

# The Silent Coup

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The European Commission's power grab

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*Europe will be forged in crises, and will be the  
sum of the solutions adopted for those crises.*

Jean Monnet<sup>1</sup>

*The ultimate secret of the construction of Europe  
[lies in a succession of] brilliant coups.*

Perry Anderson<sup>2</sup>



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## Executive summary

- The past 15 years have seen an accelerating expansion of the powers of the European Commission (EC), resulting in a major transfer of sovereignty from the national to the supranational level. This game-changing power shift has been managed through a surreptitious process of ‘competence creep’, outside the arena of democratic debate. That is why we characterise it as a Silent Coup.
- From its inception in the 1950s, the EC was created as a supranational European institution and the least subject to democratic accountability. These problems have intensified as the EC has developed from a technical body into a fully-fledged political actor, occupying centre stage in the EU.
- EU politics have undergone a process of supranationalisation and ‘Commissionisation’, as the Commission has increased its influence over areas of competence that have previously been considered the preserve of national governments – from financial budgets and health policy to foreign affairs and defence.
- In recent years, the EC has used its responses to a series of crises – the euro crisis, Brexit, the Covid-19 pandemic, the Ukraine war – to assume more authority and make ‘emergency’ decisions, for example on vaccines or sanctions, that lead to permanent changes in the exercise of EU power.



- This use of the politics of ‘permacrisis’ to expand the reach and power of the Commission has reached new heights under the regime of the current EC president, Ursula von der Leyen (‘VDL’), in response to the Covid-19 and Ukraine crises.
- The Covid-19 pandemic marked a turning point in the Commission’s role, with von der Leyen taking a leading role in the EU’s economic recovery and vaccine procurement efforts. The ongoing ‘Pfizergate’ scandal, around VDL’s autocratic handling of Covid vaccine policy, typifies the lack of transparency and accountability in the current exercise of EU power.
- Similarly, the Ukraine war has been used by von der Leyen to further expand the Commission’s influence, particularly in foreign policy and sanctions against Russia. This has shifted the EU’s geopolitical stance, aligning it more closely with NATO and US interests. VDL’s boast to the European Parliament (EP), after Russia’s invasion of Ukraine, that ‘European security and defence has evolved more in the last six days than in the last two decades’ demonstrated the accelerating pace of supranationalisation and Commissionisation.
- The report highlights concerns over the erosion of national sovereignty, as the Commission has increasingly imposed its will on member states, often using financial tools and conditionalities. Mechanisms like the Rule of Law Conditionality Regulation allow the Commission to withhold funds from member states that do not align with its policies, further centralising power.

- The Commission may not always hold the whip hand. The EU's labyrinthine power structure involves supranational bodies (the EC, European Central Bank and European Court of Justice), quasi-federal bodies (the European Parliament), and intergovernmental bodies (the European Council and the Council of Ministers), on top of member states. It can be hard to see who's in charge. But one thing we know for sure is that all these components of EU power work together to ensure that Europe's citizens are not the ones in control.
- Nor is this simply a problem of national versus supranational sovereignty (although it is that too). Recent history shows how national political elites can collude with Brussels against their populist opponents in Europe – notably Hungary – and even against their own electorates at home.
- The biggest losers in the shift of power towards the unaccountable EC are the demos, the peoples of Europe. We urgently need reforms to make the EU more democratic, by returning powers to nation states, and to make the EC less powerful and more accountable.

## Introduction

After the recent European elections, many hoped that the surge in support for ‘right-populist’ Eurosceptic parties would, at the very least, signal an end to the reign of Ursula von der Leyen. Her first term as president of the European Commission had been marked by controversy and low popularity, among EU citizens and officials alike, for her top-down, centralising approach, her disregard for official EU protocols, and her embrace of highly-contentious policies, particularly through the European Green Deal.

Instead, in a curious twist of fate, the ‘right-wing threat’ is precisely what gave von der Leyen’s re-election bid the impetus that it otherwise lacked. By presenting herself as a bulwark against ‘demagogues and extremists’,<sup>3</sup> she was able to draw support from mainstream and pro-EU governments and MEPs. Despite their misgivings about von der Leyen and her track record, many saw little choice but to crown her once again with the all-too-clear aim of deploying the Commission’s supranational powers against their own ‘populist’ adversaries – first and foremost, Hungarian prime minister Viktor Orbán – and even against their own electorates.

This ‘right-wing threat’ is not the first time that the Commission, especially under von der Leyen, has skilfully exploited a crisis – real, perceived or portrayed as such by the dominant forces in the EU –

to enhance its power and influence across the European Union, often in alliance with pro-EU forces at the national level.

If there is a common thread connecting the various crises that have rocked Europe over the past decade and a half – the sovereign debt crisis, the refugee crisis, the Brexit vote, the Covid-19 pandemic, the Ukraine war, etc – it is the fact that each crisis has invariably led to a growing supranationalisation and ‘Commissionisation’ of the EU’s decision-making process.

The Commission has expanded the scope of its executive action in virtually every field, including many that were previously the exclusive preserve of EU member states and over which the Commission has no formal competence – from fiscal and monetary policy to public health, from foreign policy to defence and security matters. And under von der Leyen, these powers have expanded to an unprecedented degree, leading to an almost ‘US-presidential style understanding of executive power’, as *Politico* wrote,<sup>4</sup> and winning von der Leyen the nickname ‘Queen Ursula’ in Brussels.

This game-changing transfer of sovereignty from the national to the supranational level, at the expense of democratic control and accountability, has mostly occurred surreptitiously, through various forms of ‘competence creep’<sup>5</sup> with no formal treaty changes and outside of the arena of democratic debate. This has led scholars to describe the process of European supranational integration as one of ‘integration by stealth’<sup>6</sup> or ‘covert integration’,<sup>7</sup> meaning a process that takes place outside the formal European political decision-making arena, leading to a ‘competence accrual through covert policy-entrepreneurship by the European Commission’.<sup>8</sup> Some have even referred to this process as a ‘competence coup’.<sup>9</sup> Indeed, the political philosopher Perry Anderson went so far as to describe ‘the coup’ – that is, ‘an action taken suddenly, by stealth, catching its victims unawares,

and confronting them with a *fait accompli* that cannot be reversed’ – as ‘the ultimate secret of the construction of Europe, the key to understanding its success’.<sup>10</sup>

This report explores the key historical turning points in this process, detailing the transition of the Commission from technical body to full-blooded political actor. It explores how the various crises of the past 15 years have accelerated this process, with a particular focus on the first presidential term of von der Leyen and the way she used the Covid-19 and Ukraine crises to enact a creeping transfer of competences from the national to the supranational level through a series of ‘silent coups’. It further investigates the shift in power dynamics between the Commission and the European Council, and the paradox of how this process has often been promoted by member states themselves, at the expense of their own sovereignty. Finally, it raises concerns about the erosion of national sovereignty and democratic accountability that this process has entailed.

## 1 Who runs the EU?

Ask 10 different experts who's really in charge in the European Union and you're likely to get 10 different answers. As Henry Kissinger famously (yet apocryphally) asked 50 years ago: 'Who do I call if I want to call Europe?'

This is due to the bloc's mind-bogglingly complex institutional architecture: a variable-geometry, multi-level, interlocking system featuring supranational elements (the European Commission, European Central Bank (ECB) and European Court of Justice), quasi-federal elements (the European Parliament (EP)), and interstate or intergovernmental elements (the European Council and the Council of Ministers), on top of several other 'technical' bodies, sub-bodies and interinstitutional services. All of these are in turn shaped by a de facto hierarchy of nations that has historically seen Germany and France wield the most influence.

We are thus dealing with a 'parastatal super-structure'<sup>11</sup> that operates across multiple dimensions – the local, the national, the international and the supranational – in accordance with a sprawling and constantly expanding body of law: the so-called *acquis communautaire*, composed of more than 100,000 documents, which among other things sets out the competences and powers of the various bodies and institutions.

Given the Byzantine nature of the EU's institutional set-up, it's not surprising that scholars have been debating (very heatedly, by academic standards) the question of who really calls the shots in the EU ever since

it was created, while most people are simply left scratching their heads. One thing we know for sure is that the citizens are not the ones in control. Indeed, one thing that the various components of the EU matrix have in common is that they all seem designed to disempower democratic politics in one way or another. So, who is in control?

The official ‘for dummies’ account of the EU decision-making process is that the European Council, which is made up of the leaders of the member states, is the ‘political’ body charged with setting the EU’s overall policy agenda, while the Commission is the ‘technical’ body charged with drafting legislation and practically implementing policies, in cooperation with the European Parliament. Even in scholarly circles, it has long been the established view that the European Council is where the big agenda-setting decisions are taken on the basis of ‘hard bargaining’ between member states, especially in times of crisis. Other EU bodies, including the European Commission, were generally ascribed a secondary and largely subordinate role.

In recent years, however, this view of the European Council as the centre of power par excellence has become increasingly untenable. The Commission’s transformation into a full-blooded political actor has significantly – and irreversibly? – tilted the EU’s institutional balance of power. But, in fact, things were never as simple as the official taxonomy of power in the EU suggests.

## 2 The early years

The European Commission, originally established as the High Authority under the European Coal and Steel Community (ECSC), was designed as a supranational body with significant autonomy. Through the Treaty of Rome of 1957, which established the European Economic Community (EEC), which later evolved into the European Union, the Commission was assigned the exclusive power to initiate legislation and implement EU policies.

This gave it a central and dominant position within the institutional framework of the EEC. Indeed, the European Council was created only in 1974, partly as a response to the need for stronger political guidance and coordination at the highest level, which the Commission alone could not provide. Yet for several years, the Council remained little more than an informal forum for the heads of state or government of the member states to meet and discuss broad strategic issues. It did not have a formal institutional role in the EEC framework.

This gave the Commission ample leeway. During the 1980s, for example, Jacques Delors's Commission played a key role in establishing the single market and laying the ground for monetary union, which gave the process of European supranational integration a momentum lacking in the preceding decade.<sup>12</sup> This gave rise to a rich body of research portraying the Commission as a supranational institution acting independently from member states and following its own agenda.



Over time, as the EEC evolved into the European Union that exists today via successive Acts and Treaties – the Single European Act (1986), the Maastricht Treaty (1992), the Treaty of Nice (2001) and the Lisbon Treaty (2007) – the role of the European Council was progressively strengthened and enhanced. This marked a shift toward greater involvement of national governments (via the Council), and of the European Parliament, in the EU's decision-making process, balancing the supranational power of the Commission. The Lisbon Treaty, in particular, formalised the European Council as a fully-fledged EU institution charged with providing 'the necessary impetus for the EU's development' and defining its 'general political directions and priorities'.

Throughout this period, the Commission, while retaining its executive powers, became more closely aligned with the Council's political priorities. Yet, as the EU's only body with the right to initiate legislation, the Commission continued to exercise a significant influence – arguably greater than much of the scholarly literature tends to acknowledge – especially considering the 'complete independence' from governments and other EU institutions afforded to it by the EU treaties. Moreover, the Commission, unlike national governments, is not directly elected by the citizens of the EU. Its members are appointed, and while the European Parliament has a role in approving the Commission's president, the process is largely removed from direct democratic control.

The Lisbon Treaty marked the last major formal change to the EU's institutional architecture. However, the power dynamics within and between EU institutions have continued to undergo a process of constant restructuring over the past decade and a half, during which Europe has been rocked by a series of economic, political and geopolitical crises – to the point that it has now become commonplace among scholars to speak of a state of

‘permacrisis’. Throughout this period, the pendulum of power, leadership and agency has often swung back and forth between the Council and the Commission (and other institutions, mainly the ECB). Jean Monnet, one of the architects of the European integration process, famously wrote that ‘Europe will be forged in crises, and will be the sum of the solutions adopted for those crises’, and the past 15 years have proved him right.

### **3 The euro crisis: a 21st-century coup**

During the euro crisis or sovereign debt crisis (2009-2012), the refugee crisis (2015-2016) and the Brexit vote (2016), the European Council emerged as an increasingly central, dominant actor, partly displacing the Commission's agenda-setting role. Most scholars agree that this was a time when intergovernmentalism took precedence over supranationalism, also thanks to the hegemonic role played by Germany under Chancellor Angela Merkel and the consolidation of the Franco-German bloc.

This account, however, fails to consider that the euro crisis, in particular, also led to a dramatic empowerment of the EU's supranational institutions. The ECB and the Commission itself took on unprecedented powers of intervention into the economic affairs of member states, for example through the European Commission-ECB-IMF troika, leading to a game-changing transfer of sovereignty from the national to the supranational level. These powers were then institutionalised and constitutionalised through a complex system of new laws, rules, agreements, organisations (such as the European Stability Mechanism (ESM)), and even a treaty – the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, commonly known as the Fiscal Compact – aimed at enforcing a permanent regime of fiscal austerity.

The Fiscal Compact introduced the requirement for member states to submit their budgets to the European Commission and Council for

pre-approval. If the budget is not judged to be in line with the EU's obligations, the Commission and other member states can issue corrective 'recommendations' to the wayward member state. If a member state exceeds the parameters of the Maastricht Treaty, the Commission can decide to place the country in an 'excessive deficit procedure' (EDP), in which case an even-stricter system of monitoring and surveillance kicks in.

As a result, the European Union, mainly through the European Commission, effectively became a sovereign power with the authority to impose budgetary rules and structural reforms on member states, particularly those of the eurozone, outside democratic procedures and without democratic control.<sup>13</sup> One civil society organisation described this as 'a neoliberal regime change – a civic coup'.<sup>14</sup> Many of these changes happened at the behest of Germany, which was more than happy to give European institutions 'unrestrained executive power'<sup>15</sup> to police the weaker states of the bloc and ensure their adherence to the Berlin-inspired economic framework.

This highlights how, in order to understand the dynamics of power in the EU, one needs to go beyond the simplistic national-supranational dichotomy. National and supranational elites in the European Union, far from being in a uniquely antagonistic relationship, often tend to holistically employ the various national, intergovernmental and supranational levels of the system to mutually support each other. They even collude against common enemies, which generally tend to take the form of democratic, or 'populist', insurgencies. In scholarly terms, this has given rise to a rich literature on the 'usage of Europe' – that is, how the EU is instrumentalised by national political actors.<sup>16</sup>

Such dynamics can often be hard to discern, especially given that the institutional division of power between the Council and the Commission

has grown increasingly blurred over time. This has led one scholar to conclude that ‘[b]eyond the drafting and shaping of hard legislation, where policy ideas and initiatives “actually originate” is a tricky question, one that perhaps cannot always be fully resolved’:

*There are many owners of an idea, especially when it is successful, and it is often hard to weigh who was the single creator and who pushed it through on the political agenda. Related to this is another question: the agenda setting of what? Broad ideas? Precise policy proposals? These are perennial yet unresolved questions for studying agenda setting which often lead to different focuses and conclusions. They make agenda setting a slippery subject to study, open to a multiplicity of actors, chains of causality and competing narratives.<sup>17</sup>*

The point is that the relationship between the Commission, the Council (and therefore the member states) and other bodies is characterised both by inter-institutional battles over political power and by mutual dependence, depending on the circumstances. An example of mutual dependence is, for example, the way in which the Commission uses the institution’s extensive machinery and considerable technical and political expertise to guide the European Council’s developments and do the groundwork for virtually all major projects, while in turn the Commission seeks the European Council’s endorsement for national support, legitimacy and impetus for such projects.<sup>18</sup>

An example of interinstitutional struggle, on the other hand, was the attempted introduction of the *Spitzenkandidat* procedure, initiated for the first time in 2014. Prior to the European elections, each major political group in the European Parliament would nominate its candidate for the role of Commission president, and the nominee of the group with the most seats would automatically become president. This can be seen as an attempt by the European Parliament to further politicise – or even democratise, to a

very limited extent – the European Commission, though the system never took off in practice.

The European Commission's increasingly activist role was further emphasised during the presidency of Jean-Claude Juncker (2014-2019). Juncker was the first president of the Commission to explicitly challenge the Commission's 'technical' role. In a famous speech in the European Parliament on July 15, 2015, he stated:

*The European Council proposes the president of the Commission.*

*That does not mean he is its secretariat. The Commission is not a technical committee made up of civil servants who implement the instructions of another institution. The Commission is political.*

*And I want it to be more political. Indeed, it will be highly political.<sup>19</sup>*

These were not mere words. As Ákos Bence Gát wrote in a recent MCC Brussels report:

*Juncker gave a high priority to the topic of the rule of law, which became an instrument to oversee and comment on member states' national politics. Taking a stance in national party-political debates in member states like Hungary and Poland helped the Commission to clarify its own political agenda on ideological issues. Entering into political battles with some member states more and more openly and trying to exert ever more political pressure on them helped the Commission to show its political muscles ... [T]he Juncker Commission was the first to seek explicitly to control member states in the name of the rule of law.<sup>20</sup>*

But the Juncker Commission's more 'pro-active' – and explicitly political – approach wasn't limited to the rule of law. It extended into areas until then considered to embody post-Maastricht intergovernmentalism – such as foreign policy, security, and economic and monetary union – often taking important actions independently of the European Council.

Earlier this year, in an interview with the Italian financial newspaper *Il Sole 24 Ore*, Juncker even admitted to having done deals behind the backs of Italian governments he had problems with, by negotiating in secret (‘without too much publicity’) with the country’s president – whom, under the Italian Constitution, has no authority to negotiate with foreign powers, let alone to conspire against an elected government.<sup>21</sup> Juncker had earlier said that he had been ‘tempted’ to intervene in Italy’s political crisis in 2016 – but claimed he had refrained from doing so.<sup>22</sup>

## **4 The von der Leyen Commission: never let a good crisis go to waste**

The Commission's evolution into a full-blooded political actor has thus been an ongoing trend for years. But this process witnessed a rapid and substantial acceleration and intensification under the first presidency of Ursula von der Leyen (2019-2024). It is telling, in this regard, that von der Leyen's very rise constituted a quiet coup. As noted, the *Spitzenkandidat* system was introduced in 2014 as an attempt to make the appointment of the Commission president independent of the European Council, whereby the political group with the most votes in the European parliamentary elections would secure the office for its pre-chosen candidate.

But in 2019, von der Leyen was not the *Spitzenkandidat* of her European People's Party (EPP). Instead, she was chosen behind closed doors by Angela Merkel and Emmanuel Macron, despite the fact that she hadn't even run in the elections, and that two candidates had already been put forward by the centre-right EPP and centre-left Socialists and Democrats (S&D) groups. This could be seen as a successful attempt by the European Council, and the major member states, to reaffirm their dominance over the Commission (and the Parliament).



#### 4.1 The Covid-19 crisis: a pandemic of corruption and opacity

However, the Covid-19 crisis that broke shortly thereafter would turn the tables once again: tilting the interinstitutional balance of power decisively in favour of the Commission, downgrading in several respects the role of the Council, and creating an historical shift in European integration. The Commission played a leading role throughout the pandemic – first in devising the economic recovery programme and then in organising the joint procurement of vaccines. As one study put it:

*Throughout the crisis [...] the European Council rarely tabled solutions of its own. Rather, it endorsed actions and proposals already made by the Commission [...] The lead role played by the Commission can be explained partly because the crisis emerged in areas where the Commission has important functions [ie, public health] and partly because Commission President Ursula von der Leyen asserted Commission leadership and responsibility from the start.<sup>23</sup>*

The European Commission assumed a leading role from the get-go, outlining an expansive agenda for the EU's response. A flurry of legislative action soon followed: by December 2021, the bloc had adopted more than 1,000 acts. In the initial phase of the crisis, the Commission focused on the economic response. First, it suspended the EU's infamously tight fiscal rules in order to allow governments to raise spending (borrowing) to mitigate the economic effects of the pandemic. Then, in May 2020, von der Leyen presented the Next Generation EU package (NGEU), her plan for a €750 billion recovery fund to support member states, through a mixture of grants and loans, complementing the ECB's monetary response to the pandemic shock. Importantly, for the first time ever, the European Commission itself was empowered by a specific regulation to raise money on financial markets.

This was the first time the EU had engaged in a joint borrowing (or debt mutualisation) operation on such a large scale, underpinned by the EU budget. Though relatively insignificant in macroeconomic terms – amounting to barely five per cent of the EU’s GDP, to be disbursed over the course of six years – the programme has important political implications. Though it is true that the EU treaties don’t explicitly prohibit the EU from financing its budget with commonly-raised debt,<sup>24</sup> this has nonetheless long represented a taboo for several member states, especially Germany, which the Commission was able to overcome under the guise of ‘responding to the Covid-19 crisis’. This was another sleight of hand by von der Leyen, which she managed to pull off by keeping the details of the plan under wraps until the last moment. Tellingly, when von der Leyen had first introduced the idea to EU leaders in April, Angela Merkel pointedly admonished her: ‘Don’t forget to talk to us first.’<sup>25</sup>

Moreover, by assigning the Commission a strong say over disbursements (in terms of conditionalities, priorities, etc), the decision reinforced the Commission’s influence over core areas of national economic and fiscal policy – and gave it yet another tool through which to exercise financial pressure on member states. Far from being an example of ‘European solidarity’, it represented, in essence, another quiet coup.

This became apparent in early 2021 when, for the first time ever, the Commission adopted a Rule of Law Conditionality Regulation, allowing it to withhold the payment of EU funds to member states that are found to be in breach of the rule of law (as defined by Brussels, of course). It then used the new regulation to withhold around €140 billion due to Poland and Hungary in EU payments, from both the regular budget and the Next Generation EU emergency recovery fund.

This exposed the Rule of Law Conditionality Regulation as well as the NGEU fund for what they really are: yet more tools for the Commission to exert political pressure on national governments via financial means – tools that von der Leyen showed she had no qualms about using. She said as much herself. In the run-up to the 2022 Italian election campaign, when asked if she was concerned about the possible results bringing success for Georgia Meloni’s right-wing Brothers of Italy, she replied: ‘If things go in “a difficult direction”, we have tools [to deal with the situation].’<sup>26</sup>

However, in these cases the question is always: to what extent are these decisions taken autonomously by the Commission and to what extent do they depend on pressure from other parties – the European Council, individual governments, the European Parliament? As noted above, it can be hard to say, precisely because the deliberately opaque and convoluted nature of the EU’s multi-level governance structure means that political decisions are often the result of multiple inter-institutional interactions and pressures that tend to be hidden from public view, making it hard to pinpoint the exact causes and inputs that produce particular historical outcomes.

In the second phase of the Covid-19 crisis, the European Commission – or better, von der Leyen herself – once again took the lead in single-handedly promoting a massive joint vaccine-procurement programme for the whole EU. As in the previous phase, the European Council largely followed the Commission’s initiative rather than making its own proposals. By November 2021, the Commission had signed a staggering €71 billion worth of contracts on behalf of the member states to purchase up to 4.6 billion doses of vaccines – more than 10 doses for each European citizen.<sup>27</sup> Most of these contracts were advance purchase agreements (APAs) signed behind closed doors between the companies and the European Commission, involving upfront

payments to vaccine manufacturers to fund the development and scaling up of production capacities.

To make matters worse, it emerged, rather astonishingly, that in April 2021, von der Leyen had personally negotiated a €35 billion deal for the purchase of up to 1.8 billion doses of the Pfizer-BioNTech vaccine via a series of text messages and calls with Pfizer CEO Albert Bourla.<sup>28</sup> Since then, ‘Pfizergate’ has ballooned into one of the biggest scandals in EU history. When a German journalist wrote to the Commission asking to access the text messages and other documents relating to the exchange between von der Leyen and Bourla, the Commission claimed no such documents existed.<sup>29</sup>

At that point, the journalist made a formal complaint to the European ombudsman, Emily O’Reilly. In January 2022, the ombudsman published the result of her investigation, which found that the Commission hadn’t even asked von der Leyen’s office to search for text messages, despite the journalist specifically requesting them.<sup>30</sup> Instead, it asked for items that met the Commission’s criteria for recording ‘documents’ – a definition that does not include text messages. To address this, O’Reilly made a recommendation that the Commission ask von der Leyen’s office to search again for relevant text messages, but the Commission refused to comply.

The EU’s values and transparency commissioner, Věra Jourová, later claimed, unironically, that the text messages may have been deleted, due to their ‘short-lived, ephemeral nature’ and defended the Commission’s right not to keep records of the texts in view of the fact that ‘text and instant messages in general do not contain important information relating to policies, activities and decisions of the Commission, nor are they in the possession of the institution’.<sup>31</sup>

As time went by, other EU bodies got involved, including the European Court of Auditors – but the stonewalling continued. This prompted the

European Public Prosecutor's Office (EPPO), an independent EU body responsible for investigating and prosecuting financial crimes, including fraud, money laundering and corruption, to open an investigation – still ongoing – into the whole EU Covid vaccine-procurement process.<sup>32</sup>

What's more, the vaccine contracts themselves – not just with Pfizer-BioNTech but with the other pharmaceutical companies as well – long remained secret. The European Commission turned down requests from members of the European Parliament (MEPs) to access the documents, and rejected various freedom of information requests.<sup>33</sup> The correspondence between the Commission and the advocacy group Corporate Europe Observatory showed the rejection was motivated by commercial confidentiality and claimed, astonishingly, that there was 'no overriding public interest in transparency'.<sup>34</sup>

The European Ombudsman even opened an inquiry into the Commission's refusal to grant public access to documents concerning the purchase of the vaccines. The Commission finally allowed selected MEPs to consult a heavily redacted version of the 60-page contract with the biopharmaceutical company CureVac (whose vaccine never made it past the trial phase), for 45 minutes in a reading room, under strict conditions, and after having signed a confidentiality agreement.<sup>35</sup>

After months of pressure from civil society, MEPs and the European Ombudsman, the European Commission agreed to release some heavily redacted versions of the contracts – so heavily redacted 'that their disclosure provided virtually no meaningful transparency at all', as a representative of Corporate Europe Observatory put it.<sup>36</sup> As the *New York Times* commented: 'Governments have poured billions of dollars into helping drug companies develop vaccines and are spending billions more to buy doses. But the details

of those deals largely remain secret, with governments and public health organizations acquiescing to drug company demands for secrecy.<sup>37</sup>

At that point, Green/EFA MEPs launched a legal action<sup>38</sup> over the Commission's refusal to grant full access to the contracts, which the General Court of the EU recently upheld, ruling that '[t]he Commission did not give the public sufficiently wide access to the purchase agreements for Covid-19 vaccines'.<sup>39</sup> More specifically, 'that infringement concerns those agreements' provisions on indemnification, and concerns the declarations that there was no conflict of interest on the part of the members of the team who negotiated the purchase of the vaccines', the Luxembourg Court pointed out in its judgement.

Despite the redactions, the APAs nonetheless showed that the European Commission had essentially given billions away to the pharmaceutical companies with no strings attached, fully de-risking the firms' investments. As to the question of who would own the intellectual property (IP), for example, all agreements were clear: the IP, including know-how and data, would remain in the hands of the companies. It was also revealed that the Commission had included indemnity clauses in the advance purchase agreements signed with vaccine makers. 'The Commission or the member states would essentially indemnify the companies against the cost of legal action that followed [vaccine-related] claims', said Sue Middleton, president of the executive board of Vaccines Europe, which represents the major vaccine makers.<sup>40</sup>

Even the main argument used by von der Leyen to justify the joint procurement – that by negotiating on behalf of all member states, the Commission could obtain a lower price from vaccine makers – proved to be unfounded. In September 2020, the EU Commission's top

vaccine negotiator pledged that the doses would cost between €5 and €15.<sup>41</sup> ‘We cannot go beyond certain limits because it wouldn’t be affordable’, she told the Health Committee.

In fact, it was later revealed that the EU had paid up to €20 and €25 per dose for the Pfizer-BioNTech and Moderna vaccines respectively<sup>42</sup> – the two most widely used vaccines – compared to the price per dose of €2.90 for the AstraZeneca vaccine<sup>43</sup> (which was later suspended after concerns about potential side effects, even though the same concerns were raised about the other vaccines as well). According to one analysis, the price per dose the Commission agreed to was 15 times higher than the cost of production, meaning that the EU – and, by extension, the various national governments – may have overpaid for the vaccines by more than €30 billion.<sup>44</sup>

To make matters worse, when, beginning in mid-2022, some countries – Poland, Hungary and Romania – notified Pfizer-BioNTech that, due to the budgetary pressure of the war in Ukraine and the winding down of the pandemic, they did not intend to take or pay for any more vaccines, Pfizer and BioNTech opened legal proceedings against these governments over the missed payments, which reportedly amounted to several billion euros. Meanwhile, Frédéric Baldan, a Belgian lobbyist, has filed a lawsuit against von der Leyen herself before a Liège court, accusing her of usurping official powers, destroying public documents, pursuing illicit interests and committing corruption, and damaging his country’s public finances.<sup>45</sup>

The raft of scandals surrounding the whole vaccine-procurement process highlights the complete lack of accountability of the EU system, and of the European Commission in particular – and why the latter’s ever-expanding political role is so problematic. Ultimately, Pfizergate isn’t an isolated incident, but a reflection of the EU’s true nature: a haven where unelected politicians and corporate leaders can cosy up to each other away from prying

eyes, unhindered by obsolete concepts such as transparency and, ironically, the rule of law itself – while leaving governments, and ultimately citizens, to foot the bill.

In general, the pandemic showed how the European Commission exploits crises to massively expand the scope of its executive action – even by extra-legal means – much as it had done during the euro crisis. Commenting on the first measures adopted by the EU to curb the impacts of the Covid-19 pandemic, von der Leyen herself remarked that ‘we achieved this without having full competences’.<sup>46</sup> A similar approach was later adopted by von der Leyen in the foreign policy arena.

#### **4.2 The Ukraine war: von der Leyen’s ‘geopolitical coup’**

Traditionally, the Commission has held a weak position in the foreign-policy domain and particularly in defence and security policy, over which the Commission has no direct jurisdiction under the European treaties. Supranational integration in this area has long been seen as a ‘least likely’ case.<sup>47</sup> Prior to the von der Leyen presidency, the Commission had already slowly been expanding its role in foreign policy, often by ‘circumventing’ formal decision-making processes,<sup>48</sup> but its role remained limited. To the extent that the EU would speak as a single voice on matters of foreign policy, this job was (formally) reserved to the high representative of the Union for foreign affairs and security policy (established by the 2007 Lisbon Treaty). Even then, the job was just to convey the intergovernmental consensus among member states as a de facto extension of the Council, not as an autonomous supranational voice. Von der Leyen was determined to change this.

Shortly after first assuming the presidency of the Commission in 2019, von der Leyen identified the creation of a ‘geopolitical commission’ as one of her main priorities.<sup>49</sup> The EU, she asserted, needed to become a major



'geopolitical' actor 'to shape a better world order'. Chaos and crisis demanded that it 'learn to speak the language of power'. In reality, she was declaring her intention to broaden the Commission's scope into domains that have traditionally been the remit of national governments, namely foreign policy, and defence and security matters.

She was anticipating, in other words, yet another institutional coup aimed at achieving yet more supranational unification and centralisation, in the one area where governments have historically been most reluctant to grant the EU and its institutions a greater policy role. Russia's 2022 invasion of Ukraine provided her with the perfect opportunity to do just that. For all von der Leyen's talk of boosting the EU's geopolitical role, in the critical months leading up to Russia's invasion, the EU's role remained marginal compared to that of the US. As far as is known, the US did not consult European governments or, for that matter, the EU, with the bloc appearing to have been largely confined to the sidelines of the unfolding crisis.

Following Russia's invasion, however, the EU, through the European Commission, suddenly adopted a much more activist role, with von der Leyen once again seizing the window of opportunity created by the crisis to place herself at the lead of the bloc's response. This allowed her to pursue two mutually reinforcing goals: expanding the Commission's mandate on security, while at the same time ensuring the bloc's alignment with (or better, subordination to) the US-NATO strategy. The aim was essentially to transform the Commission into 'an extended European arm of NATO and the United States', as Wolfgang Streeck aptly put it:

*Lacking jurisdiction under the European treaties on military and defense matters, the Commission sought to identify gaps in the capacities of EU member states and NATO that it could offer to fill, hoping thereby*

*to enhance, or restore, its governing capabilities as an international institution.*<sup>50</sup>

Von der Leyen's first step was devising in record time an unprecedented, wide-ranging sanctions regime against Russia. The first sanctions package was adopted literally the day after Russia's invasion, on February 25, with dozens of other packages following.<sup>51</sup> These included asset freezes and travel bans, banking and central-banking restrictions such as the exclusion from the SWIFT system, export controls and import bans, and embargoes on Russian energy.

Much has been said about the sanctions and their effectiveness or lack thereof. But an aspect that has gone largely unnoticed is the way in which the sanctions have been used by von der Leyen to, once more, surreptitiously broaden the powers of the Commission, at the expense of the Council and member states.

Traditionally, the Council would be in the driving seat in setting up an EU sanctions regime, the Commission following up to oversee the technicalities and implementation. In contrast, the post-invasion sanctions regime saw a dramatic reversal of roles. Though nothing changed from a formal procedural standpoint – the Commission would table the proposed restrictions alongside the high representative for foreign affairs and security policy, which then had to be approved by the European Council via a unanimous vote – on this occasion, the Commission took on a greater role than ever before in the development of the sanctions policy.

There are several factors to consider here. First, as during previous crises, the perceived need to act swiftly and decisively meant that the Commission, as the institutional locus of expertise in this field, was well positioned to take matters into its own hands. Thus, von der Leyen immediately proposed

several packages in rapid-fire succession with little prior consultation with member states. As *Politico* explained:

*Throughout the preparation process, it was the Commission that [took] the lead on sanctions, consulting some national capitals like Berlin, Paris and Rome – but for the most part meeting representatives of member countries in small groups to sound out their views. Fearful that the ambitious package of sanctions could leak, the Commission never provided a draft text, until the final moment when member countries were poised to consider it.*<sup>52</sup>

The shock of the invasion, which caused a ‘significant reformulation’ of member states’ views on the perceived threat from Russia,<sup>53</sup> also meant that member states were happy (or saw little choice but) to go along, at least at first. Peer pressure did the rest. According to one scholar, ‘the immense political pressure furthermore meant that in the first month after the Russian invasion, member states would accept almost any sanctions measures proposed’<sup>54</sup> – even on issues that were politically very sensitive for member states, such as the ousting of Russian banks from the SWIFT system, or energy sanctions on coal and crude oil.

This is not to suggest that member states had no say whatsoever in the development of the sanctions regime. However, the Commission was clearly more inclined to listen to some governments than others. For example, one study noted that in the early months following the invasion, ‘hawkish’ frontline governments on the bloc’s eastern and northern flank ‘would send “their wildest sanctions dreams” to the Commission, [which] would then, more often than not, include them directly into the proposed sanctions package’.<sup>55</sup>

This reflected how the Russia-Ukraine war engendered a shift in the European geopolitical axis of power from the west to the north-east,

a process to which the US lent considerable support in the context of the growing NATO-isation of the EU. Once again, one is reminded that the EU's decision-making process is always the outcome of a complex interplay of national, international and supranational dynamics – with the noticeable absence, as always, of the demos.

This points to another crucial factor in explaining the central role assumed by the Commission in the sanctions policy: the transatlantic dimension. Because the sanctions were part of a Western-wide policy that ultimately took its cue from Washington, von der Leyen was able to use her strong transatlantic ties to further bolster her role and leverage. A few months after the invasion, *Politico* wrote that von der Leyen – dubbed 'Europe's American president' by the magazine<sup>56</sup> – had 'emerged as the person to call when US officials want to call Europe':

*[V]on der Leyen has seized a firm grip on the transatlantic dialogue on Russia and sanctions policy, becoming US President Joe Biden's primary interlocutor – the woman the White House calls when America wants to talk to the EU. And she and her team are given credit for navigating the typical pitfalls of EU discord over sanctions policy, successfully delivering round after round of punishing measures with relatively limited dissent.<sup>57</sup>*

As Wolfgang Streeck noted, aligning the EU with the US-NATO strategy also served von der Leyen's self-aggrandising ambitions:

*In its effort at supranational European state-building, the European Commission under von der Leyen deploy[ed] American pressure for European support in Ukraine as a lever to wrest from its member states additional powers and competences, a strategy supported by large sections of the European Parliament.<sup>58</sup>*

Von der Leyen could also count on the fact that Björn Seibert, her then (and still today) head of cabinet, is a personal friend of the US national security advisor, Jake Sullivan. As the *Financial Times* reported, ‘in a departure from previous practices, the EU effort was co-ordinated directly [with Washington] from von der Leyen’s office through Björn Seibert’.<sup>59</sup> Rather shockingly, one EU ambassador noted that the cooperation between the United States and the EU leadership meant that ‘the US at the beginning knew more about the work on EU sanctions than the EU member states’.<sup>60</sup>

This, in turn created an institutional path dependency, whereby the marginalisation of member states in the formulation of the sanctions regime resulted in von der Leyen and her cabinet becoming the ‘only actors with an overview of the overall sanctions discussions’<sup>61</sup>, which in turn created a self-reinforcing dynamic that led to a growing centralisation and de facto supranationalisation of the whole process. Moreover, as during previous crises, it wasn’t long before the new inter-institutional dynamics created by the ‘reality on the ground’ were formalised and crystallised through new institutional arrangements. Indeed, von der Leyen was explicit in the way she framed the crisis as one that required swift institutional change to adapt to the new status quo. In a speech before the European Parliament shortly after the invasion, she argued:

*[When] we are resolute, Europe can rise up to the challenge. The same is true on defence. European security and defence has evolved more in the last six days than in the last two decades. [...] This is a watershed moment for our Union.*<sup>62</sup>

Thus, in late 2022, a decision was taken by the Council to give the Commission the power to establish and enforce EU-wide penalties for the violation of sanctions, something which until then had been the remit of individual member states.<sup>63</sup> Crucially, by using the European Parliament

urgency procedure, the existing system was overhauled without involving the EP Committee on Civil Liberties, Justice and Home Affairs or the Economic and Social Council, and without the conduct of the normally compulsory impact assessment.<sup>64</sup> This is yet another example of how crisis/emergency politics tend to lead to rapid institutional changes that almost invariably entail a growing supranationalisation and Commissionisation of the EU's decision-making process, and to a growing lack of democratic scrutiny.

The pivotal role of the Commission, and of von der Leyen in particular, in responding to the Ukraine crisis was further accentuated by an unusually aggressive discourse in the presentation of the sanctions rounds. Using unprecedentedly harsh language, von der Leyen spoke of the EU sanctions packages as being designed to systematically 'degrade Russia's technological base and industrial capacity',<sup>65</sup> 'cripple Putin's ability to finance his war machine', 'further isolate Russia and drain the resources it uses to finance this barbaric war', 'hit a central sector of Russia's system' and 'deprive it of billions of export revenues'.<sup>66</sup> Aside from the language used, von der Leyen also upended the protocol by sidelining the high representative of the Union for foreign affairs and security policy, who at the time was Josep Borrell, when presenting the packages. As one scholar argued:

*Due to sanctions' traditionally inter-pillar nature as economic and financial tools deployed for political purposes, one would expect the [high representative of the Union for foreign affairs and security policy] to be entrusted with their public communication. He emerges as the ideal figure because his post brings together the Commission's competences in economic and financial governance with the political role in foreign affairs of the Council. [...] Yet, in the communication of new EU sanctions packages, it was the Commission President*

*von der Leyen that assumed the leading role. Only after her initial announcement of the adoption of every new sanctions round, the president typically gave the floor to the [high representative], Josep Borrell, who outlined the specifics of each package.<sup>67</sup>*

As the Commission, in the months following the invasion, continued to churn out proposals for increasingly harsh and broad-based sanctions, we started witnessing pushback from some EU leaders – most notably Viktor Orbán. ‘The attempts to weaken Russia have not succeeded’, he said in mid-2022. ‘By contrast, it is Europe that could be brought to its knees by brutal inflation and energy shortages resulting from sanctions.’<sup>68</sup> The negotiations on the sixth sanctions package were especially difficult, as Hungary blocked this package for a long time. In the end, Hungary received an exemption from the ban on Russian crude oil.

Events would prove Orbán right. Two years after the start of the conflict, von der Leyen still insisted that ‘layer by layer, [the] sanctions are peeling off Russian industrial society’,<sup>69</sup> even though by then it had become apparent that the sanctions had completely failed to reach their stated goal of crippling the Russian economy, and had in fact catastrophically backfired. The Russian economy was ‘soaring’,<sup>70</sup> in part thanks to the sanctions themselves, which spurred Russia to adopt a policy of trade protection, industrial policy and capital controls that it couldn’t have plausibly implemented on its own initiative.<sup>71</sup> Meanwhile, large parts of Western Europe had gone into a recession, also in large part thanks to the sanctions themselves and the decoupling from Russian gas.

But from von der Leyen’s perspective, her aggressive approach has been a success, allowing her to single-handedly ‘supranationally’ set the tone of the bloc’s response. This has ensured a much more hawkish response than a more consensual intergovernmental approach would likely have led to, often using

rhetoric even more militant than that of the US itself. This also meant tirelessly declaring the unwavering commitment of the EU and its member states to Ukraine's maximalist victory-at-all-costs strategy: that Ukraine should go on fighting until it retakes every inch of lost territory, including Crimea, no matter the human or economic cost, and that Putin should not be negotiated with. This was despite the reservations that some countries, including France and Germany, had about this approach, especially early on.

The Commission also played a crucial role in getting the EU to break the taboo on financing lethal weapons when it decided to fund the provision of lethal military aid to Ukraine. As article 41.2 of the Treaty of the European Union explicitly prohibits 'expenditure arising from operations having military or defence implications', this move required some creativity. To this end, the Commission diverted €3.6 billion of its European Peace Facility (EPF) – an off-budget funding mechanism created to 'prevent conflicts, build and preserve peace and strengthen international security and stability' – to provide lethal and non-lethal military support for Ukraine<sup>72</sup>. It was the first time the European Peace Facility, somewhat of a misnomer at this point, had ever been used to provide weapons to a country at war. This decision is even more impressive considering that the EU comprises three militarily-neutral member states, namely Austria, Ireland and Malta.

Meanwhile, von der Leyen remained steadfast in offering Ukraine the possibility of full EU membership. Promises of accelerated accession came with long-term commitments to economic support for Ukraine's recovery, both during and after the war. In late 2022, von der Leyen declared that Ukraine's rebuilding would require 'a comprehensive Marshall Plan' for which the EU would 'present a new Ukraine reconstruction platform'.<sup>73</sup> Almost two years later, she repeated 'Europe's steadfast commitment to support Ukraine as long as it takes', stating that the European Union



‘stand[s] firmly by Ukraine, financially, economically, militarily and most of all morally, until [the] country is finally free’.<sup>74</sup>

As with the sanctions, or any other issue for that matter, the point is not whether one agrees with the policies outlined by von der Leyen or not. The point is the way in which, through such statements, she is able to ‘lock in’ policies before they have been formally approved by member states, let alone national parliaments – not only on crucial matters of military and security policy, but on fiscal/spending policy as well. One may argue that member states ultimately remain in charge to the extent that any policy ultimately needs to be approved by the European Council, but this ignores the way in which such statements effectively create a new epistemic ‘reality on the ground’, or *fait accompli*, to which member states then come under heavy pressure to conform to.

In this regard, it’s worth noting that, for all of the US’s berating of Europe for refusing to ‘pay its fair share’ for defence, as of June 2024, EU countries and EU institutions have allocated altogether €110 billion to Ukraine, while the total financial aid allocated by the United States stands at ‘only’ €75 billion<sup>75</sup> – and this tendency is becoming even more pronounced. Meanwhile, there has been little discussion about the challenges that admitting a country like Ukraine into the EU, with its requirement for prolonged financial aid, would pose to the EU’s internal political and financial stability.

What’s particularly tragic is that von der Leyen’s authoritarian, top-down approach to the Ukraine crisis hasn’t transformed the EU into a ‘geopolitical actor’ capable of standing on its own on the world stage, and standing up for its interests, as she had heralded at the start of her presidency, which may have partly justified this approach. On the contrary, by unquestioningly deferring to US strategy, von der Leyen has made the EU more ‘vassalised’

to the US (in the words of two analysts from the European Council on Foreign Relations)<sup>76</sup> than ever before. As Orbán recently put it: ‘Europe has given up defending its own interests: all that Europe is doing today is unconditionally following the foreign policy line of the US Democrats, even at the cost of its own self-destruction.’<sup>77</sup> To a large degree, we have von der Leyen to thank for that.

A final point that deserves to be mentioned is the way in which von der Leyen’s Commission used the war in Ukraine – and specifically the threat of ‘Russian disinformation’ – to push for the approval of a pervasive new censorship regime in the form of the Digital Services Act (DSA). This law, initially proposed by von der Leyen in 2019, requires social media platforms to remove any content that the Commission itself deems to be ‘hate speech’ or ‘disinformation’ (based on vague and ever-shifting definitions). While the Commission claims that this is all about protecting users, it’s easy to see why many believe that the ultimate goal is that of censoring dissent and controlling the online narrative – particularly surrounding highly contentious issues such as the Russia-Ukraine war.

It’s no coincidence that the European Commission’s first-ever DSA report<sup>78</sup> was entirely focused on the question of ‘Russian disinformation’. Tellingly, the report puts ‘Kremlin-aligned accounts’ – potentially any account that is critical of the EU-NATO approach to the war – almost on the same plane as accounts that are connected or associated with the Russian state. Meanwhile, the Commission has also supported a wide range of other initiatives to combat ‘misinformation’ and ‘disinformation’ related to the conflict.

Overall, the Ukraine conflict provides yet another textbook example of integration by stealth through crisis – or, in this case, war – whereby the European Commission uses crises to push for the expansion of its top-down

executive powers, de facto or de jure, including in areas where it lacks formal competence, such as foreign policy, and defence and security matters. This has led to an ever-growing supranationalisation (and, in parallel, denationalisation and de-democratisation) of the EU's decision-making process.

Allegedly 'one-off' emergency solutions that are presented as contingent on responding swiftly to the crisis at hand – such as granting more leeway than ever before to the Commission in devising the sanctions policy – give rise to new institutional realities, which then become the status quo.

Thus, it's no surprise that, at the outbreak of the Israel-Gaza war, von der Leyen once again saw fit to speak (and act) on behalf on the whole bloc. A week after the October 7 terror attack by Hamas, for example, she made an unscheduled trip to Israel, of which she had reportedly informed no one, where she affirmed the EU's unwavering support for Israel.<sup>79</sup> Not only had she not consulted with EU leaders prior to the trip – or even told them about it – but while there she did not even relay the position adopted by European foreign ministers calling for Israel to respect international law. This caused sharp criticism from several EU leaders and officials. 'I don't understand what the president of the Commission has to do with foreign policy, which is not her mandate', Nathalie Loiseau, a European lawmaker and senior member of French President Emmanuel Macron's Renew Europe group, wrote on X.<sup>80</sup>

Even Josep Borrell, formally the EU's foreign-policy chief, issued a rare public rebuke of von der Leyen, saying that she isn't entitled to represent EU views on foreign policy, which are normally coordinated between member countries. Foreign policy is decided by the leaders of the EU's 27 countries at international summits, and discussed by foreign ministers in meetings 'chaired by me', Borrell told journalists.<sup>81</sup> EU Council president Charles Michel also conveyed the frustration of state leaders when he said that the EU had 'paid the bill' for von der Leyen's management of the Gaza crisis,

referring to the damage to the EU's image in the Middle East and regretting that the Commission made statements 'without any legitimacy'.<sup>82</sup>

That might be the case, but most EU leaders bear a big responsibility for this situation. By allowing von der Leyen and the Commission to relentlessly broaden their powers, one silent coup after another – first during the pandemic, then over the Ukraine war – they have contributed to this new reality coming into being. And, by re-electing von der Leyen, they have ensured that this process of creeping supranationalisation will continue in the years to come.

## 5 Conclusions

We have seen how, crisis after crisis, through a steady process of ‘competence creep’, often taking the form of outright institutional coups, the European Commission, especially under von der Leyen, has progressively expanded its power and increased its influence over areas traditionally reserved for national governments – from fiscal and monetary policy to public health, from foreign policy to defence and security matters. This has led to a growing supranationalisation and Commissionisation (and subsequent denationalisation and de-democratisation) of the EU’s decision-making process.

The political agency of the various actors involved, first and foremost von der Leyen herself, has obviously played an important role in this process. However, this report has emphasised the structural and path-dependent nature of European integration, the fact that even limited forms of supranational integration create institutional, material and even psychological path dependencies that make further transfers of sovereignty inevitable (or seemingly so) further down the road, especially in times of crisis.

In this sense, history has vindicated the functionalist theories embraced by the early fathers of European integration, such as Jean Monnet and Robert Schuman. They were perfectly aware that European citizens, and even national governments, would tend to resist any process explicitly aimed at the construction of a European super-state. They thus theorised

the ‘small steps’ doctrine, whereby international cooperation should begin with the management of specific, technical and practical issues that transcend national boundaries, such as economic, social, or environmental concerns.

This, in turn, would create pressures for further integration, exacerbated by real or engineered crises. These crises tend to act as ‘facilitating events’<sup>83</sup> that lead to spillover effects, driven not just by the ‘functional’ (practical) needs of governments, but also by the actions of supranational institutions (such as the European Commission, but also the ECB and the European Court of Justice) and groups that have an interest in pushing the integration process forward, even in the face of resistance from national governments. In turn, as we have seen, every step towards greater supranational integration generates self-reinforcing trends, facilitating further steps in the same direction.

Thus, if, for example, you have ceded your monetary sovereignty and exchange-rate policy to the EU, as the countries of the eurozone have, this means you will lack the tools to autonomously respond to an external shock such as an economic or financial crisis. You will be left with little choice, in such a situation, but to cede further control to the institution that now controls those tools – the EU – as we saw during the euro crisis. By the same token, when faced with crises that are global or continental in nature – such as a pandemic or a war – the simple fact of belonging to a ‘multinational club’ like the European Union inevitably leads to calls for a common EU-level supranational response, by further empowering the Commission (or other supranational bodies, such as the ECB).

The notion that, in today’s increasingly complex and interdependent world, individual states have become increasingly powerless, and should therefore ‘pool’ their sovereignty together and transfer it to larger and more powerful supranational institutions, has long been one of the foundational

myths of the EU. This is the argument that is systematically rolled out at every crisis to justify further supranational integration. However, if this were true, even putting aside the question of democratic accountability, the EU's management of past crises should have led to unquestionably positive outcomes in 'functional' terms, at least vis-à-vis comparable non-EU countries.

However, we know that this is far from being the case. The EU, for example, suffered a much greater economic and social impact from the financial crisis than the US, where the crisis originated – in large part due to the structural dysfunctionalities of the euro system, which have yet to be resolved. Moreover, as discussed in this report, the centralisation of the Covid-19 response in the hands of the Commission resulted in massive corporate profiteering, collusive (and possibly corrupt or even outright illegal) practices, and in a massive waste of public economic resources – for which member states and taxpayers will be left on the hook for a long time to come. Furthermore, the EU's economic recovery following the pandemic has also been notably slower than that of the United States.

Similarly, it's very hard to make the case that the central role assumed by the Commission in the management of the Russia-Ukraine war, and particularly in the development and implementation of the sanctions regime, has led to optimal outcomes. Even putting aside the wider geopolitical consequences of transatlantic vassalisation highlighted by Orbán and others, it is now widely acknowledged that the sanctions have completely failed to reach their stated goal of crippling the Russian economy, and have in fact catastrophically backfired, pushing large parts of Western Europe into recession and even deindustrialisation.

Overall, a major lesson here seems to be that there is no obvious economic or practical trade-off for the dramatic loss of democratic control

and accountability resulting from the erosion of national sovereignty implicit in the deepening of the EU's process of creeping supranationalisation. On the contrary, lack of oversight simply exacerbates the capture of the decision-making process by powerful vested interests, driven by profit, power, ideology or usually a mixture of these factors, leading to suboptimal outcomes, at least for society at large.

A question this report has also attempted to answer is why member states, with few exceptions, have allowed this process to take place, or even actively supported it, to the extent that it has resulted in their relative marginalisation in the EU's decision-making process. Aside from the answer offered by (neo)functionalist theory – that limited supranational integration pressures governments into accepting further integration down the road, especially at times of crisis, whether they want it or not – part of the explanation lies in the way national elites have historically 'used' Europe to sidestep popular-democratic pressures at the domestic level, and to impose policies that would not have otherwise been politically feasible.

From the Nineties onwards, for example, national elites in many European countries came to view the euro as a 'Trojan horse' with which to push through neoliberal policies for which there was little political support. As Kevin Featherstone, a strong supporter of European integration, put it: 'Binding EU commitments enable governments to implement unpopular reforms at home whilst engaging in "blameshift" towards the 'EU', even if they themselves had desired such policies.'<sup>84</sup> Though scholars have generally focused on how this logic has played out in the arena of economic policy, the same logic can potentially be applied to other domains as well, from public health to foreign policy. In this sense, the EU can be said to embody what the political scientist Edgar Grande defined as the 'paradox of weakness': national elites transfer some power to a supranational



policymaker (thereby appearing weaker), in order to allow themselves to better withstand pressure from societal actors by testifying that ‘this is Europe’s will’ (thereby becoming stronger).<sup>85</sup>

Thus, the EU shouldn’t simply be viewed as a supranational authority that infringes upon the autonomy of nation-states (though it is also that, of course), but also as an institution that pro-establishment national authorities can, if needed, deploy against their own ‘populist’ adversaries – not just domestically but in other countries as well. The way in which EU leaders hostile to Orbán have ostensibly ‘used’ the European Commission to pressure Hungary, also financially, to conform to the EU’s agenda – especially over Ukraine – is a good example of this dynamic.<sup>86</sup>

This raises a final question: given the growing constraints placed on member states by the relentless supranationalisation of the EU’s decision-making process, what should a member state that is truly intent on upholding its national and democratic sovereignty, even against the wishes of the EU and other member states, do?

Barring extreme solutions, such as withdrawing from the EU/euro, the current trajectory of the European Commission suggests an urgent need to build a consensus among member states for institutional reforms, to ensure that the Commission’s growing power is counterbalanced by stronger democratic controls. Mechanisms must be put in place to enhance the transparency of the Commission’s decision-making processes and to ensure that member states – and specifically national parliaments – have a more significant role in shaping EU policies. Moreover, opt-out options are needed for member states that disagree with the majoritarian consensus. Without such reforms, the democratic backsliding of the EU is only bound to worsen.

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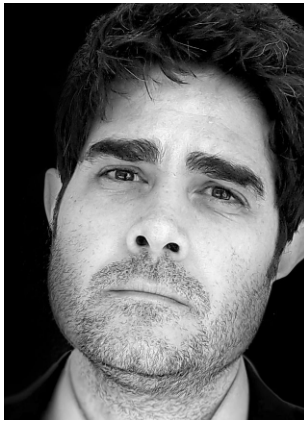
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## About the author

### Thomas Fazi

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Thomas Fazi is an independent researcher, writer and journalist based in Rome. He is the author of several books, including: *The Battle for Europe:*



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## **About MCC Brussels**

At a time of unprecedented political polarisation, MCC Brussels is committed to providing a home for genuine policy deliberation and an in-depth exploration of the issues of our time.

MCC Brussels is committed to asking the hard questions and working with people of goodwill from all persuasions to find solutions to our most pressing problems. An initiative of MCC (Mathias Corvinus Collegium), the leading Hungarian educational forum, MCC Brussels was founded in the autumn of 2022 to make a case for celebrating true diversity of thought, diversity of views, and the diversity of European cultures and their values.

In recent years, a succession of crises for the EU has seen an accompanying expansion of the power of the European Commission.

The sovereign debt crisis, the refugee crisis, the Brexit vote, the Covid-19 pandemic, the Ukraine war have all invariably led to an increase in the scope of the Commission's competences. Has the Commission used these crises as an excuse to forge a more supranational and centralised EU? Or has this merely been a 'natural' response to serious crises?

At the centre of this process sits Ursula von der Leyen. She has been particularly active in transforming the EU governance into what Politico once called an almost 'US-presidential style understanding of executive power' and garnering von der Leyen the nickname of 'Queen Ursula' in Brussels. How has VDL been able to affect this transformation of EU power?

This report shows that this has mostly occurred surreptitiously, through various forms of 'competence creep'. In the absence of formal treaty changes, and outside of the realm of democratic debate, we have witnessed a game-changing transfer of sovereignty from the national to the supranational level, at the expense of democratic control and accountability. This is what scholars call 'integration by stealth', 'covert integration', or, in the words of political philosopher Perry Anderson, 'the coup'.

This paper demonstrates how the VDL Commission used the Covid-19 and Ukraine crises to enact a creeping transfer of competences from the national to the supranational level through a series of 'silent coups'. It further investigates the shift in power dynamics between the Commission and the European Council, and the paradox of how this process has often been promoted by member states themselves, at the expense of their sovereignty. Finally, it raises concerns about the erosion of national sovereignty and democratic accountability that this process has entailed.