

Future of Europe

EU Subsidiarity as an Antidote to Centralisation and Inefficiency

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How to design a federation? The European federation is plagued with crises, and these can be linked to our understanding of the basic principle on which any federation is based: subsidiarity. The Treaties present subsidiarity as a legal separation of tasks between the national and EU levels. This interpretation assumes that removing tasks from member states is possible and desirable. Yet attempts to define a legal *Kompetenzkatalog* failed. Moreover, EU policies based on centralisation—in economic governance, for example—have also failed, and centralised enforcement has not stabilised the euro. Multilevel governance requires an organisational approach to subsidiarity that starts with the recognition that safeguarding the integrity of the member states is essential. However, the EU lacks an administrative model. Subsidiarity may help to fill this gap by recognising that the EU is not about delegating tasks but about managing interdependence between the member states. The organisational understanding of subsidiarity has important implications for the tasks of the European Commission. Rather than being a hierarchical body that focuses on legislation and supervises member states, the Commission needs to focus on the managing of networks: identifying bottlenecks in EU cooperation, supporting team-based inspections and supervising the quality of multilevel networks.

Keywords: Subsidiarity – EU management deficit – Tasks of the European Commission – Eurocrisis – Governance – *Kompetenzkatalog*

Introduction: the EU needs an administrative model¹

‘Can an effective federal government be set up by reflection and choice, or are they forever destined to depend on accident and force?’²

Alexander Hamilton

Why should one write about subsidiarity? Struggling for public support, the last thing the EU needs is a technocratic, legalistic debate bordering on European navel-gazing about topics such as the *Kompetenzkatalog* (the distribution of competences between the European and the national levels). Several earlier attempts to strengthen EU legitimacy through subsidiarity achieved little. This can be seen, for example, from searches for the yellow, orange or red cards that were intended to strengthen the role of national parliaments,³ and the British and Dutch competence reviews of the 2010s.⁴

Yet, attempts to study the *distribution* of competences miss the point. The EU is not built on the centralisation of tasks; rather, the Union requires the management of the interdependence between fully functioning member states. *European integration is generally not about dismantling member states but about the added value of the EU.* To a large extent this concerns the management of shared challenges. Centralisation is not a good strategy in large organisations operating in dynamic environments, such as that of the EU. Relocating the EU’s *raison d’être* from centralisation to managing challenges shifts the emphasis of the debate from the Union’s (‘Brussels’) weaknesses to the question of how interdependence between responsible member states can be managed.

To date the EU has never had an *organising principle*. If a multilevel federal system is not to be organised through centralisation, then how? In other words, what can be done to ensure that member states act responsibly, reform and have their own—first-line—supervision and control in order? Many of the EU’s persistent problems can be linked to endless tinkering with ‘governance’ systems

¹ Based on A. Schout, ‘Europese integratie en Europese samenwerking’, inaugural address as Professor of European Public Administration at the Radboud University, Nijmegen on 25 February 2021, accessed at https://www.clingendael.org/sites/default/files/2021-03/Oratie_bw_Adriaan_Schout_compleet.pdf on 13 June 2022.

² A. Hamilton, *Federalist Papers*, no. 1, 1787.

³ The Treaty of Lisbon included a protocol to enhance subsidiarity and proportionality based on a ‘yellow/orange card’ system (early warning mechanism) that gives national parliaments an opportunity to object to legislative proposals with a view to having them amended or withdrawn. A. Schout and D. Bokhorst, ‘The Emperor’s New Clothes? A Political Evaluation of the Early Warning Mechanism’, *The International Spectator* 50/2 (2015), 93–109.

⁴ M. Emerson and S. Blockmans, *British Balance of Competence Reviews, Part I: ‘Competences About Right, So Far’*, CEPS working paper no. 35 (Brussels, October 2013); A. Schout and J. M. Wiersma, ‘Britain and the Netherlands: Similar Concerns but Different Approaches in Reforming the EU’, in A. Hug (ed.), *Renegotiation, Reform and Referendum: Does Britain Have an EU Future?*, The Foreign Policy Centre (London, February 2014).

without finding an effective European public management model. It is time to understand subsidiarity not as a legal, political or economic⁵ concept but as an organisational principle. Subsidiarity should be put high on the EU agenda as it essentially defines the way in which the Union is organised.

The principle of subsidiarity is the equivalent of *decentralisation* as an organising principle in private-sector management literature. Hence, subsidiarity and decentralisation are used here as synonyms. Large and dynamic organisations rely on decentralisation to ensure closer relations with their specific environments, to be able to incorporate large amounts of hands-on information, to tune into different market preferences, and to empower and motivate. Decentralisation affects the entire organisation and cannot exist without re-centralisation—just as subsidiarity simultaneously imposes organisational demands on the national and the central levels of the EU's multilevel federal structure. Taking subsidiarity seriously should not be confused with intergovernmentalism. Subsidiarity-based cooperation in the Union's administrative system requires EU networks, multilevel enforcement and the active participation of the Commission. Decentralisation/subsidiarity concerns the design of organisations as multilevel systems.

Decentralisation is a starting point for structuring complex organisations in dynamic environments. Applied to the Union, subsidiarity implies that the EU should respect the integrity of the member states and leave tasks as much as possible at the national level. Thus the EU's central level has the role of managing cooperation between member states to ensure that overall objectives are agreed, trends monitored and rules enforced (second-order control, preferably through mutual monitoring and enforcement). *Managing cooperation is fundamentally different from delegating tasks to the central level.* From an organisational design perspective, the legal definition of subsidiarity as upward delegation results in ineffective governance. Centralisation separates EU choices from national preferences ('national welfare functions') and removes the responsibility for monitoring and enforcement from national politics.

As a corollary, *every time an EU policy is agreed or amended, it should be clarified how this will affect national administrations and what the new responsibilities of the European Commission will be in relation to the involvement of the member states.* This type of multilevel organisational thinking is underdeveloped in the EU and makes the Union prone to management deficits. In the private sector, policy failures would lead to a *diagnosis of organisational failures* (structure follows strategy). In contrast, in the EU, solutions are usually sought through protracted tinkering with new policies. Examining the organisation of member states and the design of coordination arrangements in the EU remains a sensitive issue. When questions arise about whether existing policy frameworks are fit for purpose, member states point to their sovereignty and the need to respect administrative traditions.

⁵ W. E. Oates, 'An Essay on Fiscal Federalism', *Journal of Economic Literature* 37/3 (1999), 1120–49.

The paradox in the EU is that centralisation is therefore less sensitive than getting decentralisation to work effectively.

At the EU level, and in academia, we see a preference for centralising tasks rather than thinking in terms of managing the interdependence between the member states. For example, two prominent European integration scholars have highlighted the EU's failure to *centralise* border control or to create a fiscal union for defence spending, and have argued that the push towards centralisation in the wake of the global health crisis has been no match for the challenges at hand.⁶ Similarly, Martin Wolf wrote in the *Financial Times*: 'At stake is closer union, or partial dissolution'.⁷ This ideological pitting of centralisation against disintegration is unhelpful and even beside the point. Subsidiarity should help to diagnose problems and to design effective EU administrative systems that go beyond intergovernmentalism while preventing dysfunctional centralisation.

To elaborate on the idea of subsidiarity as an organisational principle, Section Two first presents the current policy challenges. Section Three discusses the difference between European integration and cooperation, while Section Four relates subsidiarity to organisational theory on decentralisation and centralisation. In Section Five it is argued that subsidiarity is a precondition for strengthening national institutions. Section Six explicates the role of the European Commission in decentralised governance. The conclusions and policy advice complete this policy brief.

This paper is based on earlier work on the European Environment Agency, aviation safety, European governance of border management, economic governance, the Recovery and Resilience Facility (RRF), and the European Statistical System.⁸ The many interviews that have been conducted in these policy areas show that, although national and EU officials possess deep policy knowledge,

⁶ K. R. McNamara and D. R. Kelemen, 'Russia's Invasion of Ukraine is Remaking Europe', *Washington Post*, 28 February 2022, accessed at <https://www.washingtonpost.com/politics/2022/02/28/russia-ukraine-european-union/> on 11 May 2022.

⁷ M. Wolf, 'Intolerable Choices for the Eurozone – At Stake is Closer Union or Partial Dissolution', *Financial Times*, 31 May 2011, accessed at <https://www.ft.com/content/1a61825a-8bb7-11e0-a725-00144feab49a> on 25 May 2022.

⁸ J. A. Schout, 'The European Environment Agency (EEA): Heading Towards Maturity?', in M. Everson et al. (eds.), *The Role of Specialised Agencies in Decentralising EU Governance* (Brussels, 1999); A. Jordan and A. Schout, *The Coordination of European Governance: Exploring the Capacities for Networked Governance* (Oxford: Oxford University Press, 2006); A. Schout, 'Agencies and Inspection Powers – The Case of EASA as New or More of the Same?', in E. Vos (ed.), *European Risk Governance: Its Science, Its Inclusiveness and Its Effectiveness*, Connex Book Series (Mannheim University Press, 2008); A. Schout and A. Mijs, 'Hoe onafhankelijk is begrotingscommissaris Rehn?', *Openbaar Bestuur*, March 2014, 2–8; A. Schout and F. Pereyra, 'The Institutionalisation of EU Agencies – Agencies as 'Mini Commissions'', *Public Administration* 89/2 (2011), 418–32; A. Schout and A. Mijs, *The Governance of the European Statistical System: Coordinating Expectations*, Clingendael Report (2016), 38; A. Schout, *The RRF as Administrative Subsidiarity*, Clingendael (October 2021), accessed at <https://www.clingendael.org/publication/rrf-administrative-subsidiarity>. A. Schout, *Economic Governance From Rules to Management*, Clingendael policy paper (December 2020); A. Schout and I. Blankensteijn, *From Legal to Administrative Subsidiarity: Diagnosing Enforcement of EU Border Control*, Clingendael Report (September 2020), accessed at https://www.clingendael.org/sites/default/files/2020-09/Policy_brief_From_legal_to_administrative_subsidiarity_September_2020.pdf.

there is little expertise when it comes to organisational design. The EU's disregard for organisational effectiveness would be intolerable in the private sector. Members of the European Parliament should look beyond norm setting and pay detailed attention to the quality of Europe's multilevel administrative system. As Alexander Hamilton noted in the early days of the US, this demands that muddling-through give way to political reflection.

Current EU policy challenges

Before dealing with subsidiarity in more detail, this section discusses policy areas where subsidiarity-based governance has been successful. The starting point is: How do we explain progress in some EU policy areas while others are crisis-ridden to the extent that some speak of a 'permacrisis'?⁹ Officials and experts are inclined to dismiss this comparative perspective on the grounds that they think their own policy area is especially complex and cannot be compared to others. As a result, there is little lesson-drawing across policy areas.

Economic governance of the eurozone has seen a long and drawn-out tinkering with instruments without finding a solution to economic divergence and persistently high debt levels. If we consider all the adaptations in eurozone governance, it is striking how extensive the development of instruments has been. Over the past decades rules and programmes have continuously been tightened or relaxed, or expanded in some cases and simply abolished in others.¹⁰ Economic governance has been developed into a highly refined set of instruments that looks as impressive as a medieval cathedral—and has been constructed in an equally incremental way. The Commission has acquired important centralised monitoring and enforcement tasks. Despite all these measures and the related tinkering, convergence in competitiveness or debt levels has not materialised. More of the same policymaking with the aim of achieving deeper integration is likely to remain problematic.

There are also positive examples, where European integration has managed to overcome major economic interests and cultural differences. These include the creation of a market for medicines, the opening up of national aviation markets and the introduction of food standard (see e.g. the BSE¹¹ crisis below as an example of the importance of European standards for trust in the food sector, for the functioning of the internal market and for exports).¹¹ The successful areas are no less

⁹ F. Zuleeg, J. Emmanouilidis and R. Borges de Castro, 'Europe in the Age of Permacrisis', *EPC Commentary*, 11 March 2021.

¹⁰ See, e.g. European Commission, *Economic Governance Review Report on the Application of Regulations (EU) no. 1173/2011, 1174/2011, 1175/2011, 1176/2011, 1177/2011, 472/2013 and 473/2013 and on the Suitability of Council Directive 2011/85/EU*, Communication, COM (2020) 55 (6 February 2020).

¹¹ Bovine spongiform encephalopathy (BSE). This 'mad cow' disease is believed to spread to humans as the variant Creutzfeldt–Jakob disease.

complex than the eurozone and, like it, are vested with national economic interests. The food industry demands effective regulation of entire food chains, including inputs (e.g. use of fertilisers), animal welfare, quality, controls on abattoirs, trademark protection and so on. The reforms implemented have been far-reaching and no less difficult than those related to the euro. They concern the pillars of national economies, high-tech sectors, large-scale employment and national flagships.

Part of the explanation for why the EU has succeeded in these areas is that national institutions in these sectors have become closely interwoven in European networks and have had to bring their methodologies, organisations and supervisory structures into line with those of the best national institutions in the Union. The tasks of the member states have been enriched rather than delegated to the EU level. National institutions were put under pressure to adapt and received EU funding for participating in network programmes. For example, EU environment policy and monitoring of the state of the environment have benefited from the creation of the European Environment Agency. The Agency is the hub for dense networks of national agencies, experts, Topic Centres and National Focal Points. National institutions have been built or strengthened and remain at arms-length from national politics while being close to the national media. Similarly, following the major food safety crises in the 1980s and 1990s (i.e. dioxin-laced chicken and the BSE crisis), the EU did not decide to create a food union with a centralised authority but instead established a high-level network of national food authorities organised through a small EU agency in Parma (the European Food Safety Authority). Previously, countries had defended their specific food legislation and cultures, avoided transparent inspections of abattoirs and fought off European involvement. However, due to tight cooperation through the EU food network, Europe's food industries have developed into world leaders when it comes to quality, reputation and exports. In competition policy, the EU's exclusive competence has even been partially delegated back to independent national competition authorities that cooperate through the European Competition Network.

EU governance has also been remarkably successful in the area of border control. Concerns about national sovereignty make the management of borders a highly sensitive matter. Yet a fine-grained network of actors has been created, managed by a small staff within the European Commission, and cooperates to establish common border procedures, equipment and mutual inspections.¹²

In these successful areas governance reflects subsidiarity-based cooperation. Member states' own institutions are reinforced. These operate independently from politics but remain close to the national parliaments, media, industry and decision-makers. Moreover, these national institutions work closely together in EU networks with commonly agreed procedures and team-based inspections. As a result, many relationships have developed between member states via managed cooperative structures, and a culture of independent national institutions has been established. *Subsidiarity*

¹² Schout and Blankensteijn, *From Legal to Administrative Subsidiarity*.

is a precondition for multilevel institution building, connecting experts horizontally within the EU, and creating professional checks and balances at the national and EU levels.

This results in a positive message: the EU can overcome crises. Yet it demands an explicit shift away from centralisation and towards multilevel design.

In contrast to these successful areas, the RRF is a missed opportunity with respect to national involvement and network building. The supervision of the RRF is centralised under the Commission. The monitoring of national reforms and of national reform capacities is not organised through networks of national institutions. The National Productivity Boards (NPBs) that the member states should¹³ have created to better prepare and supervise economic policies would have been the logical choice of institution to empower the decentralised supervision of the RRF. The way in which the RRF now operates is of little use in strengthening the national capacities required for independent national economic supervision and for building the networks of independent economic supervisors required for the European Semester. In the current set-up of the RRF, the Commission, under the direction of the Commission president, decides on the quality of the proposed projects and the granting of funds. The management of the RRF is therefore centralised and politicised, transparency has become an issue, and its current design contributes little to the subsidiarity-based mutual monitoring and enforcement of national economic institutions.¹⁴

To conclude this section, here are two empirical remarks. First, subsidiarity-based governance of the EU will not be the key to success in *all* policy areas. Building on subsidiarity-based networks, border control has been professionalised, but the redistribution of migrants is a purely political matter and cannot be addressed through creating better bottom-up governance processes. Politics always comes first in a democracy. Yet, high-quality governance systems contribute to fact-finding, independent analysis, monitoring and enforcement, transparency, and mutual adjustments. Politics can be supported through better governance, but decisions remain in the hands of politicians. Second, although the integrity of member states is the starting point, not all member states need to have national-level functions in all policy areas. For example, not all member states possess major international airports and hence they do not all need fully fledged aviation safety authorities. Similarly, only 12 states in the US have their own central bank as part of the Federal Reserve structure. Nonetheless, the integrity of member states can be taken as a viable starting point given the importance of aligning policies to national welfare functions, the legitimacy of national parliaments and the crucial ownership of shared EU policies.

¹³ European Council, Recommendation on the establishment of National Productivity Boards, OJ C349 (24 September 2016), 1.

¹⁴ For details, see Schout, *The RRF as Administrative Subsidiarity*.

Subsidiarity: European integration or European cooperation?

Does the term ‘European integration’ capture the way the EU is organised? ‘Integration’ is the term commonly used, and it is the official term in Commission documents about the EU and mixed competences. The roadmap for ‘completing’ the eurozone presents *integration* as the notion ‘at the heart of the Economic Union’.¹⁵ Integration is related to the upward transfer of responsibilities (centralisation)—the legal definition of ‘subsidiarity’ makes this clear. Article 5.3 of the Treaty on European Union (TEU) presents subsidiarity as the *efficient* distribution of tasks between separate layers of governance ‘*either at central level or at regional and local level*’ with a view to economies of scale (emphasis added). In legal terms subsidiarity is about separating tasks; in organisational terms subsidiarity is about managing shared responsibilities.

Seeing the EU as a project of the upward delegation of tasks (centralisation) has triggered debates due to the unwillingness of member states to give up sovereignty. As a result, it has become possible for groups of member states to opt for deeper integration. Yet this type of *differentiated integration* still concerns the centralisation of competences, albeit among fewer member states.¹⁶

Preferences for centralisation are often related to a perception of efficiency gains when the EU level takes over and to a lack of trust in the quality or political willingness of member states. This low level of trust became clear when a senior EU official referred in an interview to the member states as ‘a basket of rotten apples’.¹⁷

Instead of integration, leaders from northern countries—such as Austria, Denmark, the Netherlands and Germany—talk of European *cooperation*.¹⁸ For example, in a lecture given in Berlin, Dutch Prime Minister Rutte used the term ‘cooperation’ 11 times but ‘integration’ only once, while distancing himself from those who speak of ‘an unstoppable train speeding towards federalism’.¹⁹ Similarly, in her 2020 Davos speech, Chancellor Merkel²⁰ pleaded for stronger European cooperation without

¹⁵ European Commission, *Further Steps Towards Completing Europe’s Economic and Monetary Union: A Roadmap*, COM (2017) 821 (6 December 2017), 2.

¹⁶ M. Gilbert, ‘Narrating the Process: Questioning the Progressive Story of European Integration’, *JCMS* 46/3, 641–62.

¹⁷ Quoted in Schout, *Europese integratie en Europese samenwerking*, 16. Translation by the author.

¹⁸ H. Kassim and A. Schout (eds.), *National EU Narratives in Europe’s Multilevel Context* (Palgrave, forthcoming).

¹⁹ M. Rutte, speech at the Bertelsmann Stiftung, Berlin, on 3 March 2018.

²⁰ F. Reidy, ‘Merkel Calls for Greater European Co-operation’, *CGTN*, 24 January 2020, accessed at <https://news.cgtn.com/news/2020-01-24/Merkel-calls-for-greater-European-co-operation-NvRUvE8j3g/index.html> on 11 May 2022.

mentioning integration, even though the word is mentioned in the Franco-German Aachen Treaty.²¹ In general, countries with greater trust in themselves prefer cooperation whereas those where trust in government is lower speak about integration.²²

In discussions on European *cooperation*, subsidiarity is about keeping the integrity of member states intact, while the *added value* of the EU level lies in managing interdependence in the implementation and enforcement of policies. The integration model and its cooperative federal counterpart seem to be political rivals. It is important to unpack these two models because a federation is not just a collection of unrelated components. The organisation of the interdependence between tasks that are centralised (those of the EU) and decentralised (for which the member states are responsible) must be carefully crafted. Haphazardly designed organisations will struggle to be effective. Unsuitable and unworkable hybrid structures²³ will be the result if organisational components are not in balance (as we can see in the EU).

European integration is grounded in the legal interpretation of subsidiarity (*legal subsidiarity*). It regulates the hierarchical division of competences between the EU's levels of governance. The norms and values in the integration model are mainly legal: a deal is a deal. *Cooperation* starts from the notion of subsidiarity as an administrative principle (*administrative subsidiarity*). Member states keep their policy tasks and institutions but agree to manage their interdependence. The difference between European integration and cooperation reflects the difference between a federal structure as a mega-bureaucracy and as a network.

The essential value in the cooperation model is trust.²⁴ However, the EU is suffering from a crisis of trust.²⁵ It is not just that mutual trust is lacking. Given poor national institutions, most member states do not even trust themselves.²⁶ External legal supervision is difficult if national institutions cannot be trusted. Without effective national institutions, external supervision will suffer from inadequate and

²¹ A. Noll and R. Bosen, 'Merkel and Macron Sign New Treaty to Revive EU', *Deutsche Welle*, 22 January 2019, accessed at <https://www.dw.com/en/merkel-and-macron-sign-treaty-of-aachen-to-revive-eu/a-47172186> on 11 May 2022.

²² Kassim and Schout (eds.), *National EU Narratives*.

²³ M. Kets de Vries, *The Neurotic Organization*, 2nd edn. (Hoboken: Jossey Bass, 1984).

²⁴ R. Putnam, *Making Democracy Work: Civil Traditions in Modern Italy*, 1st edn. (Princeton: Princeton University Press, 1993).

²⁵ Lack of trust also results in EU legislation becoming ever more detailed. Although the internal market is based on minimum harmonisation, we increasingly see upward harmonisation as well as a transition towards regulations instead of directives. Upward harmonisation has advantages in terms of harmonisation and creating trust in the EU because all countries must comply with the agreed common standards and procedures. Yet this reduces the leeway of member states, implies that differences in national welfare functions are not respected and weakens policy competition between member states. See M. Dzurinda, 'Subsidiarity in the EU: From Principle to Practice', *European View* 18/1 (2019), 3–5; R. Lopatka, 'Strong Subsidiarity, Strong Europe', Martens Centre blog, 27 April 2021.

²⁶ A. Schout, 'The EU's Existential Threat: Demands for Flexibility in an EU Based on Rules', in N. Pirozzi (ed.), *EU60: Re-founding Europe. The Responsibility to Propose* (Rome: IAI, 2017), accessed at <http://www.iai.it/en/pubblizzazioni/eus-existential-threat> on 13 June 2022; A. Schout and A. van Riel, 'De houdbaarheid van de euro ligt bij de lidstaten', *ESB*, 6 August 2020.

unreliable information and reform obligations will be poorly implemented. Many Italians consider the EU a source of *vincolo esterno* that compensates for the weaknesses of Italy's national institutions, but even *vincolo esterno* demands reliable national governance patterns. In 2019, citizens from 19 out of the 28²⁷ member states trusted the EU (much) more than their own government. It is hard to develop cooperative governance structures with countries that do not trust themselves to be reliable partners committed to respecting agreements. As a result, the EU has increasingly been organised hierarchically: this is *centralisation by default* due to weak national institutions. The problem, as discussed, is that centralisation and centralised supervision and enforcement do not work in large and dynamic organisations, and that centralisation reduces the ownership of agreed objectives.

Decentralisation and centralisation

If subsidiarity equals decentralisation, we need to specify what decentralisation involves. In organisational terms, decentralisation/subsidiarity concerns the location of policy tasks down the line, from gathering information (a low-level form of decentralisation), analysing information and formulating policy alternatives, to decision-making and policy evaluation (i.e. the decentralisation of the power to decide). The decentralisation of power ensures the widest possible involvement of administrative levels, maximises the ownership of agreed policies and stimulates national institution building. Ownership is best served by keeping policy tasks, decision-making powers and assessments as much as possible in the hands closest to the shop floor of policies.

The Commission as manager

'Decentralised' does not mean independent. It demands binding levels of coordination. In a subsidiarity-based EU, tasks located at the national level need to be interconnected through EU systems (this goes beyond informal intergovernmentalism). Each of the above steps towards more meaningful decentralisation also involves new types of multilevel governance: setting up teams to define mutually agreed methodologies, managing team-based monitoring programmes, establishing procedures to monitor overall trends in the EU, initiating legal proceedings if breaches of agreements

²⁷ The UK left in 2020.

are not repaired, imposing fines and so on. Subsidiarity imposes considerable *managerial* challenges for the Commission and demands new network-type arrangements.

The centre (the Commission) has to create new structures through which member states cooperate to define goals, diagnose common problems, and ensure that enforcement systems are in place. National statistical offices, for example, are individually fully equipped to cooperate to define methods for data gathering, planning and mutual quality control.²⁸ Similarly, national decisions on economic policies are discussed and monitored in a multitude of (senior) European committees, such as the Economic and Financial Committee, and these decisions are also monitored by the Commission in the framework of the European Semester. However, the level of organisation in the European statistical system is more advanced than in the European Semester. The Commission, together with the EU Council, also has the responsibility of organising support *in crisis* situations in which member states are overloaded—as was the case during the migration crisis of 2015–16 and when the COVID pandemic threatened to result in an economic crisis.

Managing interdependence also includes being responsible for both *preventing upward delegation and building new cooperative structures*. In other words, rather than aiming to be a sort of European government as such, the Commission's role should primarily be that of network manager (see below).

EU governance and the drawbacks of centralisation

The Union suffers from a tendency to centralise and to underestimate the implications of EU policies for both national administrations and EU networks. Many EU decisions are taken without specifying the role of and requirements for the member states and the related networks. A German official explained that this lack of interest in the organisation of EU policies is a form of 'constructive ambiguity': 'We'd rather not know whether member states are ready. Political decisions are difficult enough as they are. How it should all work in practice is of later concern'.²⁹ As a result, EU policies are prone to multilevel management deficits. This saddles the Commission with the expectation that it will step in and try to make policies work on its own. Centralisation is the default option when the management of multilevel interdependence is not specified and cooperation fails.³⁰

²⁸ The Commission planned to centralise data gathering for efficiency reasons. In this way it would not have been necessary for all of the member states to gather all data. However, the member states blocked these plans to ensure that they each continued to have fully functioning statistical offices. See Schout and Mijs, *The Governance of the European Statistical System*.

²⁹ Schout, 'Europese integratie en Europese samenwerking', 5. Author's translation.

³⁰ Schout, 'The EU's Existential Threat'.

However, centralised structures are unsuitable in complex and dynamic organisations. Large organisations in the private sector tend towards decentralisation whereas EU institutions tend towards centralisation. The problems of centralisation in large organisations are well understood. They include the danger of poor implementation due to the distance between intentions defined at the central level and the diverse realities on the ground, inadequate supervision, information overload at the central level and a lack of ownership of the objectives defined at the apex.³¹ Many national decisions that touch upon national preferences determine the competitiveness of a member state. These include choices related to spending on health care, innovation, education, social protection and keeping public debt below 60% of GDP. Such decisions can only be taken by national governments, with the support of national parliaments and in close cooperation with national institutions. For their part, federations need to be able to rely on high-quality national administrations. We see unwilling or poorly equipped member states struggling with centrally agreed EU goals. Centralised control has little impact on the myriad of national decisions (the governance of the eurozone provides an example). In other areas, however, subsidiarity-based European solutions and control have worked well.

Dealing with complexity

Difficulties with centralisation can be clearly seen in EU policies. For example, long-term adherence to the 60% debt rule requires the involvement of many national groups and institutions linked to policies such as pensions, taxation, childcare, education, public investments, infrastructure, social security, and all other matters that affect a country's competitiveness and sound budgeting. Such constellations of interrelated institutions, policies and actors are difficult to steer by means of centralised—that is, uniform—legislation and to control hierarchically from 'Brussels'. This creates major monitoring and enforcement difficulties for the centre. It is not surprising, then, that discussions on upgrading economic governance in the EU contain so many references to the need for national ownership.

High-quality national institutions are required so that member states can formulate resilient policy plans, set priorities, adhere to sustainable budget plans, enhance competitiveness and comply with the wide range of European agreements. Moreover, technologies change, as do preferences (for example, due to new economic situations or new insights) and new geopolitical circumstances arise. Thus, ensuring economic resilience and managing environmental goals and other major challenges that the EU and the member states have to deal with demand dynamic responses by a range of na-

³¹ V. Ostrom, *The Intellectual Crisis in American Public Administration*, 2nd edn. (Tuscaloosa: University of Alabama Press, 1991); M. Mintzberg, *The Structuring of Organizations* (Engelwood: Prentice Hall, 1979).

tional actors. Member states themselves need to possess *independent* monitoring and enforcement institutions that are sufficiently equipped and trusted (first-line control). To strengthen first-line control in economic governance, the EU has started to experiment with National Productivity Boards.

However, these are unevenly developed³² in the member states, and the EU has failed to empower them through involvement in the supervision of the RRF (see above).

Instead, the Commission has centralised economic supervision in its own Directorate-General ECFIN (as has happened with the supervision of the RRF). Other institutions related to the governance of the euro area are also centrally organised, such as the European Fiscal Board, which is organisationally disconnected from the NPBs.³³ Hierarchical rules and hierarchical/centralised supervision structures have their limitations as continuous adaptations have to take place (and be carefully monitored) at the member-state level.

A consequence of subsidiarity is that the Commission's roles have to be reconsidered. The work of DG ECFIN and the European Fiscal Board seems to be highly suited to decentralisation and operation through subsidiarity-based networks. Instead of carrying out the economic supervision itself, the Commission should set up and manage the required networks (i.e. second-order control: monitor the national controllers on the basis of team-based inspections).

There are other areas in which one sees the problems with trying to deal with the myriad of national choices through centralisation at the EU level. For example, the formulation and implementation of plans, and the assessment of achievement in large-scale trans-European infrastructure networks have suffered from complexities at the national level due to the multitude of public and private actors (each with specific investment priorities) involved in the planning and financing of new infrastructure.³⁴ The European Court of Auditors detailed these complexities and data limitations in its 2020 assessment of the Commission's difficulties in evaluating the results of the EU's investments.³⁵ Similarly, member states have widely differing traditions and priorities when it comes to healthcare. Some states prefer a higher level of state-subsidised healthcare and substantial buffers in the number of hospital beds, while others opt for efficiency-based healthcare. This underlines once again that member states have their own social welfare functions. The many decisions involved, and the required first-line control systems, have to be national to ensure ownership, which, in turn, is a

³² European Commission, *Progress Report on the Implementation of the Council Recommendation of 20 September 2016 on the Establishment of National Productivity Boards*, COM (2019) 152 final (27 February 2019).

³³ The NPBs would have gained experience and positional power if the European Fiscal Board had been designed to utilise them.

³⁴ P. J. Stephenson, 'The Physical Completion of the EU's Single Market: Trans-European Networks as Experimentalist Governance?', *Journal of European Integration* 44/1 (2022), 99–115.

³⁵ European Court of Auditors, *Special Report 10: EU Transport Infrastructures: More Speed Needed in Megaproject Implementation to Deliver Network Effects on Time*, (Luxembourg: ECA, 2020).

prerequisite for implementation, for the continuous modification of policies and for ensuring financial stability in the context of wider government expenditures.

Monitoring and enforcement

The tendency towards centralisation can also be seen in monitoring and enforcement. EU member states are responsible for implementation and the related monitoring (first-order or direct supervision), while the EU level is responsible for second-order supervision (indirect supervision; supervising the supervisors) (see Table 1). As discussed, second-order monitoring works best if carried out through subsidiarity-based European networks.³⁶ Mutual inspections stimulate learning, commitment and socialisation, and put pressure on officials to act respectfully and in a trustworthy manner. Successful monitoring by national teams can be found, for example, in border control (the Schengen Evaluation Mechanism³⁷), EU environment policy, aviation and the European food sector.

Setting up mutual inspection teams to form a second-order inspection system is not the same as soft steering through open coordination.³⁸ Creating successful decentralised European systems does not happen as the result of individual learning or informal exchanges between officials but results from *institutional learning*. Institution building depends on incorporating vast numbers of officials and experts in networks of independent, professional national agencies on a continuous basis. The European networks should help to defend the professional values of national experts and strengthen their independence in their national monitoring roles.

It is one thing for the Commission to criticise the policies of a member state and quite another for national institutions to pass judgement on their own governments. Commission reports and recommendations do carry some weight. But they have suffered from insufficient follow-up and have not stopped divergence. The reports from the Commission and the European Fiscal Board have limited impact as they can be easily dismissed. In comparison, the Netherlands has a long tradition of independent national monitoring agencies. In the first week after the new government was appointed in January 2022, four highly regarded independent national agencies produced highly critical assessments of its budget plans. Updates to their critical assessments emerged in subsequent months.

³⁶ C. F. Sabel and J. Zeitlin (eds.), *Experimentalist Governance in the European Union: Towards a New Architecture* (Oxford: Oxford University Press, 2010); M. Hildén, A. Jordan and T. Rayner, 'Climate Policy Innovation: Developing an Evaluation Perspective', *Environmental Politics* 23/5 (2014), 884–905.

³⁷ Blankensteijn and Schout, *From Legal to Administrative Subsidiarity*.

³⁸ Open coordination is a 'soft' form of governance through which it is hoped that national officials will learn from exchanges and adapt their behaviour after having seen how other countries take care of business. The track record for open coordination is, however, mixed at best, given prevailing national administrative cultures, interests, the preferences of national politicians, resistance to change etc.

These agencies included the well-resourced Dutch productivity board (the Centraal Plan Bureau) and the country's independent fiscal institution (the Raad van State). The repeated criticisms of the four bodies attracted much more attention than the Commission's European Semester reports on the Netherlands. Moreover, these national bodies are not regarded as being related to the EU and have long-standing positions in national policy debates. This is therefore not a case of 'Brussels' telling a member state what to do.

Apparently, there is little awareness across the EU of how to organise subsidiarity-based inspections and why it is important to build networks of national inspectorates. In the private sector, this sort of neglect in building sound organisational structures would be considered a serious mistake.

Table 1 First- and second-order control

	Distribution of tasks	Role of the European Commission
First-order control	<p>Member states implement EU policies.</p> <p>Member states set up their own independent monitoring and enforcement institutions.</p>	<p>In terms of policymaking, the Commission has the right of initiative (drafting legislation).</p> <p>The Commission specifies in EU legislation that independent supervisory institutions are required.</p> <p>The European Parliament and member states see to it that implementation, monitoring and enforcement structures are duly included in the legislation.</p>
Second-order control	<p>An EU-level subsidiarity-based network of independent national monitoring bodies exists, combined with an EU agency that acts as the secretariat.³⁹</p> <p>The network produces inspection reports that contain options for recommendations for individual member states on implementing policies and creating national institutions. The reports are publicly available</p>	<p>The Commission specifies the roles of the independent EU agency in the relevant EU legislation. This may involve setting up new, or adapting existing, EU agencies.</p> <p>The Commission receives the reports from the mutual inspection network and formulates recommendations for further actions.</p> <p>The Commission explains where and why it has departed from the findings of the mutual inspections ('comply or explain'). Thus, the Commission remains in charge of the final recommendations (second-order control).⁴⁰</p>

³⁹ J. A. Schout and A. J. Jordan, 'Coordinated European Governance: Self-Organising or Centrally Steered?', *Public Administration* 83/1 (2005), 201–20.

⁴⁰ For a discussion on institutional balance between the European Commission and EU agencies see the discussions on the Meroni doctrine. G. Majone, *Dilemmas of European Integration* (Oxford: OUP, 2005); M. Chamon, *EU Agencies: Legal and Political Limits to the Transformation of the EU Administration* (Oxford: Oxford Studies in European Law, 2016).

Politicisation

The independence of national and EU monitoring and enforcement systems is important for the credibility and legitimacy of EU policies. Essentially, economic supervision remains a political function and while the final political decisions require independent and transparent input, the technocracy cannot make those decisions. Undue politicisation arises when there is no separation between factual input and political decisions. Networks of independent supervisors contribute to a professional culture and offer mutual checks and balances. Politicised national institutions are not trusted in European enforcement networks.

One major problem with centralised systems is that horizontal professional checks and balances are absent. In the case of economic governance, we can see that the tendency towards centralisation facilitates the wrong type of politicisation—one that harms the credibility of EU rules and enforcement. When the European Semester was agreed and implemented in the early 2010s, then Commissioner for the euro Olli Rehn was presented as the independent budget ‘tsar’ under Commission President Barroso. He would operate independently, relying on ‘Chinese walls’ within the European Commission.⁴¹ Commission President Juncker, however, quickly ignored the position of independent budget tsar and dealt directly with national leaders. Under Von der Leyen a parallel structure has been created for economic supervision directly under the president. She finalised the shift from decentralised independence to a centralised politicised structure for economic enforcement.

The important point is that decentralisation and independence have to be deliberately managed and safeguarded. Organisations do not come into being by chance: they have to be designed, and their functionality has to be defended. However, we see little discussion about the Commission functioning as the manager of networks of national institutions. One reason for this is *the lack of awareness* of how the Commission should function as *a network body*. Another reason is that *member states may be happy with a politicised Commission*: when negotiating with such an institution, member states enjoy considerable flexibility. This is why Members of the European Parliament should pay particular attention to the design of (subsidiarity-based and independent) implementation structures when agreeing EU policies.

⁴¹ A. Schout and A. Mijs, ‘The Independent Commissioner: An Administrative Analysis’, in E. Ongaro (ed.), *Multi-Level Governance: The Missing Linkages* (Bingley: Emerald, 2015).

Decentralisation as a precondition for strengthening national institutions

Decentralisation/subsidiarity in EU governance is not an option but an organisational necessity. There are at least two reasons why EU policymakers should be aware of its importance. First, decentralisation is a precondition for building national capacities and fostering mutual trust. Secondly, decentralised governance offers effectiveness and resilience. Article 5.3 of the TEU focuses on efficiency (aiming for low costs), but what counts in governance is effectiveness (accomplishing the right thing). What matters are the goals and the public support for these goals.⁴²

Decentralisation strengthens national institutions

Regarding the lack of trust in the capabilities and commitment of member states, it is actually subsidiarity that offers a mechanism to put pressure on member states to reform where centralised enforcement or EU support funds have so far failed.

Decentralisation, in the context of subsidiarity-based multilevel governance, is a powerful tool for capacity building at the national level. Subsidiarity is not only about preventing information overload of the centre and allowing member states to tailor policies to their specific needs and preferences. It also implies deep involvement of member states in policy formulation, implementation, monitoring and enforcement. European integration, based on the upward transfer of competences, prevents the involvement of the member states, does not empower member states, and does not put national officials and politicians in a position where they have to continuously prove themselves as trustworthy partners. Administrative science theories show how cooperation stimulates adaptations.⁴³ Subsidiarity is a precondition for building credible national institutions and for creating transnational checks and balances.

⁴² M. Landau, 'Federalism, Redundancy and System Reliability', *The Journal of Federalism* 3/2 (1973), 173–96.

⁴³ E. Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action*, 1st edn. (Cambridge: Cambridge University Press, 1990); E. Ostrom, R. Gardner and J. Walker, *Rules, Games, and Common-Pool Resources*, 1st edn. (Ann Arbor: University of Michigan Press, 1994); Ostrom, *The Intellectual Crisis in American Public Administration*; Putnam, *Making Democracy Work*.

Centralisation is efficient, decentralisation is effective

The assumption in Article 5.3 of the TEU that centralised EU governance is efficient needs to be qualified. It is true that a centralised European defence or health policy, paid out of the EU budget, may reduce overlap considerably and offer advantages in the speed of decision-making due to the reduced number of (veto) players. Similarly, a single foreign policy with a central role for the European Commission and qualified majority voting would speed up decision-making and prevent inaction. However, the drawbacks in terms of national support would be enormous. Politics is, per definition, about finding compromises on objectives. Without agreed objectives it is hard to discuss efficiency. If objectives are contested or unclear, a centralised, efficient EU approach will result in doing the wrong things. As it is defined in Article 5.3, subsidiarity cannot deal with disagreements between member states. For example, top-down European Semester recommendations from the Commission may seem efficient, but they have little impact on the ground if not fully based on national deliberations.

While the Commission argued for a health union during the Covid crisis, the individual member states struggled individually to reach national consensus on a range of issues varying from investments in healthcare to the most appropriate type of lockdown, the use of masks and vaccination strategies. Individual member states had to devise their own hard-fought solutions, and strategies differed between member states. But at least national support was maintained for governments that had to find idiosyncratic compromises to weather the Covid crisis.

The variety of national strategies also resulted in mutual learning, and the media reported in depth on the differences in approaches and on the ways Covid developed in EU countries. The advantage of this differentiation was the generation of insights into options and consequences. The variety of approaches collectively helped to make the EU resilient by offering flexibility and responsiveness, and by creating learning opportunities related to causes and alternative policy options. That resilience requires diversity has also been underlined by the different approaches to energy supplies. Some countries have retained nuclear energy sources, while others have moved away from them. When the Ukraine war broke out, the value of differentiated energy strategies became clear. Imagine the consequences for public support if such tough political decisions over national energy mixes or Covid lockdowns had been decided at the EU level.

Decentralisation: too little too late?

Subsidiarity-based actions in the EU are assumed to be notoriously slow, ineffective and inefficient ('too little too late'). But where necessary, decentralised systems can act quickly and respond dynamically as new situations arise and new information comes to light. Profound—and where necessary, fast—deepening of EU cooperation proved possible even in highly sensitive areas during the Covid crisis (e.g. the creation of the RRF), during the consecutive euro crises (e.g. the creation of the European Stability Mechanism with its ability to transcend the no-bailout rule in the Treaties) and during the first weeks of the Russian invasion of Ukraine (when EU member states found ways to increase defence budgets and cooperate to bolster the position of Ukraine). European cooperation is probably even better at moving swiftly than a centralised EU based on integration.

Conclusion and recommendations: from 'what' to 'how'

In terms of governance, the EU is a complex organisation operating in dynamic European and global environments. Structuring large organisations in highly demanding environments with many interdependent actors demands careful attention. As an organisation, the Commission has made enormous progress in professionalisation, planning and transparency—the *internal* management of the Commission. However, the management of the EU as a federation—the Commission's *external* management—has received much less attention. This is because the convergence of national administrations is a politically sensitive issue, but is also due to the lack of political and scholarly interest.

The EU lacks an administrative model that suits its multilevel federal structure. Whereas in private-sector management ample attention is devoted to the fit between strategies (policies) and structure, in European public management the focus is on policies only. The Union's policymakers should complement their attention to the 'what' by giving more consideration to the 'how'. When formulating EU policies, they should be specific about the appropriate roles for the Commission, the independent networks of agencies and the national institutions. There are successful areas in the EU that offer inspiration for how to move forward with policies in subsidiarity-based cooperative arrangements.

One of the reasons the EU is struggling with well-designed multilevel governance structures is that subsidiarity has been regarded as a legal concept related to the vertical distribution of tasks.

Subsidiarity should also be treated as an administrative principle comparable to decentralisation in the private sector. This would result in a network view of EU governance: the integrity of national governments should be respected and defended, and European integration needs to be seen as a process of managing interdependence. Subsidiarity does not mean independence but is a precondition for managing interdependence. In successful EU policy areas, we see countries energetically working together, arguing, compromising and monitoring each other. This goes far beyond intergovernmental cooperation.

Managing interdependence is tricky because cooperation may not arise spontaneously or may function poorly. Tendencies towards centralisation are always present. In cases where problems arise and deficiencies in cooperation remain undetected, the reflex is to centralise instead of to diagnose problems at lower levels and in the functioning of EU networks. Therefore, subsidiarity-based cooperation needs to be organised while centralisation and fragmentation need to be prevented.

Organisational subsidiarity has important implications for the role of the Commission and the European Parliament. It goes without saying that the Commission is the initiator of policies and the guardian of the Treaties. Yet that does not mean that the Commission must carry out its tasks as a hierarchical body. It is also a network manager, tasked with identifying bottlenecks in cooperation, supporting mutual and transparent inspections, creating EU agencies and networks of agencies, ensuring transparency and independence, supervising the quality of national institutions in the multilevel networks and offering support.⁴⁴

The Commission should support network building and invest in capacity building in the member states. This is different from actually giving up its current tasks—for example, in economic governance. As it has done in the successful policy areas, the Commission should build on subsidiarity and opt to work with and through national institutions. To be specific, where the work of the DG ECFIN, for instance, concerns writing assessments of national economic institutions and policies, its fact-finding and preparatory tasks should be decentralised to the relevant national networks. Debates on the ‘how’ of EU policies have, however, been poorly developed because the EU lacks an administrative model based on subsidiarity. Managing national institutions and convergence processes is more appropriate than the upward delegation of tasks.

⁴⁴ L. Metcalfe, ‘After 1992: Can the Commission Manage Europe?’, *Australian Journal of Public Administration* 51/1 (1992), 117–30.

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Future of Europe

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