly based on the success of NGEU in overcoming domestic political intermediaries and directly sourcing and allocating resources at the European level. It would be surprising if the rollout of SAFE would not entail more significant supervisory and accountability powers for the Commission. Other financial instruments that allow for the building of resource capacity and centralisation, such as the rule of law conditionality clause inserted in the budget, the widening mandate of the EIB, or policy-specific tools such as CBAM, JTM, RePower EU, the Clean Industrial Act, or the European Chips Act, likewise suggest the creation of unprecedented centralisation of financial capacity at the European level.<sup>31</sup> The creation of a digital Euro, likewise, allows for much more direct and centralised currency control relative to the traditional currency structure, much to the discomfort of domestic central banks.<sup>32</sup>

This process of centralising institutional capacity and resources does not appear to be a temporary feature of the new European Union, but rather a structural one. As Kelemen and McNamara have noted, the longer-term trajectory of the EU can be characterised as 'a striking centralisation of authority'.<sup>33</sup> Steinbach likewise highlights that, for all the varying institutional arrangements that are possible, the gradual centralisation is difficult to miss.<sup>34</sup> In a way, the deepening of the centre-periphery rifts in the EU in the way in which the EU's new institutional and fiscal centralisation play out is yet another symptom of this process of centre construction:

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<sup>26</sup>Ferrera, Kriesi and Schelke (n 6).

<sup>27</sup>Steinbach (n 3).

<sup>28</sup>M Panasci, 'Unravelling Next Generation EU as a Transformative Moment: From Market Integration to Redistribution' 61 (2024) CMLR 13; P-A Van Malleghem, 'Next Generation EU: Hamiltonian Moment or European New Deal?' 42 (2023) Yearbook of European Law 3.

<sup>29</sup><<https://www.euractiv.com/section/economy-jobs/news/dont-model-next-eu-budget-on-pandemic-recovery-fund-auditors-warn/>> accessed 6 November 2025.

<sup>30</sup>Steinbach (n 3).

<sup>31</sup>Panasci (n 28).

<sup>32</sup>C Westermeier, 'The Digital Euro: A Materialization of (In)security' 31 (2024) Review of International Political Economy 1569; S Grunewald, 'Digital Euro and Accountability of the European Central Bank' 31 (2024) Maastricht Journal of European and Comparative Law 438.

<sup>33</sup>Kelemen and McNamara (n 4).

<sup>34</sup>Steinbach (n 3). See also P Dermine, 'The Planning Method: An Inquiry into the Constitutional Ramifications of a New EU Governance Technique' 61 (2024) Common Market Law Review 959.

a consequence of the fact that the centre's interests and capacity are growing more significant and more difficult to dislodge.<sup>35</sup>

The same process of centralising institutional power and resources is clearly visible in discussions around future EU reform. Most discussions on the EU's institutional innovations or strategic priorities, for example, focus on making intergovernmental decision-making easier, such as by removing vetoes in CFSP<sup>36</sup> and on the necessity to directly fund and support the EU's economic ambitions.<sup>37</sup> Mario Draghi's report on the future of EU competitiveness, for example, calls for centralisation of both institutional and fiscal capacity in almost every domain it covers, from space policy to AI policy, and from defence to industrial policy. The idea here is simple: only with institutional centralisation (but not necessarily supranationalisation) and strengthened fiscal capacity will the EU be able to meet its strategic priorities directly.<sup>38</sup> Those strategic priorities, in turn, are both predicated on and legitimate the growth of the EU's infrastructural capacity.

### C. The narrative turn

The two processes discussed above – in relation to the EU's infrastructure and its centralising tendencies – allow the EU much more direct rule in governing its people, territory, money, and market. These processes are complemented by a third interlocking process of narrative construction. With this I mean that the recent years have seen a turn towards the language of values, power, and interests in the creation of EU (legal) authority. What underpins this, arguably, is again the desire to stabilise and further develop the specific orientation of the 'new' European Union. It speaks to the need of, in Ferrara's words, 'ideological communalisation', in which widely-shared agreement on the 'point' of a polity is a precondition for its stability.<sup>39</sup> While, for Ferrara, the ideas of the welfare state and European unification served as instruments of ideological communalisation in the first five decades of European integration, these no longer have the necessary purchase to stabilise the EU. And so we can find alternative paradigms emerging that could fulfil this function. In the simplest of terms, this suggests that state-building must be accompanied by an account of the 'point' of that state. The question what the 'point' of the 'new' EU is, has clearly come to the forefront, more and more explicitly, in the past decade in the EU. This takes place, alternatively, by using the grammar of values, power, or interests. This connects the EU to the 'emotional politics' that prevail at the national level and allow it to access sources of legitimacy that are located in more explicitly spatial and historical frames of reference.<sup>40</sup>

A first variation focuses on the EU as protecting or promoting distinct values. Article 2 TEU lays down that 'the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity, and equality between women and men prevail'.<sup>41</sup> Only recently, however, have these values been 'discovered' by the Commission

<sup>35</sup>L Bruszt and V Vukov, 'Core-Periphery Divisions in the EU? East-West and North-South Tensions Compared' 31 (2024) Journal of European Public Policy 852.

<sup>36</sup>See, eg. the Franco-German Report 'Sailing on High Seas: Reforming and Enlarging the EU for the 21<sup>st</sup> century'. Available at <[https://www.diplomatie.gouv.fr/IMG/pdf/20230919\\_group\\_of\\_twelve\\_report\\_updated14.12.2023\\_cle88fb88.pdf](https://www.diplomatie.gouv.fr/IMG/pdf/20230919_group_of_twelve_report_updated14.12.2023_cle88fb88.pdf)> accessed 6 November 2025.

<sup>37</sup>Draghi Report: The Future of European Competitiveness (2024) available at <[https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead\\_en](https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en)> accessed 6 November 2025. Also Steinbach (n 3).

<sup>38</sup>Draghi Report: The Future of European Competitiveness (2024) available at <[https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead\\_en](https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en)> accessed 6 November 2025.

<sup>39</sup>M Ferrara, *Politics and Social Visions: Ideology, Conflict, and Solidarity in the EU* (Oxford University Press 2024) 16, 54.

<sup>40</sup>C Gellwitzki and A-M Houde, 'From Realpolitik to Gefuhlspolitik: Strategically Narrating the European Union at the National Level' 31 (2024) Journal of European Public Policy 418.

<sup>41</sup>Article 2 TEU.

and the CJEU as legally-enforceable commitments that ground the whole integration project.<sup>42</sup> Whether directly in the form of infringement actions against domestic anti-LGBTQ+ legislation, or indirectly by the creation of a legal obligations of non-regression and rule of law protection, the Commission and CJEU have been active (and have generally been applauded) in bootstrapping the legal power of the EU's values and making them 'stick' against recalcitrant Member States. Ukraine's accession to the EU, likewise, has been legitimated at least partially as recognition for Ukraine's desire to commit to (and defend) those same values. The 'point' of the EU – which simultaneously presupposes and is legitimated by the growth in infrastructural capacity and centralisation – is the protection and promotion of a distinct set of European values. A variation on the focus on values, but serving the same purpose of both underpinning and legitimating the 'new' EU, is the invention of the European 'way of life' as both a rhetorical device and as a legal concept. This 'way of life', likewise, speaks to this idea that something of value needs to be protected; that the EU is required to secure certain preconditions for a particularly European vision of life.<sup>43</sup>

Just as the narration of the EU being based around shared values or a European 'way of life', there is also an increase in narrating the EU's 'point' as being about strategically exercising power and defending its interests globally. Spearheaded by Emmanuel Macron, the notion of the 'strategic autonomy' or the 'European sovereignty' has become commonplace in not just the political visions of the EU,<sup>44</sup> but in its daily legislative activity.<sup>45</sup> As Van Middelaar has highlighted, any notion of strategic autonomy or geo-political power presupposes the determination of what is that needs to be secured, protected, or procured.<sup>46</sup> Narrating the 'point' of the EU as being about the polity maintenance of the EU *à la* Merkel,<sup>47</sup> about European 'sovereignty' *à la* Macron,<sup>48</sup> or the EU's ability to provide basic public goods for its people *à la* Draghi,<sup>49</sup> then, does not only serve the purpose of legitimating its substantive pursuit, but also of the institutional structure that does the pursuing. The EU, in other words, is re-narrating not just its purpose but also the source of its authority. In simple terms, an EU whose 'point' is to defend its interests strategically and globally requires much more infrastructural capacity and centralisation. Simultaneously, an EU that is building its infrastructural capacity and centralising power inevitably needs to confront the question of which ambitions drive the exercise of this capacity and power.

Whether in the language of values, a European 'way of life', or in the language of geo-political strategic interests, the re-narration of the 'point' of the EU serves to create new forms of legitimacy for the EU's demands. It creates centripetal dynamics, wherein the interests or values of the 'whole' subsume and are presented as more important than the interests or values of the constitutive parts of the EU. Compliance with the demands of the EU, then, is presented as an article of faith: necessary for the collective greater good – whether the protection of liberal democracy, the EU's way of life or the EU's geo-strategic power or sovereignty.

<sup>42</sup>J Bast and A Von Bogdandy, 'The Constitutional Core of the Union: On the CJEU's New, Principled Constitutionalism' 61 (2024) *Common Market Law Review* 1471.

<sup>43</sup>Editorial comments: 'The Passion for Security in European Societies' 61 (2024) *Common Market Law Review* 283.

<sup>44</sup>Letta Report: More than a Market (2024), available at <<https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>>; Draghi Report: The Future of European Competitiveness (2024) available at <[https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead\\_en](https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en)> at 1, accessed 6 November 2025.

<sup>45</sup>A Juncos and S Vanhoonacker, 'The Ideational Power of Strategic Autonomy in EU Security and External Economic Policies' 62 (2024) *Journal of Common Market Studies* 955.

<sup>46</sup>L Van Middelaar, 'Europe's Geopolitical Awakening' (2023) *Groupe d'études géopolitiques*.

<sup>47</sup>M Ferrera, J Miro and S Ronchi, 'Walking the Road Together? EU Polity Maintenance During the COVID-19 Crisis' 44 (2021) *West European Politics* 1329.

<sup>48</sup>Juncos and Vanhoonacker (n 45).

<sup>49</sup>Draghi Report: The Future of European Competitiveness (2024) available at <[https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead\\_en](https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en)> at 1, accessed 6 November 2025.

One recent and revealing way in which this re-narration of the EU is given form is in the discussion of the design of the new Euro banknotes. Out of a range of possible themes, the two final candidates – European birds and rivers on the one hand, combined with a depiction of the European institutions; and European culture on the other, including figures such as Maria Calles, Ludwig van Beethoven and Leonardo Da Vinci – offer a much more immediate narration of Europe than the conceptual (as opposed to actual) bridges and windows that were portrayed on the first generation of banknotes. It is difficult to escape the sense that the banknotes are being employed to re-narrate the ‘point’ of the EU.<sup>50</sup> In the simplest of terms, the EU of 2002 is not the EU of 2026: this is not just visible in its infrastructure, its centralisation of power, its policy aims and its politicisation; but also reflected in its banknotes.

What this section has tried to do is to highlight that all the developments in EU law and European integration that may look disparate and *ad hoc* are nevertheless related and tell a wider story of the evolution of the EU that, however simplified and stylised, deserves attention. What emerges is a ‘new’ EU that is not just economically more activist, but a EU that is focusing on reconstructing itself. The EU now governs Europe’s borders, money, people, and political actors more directly than in the past, even if this direct form of rule remains incomplete and contested.

The three processes described above, however, compound each other – each legitimating the other – so that these are not loosely related by inextricably linked together, suggesting not just a temporary but a structural re-imagination of the way in which European integration unfolds. Centralized infrastructure, for example, presupposes centralised governance structures; while stronger narrations of the EU legitimate the development of more infrastructure. This process of amplification of infrastructure, centralisation, and re-narration of the EU shows no sign of slowing down: if anything, its natural progression would be to accelerate further. In fact, we have reached a point where the EU fits the traditional historical account of state-building remarkably well, even if the most expressive tendencies of that process – the fixation on identity-construction and cultural standardisation – are largely absent on the EU level. Direct rule, however, is a radically different form of governance compared to the use of domestic intermediaries that the EU is used to. If the EU is indeed slowly but steadily increasing its ability to rule directly, this begs, of course, the question of how this ‘new’ EU can (be imagined to) legitimate its increased power.

### 3. Techniques of European integration

Any process of centre-construction (or state-building) may seem, on its surface, preoccupied with the creation and stabilisation of institutions and infrastructure. But what is perhaps more interesting is what this re-structuring of a polity does to the authority upon which its rule is based. System closure and centre construction demand, in a way, the re-imagining of political authority. In this section, I trace how the structuring of the ‘new’ EU re-imagines the interaction between different forms of authority. For this, I use the insights developed by Charles Tilly, who distinguishes between ‘capital’, ‘coercion’, and ‘commitment’ as techniques of government, and suggests that the interplay between these forms is indicative of the forms of (democratic or authoritarian) authority that are possible in any particular polity.

What makes Tilly’s work so interesting for a study of the ‘new’ EU is that he is preoccupied with the way in which autonomous ‘trust networks’ relate to state power. Trust networks, for Tilly, are durable, informally institutionalised relationships, in which actors depend on each other for certain political, economic, or social long-term objectives. These trust networks operate outside formal state authority. Typical examples may be the church, trade unions, cultural minorities, transnational business networks, ideological movements, extended family structures, digital communities, or local interest groups. Tilly bridges the internal life of such trust networks – what

<sup>50</sup>‘ECB selects motifs for future euro banknotes’ (31/01/2025), available at <<https://www.ecb.europa.eu/press/pr/date/2025/html/ecb.pr250131~611055a567.en.html>> accessed 6 November 2025.

they care about, how they operate, how they live – with the way in which such groups seek to stabilise their position in society by forging alliances with the institutions of state authority.<sup>51</sup> That state authority, in turn, is also interested in forging such alliances, as it grants them the political authority and compliance (or the capacity held by a certain trust network) necessary for stable and legitimate rule.<sup>52</sup> But the interaction between state rule and trust networks is invariably fractured, in so far as the former must hold together distinct and contradictory demands across trust networks, and the latter tends to be discouraged by and push against such compromises.

This is where Tilly's triptych of 'coercion', 'capital', and 'commitment' comes in. He argues that these three notions form distinct techniques of holding trust networks within the orbit (and making them an expression) of state rule. Coercion relates to a state's ability to force compliance through the ability to 'cause loss or damage to persons, possessions, or sustaining social relations of social actors'.<sup>53</sup> Capital relates to resources and 'enforceable claims on such resources',<sup>54</sup> and the ability of trust networks or state regimes to 'buy' compliance through their power to control the flow of resources. Commitment means 'relations among social sites (persons, groups, structures, or positions) that promote their taking account of each other'.<sup>55</sup> Another way of thinking about this is as a form of organic or mechanical solidarity: something about the connection between members or groups in society means that compliance is voluntary, that it 'substitutes partially for coercion and capital'.<sup>56</sup>

How these three techniques of state power relate to each other, Tilly's work suggests, tells us something important about the *nature* of political authority within that system. In simple terms, democratic regimes rely primarily (although not exclusively) on commitment to secure their rule, whereas authoritarian regimes rely predominantly on coercion and capital. Tilly, however, also tells us something about the dynamic evolution of rule: a breakdown of commitment, for example, where a certain interest group (say, farmers or trade unions) lose their belief that the polity is able to be sensitive to their demands, will likely lead to an increase in capital or coercion in order to stabilise the state's rule in respect of that constituency. Conversely, particular forms of integration of trust networks allow a polity to 'upgrade' their reliance on coercion and capital towards more stable forms of commitment. This is democracy as we (and Tilly) have come to know it, expressing ideas of representation, equality, and accountability.<sup>57</sup>

Tilly's work focuses on the interaction between predominantly local and small-scale trust networks and the nation state – an interaction which in itself is already conditioned by cultural, ethical and political presuppositions that facilitate the creation of stable forms of commitment. The reason why his work is nevertheless useful in thinking about how EU law relates to its many constituents – from Member States to trade unions and from small NGOs to large multinational business interests – is that the EU is tentatively moving towards more direct rule, which may still be practically but not always substantively mediated by domestic institutional structures. This exposes the EU more explicitly to the conceptual choices and trade-offs that underpin Tilly's model.

#### A. Coercion

The coercive capacity of the EU has traditionally resided in its legal structure. By embedding the demands of EU law within the domestic constitutional structure, EU law borrows the legal authority and coercive capacity of the domestic judicial system. Member States can be coerced to

<sup>51</sup>C Tilly, *Trust and Rule* (Cambridge University Press 2005) 30.

<sup>52</sup>C Tilly, *Democracy* (Cambridge University Press 2007) 95.

<sup>53</sup>Tilly (n 52) 30.

<sup>54</sup>*Ibid.*, 30.

<sup>55</sup>*Ibid.*, 31.

<sup>56</sup>*Ibid.*, 31.

<sup>57</sup>Tilly (n 53) 94–6.

comply with their obligations stemming from EU membership, then, through their domestic constitutional structure. Private actors and trust networks, meanwhile, can be coerced to comply through the way in which the state's coercive administrative and domestic criminal justice apparatus ultimately underpins EU law's authority. Importantly, however, trust networks can also employ the legal system to resist, utilise, enforce, or question this coercive structure, for example by subverting conflicting domestic demands through strategic litigation at the EU level.<sup>58</sup>

The past years has seen a rise in the coercive capacity of the EU. Two obvious examples relate to its austerity drive and the bordering practices. As is well-documented, the Eurozone-crisis led to the rise in instruments – legal, regulatory, and political – that force compliance of Member States whose finances are not considered 'sound'. Despite domestic (and transnational) democratic resistance, these institutional practices – through the European Semester, the increase in power of the ECB, the politicking in late-night European Council meetings, and the constitutionalisation of austerity by the Court of Justice in *Pringle* – have highlighted that the EU's coercive potential is more dynamic than mere reliance on law and domestic judicial and enforcement structures.<sup>59</sup> The second example of an alternative coercive structure of the EU is visible at its external borders, where Frontex has become increasingly entangled in co-managing the borderlands and forcibly repelling migrants from accessing the EU's territory. The EU's migration management practices employ both legal and extra-legal coercive mechanisms to drive policy compliance – such as by criminalising aid for migrants entering the EU.<sup>60</sup> More generally, it has been highlighted that the EU will need to re-invent new coercive practices for its ambitions in external action and industrial policy – in particular in relation to the global supply chains – to be met.<sup>61</sup> The EU's digital regulation framework, likewise, introduces significant coercive capacity in demanding that private actors alter their algorithms and moderate the content. As many authors have highlighted in domains such as border securitisation and monetary policy, the EU increasingly operates through a range of law-like demands, constraints and incentives, which, even if they do not constitute 'hard law', serve to coerce Member States to commit to the EU's policy demands.<sup>62</sup>

### B. Capital

The allocation and distribution of resources as an important part of the EU's compliance structure may seem like a recent development. The potential constitutional consequences of a project such as NGEU suggest that securing compliance through making funding conditional upon policy-internalisation is part of the 'new' EU. While the specific mainstreaming of the EU's policy ambitions through NGEU capital disbursement, the balance of power between the EU and its Member States, as well as the source of the resources, indeed make NGEU remarkable, recourse to 'capital' to secure compliance has long been part of the EU's rulebook.

Reading a list of the constituencies that derive money directly from the EU's budget indicates just how reliant the EU is on capital to source its authority. Almost every trust network is included – ranging from farmers (common agricultural policy) to students (Erasmus+), and from fishing communities (EMFAF) to the cultural and creative sectors (Creative Europe) and SME's (EIB loans). But the use of capital by the EU does not primarily serve to simply buy off these trust networks. Instead, access to EU capital comes with conditions that serve to secure compliance with EU policy demands and ambitions. The CAP rules for 2023–2027, for example, demand

<sup>58</sup>See the special issue of European Law Open on strategic litigation in the EU.

<sup>59</sup>M Dani, E Chiti, J Mendes, A Menendez, H Schepel and M Wilkinson, 'It's the Political Economy...! A Moment of Truth for the Eurozone and the EU' 19 (2021) European Journal of International Law 309.

<sup>60</sup>See case C-460/23 *Kinsa* ECLI:EU:C:2025:392.

<sup>61</sup>Kelemen and McNamara (n 4).

<sup>62</sup>See, eg, V Moreno-Lax, 'Meta-Borders and the Rule of Law: From Externalisation to 'Responsibilisation' in Systems of Contactless Control' 71 (2024) NILR 21; P Becker, 'Conditionality as an Instrument of European Governance – Cases, Characteristics and Types' 63 (2025) Journal of Common Market Studies 402.

compliance with rules on soil health, sustainable food systems, the use of pesticides and animal welfare in return for access to the funds.<sup>63</sup> Access to NGEU funds, likewise, is predicated upon alignment with the objectives of greening and digitalising the economy. There is a general political willingness and ample legal space to link resources allocation to the substantive objectives of the EU, from energy policy to cohesion policy, and from green ‘tilting’ of the ECB to infrastructural policy.<sup>64</sup> The fact that it is increasingly difficult to disentangle the EU’s coercive capacity from its use of capital (in so far as capital is used *to coerce*) is deeply indicative of the EU’s new form of direct rule.

The rise of conditionality clauses in EU law – most famously in its budget, but also as part of the cohesion and structural funds<sup>65</sup> – is another example of a new form of financial capacity through which trust networks or Member States can be forced to comply with EU law. The increased use of infringement actions and heavy financial penalties imposed by the CJEU is, again, an additional capital-based instrument to force compliance.

The re-birth of the EU’s industrial policy is also testament to the EU’s dependence on capital to integrate actors within its state apparatus. Whether through defensive instruments, which attempt to insulate the EU from the vicissitudes of the global economy; or through offensive instruments, through which the EU attempts to actively shape global supply chains, the EU has been constructing an arsenal of economic tools that aim explicitly to protect particular constituencies.<sup>66</sup> Despite the ambiguous legality of many of these projects,<sup>67</sup> there has been little resistance against the new capital-based tools of the EU. More than that, as McNamara has highlighted, the global economic turn towards re-shoring and away from open trade has increasingly led European firms to *demand* EU’s financial and regulatory support.<sup>68</sup> The EU’s defence spending and Clean Industrial Act, with earmarked expenditure for particular industries and particular constituencies, is another example of this same logic of mainstreaming policy ambitions within capital-based structures.

### C. Commitment

In Tilly’s account, commitment is central to creating *democratic* authority as it speaks to the extent to which trust networks are voluntarily integrated within the state apparatus.<sup>69</sup> Commitment, typically, ‘takes the form of shared religion or ethnicity, trading ties, work-generated solidarities, or communities of taste’.<sup>70</sup> In the traditional account of state-building at the national level, this form of commitment is forged in two ways. First, by strengthening the ability to govern *across* trust networks. Cultural standardisation and identity-formation processes, for example, stabilise state rule not because trust networks have their particular interests protected, but because they are committed to the shared project. Second, creating commitment takes place by directly integrating trust networks (or their interests) within the institutional structures of the state – this can take place by inclusion in the decision-making process, through legal recognition, or by deferring state tasks or powers to trust networks. Once a trust network is integrated within the state apparatus, the thinking goes, this forges commitment even when trust networks don’t ‘win’. What makes a

<sup>63</sup>Regulation 2021/2116 on the financing, management and monitoring of the common agricultural policy, OJ L 435, (6.12.2021).

<sup>64</sup>C Neumeier, ‘Political Own Resources: Towards a Legal Framework’ 60 (2023) Common Market Law Review 319; S Grund and A Steinbach, ‘Debt-Financing the EU’ 61 (2024) Common Market Law Review 993.

<sup>65</sup>A Torres Perez, ‘The Constitutional Impact of Rule-of-Law Spending Conditionality’ 23 (2024) International Journal of Constitutional Law 859; P Becker, ‘Conditionality as an Instrument of European Governance – Cases, Characteristics and Types’ 63 (2025) Journal of Common Market Studies 402.

<sup>66</sup>McNamara (n 3) and Bauerle Danzman and Meunier (n 15).

<sup>67</sup>Editorial comments: ‘The EU’s Integrated Policy Approach Towards Competitiveness: The Interplay Between State Aid Control and Industrial Policy’ 61 (2024) Common Market Law Review 2.

<sup>68</sup>McNamara (n 3).

<sup>69</sup>Tilly (n 52) 35ff.

<sup>70</sup>*Ibid.*, 31.

system *democratic* rather than authoritarian is how the commitment of trust networks to the state's rule is given shape institutionally, so that acquiescence to that rule is structurally reproduced, rather than contingent on coercive sanctions or the economic cost of exit.<sup>71</sup> This brings into view the participatory, deliberative, and representative features of modern democracies.<sup>72</sup>

It speaks volumes that it is so much more difficult to think about forging commitment in the EU compared to its recourse to coercion or capital. Of the two commitment-generating processes discussed above, the first (based on cultural standardisation and identity-formation processes) is largely unavailable or unattractive in the EU. That leaves the second: creating commitment by internalising trust networks within the state apparatus and creating an institutional structure that can stably reproduce commitment. The ability of the EU to integrate trust networks, however, is limited by the fact that the vast majority of trust networks are included in the EU's rule through domestic intermediaries. The privileged role for the Member States in the EU means that many domestic and local trust networks are integrated within political rule on the domestic level. The ability of the Member States to control the EU's decision-making processes, and the ability of domestic trust networks to be represented and have their interests fed in, in turn, allows for the cultivation of certain forms of commitment.

The few exceptions to this can be found in sectoral legislation or certain specific policy domains, where we can trace *direct* integration within the EU apparatus of certain trust networks. Examples are consultation prerogatives (such as those of social partners),<sup>73</sup> in self-certification and self-regulation by industry,<sup>74</sup> or the role of NGOs in delivering the EU's development policy.<sup>75</sup> A more general – if underused – instrument to directly integrate trust networks in the EU is the European Citizens Initiative. In the past thirteen years, a number of such initiatives cleared the hurdles imposed on it: at least one million signatures, across a large number of Member States, on a proposal that falls within the scope of competences of the Commission's legislative initiative. What is striking is that all successful ECIs have been backed by a transnational single interest coalition (such as the church, trade unions, NGOs, ecological activists). This is unsurprising, as the conditions for a successful ECI presuppose a significant infrastructure to reach citizens, coordinate across groups, and to align interests at the transnational level.<sup>76</sup> What the ECI has done, in Tilly's terms, is offer trust networks a significant incentive to get organised across borders and directly integrate themselves within the EU's decision-making structure. Of course, the impact of an ECI still depends on the Commission's assessment and decision to translate it into a legislative initiative (and the Council and EP's consent) – but the logic is clear: processes whereby transnational trust networks are incentivised to integrate directly within the EU's rule are a precondition for, on the one hand, the formation of any sense of commitment towards the EU, and, on the other hand, making the EU's rule more democratic and less likely to rule in ways that approximate Tilly's idea of authoritarian rule: rule *for* the people rather than *by* the people. Extending this logic to structurally institutionalise trust networks and political cleavages in the EU, however, presupposes a process of vast and radical re-democratisation of the supranational

<sup>71</sup>This is also Ferrera's insight, where he argues that the durability of the left-right cleavage in holding stable democracies resides in its ability to contain and transcend the other cleavages; something that is increasingly difficult. See Ferrera (n 39).

<sup>72</sup>Tilly (n 53) 96–8.

<sup>73</sup>W Lecher, H-W Platzer and K-P Weiner, *European Works Councils: Negotiated Europeanisation* (Routledge 2020).

<sup>74</sup>Eg Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast), Art 19(2) or Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010.

<sup>75</sup>C Wolff, 'Functional Representation and Democracy in the EU: The European Commission and Social NGOs' (ECPR Press 2024).

<sup>76</sup>J Greenwood, 'The European Citizens' Initiative: Bringing the EU Closer to its Citizens?' 17 (2018) Comparative European Politics 940.

level, in which Member State prerogatives and power are curtailed, authority is sourced through democratic structures that link the EU and its constituents directly and is employed in a way that articulates the preferences of, and is controlled by, the European electorate.

This suggests that forging commitment of trust networks directly to the *European* level is not straightforward. The EU is rapidly painting itself in a corner: the move towards direct rule is not accompanied by the integration of trust networks within that rule. On the one hand, the exogenous political and policy demands made on the EU in the past decades have led to an increase in infrastructural, political and financial centralisation. On the other hand, the EU has only ever disposed of, and has recently strongly strengthened, its capacity to rule by coercion or by capital. This can explain why certain constituencies or trust networks that benefit greatly from EU rule (such as the farmers) are nevertheless fiercely critical of it.<sup>77</sup> there is little or no direct integration within the EU's apparatus.

But establishing forms of commitment by structurally embedding trust networks within institutional forms of political authority in the EU is tricky, because such networks are already rooted within *domestic* institutional structures. To put this predicament as straightforward as possible: the EU's rule is increasingly centralised, whereas the forms of commitment that would ideally underpin it remain decentralised. Without the possibility for rule and trust to be integrated institutionally, Tilly's story tells us, the likely outcome is not democratic rule, but authoritarian rule. To be clear, this is not to say that the EU is necessarily an authoritarian structure, but to say that the current structures of EU authority do not allow for the production and stable reproduction of significant and widely-held forms of commitment that are central to democratic rule.

What structures would be capable of stably reproducing commitment to EU rule? It goes beyond the scope of this short paper to elaborate on the different options available. The two most straightforward answers to this question are so radical and implausible that, in a way, they indicate just how deep the EU's structural problem is. A first, perhaps most evident, way 'out' would be for the EU to continue to rely on the integration of trust networks within the domestic institutional structure, loosening its centralising tendencies to allow Member States to more actively intervene in the economy and society on their own terms and in line with their own preferences. This would allow the EU's coercive and capital-based instruments to be mediated at the national level, in terms of its intensity, its effect, and its beneficiaries. It would revert the course from the EU's direct rule towards more indirect rule. The price to pay for such a model of commitment-building, however, is two-fold. On the one hand, if it does strengthen the inclusion of trust networks within rule, it does so exclusively at the national level. The commitment that is generated is towards the state, not the EU. On the other hand, many of the EU's coercive and capital-based instruments serve to ensure compliance of the *Member States themselves*. The reciprocity that underpins most of the EU's policies is ill-fitting with the vision that would allow Member States to vary compliance and effect depending on the relative integration of trust networks within their state.

A second way 'out' of the authoritarian direction of travel of the EU would be to integrate trust networks more structurally at the European level, to complement the increasingly direct nature of its rule. The idea here is that trust networks are integrated not only at the 'receiving end' of EU law, so that the way in which EU law affects them can be mediated, but that they are integrated in the decision-making level directly, or, given certain other prerogatives, in the institutional structure (for example in the form of delegated law-making or enforcement). Some elements of this process of 'commitment by stealth' can already be traced.<sup>78</sup> More explicit institutionalisation of trust networks within the EU machinery would presuppose the creation of a much stronger concentration of political power within a single European institution that can internalise political

<sup>77</sup>'Why are farmers protesting across the EU and what can the bloc do about it?' (Guardian, 2.2.2024).

<sup>78</sup>Ferrera, Kriesi and Schelke (n 6).

cleavages through which trust networks can be represented, rather than the current predilection of structurally institutionalising Member State interests.<sup>79</sup> As Bartolini has argued, without such ‘monopoly of voice’ that drives actors towards a shared institutional configuration at the European level, it is difficult to create the forms of institutional commitment that simultaneously incentivise the use of voice and stabilise the outcomes of political contestation.<sup>80</sup>

Both these solutions require significant re-thinking of the EU’s institutional and legal order. Both are politically implausible, caught between exogenous pressures that push towards increasing direct rule and the political pressures of nativism and populism. The simple fact, however, that the path towards democracy (at least in Tilly’s account) is so implausible should be understood as a warning sign over the EU’s future. At the same time, as Tilly’s historical empirical work has indicated, the modern nation state’s turn towards democracy and commitment was *preceded* by a significant centralisation of infrastructural capacity.<sup>81</sup> This, however, raises a perhaps even more worrying question: from where – within the EU’s institutional configuration or outside of it – can any potential push towards democratisation emerge? It is not evident where such pockets of civil society, political cleavages, or institutional incentives can be traced in the EU.

#### 4. Conclusion

This paper has traced the processes of system closure and centre formation. It has made two points. The first is that *what* the EU does has a significant (and often underappreciated) effect on *how* it shapes itself internally. As the EU has become more comfortable with direct rule, we have seen processes of infrastructural capacity-building, a quick centralisation of institutional power and resources, and a narrative turn towards the EU’s values, ‘way of life’ and strategic interests. All these processes consolidate each other, so that the ‘new’ EU is not a temporary answer to exogenous pressures, but a structural process of system closure and polity formation. A EU that is increasingly equipped for direct rule offers a very different form of governance than the one that we have traditionally associated with the EU. The EU does, evidently, not rule in the direct forms that we associate with the nation state. But it would be problematic to underestimate the path dependency of the processes sketched in this paper, and the consequences for the authority of rule that follows from it.

The second point that this paper makes is that this process of internal reconfiguration of the EU also leads to a re-construction of how EU rule can be legitimised. Using Tilly’s framework, we have traced a rapid increase in coercive and capital-based instruments to stabilise the EU’s direct rule. Often, they are even combined, so that capital is used as a coercive mechanism to ensure the EU’s objectives are met. As Tilly’s account tells us, however, rule based predominantly on coercion and capital is neither stable nor democratic. For the EU to escape the path on which it appears to be moving, in which democratic processes are structurally inhibited, radical changes are necessary. The sheer radicalness and political implausibility of such changes should be cause for concern, even if, historically, the establishment of direct rule and centralisation of capacity invariably *precede* processes of democratisation.

Ironically, the increasingly centralised, executive, and sovereigntist European Union may be disliked by both progressive and Eurosceptic forces in the EU, making it, somewhat counterintuitively, a likely trajectory for the integration process. The hesitance of populist and Eurosceptic forces about the EU as an appropriate *scale* of government may fade as the EU’s assertiveness is employed and articulated in terms of the collective security and economic stability.

<sup>79</sup> M Dawson and F De Witte, ‘From Balance to Conflict: A New Constitution for the EU’ 22 (2015) European Law Journal 204.

<sup>80</sup> Bartolini (n 5).

<sup>81</sup> Tilly (n 53) 51ff.

And traditional progressive preferences for a cosmopolitan or solidaristic EU may well be set aside to accommodate the significant shift in power away from the Member State to the central level, which inevitably precedes any such progressive vision for the European Union.

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