

**Principal-Agent Theory and the EU:
Evaluating a Changing Relationship**

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Abstract: Principal-agent (PA) theory has been employed to characterize the relationship between states and the international organizations (IOs) that they are members of. While the European Union (EU) has been considered a model for this sort of relationship, the tendency of PA theory to provide a static account of principals and agents has led to the dominant collective principal model declining in goodness of fit as the EU has changed over time. By tracking changes in the EU from its inception as the European Coal and Steel Community (ECSC) to the passage of the Lisbon Treaty, it is possible to identify structural changes that have strained the institutional relationship between members and the EU. In the current context of the EU, neither the collective principal model nor the multiple principal model can perfectly capture the relationship. Instead, a hybrid approach is needed that recognizes different avenues of re-contracting that are available to specific members.

Additionally, the structural progression of the EU has opened up the theoretical possibility of a role reversal between principal and agent. The EU exerts a great deal of control over member-states through proceedings that the Commission initiates to compel members to comply with EU laws, as well as controlling the scope and pace of integration by regulating the procedures of enhanced cooperation and treaty opt-ins. This indicates that states are being given direction by the EU, rather than the reverse.

Though the EU is very much unique among IOs, these developments are parsimonious enough that it is possible for them to occur in other institutional arrangements as well. Much of the impetus for these shifts can be found in the European focus on the normative benefits of integration which, instituted in another context, could lead to similar shifts occurring.

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Introduction

Principal-agent (PA) theory has developed as a neofunctional way to look at why, and under what conditions, authority is delegated from one person or group (the principal or principals) to another (the agent). While not its initial application, this framework has been applied to international relations, and more specifically in the subfield of international organizations (IOs). The emphasis on transaction costs and rational choice has made PA theory a fruitful avenue for examining the delegation to IOs, and there is no case that fits this narrative better than that of the European Union (EU). While it has previously been studied in the context of traditional PA theory, the EU of today has changed dramatically over the years, and these changes call for re-considering the fit of the conventional PA theory to the changed institutional framework and source of relationships between the Union and its member-states.

The literature on PA theory treats relationships as static and unchanging, while the institutional changes that have been made to the EU over time have led to a different arrangement today than in the past. PA theory requires a mechanism for updating the relationship between principals and agents at the international level. A close examination of the EU shows that the organization has, at times, fit very well with different narratives in the PA literature, but that the appropriate model and goodness of fit changes over time.

From its beginning as the six-member European Coal and Steel Community (ECSC), with little authority and a requirement of unanimity, the EU has grown into a large IO with complex mandates and decision-making procedures. To say that the PA relationship today is the same as in 1951 (when the ECSC was founded), or even in 1993 (when the Maastricht Treaty formally created the EU), would misrepresent the organization itself and the way in which it

interacts with its member-states. By looking at the Inter-Governmental Conferences (IGCs) with a specific focus on the way they affected the PA relationship, the need for a dynamic account of PA interaction in the IOs literature will become clear. Additionally, the current trajectory of the EU leaves open the possibility that a new category of classification may be developed. The EU's development leaves open the possibility that a new theoretical category may emerge, in which the principal and agent may trade places.

This thesis has four central goals. First, it will trace the evolution of the EU over time and demonstrate how the standard PA model accounts for this growth. Between the founding of the European Community with the Rome Treaty in 1958 and the establishment of the European Union in 1993, a number of structural changes occurred that shifted the goodness of fit of the collective principal model and allowed it to be replaced by the multiple principal model. Looking at both the traditional PA literature and the institutional development of the EU will establish the baseline condition of both. Understanding the PA literature and the EU in the standard narrative will be a strong starting point for looking at the changes the EU has undergone and how it has moved away from the basic account.

Second, the way that PA theory is applied to the EU must be examined in the context of the institutional changes that have been implemented through the IGCs. A source of the disconnect between PA accounts and the EU's development is that the PA model tends to keep the relationship static, while the EU has been in a constant state of growth and change. The addition of new members, changing of voting procedures, and shifting expectations about decision-making all contributed to a shift in the model of best fit from a standard collective principal model to a collective-multiple principal hybrid. The dynamic nature of the relationship

and the hybrid of the two institutional forms are events that do not conform to standard PA theory.

Specifically, the way that voting and decision-making procedures changed with the passage of the Maastricht Treaty and the Schengen Agreement highlight examples of shifts toward an arrangement that allows specific individual member-states like the UK and Denmark to have much more influence than a member of a collective principal would have. Though it is theoretically possible for other member-states to attain this same level of access, it appears limited to only a few states currently.

Third, the potential for a new model to characterize the EU is considered. Though it is not argued that such a change has already occurred in the EU, the thesis contends that it is theoretically possible for principals and agents to reverse roles. The expanding discretion and autonomy afforded to the EU over the course of its development has demonstrated the possibility, and its continued development will provide the best venue to determine if this change can occur.

Concluding, the possibility of another IO mirroring the direction in which the EU has moved will be considered. The EU is, in many ways, unique in the world of IOs. With this in mind, the applicability of both the dynamic change and possible role reversal must be considered, with the central question being whether, and under what circumstances, these changes could occur in other IOs. Though much of the EU's development makes it unique in the world of IOs, and there does not appear to be an IO currently structured in a way that makes it likely for the same shifts to occur as the EU has undergone, the theory remains parsimonious

enough to be applied outside of the European context. To begin, the theoretical underpinnings of the PA literature must be developed and applied to the EU.

Chapter One: Principal-Agent Theory and International Organizations

Delegation is the action inherent in a principal-agent relationship, and may be defined as: “a conditional grant of authority from a *principal* to an *agent* that empowers the latter to act on behalf of the former. This grant of authority is limited in time or scope and must be revocable by the principal.”¹ Principals, therefore, only exist if agents do, and vice versa. Another important qualification is that principals contract agents (formally or informally), and that one defining characteristic of the principal is that “an actor must be able to both grant authority and rescind it.”²

PA theory developed as a solution to questions of delegation, and offers a rational account of why, and under what conditions, authority is delegated from one actor to another. The standard narrative is that this is done in a framework of rational choice, and is intended to lower transaction costs of policy-making and implementation.³ Delegation is therefore an option for states when they are able to gain more from the act of delegating than from acting on their own and alone, and when the benefits of delegation outweigh the costs.⁴ There are a number of different configurations for these relationships to be structured, and their makeup affects the way that the actors interact with one another.

A major feature of this relationship is the way in which the agent represents the interests of the principal. If the principal is unable to rely on the agent, then they must expend resources keeping track of the agent, which increases the transaction cost and cuts down on the benefit of delegation. Agents are not only interested in the outcomes desired by their principals, but have

¹ Hawkins, Lake, Nielson, and Tierney, 2006; pg. 7

² *Ibid.*

³ Pollack, 2007

⁴ Epstein and O’Halloran, 1999

their own agendas as well. The claim that agents are “self-interest seeking with guile”⁵ has been used to characterize the behavior of agents, representing that they are apt to pursue their own agendas even while representing that they work in the interest of their principal(s).

The problem of accountability among agents is the most difficult thing for principals to overcome. The relationship is perpetually skewed in favor of the agent, which makes it challenging for the principal to do even basic things like observe the actions the agent takes on its behalf.⁶ The specialized knowledge that agents possess and the lack of constant oversight creates an asymmetry of both information and opportunity. This imbalance leads to three specific problems for principals. First, agents can hide information from principals, taking advantage of the asymmetry that results from the specialized knowledge they possess. Second, agents can take action without the principal’s knowledge, pursuing their own agendas. Third, principals need agents to fulfill their mandates, which practically means that they can get away with some deviation.⁷

“Independent action by an agent that is undesired by the principal” is known as agency slack,⁸ and is a great concern for principals. There are two primary forms that slack takes. The first, known as shirking, occurs when “an agent minimizes the effort it exerts on its principal’s behalf.”⁹ The agent does not do everything in its power to fulfill its mandate, often because of some external opportunity or circumstance. Alternatively, slippage occurs when “an agent shifts

⁵ Williamson, 1985; pg. 30

⁶ Bergman, 2000

⁷ Kiewiet and McCubbins, 1991

⁸ Hawkins, Lake, Nielson, and Tierney, 2006; pg. 8

⁹ *Ibid.*

policy away from its principal's preferred outcome and toward its own preferences."¹⁰ In this case, the agent is actively pursuing its agenda rather than that of the principal.

The potential for slack is something that is inherent in delegation, and that principals must acknowledge and deal with. Accounting for it in the structure and contract of the initial delegation, or by re-contracting, give principals opportunities to deal with slack.¹¹ The challenge of delegation is how to deal with the asymmetrical distribution of information. The agent's position is often difficult for the principal to ascertain, while the agent knows exactly where the principal stands. Additionally, the specialized knowledge that makes delegation attractive initially can prevent the principal from knowing the degree to which slack is present.¹²

This is important, because the act of delegation comes with a grant of autonomy, or "the range of potential independent action available to an agent after the principal has established mechanisms of control."¹³ Autonomy and slack are similar to one another, but remain distinct. Autonomy encompasses the freedom to act that the agent has, which may take the form of slack but does not have to. The agent can choose to act on the mandate provided by the principal or ignore it, which determines whether its autonomy is expressed in the form of slack or not.

The principal can limit the potential for problems by providing discretion, or "a grant of authority that specifies the principal's goals but not the specific actions that the agent must take to accomplish those objectives."¹⁴ By making the course of action clear to the agent, the principal cuts down on the agent's ability to slack while still allowing the use of autonomy to achieve goals. All of the above typify the issues that principals face in trying to reduce agency

¹⁰ Hawkins, Lake, Nielson, and Tierney, 2006; pg. 8

¹¹ Ross, 1973

¹² Pollack, 2003

¹³ Hawkins, Lake, Nielson, and Tierney, 2006; pg. 8

¹⁴ *Ibid.*

losses. These occur when “when agents engage in undesired independent action or when they [principals] themselves expend resources to contract with or monitor and control those agents.”¹⁵

Agency losses create the potential for two specific problems. The first issue is uncertainty: an agent or principal must determine whether outcomes (positive or negative) are the result of genuine efforts on the part of the agent, or circumstances that the agent could not control. The second issue is specialization and costs. Delegation is done for the purpose of utilizing specialization and division of labor, which means that it is generally inefficient for the principal to expend resources checking up on the principal. The more this must be done, the less beneficial the arrangement is for the principal¹⁶

With these concerns in mind, there are a number of avenues available to principals to keep agents in check. As noted above, discretion-based delegation is an option for principals who wish to avoid these issues. In situations with a great deal of uncertainty, the benefits of discretion are high for principals, who can trust the specialized knowledge of the agent when they know that the goal has been specified.¹⁷ The benefit of discretion is that it allows agents the freedom to navigate situations with high levels of preference heterogeneity while working out a policy that fits with the principals’ desires.¹⁸

Alternatively, principals can monitor the actions of their agents in an effort to determine how well they are keeping to their mandate. The two primary methods of monitoring the performance of an agent are known as “fire alarm” and “police patrol” enforcement.¹⁹ The fire alarm method relies on reports from the media, interest groups, etc. to find out if problems exist,

¹⁵ *Ibid*; pg. 9

¹⁶ *Ibid*.

¹⁷ Cooter, 2000; pg. 94

¹⁸ McCubbins and Page, 1987; pg. 418

¹⁹ Vaubel, 2006

and police patrol method involves much more active, hands-on tracking of the agent. Both methods help principals gain information, but in different ways²⁰. The police patrol method allows the least amount of slack to develop, but also requires the highest transaction costs. Fire alarms tend to be more efficient, and to incentivize reporting on agents.²¹ These methods of oversight are the most commonly used tools for principals to keep track of agents.

No matter how well structured the contract between the principal and agent, how sincere the agent is in representing the preferences of the principal, or how effective oversight and sanctions are, slack is unavoidable. However, the presence of slack does not indicate any sort of failing in the delegation process. Delegating may still be preferable to not delegating even if slack occurs. The thing that principals must consider is whether their relative gains are worth the costs of the delegating.²²

In spite of the potential pitfalls, there are still compelling reasons for principals to engage in delegation. Principals are able to overcome high degrees of slack in contracting with agents, and benefit from even arrangements that have considerable slack.²³ In addition to the gains they receive from specialization and division of labor, principals also benefit through agents' help in managing policy externalities, facilitating collective decision-making, revolving disputes, enhancing credibility, and creating policy bias.²⁴ While all are important, agenda-setting, enhancing credibility, and creating policy bias are particularly important for the EU.

Agenda-setting refers to the ability of agents to create a stable agreement where states would not have been capable of doing so on their own. This differs subtly from the policy

²⁰ Lubbers and Scheepers, 2010

²¹ McCubbins and Schwartz, 1984

²² Gould, 2003

²³ Nielson, and Tierney, 2006

²⁴ Hawkins, Lake, Nielson, and Tierney, 2006

externality position, which allows states to express their interests and reach either mutually beneficial or Pareto optimal solutions. The agenda-setting function describes a situation in which the agent actually synthesizes differing interests from principals into a policy that is acceptable to all.²⁵ In the case of European integration, this ensures that the issues of all states can receive consideration, and that efforts are made to accommodate all of the principals.

Enhancing credibility is important from the perspective of the principals. Being a member of an IO can both create and increase the state's perceived legitimacy internationally. The act of re-contracting and expanding the agent's mandate or the scope of its autonomy can enhance the perception of the principal's commitment to an agent or a particular issue-area.²⁶ The EU is emblematic of this, and it has specifically been argued that delegation in Europe is more about the enhanced credibility than specialization.²⁷

Creating policy bias is of strategic value to domestic actors as they work through IOs. The idea is to codify or "lock-in" the state's commitment to an IO so that it is later difficult to undo.²⁸ By creating a commitment to an IO agent seeking a particular policy outcome, the principal can maintain an ideological commitment. This is because the agent can take action without the political cost that would accompany similar action on the part of the principal. The monitoring ability of the EU, provided to the Commission in Article 226 is a strong example of this, as it provides for the possibility of non-compliance penalties.²⁹

Access to the costs and benefits of PA relationships is affected by every step of the delegation process. The type of contracting done by the principal matters in determining how it

²⁵ Pollack, 2003

²⁶ Hawkins, Lake, Nielson, and Tierney, 2006.

²⁷ Majone 2001; pg. 115

²⁸ Hawkins, Lake, Nielson, and Tierney, 2006

²⁹ Pollack, 2006

receives benefits and what sort of agency losses it accrues. One of the important issues is the structure of the delegation. The most basic model of delegation is that of the single principal, in which authority is delegated from one principal to one agent. In this instance, it is a relatively straightforward process for preferences to be dictated from one to the other. Though the possibility for slack is always present, this model makes the expression of preferences simple. Figure 1.1 illustrates the basic form of delegation.

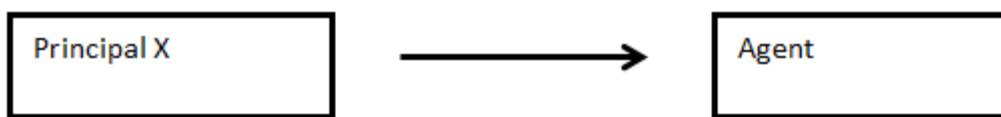


Figure 1.1: Single Principal Relationship

It is also possible for the agent to represent the interests of more than one principal. This is the most common in dealing with IOs, where agents are designed to act on behalf of multiple member-states. When more than one actor designs and has authority over a common contract for a single agent, this is known as a collective principal model.³⁰ The group of principals must reach agreement to (re)contract with an agent, and cannot do so unless they have some method for reaching a consensus. In a multiple principal model, there is only one contract that binds all of the principals to the agent. This is considered to be the most common PA relationship in IOs, and is shown in Figure 1.2.

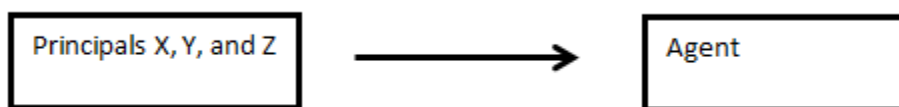


Figure 1.2: Collective Principal Relationship

³⁰ Lyne, Nielson, and Tierney, 2006

Alternatively, a multiple principal arrangement exists when the agent has separate contracts with distinct principals.³¹ In this case, each of these principals may negotiate its contract separately, independent of the preferences of others. This goes beyond simply giving veto power, as with the UN Security Council. The act of re-contracting is different from vetoing change, and is not usually afforded by IOs to their members. The multiple principal model is demonstrated by Figure 1.3

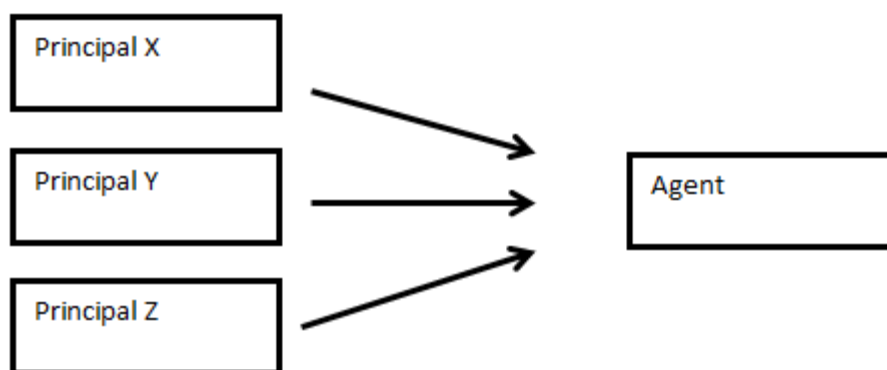


Figure 1.3: Multiple Principal Relationship

Identifying the type of relationship correctly is important for PA theory, because it can affect the type of analysis done as well as the results. Correctly identifying whether a relationship is a collective or multiple principal arrangement affects the evaluation of responsiveness, and can have adverse effects on results of empirical testing.³² For example, consensus building among principals is much more important in a collective principal arrangement than it is in a multiple principal arrangement, because in a multiple principal arrangement each member can negotiate separately. Incorrectly categorizing a multiple principal

³¹ Calvert, McCubbins, and Weingast, 1989

³² Lyne, Nielson, and Tierney, 2006

arrangement as a collective principal arrangement could make the agent seem less responsive in this case.

Equally important, the role of the agent itself must be considered. Agents can make strategic decisions in the same way that principals can, and their decisions affect the arrangement that they share as much as those of their principals.³³ The complexity of agent strategies goes beyond basic self-interest seeking, and there are a number of strategies that they can employ. An agent such as the EU has the advantage of having built rapport with its principals over time, which allows it to develop a working relationship and a case for expanded duties.

Since principals “rarely delegate all at once to new agents but rather delegate only limited tasks or for a limited time,”³⁴ it is to the advantage of a principal with the opportunity to keep their interests close to those of its principals initially, and to work toward more autonomy. After the scope of its autonomy is expanded, then the agent can ask for more discretion, or can claim it for itself through alternate methods.

Some of the most effective ways for the agent to actively work toward expanding its mandate is to reinterpret rules gradually, reinterpret to split principals, procedural innovation, and ask principals to formalize informal rules.³⁵ These can be used to encourage principals to give more autonomy and discretion to the agent, and may also increase the likelihood of slippage or slack. In the case of the EU, gradual interpretation of rules and formalizing informal rules have both been utilized in securing gains that will be highlighted below.

³³ Hawkins and Jacoby, 2006

³⁴ *Ibid.*; pg. 206

³⁵ Hawkins and Jacoby, 2006; pg. 207

A major feature of principal-agent relationships is that they are subject to change over time. Implicit in discussions of (re)contracting, slack, and losses is the understanding that these arrangements are not static. Theorizing about PA relationships points out that costs and benefits shift over time, but the implications of this are more than abstractions. Developing a theory of evolving roles in a principal-agent arrangement necessitates the incorporation of changes over time. Though different models for PA relationships exist, the way in which the model is applied is important. The literature treats PA relationships as static, to the extent that they are characterized by the institutional features of the IO in question. However, the current EU is the result of a number of institutional changes made over time.

In characterizing a relationship as one of either collective or multiple principal, it is important to look at decision-making procedures. Although unanimous agreement need not be considered as a prerequisite for a collective principal arrangement to exist, it is certainly the case that all members must ultimately be held to the same standards when decisions are made; this is the point of the collective principal model. Since the existing literature treats the arrangement between principal and agent as static, it is necessary to settle on a measure to characterize the change that is occurring in a shift from collective to multiple principal models.

The changing process of voting in the EU has been selected to do the majority of the work in characterizing this relationship over time. The shift to qualified majority voting offers a particular point of reference, as do the alternate arrangements they give rise to (detailed below), because they drive the process of both daily operation and institutional changes. Removing the unanimity requirement of the ECSC allowed the heterogeneous interests of the member-states to come to the fore. A benefit for the agent to be found in greater heterogeneity is that it can help

them acquire greater discretion to negotiate a final policy³⁶, which is closely connected to credible commitments and policy lock-in.

The move toward a multiple principal model that is proposed focuses on the ability of individual member-states to re-contract on specific legislative initiatives. The model for this comes from Daniel Nielson and Michael Tierney's consideration of the World Bank, which features different, overlapping principals. In this case, though the Executive Directors act as a collective principal, the US Congress is able to act as a separate principal in a way that allows it to approximate a multiple principal.³⁷

However, heterogeneity can also harm the interests of the agent, as it appears to have done in the case of the EU. Emphasizing preference heterogeneity may make states less likely to delegate an issue to an IO³⁸, as in the development of the Schengen Agreement and the procedures of closer and enhanced cooperation. This process allows individual member-states or small groups to act on their own or to re-contract with the agent. When the role-reversal model is developed, the notion of heterogeneity shifts back toward the attempt to use higher levels of discretion to create a focus on final policy outcomes.

To conclude this opening section, principal-agent theory is used in the literature to explain why states delegate authority to international organizations. These organizations matter in the international environment in which they function, and have the ability to affect change. The primary motivation for states to participate is that there are benefits to doing so, which derive primarily from the decreased transaction costs and specialization that IOs offer.

Principals develop specific mechanisms to deal with the potential deviations that agents

³⁶ McCubbins and Page, 1987; pg. 418

³⁷ Nielson and Tierney, 2003; pg. 255

³⁸ *Ibid.*

may perpetrate, with designs on ensuring that they fulfill their mandate and represent the specific interests they are given. Though they must be wary of attempts on the part of the agent to ignore their mandate or slack, they will tend to maintain a contract so long as the losses do not outweigh the benefits. The dynamic relationship that develops over time between principals and their agent will be important for evaluating the growth and change in the European Union over time.

Structurally, the type of arrangement between principals and agents matters in evaluating the effectiveness of the institutions. The interaction between principals and agents in a collective principal arrangement is different from a multiple principal arrangement. These differences are especially important to consider when looking at the changes that an IO undergoes over time, as the EU has done constantly. The importance of change over time is the final element needed to examine PA relationships theoretically. Tracking the course the EU has taken through its development history will be important for theorizing.

Chapter two begins with a brief application of PA theory to the EU, showing how it is traditionally applied. However, this standard application is found to be inadequate. The model of PA theory that applies to the EU, and the goodness of its fit, has changed over time. A close examination of the EU shows that the organization began with a collective principal model before moving to a multiple principal model over time. Further, the current trajectory of the organization suggests an impending shift toward a new theoretical model that reverses the principal and agent roles.

Chapter three develops a more in-depth look at the possibility of the principal and agent roles being reversed, and goes on to consider whether it is possible for this type of shift to occur and whether it has occurred in the case of the EU. Extending this analysis, beyond the scope of

the EU, the theoretical underpinnings of such a shift are considered in the context of future research.

To preview, the unique development of the EU over time has created an institutional environment where it appears possible for the principal and agent to change and indeed to reverse roles, though it is not the contention of this thesis that the latter shift has already occurred. Further, although the EU is an exceptional case, these institutional factors are as connected to the principal-agent relationship as they are to the particular way in which the EU developed. In other words, it is possible for the shifts that occurred in the case of the EU to occur in other PA relationships as well.

Chapter Two: The European Union's Development

The European Union is regarded as a major success from an IO standpoint. It embodies the neoliberal institutional argument that institutions can have agency of their own and exert influence on international affairs independent the states that compose them. While principal-agent theory has been used to evaluate the EU, its specific application and the results have fluctuated noticeably. Examining the IGCs and the institutional changes to the EU over time will reveal how the dominant collective principal arrangement has been replaced by a hybridization of collective and multiple principal models.

While some have adopted the PA framework only loosely in reference to the EU,³⁹ others have used it as a more literal way to examine the relationship between the member-states and Brussels. At the most basic level, the EU is considered to be the agent of its members, and it has been given a great deal of autonomy to further integration efforts. Though its efforts are diverse and cover a wide range of issues and issue-areas, the mandate that the EU has been given is most succinctly labeled as integration. It is responsible for the scope, pace, and direction of integration efforts in Europe. This is important to keep in mind when tracking the changes that the EU has undergone, but the state of the current literature must be considered first.

Principal-agent theory offers some advantages over other ways of looking specifically at the EU. Its ability to “generate nuanced hypotheses” has allowed it to develop subtleties that are beyond neofunctionalism.⁴⁰ Additionally, it is able to distill the important components from complex institutional relationships and target the components that are most important.⁴¹ These

³⁹ Elgie, 2002

⁴⁰ Kassim and Menon, 2003; pp. 125 – 126

⁴¹ Moe, 1984; pg. 757

features establish the importance of the approach, but model that is applied (collective or multiple principals) is important to how it is viewed.

As mentioned in chapter one, the model that is applied is of great importance. The dominant narrative has been one that treats the member-states as belonging to a collective principal that contracts with the EU.⁴² In this account, the member-states make up the collective principal by virtue of all being bound by the same treaties and all sharing the same interest in European integration. This shared set of operating parameters, and the communal process of negotiating their way forward, has led the collective principal model to be attractive.

Though the collective principal model's simple representation of the EU may be appealing, it comes at a price. Treating the EU as a unitary actor ignores institutional complexity presented by the separate bodies and the interests they represent. The different roles played by the Commission and the Parliament shape the way that the EU interacts with member-states. The internal dynamic of the EU, the way that these bodies interact with one another, may be just as important as the relationship between the member-states collectively and the EU collectively. To only think of the EU as a unitary actor would be a mistake.⁴³

The idea that the EU is best represented by a multiple principal relationship may manifest itself in two different ways. First, as Lyne, Nielson, and Tierney suggest,⁴⁴ it may be that the member-states and the European Parliament both act as principals for the Commission, which has legislative initiative and may be considered the "true" agent within the structural layers of the EU. In this framework, the Parliament represents the broad range of (often diverging) interests of average European citizens, while the member-states represent their interests. In this

⁴² Pollack, 2006

⁴³ Kassim and Menon, 2003

⁴⁴ Lyne, Nielson, and Tierney, 2006

way, they form competing principals that each have their own agenda to pursue. The Commission must then balance these separate mandates and faces the standard issue of working with multiple principals.

This interpretation is challenged by Pollack, who argues that the Parliament does not have the ability to re-contract with the Commission.⁴⁵ Though it may censure the Commission and must approve the European Council's nominees, the Parliament cannot make changes to the Commission itself. Only by acting with the Council of Ministers can the Parliament really affect the Commission, and they do not share the same interests in representation.

Though unwilling to accept the multiple principal relationship proposed by Lyne, Nielson, and Tierney, Pollack does not deny that the arrangement is unique. Describing (but not defining) it as a *dual accountability* relationship,⁴⁶ he concedes that the situation in the EU is unique from any other, and warrants some distinction from a standard collective principal model. The narrative of the multiple principal model applied in this way is interesting, and the EU's institutional complexity should be broken down for analysis, but the progress made by considering EU institutions as separate in the process is undone by continuing to think of the member-states as a collective principal.

The second way that the multiple principal model may be applied, and the approach this thesis will argue for and utilize, is one that thinks of the member-states as being the principals of the EU. Rather than thinking of the member-states as a collective principal who represent national interests that compete with the shared, collective interests of the European Parliament, this model suggests each member-state represents their own interests to the EU by making use of

⁴⁵ Pollack, 2006

⁴⁶ Pollack, 2006; pg. 193

the different channels of access that it provides for them. This approach does not de-emphasize the institutional complexity of the EU, acknowledging that there are multiple access points for member-states, but focuses on their diverse interests as an alternative to treating them as though they have the same set of preferences.

Looking at both the collective and multiple principal models together offers a better account of the EU than the collective principal model by itself. The changes it has undergone as a result of the IGCs have changed the institutional structures and have rewarded shifts in the direction of this model, as will be illustrated below. Incorporating more members, changing voting procedures, and allowing opt outs all moved the EU away from a collective principal model and toward a multiple principal model. However, there are still some instances in which the collective principal model is applicable.

This interpretation of the multiple principal model may seem to collapse some of the complexity built into Pollack's conception of the EU, but it only changes the focus. Far from treating the EU as a unitary actor, it is free to acknowledge that there are different interests within member-states, and that they access the EU itself in different ways. The government in power may choose to communicate directly to the EU through public statements or access it through either the Council of Europe or the Council of Ministers, while the parties that are less successful may rely on the European Parliament to voice their preferences.

The first issue should be to demonstrate that it does not suffer from the same short-coming that Pollack levels at the European Parliament, namely that member-states cannot individually re-contract with the EU. While a more detailed answer to this issue will be

developed later, it will suffice for the moment to say that while this is a legitimate concern that is addressed by looking at the process of passing legislation through the EU.

The EU's development over time must be considered next, and will show that the multiple principal model should be incorporated because of the way that its institutions have been changed over time by its IGCs. The uniqueness of its development over time contributes strongly to the difficulties in characterizing it succinctly. Tracking the changes it underwent over time will help to establish the EU as a complex IO that cannot be represented by a static PA model. Instead, the changes it has undergone should be considered, to demonstrate how the shift from a collective principal model to a hybrid occurred.

Changes in the EU over time

To think of the EU as a standard international organization would be to undersell the longevity of the institution and the principles upon which it has developed. Most importantly, the changes that it has undergone, from its founding as the European Coal and Steel Community to the European Union today, underscores the characteristics that make it distinct from other IOs. The scope of its mandate and autonomy make the EU a special case among IOs.

Originally a common market venture between France, Germany, Italy, Belgium, the Netherlands, and Luxembourg, it was conceived as a way to utilize integration efforts to bring stability to post-WWII Europe, and economic cooperation was a strong first step. This cooperation had the additional benefit of allowing other Western European nations to monitor Germany by creating a common market for the six nations in the important coal and steel industries. At this time it was formed in 1951, the ECSC only had six members, little authority for decision-making, and was required to have unanimous support before passing any initiative.

The case of the ECSC is a strong example of a collective principal relationship. Since the number of members was small, it was possible for the member-states to have a high degree of direct oversight and to ensure that the ECSC was doing exactly as mandated. In the early stages of development, the economic benefits of cooperation were the primary interest of the member-states, and they ceded only as much authority as was necessary to see these benefits.⁴⁷ The requirement that the states come to a unanimous agreement before taking action strongly reinforces the collective principal. In the case of the ECSC, this meant that the delegation of authority was little, and that the level of autonomy and discretion were essentially non-existent. This was a very straightforward PA relationship with strong police patrol oversight. This fits with the goal of the ECSC to increase cooperation at a basic level and to broach the possibility of greater levels of integration in the aftermath of the conflicts that dominated the first half of the 20th century.

The degree of autonomy that was afforded to the ECSC was relatively low, offering few opportunities to exercise their discretion. With little to no opportunity for slack to develop, it functioned largely as a forum for facilitating discussion between the members. The newness of the integration effort also contributed to the lack of slack, both because the new IO had not developed distinct preferences of its own and because it was not afforded a level of autonomy that would allow it to take advantage of slack. At this time, the ECSC may be thought of as existing to deal with the coordination and collaboration issues of policy externality. The states work together through this framework to reach mutually beneficial outcomes and avoid sub-optimal equilibria. This is the most basic function of IOs, and is the primary driver for the ECSC.

⁴⁷ Milward, 2000

Member-states got exactly what they wanted at this time: economic integration with little impact in other sectors.⁴⁸ Since they had a high degree of police patrol oversight, and since all members had to be in agreement for action to be taken, it was relatively simple for the ECSC to fulfill their mandate. That is, when action was taken, it was sure to be in line with the preferences of all of the principals. Even if some of the principals make concessions or compromises with one another, they still reached broad agreement. This takes care of the two concerns of agents: achieving desired outcomes and avoiding slack. Since unanimity was required to take action, it minimized the issue of different members of the collective principal communicating radically different interests and being forced to disregard some interest(s). Additionally, the high degree of oversight and limited independent authority that were given to the ECSC means that there was little it could do on its own. As a result, it was not able to disregard its principals and act in its own interests.

Incremental steps were taken that transformed the ECSC into the European (Economic) Community, and that changed its mandate to fit the political sentiment of the time. By the time the Maastricht Treaty officially established the European Union in 1993, the authority and mandate it had were radically different from the original, as were the interests that it was obliged to try to represent. These changes led to the collective principal model growing worse in its fit and the multiple principal model gaining explanatory power, and it is this process that needs attention next.

A number of factors led to the changes that the European integration initiative underwent, some driven by the principals and others driven by the agent. As noted above, the agency that is afforded to agents in the neoliberal institutional framework means that agents can have strategies

⁴⁸ Dinan, 2008

of their own, which determine the way they engage with their principals. Though there was little strategy involved in the basic ECSC mandate at this time, they successfully laid the groundwork for changing this in future interactions by demonstrating a commitment to the original mandate.⁴⁹

Regarding the mandate of the organization, the 1957 Treaty of Rome essentially allowed the cooperation of the ECSC to work in other sections of the market as well. By creating a common market for goods and labor, as well as more relaxed customs regulations, the Treaty was an application of the member-states' desire to expand economic integration and a step toward fulfilling its mandate.⁵⁰ Since the members shared this interest and worked closely with one another and the agent to achieve it, the collective principal model fits well for describing the process. It also provided the opportunity for an expansion of autonomy to the instruments of integration.

The Rome Treaty went into effect on January 1, 1958, the same day as a second treaty, which established the European Atomic Energy Community (EURATOM). This was intended to create cooperation between the members on the development of nuclear energy as a power source. Though a separate treaty was signed, EURATOM entered into force at the same time as the Treaty of Rome. Both are examples of the collective principal model at work, as the new treaties represent the fulfillment of the mandate to expand economic integration beyond the two industries to which it was initially confined.

As mentioned above, the Treaty of Rome introduced the qualified majority voting (QMV) arrangement, which would come to dominate voting procedure in the newly formed EEC. The QMV method gives a number of votes to each member-state based on its population,

⁴⁹ Hawkins and Jacoby, 2006

⁵⁰ Dinan, 2008

and passing an item on the agenda requires a minimum number of both votes and states. Again, while this could be viewed as the disruption of the collective principal model, the norm of seeking unanimity continued to prevail decision-making.⁵¹ This supports the collective principal model, and it was only later that its fit declined and the multiple principal model came to be more applicable.

The Treaty of Rome and EURATOM both fit with a standard collective principal model of PA theory. The regulatory powers of these organizations were greater than those of the original ECSC, representing a grant of expanded autonomy on the part of the principals. Though these organizations still had relatively little autonomy, they did receive a higher grant of discretion in accomplishing their mandate. Additionally, they moved beyond coordination and collaboration issues to deal with collective decision-making and dispute resolution in a way that advanced European interests. This was a building block for further consolidation and integration.

The 1967 Brussels Treaty combined all three of these treaties under the authority of the EEC's institutional structure.⁵² This step solidified the commitment to integration in Europe and streamlined the process. Despite the fact that the three were still legally distinct, the level of consolidation of authority into common institutions is evidence of the desire of European states to continue integration efforts. This pervasive attitude is essential to the process of the changing PA relationship. It also represents the grant of more discretion to the agents of integration, which strengthens the commitment of the principals.

⁵¹ Dinan, 2008

⁵² Treaty establishing a Single Council and a Single Commission of the European Communities, 1965; Article 1

The fit of the collective principal model began to decline in the 1970s with the enlargement of the EEC. Intuitively, an increase in the number of members would make it more difficult for the community to come to an agreement about the best policies and how they should be pursued. Specific differences, such as the French concern over UK admission, created additional strain as well. From an institutional standpoint, the first effect of new members was adjusting the QMV scheme. Assigning votes to the new members affected the balance of power, changing the number of votes and members needed to pass an initiative. This shaped the way that interests were represented.

After having only six members since it began as the ECSC, the EEC began to seriously consider enlargement in the early 1970s. Though it had considered membership applications as early as 1961, the first round of accessions did not take place until Denmark, Ireland, and the UK joined in January of 1973.⁵³ UK accession in particular was an issue due to French concerns about divergent interests. It was only after de Gaulle left office that the accession was approved. While adding new members does not necessitate a change to the PA relationship, the way that it affected the EU helped to facilitate the process of change.

Each time new members were added, it affected the QMV distribution. Since the percentage of votes required to pass an initiative remained largely the same, it seems reasonable to say that nothing changed dramatically. Table 1.1 shows the QMV distributions from the Treaty of Rome in 1958 up to the adoption of the Treaty of Nice in 2003, which fundamentally changed the system. The percentages of votes required and states required to pass legislation remain essentially constant, yet the fit of the collective principal model does not. Even though

⁵³ Dinan, 2008; pp. 32 – 34

the percentage of votes and states required to pass a legislative initiative remains constant, the difficulty in reaching agreement is increased.

Table 1.1 QMV Voting

Number of Member-states	Votes Needed/Votes Possible	States Needed/States Possible
Original Six	12/17 (70.59%)	4/6 (66.66%)
Nine Members	41/58 (70.70%)	6/9 (66.66%)
Ten Members	45/63 (71.43%)	6/10 (60%)
Twelve Members	54/76 (71.05%)	8/12 (66.66%)
Fifteen Members	62/87 (71.26%)	10/15 (66.66%)

Although adding more members over time might make it more difficult to come to a consensus, this does not necessarily mean that the collective principal performs dramatically worse. Winners and losers are always present in any decision-making process, and one might reasonably ask how this signals a shift in the fit of a PA model in Europe. The presence of more diverse opinions and increased difficulty in creating agreement makes alternate methods of pursuing the mandate of integration more attractive.

On a theoretical level, adding more member-states means has a couple of implications. The actual number that must agree is increased; this is obvious, but the real issue is more complicated still. More members means that the potential for alternate viewpoints is higher, and that smaller states who would not speak for an alternate viewpoint in a smaller setting may support one if a larger state advances the view first and takes the lead. In the case of the EU, this happened not long after membership increased.

The Schengen Agreement in 1985 is a strong indicator of the growing rift between member-states. Schengen functionally eliminates internal borders between its signatories,

allowing people and goods to travel from one country to another without the need for passports or customs checks. However, Schengen was contentious when it was introduced. Only five of the 10 members at the time signed the Agreement, which was not created through the European Economic Community's existing institutional framework. France and Germany began what would become the Schengen Agreement in a separate initiative.⁵⁴ When concerns were voiced that the EC may not have the authority to pass Schengen, and that it may not be in the interests of all members, the five original signatories went outside of the EEC and created the agreement between themselves. While there is nothing to prohibit the states from doing this, it seems to run counter to the purpose of fostering cooperation in Europe. This is important for two reasons.

First, the split is along predictable lines. Belgium, France, Germany, the Netherlands, and Luxembourg, the five original signatories to the Schengen Agreement, are also five of the original six members. As mentioned before, the addition of new members can introduce new positions and challenges to existing structure in the PA relationship. Additionally, having alternate views makes it more likely that a member of the original group may articulate divergent preferences. Italy's absence from the 1985 group of signatories is less surprising than it would have been in 1972, when it would have been the only member of the EEC not to have signed.

Second, the decision of the five original signatories to establish the Schengen Agreement without the European Economic Community is indicative of the collective principal model's worsening fit. Their choice to pursue Schengen outside of bounds of the EEC is symptomatic of the shift away from consensus seeking and shared interests that characterize the collective principal model and toward the more individualist interest articulation of the multiple principal model.

⁵⁴ Dinan, 2008; pg. 36

The important distinction to make is that while the collective principal model's fit is declining at this time, it is still applicable to the European Economic Community. Although there is disagreement about the pace of its progression, the members are all in agreement on their desire for more integration. Additionally, the level of direct oversight by the members is still relatively high at this time, largely conforming to the police patrol model. These factors emphasize the changing nature of the EEC, but suggest a process rather than a dichotomous switch.

The case for the multiple principal model is strongly affected by the development of Schengen, because the states that orchestrated it reached an agreement between them that did not include the other members. This laid the foundation for the enhanced cooperation measures to be included in the EU's operating procedures, which would be introduced by the Treaty of Nice (developed below) and allow for more individual contracting.

The next significant shift in the European Community came with the Single European Act (SEA). Its primary purpose was to facilitate the creation of a single market as an expansion of economic integration. This was an effort on the part of the EEC to move forward with integration in the way it had represented that it wanted to. The broad consensus on expanding integration went beyond the wish for economic expansion, but extended to other areas as well.⁵⁵ In this case, the SEA provides for increases in both autonomy and discretion by giving the policymakers in Brussels authority to take action outside of the economic arena where they had previously been confined.

⁵⁵ Dinan, 2008

The SEA also formally codified European Political Cooperation (EPC), an attempt to coordinate foreign policy among the member-states. This particular measure had been attempted before, and had not been successful. Its inclusion in this treaty signaled that the will of the member-states was for more breadth and depth of integration, and the EPC would go on to be expanded and revised as the current EU's Common Foreign and Security Policy. However, while there was broad agreement on the Single European Act, it was not passed without a hitch.

Ireland held a national referendum on the SEA after its supreme court ruled that adopting it would require the constitution to be amended.⁵⁶ This case, *Crotty v. An Taoiseach*, would be an important one in the future because it requires national referenda in Ireland when considering major treaties on the EU. This way of giving preference to national interests would affect efforts to expand integration more than once.

Beyond the Irish case, Denmark also took issue with the SEA. The Danish national parliament rejected the Act, making it necessary to have a national referendum to ratify it. This was based on concerns about the amount of power given to the EEC, similar to those voiced by Ireland. The Danish objection not only delayed its signing of the SEA, but caused Italy and Greece to delay adding their signatures as well. These issues and delays, based on national interests, caused the SEA's entry into force to be delayed by seven months. These issues demonstrate the declining fit of the collective principal model as well, though the broad support for expansion demonstrates that there is still a unity of interests.

Denmark and Ireland are important for the developing of the PA narrative. First, they are individual member-states contracting with the EU to adopt a version of EU *acquis* than the rest

⁵⁶ Supreme Court of Ireland, 1987

of the principals. This became the foundation for opt out procedures (detailed below) that formalize this individualist contracting, which is more in line with the multiple principal model than the collective principal.

The Single European Act demonstrates the increasing problems caused by divergent issues at the supranational level. On the one hand, the members broadly agreed on the expansion of integration in the traditional economic sector and additionally in foreign policy collaboration; on the other hand, the members became increasingly willing to place national interest over the previous consensus-building approach emphasized the collective principal approach. The passage of the SEA was also accompanied by an increased emphasis on using QMV voting rather than seeking consensus, which further suggests a changing relationship.

As noted above, the presence of disagreement among member-states should not be read as the primary indicator of a declining fit of the collective principal model; all IOs deal with disagreement among principals at some point, and this is just part of the process. However, the specific case of the EU's mandate for increasing integration means that dissent is more troubling in this case than it would be for other IOs. In the EU, objections from states are not just about concern for the IO, but are directly related to retaining sovereignty. The development of interests that run counter to the specific mandate of the IO are uniquely problematic, and suggest that the collective principal model is being disrupted.

Maastricht: More Dramatic Changes

After the Single European Act, the next major treaty is the Maastricht Treaty, which would formally transform the EEC into the European Union. This brings the issue of the collective and multiple principal models to a head. The broad interest in expanding integration

beyond the economic arrangements and foreign policy cooperation of the EEC is an indicator that the member-states generally shared a collective desire to move forward and create this new institution. The requirement that the Treaty be signed and ratified by all member-states is a further testament to the collective nature of this process. However, like the preceding treaties, Maastricht was not as much of a collective action as it seemed.

The Maastricht Treaty introduced the three pillars, which became the backbone of the European Union. The European Community (EC), Common Foreign and Security Policy (CFSP), and Justice and Home Affairs (JHA) pillars represent the three policy structures established by the EU. The EEC had essentially fulfilled the function that the new EC did, and the EPC was the precursor to the CFSP. While the JHA did not have a precursor organization, it formalized cooperation efforts that had been at work in the EEC prior to the establishment of the EU. Overall, the Treaty was a direct extension of efforts that had previously been undertaken.

Vocal opposition to Maastricht came from the national parliament of the UK, where there were concerns over the expansion of supranational authority. The national Parliament sought opt outs to social provisions related to labor laws, as well as to the common currency. Obtaining these was a politically disruptive process both supranationally and domestically, which hampered progress in ratifying the Treaty.⁵⁷

Further, a national referendum in Denmark failed the Maastricht Treaty in 1992 and threatened to derail the Europe-wide process. It was only after gaining the four exceptions of the Edinburgh Agreement that the Danish passed the Treaty. Special provisions on citizenship, the

⁵⁷ Goodwin, 1993

economic union, defense policy, and justice and home affairs were needed to convince Denmark to sign the Treaty, which was necessary for it to enter into force.⁵⁸

The passage of the Maastricht Treaty and the formalization of European institutions signals another shift in the integration process. Signing on to the Treaty was the strongest commitment states had made to the organization, and it represented the greatest expansion of their autonomy and discretion. The process of bringing all of this together represents a commitment to achieving the benefits of enhanced credibility. By committing formally to the institutions, they engaged in policy lock-in intent on fulfilling the goals of integration.

The Maastricht Treaty signals a new set of opportunities for policymakers in Brussels. They receive an increase in both their autonomy and discretion, providing a broader mandate and allowing more freedom in achieving their goals. While this is a major step forward for the process of integration, it is counter-balanced by the changing nature of the relationship.

Specific institutional factors are at work in this process. In the multiple principal model, agents are tasked with synthesizing different interests that come from principals, yet this task is complicated by the contrasts that often pervade the distinct preferences that they express. This is an even greater issue with more members and complex voting schemes. The EU fits this perfectly, expanding its membership greatly in the 21st century and bringing in new principals who changed the composition dramatically. The frequent tinkering with its voting added to the complication. It is unsurprising that, as a result, there were incentives for member-states to reduce their oversight and direct participation.

⁵⁸ Edinburgh Agreement, 1992

Post-Maastricht, the character of the relationship between the member-states and the EU has diverged dramatically from the relationships that existed between the founding of the ECSC and the EU's creation. First, the process of passing the Treaty itself was a major divergence from previous negotiations. Rather than seeking consensus on provisions, or the unanimity of ratification that they desired, policymakers were willing to grant concessions to member-states in the form of opt out provisions. The precedent that was set in the adoption of the Schengen Agreement was extended to the Maastricht Treaty as a way to acquire ratification from all of the member-states. Though all of the states did ratify the Treaty, Denmark and the UK were allowed to change the terms of their agreement, which is akin to re-contracting with the agent. The development of the EU in subsequent treaties has reinforced this action as legitimate, completing the change to a multiple principal model.

A number of things changed after the EU was created in 1993 that affected the PA relationship. The character of the relationship was noticeably different, as European structures encouraged fundamentally different ways of distributing power. Expanding the scope of the European institutions increased the amounts of both discretion and autonomy available to the EU, and the growth of supranational bureaucracy made it even easier to do so. In developing the Single European Market, the Council of Ministers was tasked with transposing 282 directives into national law so that a more integrated common market could be established.⁵⁹ Further synthesis of markets in Europe, regulated by the EU, represent an increase in the level of its discretion. Specifically, while it was given the goal of building a common market, most of the synthesis was done at the EU level.

⁵⁹ Coffey, 1995; pg. 30

It also gained the opportunity to develop further measures for integration, which may be thought of as an increase in its autonomy. The member-states, utilizing its expertise and the promise of credible commitments, were willing to step back more and allow the EU more freedom. The model that characterizes oversight of the EU has shifted to be more in line with the fire-alarm model rather than police patrol.⁶⁰

The growth of EU institutions has an important effect on the development of the relationship between it and the member-states. Increasing the number of staff that work specifically for an IO has been shown to increase members' costs of negotiation and information,⁶¹ which increases the propensity for slack to develop. This type of growth lends itself specifically to the development of slippage, and creates opportunities for agents to act in their own interests.⁶²

The Maastricht Treaty's institutional framework gave the institutions of the EU the ability to create and enforce laws for all of Europe, and the expansion of its resources have enabled it to do so in a way that it previously could not. The implementation of the euro and the three pillars (especially the Common Foreign and Security Policy) represent an increase in the agent's autonomy. It gains the capacity to make decisions for, and speak on behalf of, its members in economic policymaking, and also a new policy area in which to operate.

Article 2 of the Maastricht Treaty sets the task of the EU as creating balanced economic development and facilitating trade restrictions. Article 100 further authorizes the Council of Ministers to create standards by approximating national laws.⁶³ These developments grant the

⁶⁰ Pollack, 1997

⁶¹ Vaubel, Dreher, and Soylu, 2007; pg. 287

⁶² Vaubel, Dreher, and Soylu, 2007; pg. 277

⁶³ Treaty on European Union, 1992; Article 100

EU more power than it previously held to pursue its mandate. In this case, the Council is given a high degree of discretion in deciding how to bring national laws together in a way that makes the most sense.

Regarding the euro system, Article 109j of the Maastricht Treaty gave the EU control over the process of establishing the common currency.⁶⁴ They have control of the whole process, which is to say that they facilitate the establishment of the system and allow each member access. This demonstrates a greatly expanded economic mandate, beyond anything it had previously undertaken.

Common Foreign and Security Policy (CFSP) represents another place where the EU received more of a mandate than ever before. Article J.1 of the Maastricht Treaty provides the EU with the discretion to craft a policy that is designed to meet specific objectives related to a collective, external security policy that is intended to bring the member-states together.⁶⁵ These new mandates represent a grant of more discretion and an expanded mandate for the EU.

The Amsterdam Treaty was the first major treaty adopted after the Maastricht Treaty. When it entered into force in May of 1999, the Treaty expanded the rights of individuals living under the EU, and the scope of European authority in general. Included in this were the development and expansion of the EC and CFSP pillars. After Amsterdam, the EU assumed the ability to make civil laws and decide immigration issues, as well as legislate on its values.⁶⁶ The expansion of the EU's mandate fits, again, with the PA explanation that the agent's strategic decision-making incorporates renegotiating over time on the basis of performance. In this case,

⁶⁴ Treaty on European Union, 1992; Article 109j

⁶⁵ Ibid.; Article J.1

⁶⁶ Occhipinti, 2008

the single currency and the three pillars provided opportunities for further consolidation and expanded authority.

The Treaty of Nice represented a second attempt to adjust the fledgling institutions of the EU in the face of practical issues as well as the eastward expansion. When it went into effect in 2003, it made several changes. Included in these were alterations to the QMV voting scheme and to adjust the size of the Commission; Nice also expanded the role of the European Court of Justice so that they could take on more cases.⁶⁷

The Lisbon Treaty represents even more support for these principles. A follow-up on the failed attempt at establishing a European Constitution, the Lisbon Treaty highlights changes in the EU environment. The shift in the Council of Ministers from unanimous decision-making to modified, double majority QMV allows individual nations' interests and interactions to become more important. One of the major criticisms of the Lisbon Treaty is that moves power away from national governments and centralizes the power of the EU itself.⁶⁸

These expansions and changes in its technical capacity reflect a growing climate in which the EU continued to add more and more to its authority. The expansion of its authority and the institutional growth it underwent at this time was a major step forward for the EU, and allowed it to make greater use of its discretion than ever before. This process supports the interpretation that member-states moved toward a fire alarm model, since they allowed the EU more discretion and did not seek direct control in the way that they had previously.

⁶⁷ Bomberg and Stubb, 2008

⁶⁸ Bomberg and Stubb, 2008

Opt Outs

One of the first major changes after the Maastricht Treaty was the introduction of the euro as a common currency. This was an important milestone for the EU, and one of its greatest achievements. The process of allowing the UK and Denmark to opt out of the euro has been consolidated by future treaties, changing the emphasis of the EU from creating Europe-wide initiatives with the support of all to securing the agreement that it can. Its increasing willingness to allow members to have different commitments signals a changing relationship.

In practice, opting out is an option that is only exercised by a few states, but its existence confirms the approach taken by this thesis. Allowing states to re-contract individually means that the multiple principal model is the correct one for evaluating the relationship. The opt outs that Britain, Denmark, and Ireland have obtained demonstrate that states do contract individually with the EU, even if all member-states broadly support the same mandate of increased integration.

A moment should be taken to consider the case of Sweden. Though they have obtained a *de facto* opt out to the euro by choosing not to enter the European Exchange Rate Mechanism that was introduced in 1999, known as ERM II. Joining ERM II is considered to be voluntary for non-euro zone countries, and is one of the four criteria necessary to join the euro.⁶⁹ Though Sweden's derogation requires that they join the euro zone, they have been able to avoid doing so by not joining ERM II.⁷⁰

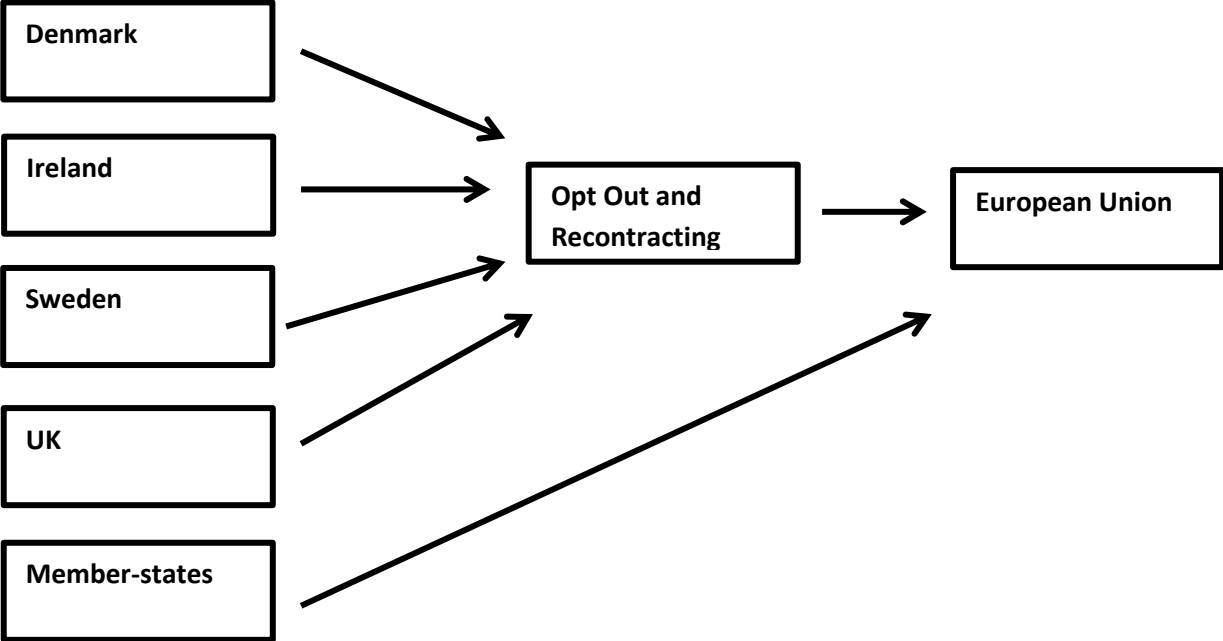
The process of utilizing opt outs means that they demands they make on the principal are different from those made by the rest of the states, which are expressed in more of a collective

⁶⁹ European Commission, 2012

⁷⁰ Mulhearn, 2009; pg. 130

way. In this case, the individual states utilizing opt out benefits communicate individual interests directly and adopt different versions of final policies, which makes them distinct from the other member-states who adopt the policies even if they do not benefit to the degree that other members do. Figure 2.1 illustrates the case of the states who contract separately.

Figure 2.1: Opt Out Relationships



Although they have been able to circumvent the requirement to join the euro, this should be distinguished from the formal re-contracting that the UK, Ireland, and Denmark have achieved. Though (re-)contracting may be formal or informal,⁷¹ the circumstances surrounding the two are different. Sweden’s informal opt out was obtained by its interpretation and enforcement of EU *acquis*, while the UK, Ireland and Denmark received formal opt outs during

⁷¹ Hawkins, Lake, Nielson, and Tierney, 2006

IGCs on specific treaties. Formal and informal opt outs act as re-contracting mechanisms for member-states.

Though the opt out has been considered to be dangerous to the process of integration by fragmenting the commitments of member-states,⁷² it signals an important shift in the PA relationship. This kind of individual contracting demonstrates a shift toward a multiple principal model. There are a number of different interpretations for the use of opt outs, ranging from a protection of sovereignty⁷³ to avoiding integration⁷⁴, but their presence is the important thing, solidifying the change that the EU has undergone.

On face, allowing states to opt out of provisions of the EU treaties seems to be a measure that would hurt the process of integration by preventing a unified push toward its increase. Strategically, it makes more sense for the EU to maintain equal commitments from all of its members and to move forward collectively. Allowing states to work outside of the supranational framework it provides sounds like it would lead to a situation in which they put their own interests above that of EU, but this may not be the case.

Rebecca Adler-Nissen attempted to examine the effect of the opt out in more detail by conducting in-depth interviews with EU elites from the UK and Denmark specifically, as well as other member states, the Council of Ministers, the European Commission, national parliaments, and experts.⁷⁵ Her interviews suggest that while the opt out has had a marked effect on the institutional character of the EU, it need not be viewed as a negative.

⁷² Curtin, 1993

⁷³ Adler-Nissen, 2009

⁷⁴ Geddes 2005

⁷⁵ Adler-Nissen, 2009; pg. 11

Instead, they point to the conclusion that the representatives of these states still feel that they are working toward a particular kind of integration.⁷⁶ Rather than seeing themselves as actively promoting national sovereignty over integration, they see themselves as seeking a particular model of integration. This ideological commitment, considered from the point of view of the EU as an agent, would provide an assurance that the opt outs allow for more good than harm. They let the rest of the EU move forward, and the states who opt out have always have the option to later join the treaty provisions that they were previously exempt from. This means that they are not trying to withdraw from the relationship, but are maintaining it in a different way.

The ability to opt into commitments that they previously were not party to is a strong strategic reason for the EU to allow opt outs, one that has been utilized. The UK has been especially willing to consider the opt in option when necessary. Though it obtained an opt out for the area of freedom, security, and justice,⁷⁷ as well as the Justice and Home Affairs Pillar,⁷⁸ it has taken advantage of the option to opt in to provisions on a case-by-case basis.⁷⁹ There are two reasons that this important. First, as mentioned, the opt out fits in with the EU's agent strategy, since they can move forward with integration efforts that include most members, and there is only a risk of the members who opted out later choosing to opt in. Allowing opt outs has not empirically lead more states to request the same accommodation or lead to any movement to undermine the initiative in question.

Second, it underscores the distinct groups of principals. More accurately, the EU has one large group of member-states that generally act as a collective principal, but faces the potential for individual exceptions in the UK, Ireland, and Denmark. Theoretically, this confirms the

⁷⁶ Adler-Nissen, 2009; pg. 14

⁷⁷ Consolidated version of the Treaty on the Functioning of the European Union, 2008; Protocol 36

⁷⁸ Ibid.; Protocol 21

⁷⁹ Adler-Nissen, 2009; pg. 14 – 15

application of the multiple principal in the way that this thesis undertakes, while practically it emphasizes the structure of the EU. Even when states choose to opt out, they still view themselves as part of the integration process and believe they are working toward implementing it in the way that is best for Europe.

“Closer” and “Enhanced” Cooperation

The changes of the EU have happened over time, but as before, they have been the most apparent in the way that treaties after Maastricht have changed the institutional arrangement. Additionally, the way that member-states have positioned themselves relative to the EU has had an effect on the way that it conducts its business. This is apparent in the way that the relations between the two have changed over a relatively short amount of time.

One of the major structural changes made by the Amsterdam Treaty involves a process that is referred to as “closer cooperation.” Under this process, a majority of the member-states could work together and implement a policy or procedure of advanced cooperation that other member-states would not be obliged to join. This measure would have to be approved by the Commission, and the existing set of community laws was had to remain unaffected. The primary application was to be in the first and third pillars, and it was intended to be a last resort option for states.⁸⁰ Though it was not used in its initial form, the provision signals the changes that the EU is undergoing. The willingness to forego developing the kind of agreement that previously characterized negotiations is indicative of the difficulty of maintaining a collective principal arrangement in an IO with the size and scope of the EU.

⁸⁰ Cantore, 2011

From a strategic standpoint, it is to the EU's benefit to encourage this sort of development. Giving states a way to create this sort of agreement provides a way to increase integration and for the EU to be involved, without dissenters having the opportunity to derail the process. This is a way of increasing its competencies and exercising the discretion that it has to fulfill its mandate. Further, encouraging preference heterogeneity by facilitating this sort of outlet encourages working through the EU to express and develop those preferences.

In the Treaty of Nice, the process was revised and came to be known as "enhanced cooperation." The process was also simplified to become more usable: the number of members required to be involved was decreased from a majority to nine, and the proposals were only required to respect existing EU laws, as opposed to not affecting them at all. Co-decision powers were also given to the European Parliament.⁸¹ These changes made this option a more viable one for member-states to use. An initial attempt was made at using enhanced cooperation to pass an initiative related to divorce proceedings, but it was not passed before the Lisbon Treaty altered the rules again, and so will be put aside for a moment.

The development of the enhanced cooperation procedure is important from an agent strategy standpoint. Making the process easier to use offers a way to exploit the existing preference heterogeneity in the EU and promote its institutional structure as a way to work around the opposition that can develop to those interests. This type of increase in integration is one possible interpretation of its mandate, and the one that allows the most action to occur under its institutional framework. This action fits with the claim that agents can reinterpret their mandates in an attempt to gain more authority. Both longstanding commitments and substantial

⁸¹ Cantore, 2011

prior delegation are factors that lead to agents being more willing to reinterpret their mandates.⁸² Thus, when the member-states do things like grant a great deal of authority to the EU all at once (as was the case with the Maastricht Treaty), they are expanding its mandate.

The Lisbon Treaty updated the enhanced cooperation principle in a significant way, expanding the areas of its application, including defense.⁸³ The opportunities for the use of enhanced cooperation have expanded, but the same limits apply as under previous treaties. For action to be taken, the Commission must decide to submit the members' initiative to the Council, whose approval must be echoed by the Parliament.⁸⁴ This allows the EU to control the way that heterogeneous preferences are exercised, and represents the culmination of the process begun with the Schengen Agreement.

Now, even when action cannot be passed through the regular institutional channels, an option still exists for states to pursue an alternate approach that is within the bounds of the EU. Even though the member-states initiate this process, the EU must grant approval, which allows them to functionally control the process. This ensures that the EU will control integration in Europe, even if it does not pass broadly. By controlling if and how integration occurs, the EU has made use of the development of the enhanced cooperation procedure to expand its own authority through a reinterpretation of its mandate. Since it is responsible for integration in Europe, it has used renegotiation to create a way to affect these efforts even when the political will does not exist to use EU legislative channels to do so.

⁸² Hawkins and Jacoby, 2006

⁸³ Cantore, 2011

⁸⁴ *Ibid.*

Role Reversal: Theoretical Development

Rather than being distinctly defined as a collective principal or multiple principal arrangement, the first contribution of this thesis is to identify the EU's shift from the former to the latter. Rather than being a single change from one relationship to another, a transformation took place that makes it more accurate to describe the EU as a hybrid of the collective and multiple principal arrangements. However, this should serve as a warning not to think of the new relationship as static. In a separate development, the EU has been moving toward a relationship with its member-states that suggests the reversal of the principal and agent roles. Though this may seem, by definition, to be an impossibility, there are clear reasons to believe that the uniqueness of the EU supports this conclusion.

At the most basic level, it can be argued that the reversal of principal and agent roles cannot happen because the principal makes its initial grant of authority and can revoke it at any time. However, although all member-states maintain the option to vote down IGC treaties or to withdraw from the EU, neither of these things has ever occurred before. Not only that, but the possibility of either taking place is so low that treaty opt outs have been called "the only form of treaty defection in the European Union (EU) that exists today."⁸⁵ In a very real way, this suggests that the EU controls the pace and scope of integration, and states cannot rescind their grant of authority. With this level of artificial limitation imposed on the withdrawal of authority, something common to all PA relationships, no other facet of a traditional relationship should be taken for granted.

⁸⁵ Sion, 2004; pg. 2

Though policies at the EU level are often contentious, membership in the EU obliges states “to continue the process of creating an ever closer union among the peoples of Europe.”⁸⁶ This ideological commitment inevitably creates tension between member-states and the EU, which must be resolved. In instances where they come into conflict with one another, the Consolidated Treaty has specific guidelines for dealing with the issues. The Treaty gives the Commission authority to bring states before the European Court of Justice (ECJ) for not complying with EU law,⁸⁷ and the ECJ has the authority to compel member-states to comply.⁸⁸ As a result, states are obliged to keep pace with the integration efforts of the EU.

This process is a big step for the EU. The Commission was granted authority to begin proceedings related to non-enforcement under the Maastricht Treaty, and the option to impose penalties for noncompliance was added later. Granting this level of enforcement to the Commission, and including the ability to mandate punishments, signals a major increase in both the authority given to the EU by member-states.⁸⁹ This procedure has been utilized a number of times, such as in a 2003 case brought against Italy. In this case, the ECJ ruled in favor of the Commission, finding that Italy had breached the treaty by failing to repeal a law that conflicted with EU law.⁹⁰ Finding in favor of the Commission affirms the autonomy to take this sort of independent action.

Additionally, the ECJ is allowed to make preliminary rulings on EU law⁹¹ and is the arbiter of disputes between member-states related to integration.⁹² The level of discretion that

⁸⁶ Consolidated version of the Treaty on the Functioning of the European Union, Preamble, 2008

⁸⁷ *Ibid*, Article 258

⁸⁸ *Ibid*, Articles 260, 261, 264

⁸⁹ Pollack, 2006; pg. 178

⁹⁰ ECJ Case C-129/00, 2003

⁹¹ Consolidated version of the Treaty on the Functioning of the European Union, Article 267, 2008

⁹² *Ibid*, Article 273

has been given to the tandem of the Commission and ECJ demonstrates that it is supranational institutions that control the scope of integration.

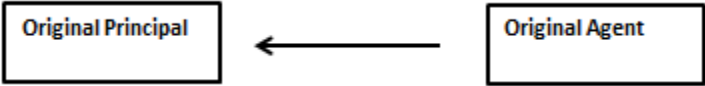
The EU controls the process of further integration through membership and enforcement. Members are locked in and do not have a viable means of exit, and the EU can take measures to ensure that they are bound to fulfill their obligations even in situations where they conflict with national laws. Though opt outs provide an opportunity for member-states to work around this, they still allow the EU to carry on the process of integration and bring members along later if they decide to opt in. This narrative is adjusted somewhat by the reality that the EU controls the opt in process as well. On two separate occasions, the Commission's interpretation of EU *acquis* has prevented the UK from opting into provisions they had previously opted out of and later intended to join.⁹³ So, the member-states' ability to utilize opt outs is truncated as well, giving the EU even more control over the process of access to integration.

Models of Role Reversal

While the transition from a collective to collective-multiple principal model has already occurred, the current shift toward a reverse PA model is not necessarily at odds with this development. While the multiple principal model replaced the collective model, the shift of principal and agent roles need not interact with this process. Instead, once a role reversal occurs, it may be embodied any type of relationship from chapter one. Figure 2.2 demonstrates the most basic form of this reverse relationship.

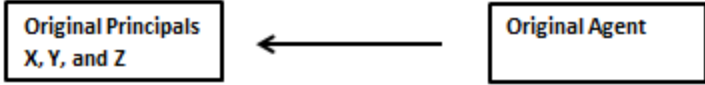
⁹³ Peers, 2009; pp. 5-6

Figure 2.2: Basic Reverse PA Relationship



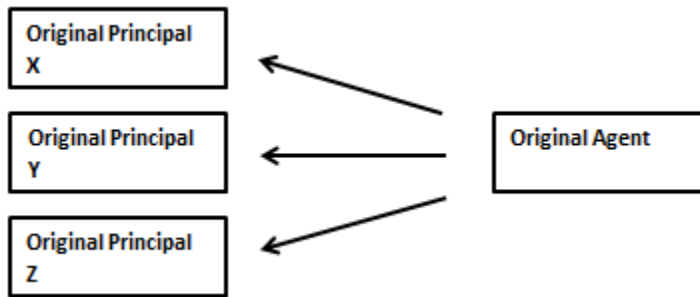
The level of analysis involved in characterizing the roles of the principal and agent is different from that of identifying whether the parties act in a collective or multiple principal model. Figure 2.3 shows the basic form of the reverse principal-agent argument, which can easily be extended to the EU. In this model, the EU sets the scope and pace of integration, which all of its member-states would follow.

Figure 2.3: Reverse Collective Principal Relationship



The final possibility, and the one that applies to the current form of the EU, is that the shift may take the form of a reverse multiple principal relationship. In this case, even though roles have been reversed and the EU is the current driver of integration in Europe, it is still the case that individual members (i.e. the UK, Denmark, Ireland, etc.) can negotiate opt outs. Figure 2.4 demonstrates the reverse multiple principal relationship.

Figure 2.4: Reverse Multiple Principal Relationship



The practice of allowing opt outs does not interfere with the establishment of the reverse multiple principal model, because the existence of opt outs merely confirms (again) that re-contracting exists within the relationship. Just as the EU re-contracts with states in the original model, so can states re-contract with it in a reversed relationship. As alluded to earlier, member-states have few other options available to them beyond re-contracting.

Unlike the shift to a multiple principal model, this transition is not complete. The shift to a reverse principal-agent model has been begun in Europe, but it has not been completed. Chapter three will consider the state of the EU today: where in this process it currently lies, and the reason for its development in reaching this point. Concluding, consideration of the possibility for this process to occur elsewhere will also be included, along with avenues of future research.

Chapter Three: Europe Today

Having established that the principal-agent relationship applies to the EU, that it has undergone a shift from a collective principal model to a hybrid collective/multiple principal model, and that a shift can occur to a new theoretical category of role reversal, three important tasks remain. First, a justification for why the shift has developed is important, and that it provides a way to examine the current state of relations between the EU and its member-states. Finally, considering the possible extensions of this model and avenues for future research is important to conclude.

The issue that warrants initial attention in the role reversal is an explanation for why it should occur. Standard principal-agent accounts have the principal(s) delegating authority and discretion to the agent, but firmly keeping control of their role as principal. The answer to why this process has seemingly been altered in the case of the EU can be found in a look back at the theoretical literature on PA relationships. The reason for the shift is the same as the reason for delegation in the first place.

One of the reasons for delegating, creating policy lock-in, is at the heart of the changes in the EU. Since “principals ensure their utility by crafting careful mandates that are difficult to undo or by structuring voting rules in ways that ensure the continued dominance of those who hold power at the moment of the rule drafting”⁹⁴, the literature on increasing integration in Europe has focused on the decisions of member-states to give more authority to the EU as a way to ensure the credibility and longevity of commitment to the process. It is important to point out

⁹⁴ Hawkins, Lake, Nielson, and Tierney, 2006; pg. 20

that, though the EU received both an increase in its autonomy and discretion, the expansion of authority does not necessitate an increase in discretion.

Maintaining this level of commitment on the part of the member-states is important to ensure continued participation over time and in the face of increasing membership and greater preference heterogeneity, especially when they want to continue to incur the benefits of delegation.⁹⁵ In this case, seeking to reap the perceived benefits of further integration over time has led to the grant of greater autonomy and discretion to the EU so that future initiatives will be able to pass more easily.

The Commission plays an especially important role to play in this process, and it is empowered to drive the way that it forward. Specifically, Article 211 says that it can, “Ensure that the provisions of this Treaty and the measures taken by the institutions pursuant thereto are applied” and to “Exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter.”⁹⁶ This is driven home by Article 226, which has given them the authority to pursue states that do not comply.⁹⁷ This makes it an enforcer of the legislation that the EU passes, and strengthens the role reversal by giving it the tools to keep states in line with its *acquis*.

At this point, what has been described still fits the narrative of a standard PA relationship and it might be objected that the combination of lock-in and re-contracting has simply led to an IO with above average authority. However, the degree of lock-in is much greater, combining both the prohibitively high cost of exit and the capacity of the EU to control implementation of

⁹⁵ Talbot and Page, 1987

⁹⁶ Consolidated version of the Treaty on the Functioning of the European Union, 2008; Article 211

⁹⁷ *Ibid.*; Article 226

its treaties and laws. The EU has become something else, based on the way that it can dictate policy to its member-states.

Creating lock-in is a way to both avoid losses and maintain benefits over time. This is particularly beneficial at the supranational and international levels, ensuring that the mandate(s) of the organizations can be fulfilled without being subject to perpetual challenges from national governments and citizens.⁹⁸ The empirical development of the EU fits this narrative exceptionally well, as member-states have challenged its growth and changes over time. Being able to develop independent of these concerns has allowed the EU to work steadily on increasing integration in spite of the environment in which it is operating.

Almost from the beginning of its consolidation to the EU, there have been concerns about delegation to Brussels. Despite some initial optimism about delegation in the European Community⁹⁹, the issues of distribution of policymaking authority emerged almost immediately¹⁰⁰ and remain a concern. The expansion of the EU to 27 member-states has made this problem plain to see, as the distinct interests of the different nations often prevent them from clearly communicating a preference to the EU. As predicted by the theoretical literature, the tendency in these situations is for slack to develop.

Greater preference heterogeneity and increased delegation of authority have led the arrangement to a point where the EU can increasingly make decisions on behalf of all of its members. Importantly, while this grant of authority is sometimes explicit, it is often implicitly assumed by the EU.¹⁰¹ This takes advantage of both the increased grant of autonomy and

⁹⁸ Epstein and O'Halloran, 1999

⁹⁹ Kreher, 1997

¹⁰⁰ Smith, 1996

¹⁰¹ Kerremans, 2006

discretion, and the slack that develops as a result of preference heterogeneity. The important question to answer is whether this was intentional or not.

Though the shift to a reverse role model has begun to occur, this does not necessarily mean that the way it has been carried out was opposed to the direct interests of the member-states. The gains made by the EU need not be considered as losses for its members, but may be thought of as a positive development. The answer lies in the intentions of the original principals in moving forward with integration.

As mentioned before, creating lock-in is beneficial as a way to ensure credible commitments from principals and to prevent particular preferences from dominating. In this way, the expansion of autonomy and discretion to the EU can be in line with preferences of member-states. The delegation of power was specifically designed to create this level of credibility by granting these high levels of autonomy and discretion.¹⁰² The intention of the EU is important, because it shows that integration may still be moving in the way that was intended by the original principals.

Importantly, looking at the way that the EU has developed does point to this conclusion. The intention, when creating the European institutions, was that the member-states should move toward more empowerment of the EU rather than further consolidation of national agendas.¹⁰³ In this regard, the transition to a role reversal model is not unexpected. Looking at the back and forth battle between supranational interests and national concerns will underscore the tension that is present and frame the final questions of whether this development is possible elsewhere and how research should proceed from this point and moving forward.

¹⁰² Majone, 2001

¹⁰³ Tsebelis and Kreppel, 1998; pg. 59

Tension in the EU

Anxiety about the EU has existed for some time, frequently discussed under the rubric of the “democratic deficit” in EU studies¹⁰⁴ and used in reference to the level of understanding that individual European constituents have about this organization and the extent of their direct participation in the EU. The tension between these two forces represents the major issue that must be navigated to determine the future of the PA relationship in Europe. The increasing pushback from member-states is a challenge that the EU must work on overcoming.

With the general question of integration’s scope looming over Europe at the start of the new millennium, there were already concerns about the drive to “create” a supranational Europe.¹⁰⁵ Nevertheless, integration efforts continued; one of the major shifts was when political pressure caused British trade unions to change to a pro integration stance.¹⁰⁶

Some major pushback began to surface as states’ national policies reflected their personal opposition to the economic policy that the EU was pursuing.¹⁰⁷ Stephan Leibfried documents the way that national welfare programs were expanded to counter-balance the growth of market integration created by the Amsterdam and Maastricht Treaties. Parallel to this, Frank Decker shares several concerns about the failure of the EU to develop a political system that represents all of its member-states and their citizens.¹⁰⁸

The tug of war to determine the direction and extent of integration continued as new issue areas opened up for the EU to become involved with. One of the most contentious issues for

¹⁰⁴ Decker, 2002

¹⁰⁵ Haynes and Pinnock, 1998

¹⁰⁶ Strange, 2002.

¹⁰⁷ Leibfried, 2000

¹⁰⁸ Decker, 2002

supranational policymaking has been immigration. Further, citizens continued to identify with national interests over supranational interests, especially on immigration.¹⁰⁹ The different social, economic, and political situations across Europe have a major impact on individual immigration policy, which drove many national governments to oppose integration in this area.¹¹⁰ Not only was a rift developing between the national governments of member-states and the EU, but the direction of initiative was changing as well.

The narrative of the EU's development has shifted from an environment where citizens and national governments were generally willing to trust the agents of integration to one where they are wary and are much more outspoken against the policymakers in Brussels.¹¹¹ This “constraining dissensus” has developed over time in a way that creates more challenges to integration than in the past, and this sentiment has developed more force than ever before.

Application: The UK 2014 Opt Out

The strongest current demonstration of this shift can be found in the UK's handling of the potential to opt out of the criminal justice provisions that will go into effect in June of 2014. In January 2012, an Open Europe paper discussed the possibilities for handling the 130 EU crime laws that will go into effect, and argued that the choice it faced was “a clear choice between more or less control over the British justice system – a choice between repatriation or more Europe.”¹¹² Under Protocol 36, the UK has the option to opt out of the provisions if they choose, and to opt back into certain provisions. Consistent with what would be a multiple principal opt out decision, the authors argue that the UK should prioritize national concerns and opt out.

¹⁰⁹ Lahav, 2004

¹¹⁰ Luedtke, 2005

¹¹¹ Down and Wilson, 2008

¹¹² Booth, Howarth, and Scarpetta, 2012; pg. 3

The opt out under Protocol 36 means that the UK cannot opt out of specific provisions; they must opt out of all of them, then opt back into the ones that are of interest to them. The Open Europe report contends that the country should focus on its own interests, and that the option to opt in at a later time means they need not worry about being excluded.¹¹³ This is presented as the best possible solution for the UK, and the emphasis is firmly on national concerns as being more important than supranational ones. After the report was published, a group of over 100 MPs expressed their support for the position in a joint letter to the *Daily Telegraph*.¹¹⁴

In the preceding framework of multiple principal influence, this makes sense. However, the effect of the reversal tendency has been felt very recently. In September 2012, a report from the Centre for European Legal Studies argued that the opt out would cause more problems than it solved. The authors caution that the UK would end up attempting to opt back into nearly all of the measures, and that the ones it would remain exempt from are not practical concerns for the country.¹¹⁵ If the argument for not exercising the opt out were based solely on the inconsequential nature of the provisions it remain out of, and the reality that it would likely opt into the majority of them, the initially favored opt out position may have carried the day. However, the pressure of the EU was felt in a way that fits the narrative of PA reversal.

Among the considerations in the paper, the issue of opting back into the provisions is raised.¹¹⁶ That the UK will be allowed to opt back into provisions after exercising a block opt out is not something that can be taken for granted. To opt out with the predetermined intention of later opting back into its measures is an approach that has not previously been taken, and

¹¹³ Booth, Howarth, and Scarpetta, 2012; pp. 19-20

¹¹⁴ Hinarejos, Spencer, and Peers, 2012; pg. 1

¹¹⁵ Ibid.; pg. 2

¹¹⁶ Ibid.; pg. 10

should be approached with caution. Since the benefits of opting out are minimal, owing to the nature of the provisions that it would remain separate from, and the risks associated with opting back into the ones it wanted to over time, the authors conclude that it is not in the UK's best interests to exercise the block opt out.¹¹⁷

This conclusion was supported by the House of Lords' EU Committee report, published on April 23, 2013.¹¹⁸ The report specifically cites concerns over difficulties with opting back into the provisions as reasons why the block opt out should not be used. The report indicates that the "pick and mix" approach of opting into some measures after exercising the block opt out "may not be a straightforward process", and that it "would inevitably lead to difficulties."¹¹⁹ The Committee concludes that the use of the block opt out, whether or not it is followed by provisional use of the opt in, would not be in the country's best interests.¹²⁰

The conclusion itself is important, but the justification for it is critical. Even if the UK would end up opting back into nearly all of the provisions, they might still reasonably exercise the opt out in the interests of national sovereignty. Instead, it is concerns about the challenge of opting back in that caused the European Union Committee to conclude that it should not be used. This suggests, in line with the previous chapters development, that the EU can exert pressure on member-states to take a certain action akin to the principal-agent relationship. This offers strong support for the idea that the theoretical reversal is beginning to become apparent.

¹¹⁷ Hinarejos, Spencer, and Peers, 2012; pg. 51

¹¹⁸ House of Lords, European Union Committee, 2013; pg. 10

¹¹⁹ Ibid.; pg. 78

¹²⁰ Ibid.; pg. 93

Future Development

Based on the preceding development, two things must be determined: whether the collective/multiple principal model will continue to hold, and if the role reversal can be expected to develop. First, it seems likely that the multiple principal model will continue to be applicable in many areas of the EU. Even though derogation means that recent additions and future additions are required to adopt the EU *acquis*, Sweden's avoidance of the euro demonstrates that this not as definite as it might seem. The EU has been content to allow Sweden to use the ruling on ERM II to skirt the requirement that they implement the euro, which moves them decidedly away from the collective and into a separate category.

Additionally, the use of the opt out will likely continue. Though it does not appear that the UK will exercise it in the case of the criminal justice measures it is currently considering, Protocol 36 still allows for Denmark, Ireland, and the UK to exercise opt outs. As long as these members have the opportunity to negotiate different agreements through the use of this measure, the multiple principal model will carry at least some traction in characterizing the way that agreements are made.

The principles of enhanced cooperation also make it likely that the multiple model will continue to be important. Though enhanced cooperation was not used prior to the Lisbon Treaty entering into force, it saw its first application in common divorce laws in 2010, which are expected to be expanded.¹²¹ The common patent laws that are being implemented in this fashion are also an indicator of the growing support for enhanced cooperation.¹²² A “multi-speed

¹²¹ Official Journal of the European Union, 2010

¹²² Official Journal of the European Union, 2012

Europe”, based on integration through enhanced cooperation will definitely favor the multiple model.

Maintaining the use of existing opt outs and the development of more exceptions based on enhanced cooperation and opt outs demonstrates that the multiple model is likely to continue to be the dominant one that should be applied to the member-states. Additionally, a commitment to a multiple model for the member-states does not have any effect on the role reversal model developed here. Whether the impetus for integration comes from the member-states or from the EU itself, the multiple model for the member-states appears to hold.

The new theoretical category of a reversal in the principal and agent roles needs to be considered from the perspective of its extension to other IOs. As noted before, the development of the EU has been very unique in the world of IOs, and has created an institutional identity that is unlikely to be duplicated anywhere. Much of this is closely connected to the way the principal-agent narrative has changed as well. Though the EU is unique, there are some developments that have been particularly important to the change in PA roles and would be important to this shift developing in the context of a different IO.

First, it is impossible to undersell the importance of the EU’s longevity. Though it has not been known as the EU for its entire existence, the growth and development of its institutions over time is essential as an explanation for the shift. The theoretical literature suggests that, with a longer time horizon, an IO will be more likely to re-contract and receive an expansion in its autonomy and discretion. Developing incrementally over several decades has given the EU the chance to facilitate this sort of shift. The EU is one of the longest-tenured IOs, and this

institutional development would be needed for another organization to experience the role reversal.

The level of preference heterogeneity that exists in the EU is also important. Having a number of member-states with divergent interests means that consolidation of authority in the IO not only makes sense, but also that changing this arrangement becomes potentially detrimental to some states' interests. This consolidation of authority creates two competing situations. One possibility is that autonomy and discretion are given to the agent so that they can deal with divergent preferences and find a solution that does not disadvantage any one member too much.

Alternatively, this emphasis on the authority of the agent can create slack that allows the IO the opportunity to do what they want with their discretion. Doing this solidifies the IO's position and makes it the more important one in the relationship. These two possibilities can both be realized in other IOs. Preference heterogeneity is common in the international community, and the differences between members can easily create opportunities for IOs to take advantage. The unique circumstance of the EU is found in the scope of its authority; it has the ability to make policy in so many areas that there are many more dimensions on which preferences can diverge. IOs whose members have highly divergent preferences or who expand the scope of their authority have the potential for a similar shift.

Perhaps the most important factor in the development of the role reversal is the institutional climate of the EU. Since its purpose when it was conceived was to create a supranational connection between nations, the EU is a unique case among IOs and principal-agent theory. In a PA relationship, the roles of principal and agent are determined based on where authority is vested, and the EU has been specifically designed to change the arrangement

of authority in Europe. This is its defining characteristic, and the reason that this development is most likely limited (for the moment, at least) to the EU. Since it was designed to facilitate the transfer of power from the member-states to the supranational organization, the EU is a distinct case.

The relationship between a state and an IO naturally involves a grant of authority, and regional cooperative organizations are especially likely to claim some of their members' sovereignty. The major difference is that the growth of the EU has deliberately been about the transfer of autonomy and discretion, because it is in the EU's mandate to do so. This institutional climate is the feature of the EU that makes it stand out the most in terms of its development.

Moving forward, there are a number of research areas that are suggested by the preceding development. First, the principal-agent literature should be expanded to account for the possibility of a shift in the relationship from a collective to multiple principal model. The EU has undergone a transformation in the way its members interact with the IO and is clearly no longer well-represented by the collective model. Examining other PA relationships in IOs may demonstrate the same dynamic character that the EU has shown.

Next, the EU itself needs to be monitored from a PA perspective. The changes that it has undergone seem counterintuitive in some ways, but the narrative of a delegated mandate for integration makes the PA relationship attractive as a way to think about its development over time. Collective commitments and re-contracting have a high degree of explanatory power in the context of the EU, and the relationship is prime for more research.

Finally, the possibility of the role reversal in principal-agent relationships is a major development for principal-agent theory. Theoretically, this seems limited to a very specific institutional setting that needs to be further explored. The potential for the shift to occur is found in long-term PA relationships with a broad mandate and a high degree of both autonomy and discretion. Though this has not definitively occurred in Europe, the development of the theory should coincide with a close watching of the EU to see whether this continues. The potential for PA theory to develop in this way is an exciting twist that should be explored, and its prime litmus test is in the way that the EU changes going forward.

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