From Decentralization to Independence in 21st Century Europe

Economic and Legal Challenges of Developing the EU's Institutional Framework on the Backdrop of a Hyper-Technological Economy

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"Social support may be one of the critical elements distinguishing those who remain healthy from those who become ill."

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1. Introduction

IN THE aftermath of the financial and economic crisis, and on the background of the independence movements within the European Union (EU), a paradoxical question arises: does the European integration foster centrifugal forces that can break apart subnational entities from some of the member states? This is a vital problem, which can be analyzed only after a careful examination of the conceptual foundations related to the design of the institutional framework of the European Union. This analysis has to be performed both from economic and legal perspectives, while focusing on the disruptions and opportunities generated by the knowledge economy and a hyperconnected society.

In this setting—characterized by the Europeanization of law and the constitutionalization of the European Union—scholars (e.g. Ladeur 2010) examine if the EU is able to be the successor of the nation-state under conditions of globalization and represent a more competitive political entity at international level.

2. European Legal Integration: Federalism and Constitutionalism in the European Union

THE *CONSTITUTIONALIZATION process* of the EU is a subject that has claimed much attention, especially the latest set of constitutional developments (which started with the Laeken Declaration and ended with the coming into effect of the Lisbon Treaty).

Currently, the EU faces the issue of how to coordinate the supra-national law adopted and implemented within a regional organization with the existing national-state laws. In order to solve this problem, certain general legal principles must be elaborated for guidance.

In an attempt to break the deadlock generated by the rejection of the Constitutional Treaty (CT) in 2004, the Treaty of Lisbon (TL, adopted in 2007) departs from the approach of the Constitutional Treaty and the *"federal" model* (that assumes "EU law is inherently superior to member state law, and that it is inherently expansive in that it may continually encroach upon member state law") by supporting a *"pluralist" model* (in which "EU law coexists with member state law on a roughly equal footing, and EU law is maintained within strict limits in relation to member state law")—thus generating *parallel* (coexisting without either one being superior to the other) and *overlapping* (in part merged, but still separate) spheres between EU law and member state law (Cooper 2009, 2).

From a structural point of view, the Treaty of Lisbon is composed of two core treaties: The Treaty of the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). The former deals with the European Union, while the latter takes the place of the Treaty on the European Community (Treaty of Rome), whereas the three-Pillar structure is eliminated (Inocencio 2010). Although many of the initial roles of the EU institutions are still valid, Inocencio considers that the changes implemented by the Treaty of Lisbon considerably altered the *institutional framework of the EU*, which is why it is essential to examine some of the provisions of the treaty and factor in their influence on the relationship between member states and the EU. On the one hand, the Treaty of Lisbon salvages most of the innovations of the rejected project of the "European Constitution," but on the other hand it avoids its "constitutional" symbolism and wording:

• The EU legal personality is recognized (Article 47, TEU).

• The EU can only act within the limits of the powers conferred by the member states, i.e. the competences of the Union are restricted according to the principle of conferral (Article 5, 1/2 TEU).

• The principle of subsidiarity is recognized (Article 5/3, TEU) and furthermore, the role of national Parliaments is introduced in the Protocol on Subsidiarity and Proportionality (Article 12, TEU) through the "Early Warning System," reinforcing the powers of member states in the EU institutional framework.

• Similar to federal political systems, the Treaty underscores the dual representation in the common EU institutions (citizens in the European Parliament and member states, through the Council).

• The European Council is established as one of the main institutions of the EU (Article 9, TEU), with the introduction of a President of the European Council by Qualified Majority Voting (QMV) for a term of two and a-half years, renewable (Article 15/6, TEU).

• The Treaty of Lisbon also introduces a new High Representative of the Union for Foreign Affairs and Security Policy chosen for a five-year term (Article 18/3, TEU).

• A new method for determining QMV under which votes are not based on "weighted voting," but on the concept of "double majorities" (the number of states and number of citizens) is also adopted.

Finally, the Treaty explicitly regulates the right of withdrawal from the EU by member states (Article 50, TEU).

• Moreover, addressing the need for a more competitive and efficient institutional framework, but also incorporating the case law of the ECJ, the Treaty of Lisbon manages to change the balance of power between the individual institutions. In this respect, Inocencio (2010) stresses that the Treaty on the Functioning of the EU (TFEU) replaces the EC Treaty, and implements significant changes: it demarcates the sphere of competences of the Union by splitting it into exclusive competences (Article 2/1, TFEU), shared competences (Articles 2/2; 4, TFEU) and coordinated competences (Article 2/5, TFEU).

• The powers of the European Parliament are reinforced in the co-decision procedure, now entitled "ordinary legislative procedure," in the appointment of the European Commission, its President, and the New High Representative, but also in several other areas.

• The jurisdiction of the Court of Justice of the European Union (the former ECJ) has been extended encompassing the whole Area of Freedom and Justice (i.e. the "Old Third Pillar").

As a consequence of the Lisbon Treaty, the powers of the European Commission have also been amplified, especially in relation to the TFEU, which pro-

vides for unanimity in the Council when amending proposals if the Commission does not agree with the amendment (Article 293).

Another important aspect of how the Lisbon Treaty moves the EU closer to the competitive networked political entity of the future is related to the reinforcement of the role which the Committee of the Regions (COR) has in the law-making process and in the way it protects the interests of autonomous regions and promotes decentralization. While, in the game of Multi-Level Governance, member states sought to preserve control of the Community funding component (which was, in principle, supplementary to their national expenditures), under the Maastricht Treaty the Committee of the Regions gave substate authorities their first formal basis for participation, with indirect representation and consultative status alongside the Economic and Social Committee (Daj 2014). The implications of these reforms will be further discussed in the following sections.

3. Macroeconomic and Technological Factors Shaping the EU's Institutional Framework and Competitiveness

THE MODERN state evolved along with the emergence of complex nets of transactions based on industry and on complicated commercial arrangements. The greater scale of activities allowed by the modern state presented important advantages for both economic and political actors (Shively 2013).

In his study "Small Worlds," Michael Burgess (2013) stresses that the nature of the national political economy tends to have either a binding effect (which stimulates federal unity) or a dismantling effect (which can nurture the desire for secession) upon some constituent units. This is the reason why all federations and federal systems have to have an operative *federal fiscal transfer system* with instruments designed to solve issues concerning resource allocation, distribution and redistribution.

Quoting the 2013 European Competitiveness Report—ECR (drawn up by DG Enterprise), as well as recent literature, Guarascio (2014, 1) considers that *improving competitiveness* is at the top of the EU Commission policy agenda—since competitiveness is at the heart of economic growth. He believes in the necessity for a deeper understanding of the concepts of growth and competitiveness—mainly because the analysis and the policy proposals of the EU Commission regard the current situation in Europe as if it were only related to a *price competitiveness* problem, neglecting the essential role of innovation and technological

competitiveness. Accordingly, *technological competitiveness* will represent one of the major European challenges for the coming years.

The Global Competitiveness Report 2014–2015, which assesses the competitiveness landscape of 144 economies, defines competitiveness as "the set of institutions, policies, and factors that determine the level of productivity of a country" and emphasizes that "the level of productivity, in turn, sets the level of prosperity that can be reached by an economy."

As *EU–27 GDP growth* was flat in the second quarter of 2014 compared with the first one (i.e. 0.2% growth in annualized terms), Guarascio (2014) observes that the Eurostat data outline a state of never ending depression encompassing also the "core" EU countries. He underlines that the crisis (which began in 2008) has exposed a dangerous polarization in Europe: "a strong 'core' composed by a group of Central (Germany, Austria and, to some extent, the Netherlands), Northern (Sweden and Finland) and Eastern countries (Czech Republic, Poland and Slovakia) with a modest growth trend but with political and financial power"; and "a weak 'periphery,' populated by most of the Central and Mediterranean countries (France, Italy, Spain, Portugal and Greece) as well as by those Eastern countries which didn't manage to integrate themselves in the industrial system of the 'core' (Romania and Bulgaria, among others)," which are confronted with sometimes harsh recessions, while losing essential segments of their industrial base.

However, Guarascio also notices the positive aspects of the 2013 ECR, which mentions that the EU as a whole enjoys a comparative advantage in most of the manufacturing sectors, and indicates that technology is the main source of the European industries' competitiveness, and consequently, the wide manufacturing base, product complexity, immaterial competences and a strong position in international value chains represent vital assets, which must be preserved.

While many determinants drive productivity and competitiveness, the Global Competitiveness Report 2014–2015 presents the rankings of the *Global Competitiveness Index (GCI)*, which is based on *12 pillars of competitiveness*, providing a wide-ranging picture of the competitiveness landscape in countries around the world. Within the Global Competitiveness Index, the 12 pillars are grouped into three categories:

- Basic requirements subindex—is key for factor-driven economies (encompassing 4 pillars: 1. Institutions, 2. Infrastructure, 3. Macroeconomic environment and 4. Health and primary education);
- Efficiency enhancers subindex—is key for efficiency-driven economies (encompassing 6 pillars: 5. Higher education and training, 6. Goods market efficiency, 7. Labor market efficiency, 8. Financial market development, 9. Technological readiness and 10. Market size);

• Innovation and sophistication factors—are key for innovation-driven economies (encompassing 2 pillars: 11. Business sophistication and 12. Innovation).

According to The Global Information Technology Report 2014 (GITR), information and communication technologies (ICTs) represent key enablers of innovation and new employment opportunities, while their benefits increasingly materialize into tangible assets—thus strengthening digital ecosystems (Bilbao-Osorio et al. 2014).

As illustrated in the GITR 2014, Europe has been "at the forefront of developing a digital ecosystem" as a key element that advances innovation and competitiveness. Consequently, several European countries lead the *Networked Readiness Index (NRI)* rankings, while six European economies—Finland, Sweden, the Netherlands, Norway, Switzerland, and the United Kingdom—are situated in the top 10.

While presenting details on how Internet Protocol (IP) networks support the concept of the *Internet of Everything (IoE)* and exploring how IP networks boost big data's transformational impact on individuals, businesses, and governments around the world, the GITR 2014 concentrates also on methods of leveraging data-driven innovation's potential—i.e. increasing the social and economic value of data, but from the perspective of use and purpose rather than volume.

Therefore, recognizing the importance of technological advance, the European Commission has conceived its *Digital Agenda* as one of seven flagship-initiatives and has integrated it into the growth strategy *Europe 2020*—in order to maximize the positive effects of ICTs and generate synergies and positive externalities.

On this backdrop, K. H. Ladeur (2010, 5) identifies another important and surprising impact of modern ICTs—namely that "technology has also deeply changed the role of territory within the nation state"—and concludes: "If one takes the transformation process of society in European countries seriously, the reconstruction of EU institutions should follow the new relational rationality that emerges in the differentiated social systems."

Moreover, in the context of widespread broadband 4G/LTE mobile and wireless Internet access, Daj (2014, 190) highlights problems generated by mobility, its result being "that those with a stake in what happens in a place are not only local residents or citizens of a specific administrative-political jurisdiction." The effect is that place governance needs to consider a broader public which is connected to the so-called *"soft spaces"—alternative administrative geographies* that can be used as a policy tool to enable the cross-sectoral policy coordination goals of strategic spatial planning.

In this context, the EU should also concentrate on accommodating this new perspective of technology-defined space into the regulated institutional frame-

work, since the meaning of distance itself and its consequences are changing, and accordingly, the importance of geographical distance is diminishing in favor of other types of distance, such as institutional, cognitive, organizational, or social distance.

4. The Pursuit of Independence in 21st Century Europe and the Need for a New Competitive European Paradigm

As the analysis of the political, legal, economic, and technological factors has already shown, small sub-national advanced entities seem to gain an advantage (in both economic and political terms) as direct recipients of the increases in performance (e.g., through local knowledge and specialization, easier administration of public and social goods provision) generated by technological disruptions, the freer trade and the economic opportunities made possible by globalization. These events produce a "critical juncture," a "policy window," by which localism or independence movements may occur (Duke 2014, 24).

The EU, as a post-Westphalian regional system of legal governance (i.e. a transitional realm within the multi-level configuration of global legal relations), offers a clear crossing point of global and local legal norms and institutions and—notwithstanding its unwillingness to take a strong position in specific recent cases—retains an exceptional and undeniably unprecedented role in the legal shaping of political community with regard to state-making and state-breaking questions (Walker 2014).

On the backdrop of intensifying European integration, the paradox of separatism within the EU can be partly explained by the effects of globalization and the pervasive implementation of ICTs that have eroded many of the advantages generated by the political and financial economies of scale—benefits that a local region used to receive from its parent nation state.

4.1. Decentralization, Regionalization and Independence in the EU: Between the "Europe of the Regions" and the Secession of European Sub-National Entities

The United Nations Research Institute for Social Development (UNRISD) considers that decentralization is valuable since it tries to "reduce rent seeking behavior and seeks to reduce resource allocation associated with

centralized power by dispersing such power to lower levels of government" (UNRISD 2010, 278).

In this study, we share Duke's (2014, 17) view according to which decentralization is an arrangement of governance where choices are "made by those who have most knowledge about the local area and conditions" and "can be defined as the delegation of decision-making powers to a grassroots body of people"; therefore, "the lower the level where decisions are made, the greater the degree of decentralization."

Crucq and Hemminga (2007, 13) highlight the connection between decentralization and regional autonomy, while appreciating that regionalization in the EU happened predominantly in Spain, the United Kingdom, Italy, France and Belgium. In their opinion, the regionalization process can be described as the "division of an area, in this case a state, into regions and the transfer of administrative and political responsibilities to those regions."

The World Bank (2001) differentiates between four types of decentralization: *political, fiscal, administrative*, and *market decentralization*—all manifesting themselves in different forms and combinations across countries, within countries, and within sectors. White (2011, 2) stresses that decentralization (especially administrative decentralization—Crucq and Hemminga 2007, 5) is "generally broken down into three different but related processes": *deconcentration* (whereby the central government disperses responsibilities for certain services to regional branch offices without any transfer of authority); *delegation* (when the central government transfers responsibility for decision-making and administration of public functions to local governments—which are not fully controlled by central governments but are accountable to them); and *devolution* (when the central government transfers authority for decision-making, finance, and administrative management to quasi-autonomous units of local government, which have members elected by their region's citizens and can often generate their own revenues and have independent authority to make investment decisions).

While the idea of a *"Europe of the regions"* (in which local governments would substitute states as the primary building blocks of a more fully integrated Europe) became widespread as early as the 1980s, efforts to create formal channels for regional involvement in EU governance have generated only limited results until 1993, when the Maastricht Treaty entered into force, encouraging the "Europe of the regions" paradigm by enacting the *principle of subsidiarity* in EU law (according to which authority over any given area of competency should be conferred at the lowest possible political level), founding the Committee of the Regions, and permitting regional ministers to participate in member state delegations at the European Council—if considered suitable by the member state (Connolly 2013).

Through the enforcement of the Lisbon Treaty (since 2009), EU regions' scope and force of action increased—on the one hand—by their legal recognition as regions through access to European structural funds, and through rights-based and anti-discrimination actions granting linguistic and cultural protection for minority groups, and—on the other hand—by the strengthened role of the Committee of the Regions obtained through the legal provisions which compel the Commission, Council and Parliament to consult it on problems regarding local or regional government, thus permitting it to challenge EU laws that might infringe the principle of subsidiarity (Walker 2014).

In the context of the possibilities to engage in "para-diplomacy" provided by the EU to stateless nations, many nationalists have perceived these decentralization and regionalization tendencies as an opportunity to achieve independence from their parent member states and attempted to use the new European mechanisms and institutional framework in reaching their goals.

Although we can identify several *nationalist sub-state independence movements in the EU* (e.g., in Scotland, Catalonia, Flanders, Corsica, the Basque Country and Northern Italy etc.), the cases of Scotland and Catalonia present important aspects of European separatism in the 21st century. Therefore, we will summarize the main traits of these two independence movements.

a) Scotland

On 18 September 2014, the saga of the Scottish referendum ended when the people of Scotland voted by 55.3 per cent to 44.7 per cent to remain a part of the United Kingdom (Mullen 2014).

No matter what the exact starting point of Scottish history is, the history of Scotland is heavily intertwined with that of its southern neighbor—England. In 1603, a Scottish king, James VI, succeeded to the English throne, thereby bringing the two kingdoms under one rule (Wencker 2014).

Connolly (2013, 60) considers that "Scotland's existence as an independent state ended in 1707, when the Scottish parliament entered into the Treaty of Union with England" and thus the Treaty dissolved the Scottish parliament and transmitted ultimate political authority to London. Centuries later, the Scottish National Party (SNP) was founded in 1934. Furthermore, after the discovery of oil in the North Sea in 1970, many nationalists requested an increased Scottish control over its own resources and revenues, and declared that Scotland could prosper economically as an independent state.

Wencker (2014) stresses that the first steps towards more Scottish autonomy weren't started by the SNP, as expected, but were initiated by Tony Blair's Labour that won the elections in 1997, after having made promises for referenda on devolution. Connolly (2013) highlights that, in contrast to the unsuccessful

devolution referendum of 1979, the Scotland Act, introduced in 1998 by the Labour government, was strongly supported by Scottish voters. The Scotland Act provided for the establishment of a local Scottish Parliament and, in 1999, the first Scottish Parliament since 1707 met at Holyrood outside Edinburgh.

Afterward, according to Mullen (2014), at the May 2007 election, the SNP attained the largest number of seats and formed a minority government. In August 2007, it initiated a "National Conversation" on Scotland's constitutional future. The United Kingdom government's reaction was to establish in April 2008 the Commission on Scottish Devolution (the "Calman Commission") in order to investigate possibilities for constitutional reform within the United Kingdom.

On 25 January 2012, Alex Salmond, the First Minister of Scotland, revealed plans to hold a referendum on Scottish independence in the autumn of 2014, while the government of Prime Minister David Cameron militated against Scottish independence. However, in the Edinburgh Agreement concluded on 15 October 2012, the British government conceded the Scottish Parliament authority to hold a referendum, and the two governments decided the ground rules for the referendum process (Connolly 2013).

Ironically, the outcome of the Scottish referendum demonstrates that UK's distinctively "unwritten" constitution (with its unique standing as a national constitutional arrangement lacking a canonical textual authority) and the very flexibility of constitutional content (able to accommodate radically different political arrangements and legal forms)—both allowed by the bare doctrine of parliamentary sovereignty—have encouraged a striking continuity of constitutional form (Walker 2014).

b) Catalonia

Located in the Iberian Peninsula, Catalonia is currently a part of the Spanish state, which is the result of the gradual integration and disintegration of several kingdoms and territories. Originating from a great medieval empire (Catalonia represented the leading part of the Crown of Aragon, which ruled over a powerful trading empire that extended throughout the Mediterranean), the Catalans exhibited characteristics specific to modern statehood, such as a common language and well-developed political, legal, and economic structures and had, de facto, an independent country until 1714 (Wencker 2014).

After the Spanish Civil War, nevertheless, General Francisco Franco—during 36 years of dictatorship—created a centralized state and was resolute to put an end to the "Catalan problem." Only alleviating the Catalan pursuit for national ideals, the transition process to democracy (subsequent to the death of General Franco) and the Constitution of 1978 established a state "based on the indissoluble unity of the Spanish Nation, the common and indivisible country of all

Spaniards, that guarantees the right to autonomy for the nationalities and regions of which it is composed (arts. 1.2 and 2 Spanish Constitution)" (Bartlett and Enric 2014, 65).

The Spanish Constitution does not guarantee to the regions any particular set of distinct competences, and therefore Spain lacks at least the formal attributes of a federal system, being a unitary state. Nevertheless, reforms have gradually converted the country into a regionalized system constructed on three levels of subnational self-government. Thus, there are 17 Autonomous Communities, two Autonomous Cities (special administrative units, halfway between a municipality and an Autonomous Community), 50 provinces and 8,111 municipalities.

The Autonomous Communities constitute the primary level of territorial self-governance in Spain. The handover of responsibilities to the Autonomous Communities is based on the principle whereby all responsibilities not expressly attributed to the State by the Constitution are devolved to them, which is why the Autonomous Communities have gradually assumed more administrative responsibilities, although there is an evident weakness of intergovernmental relations and the Senate is not able to accomplish its mission as a Chamber of territorial organization. In this context, the Autonomous Communities have little power to influence the State, even in issues that directly affect them.

The economic arguments are of great significance in the Catalan case. Wencker (2014, 47) considers that "Spain has been economically crippled by the financial crises since 2008, and is still dealing with the severe consequences today. Unemployment rates have been slightly decreasing recently, but are still up at a soaring 24.5% of the population, with youth unemployment reaching a staggering 53.5%." Although Catalonia is also in economic crisis—with 23.1% of the Catalan working force being unemployed, Wencker (2014) shows Catalonia's advantaged position, which, with a population of 7.5 million—16.1% of the entire Spanish population, generates 19.9% of the Spanish GDP, making it the wealthiest of the 17 Autonomous Communities in Spain, also in terms of GDP per capita.

Evaluating the overall claims of separatist movements, Walker (2014, 30) highlights the fact that "the economic and political structure of a supranational union can provide avenues of opportunity to regions not available within the solitary state" and believes that "regions now have free access to a community-wide market of 500 million people, and these open frontiers can help promote joint economic activity and encourage cultural connections between regions."

Closing his analysis, Connolly (2013, 78) asserts that it "is overly simplistic to conclude that the EU encourages or discourages separatism or that it makes secession easier or more difficult" and therefore a thorough examination of three facets of the EU with a particularly important role in shaping sub-national self-determination claims is needed every time a specific case is scrutinized: "the respective roles of states and regions in EU institutions, the rules governing EU membership, and the debates over the future of Europe" in the aftermath of the Eurozone economic crisis (ibid., 79).

Recently, as a possible response to a new set of problems that the old regionalism was either not aware of, or was not designed to address, the development of so-called "macro-regions" within the EU (e.g., the Baltic Sea Region, the Danube Region, the European North Sea Strategy, the Black Sea Synergy, or the Adriatic-Ionic Initiative) represents a model of both flexible integration and regionalization schemes (Daj 2014).

Therefore, Walker (2014, 30) voices his conviction that all of the abovementioned factors "speak not to a directly *prescriptive role of the EU in matters of polity-making*, but to a more subtly *(re)constitutive role*," while "the emerging structure of regional opportunities we have described testifies to the ways in which the EU, just by providing a new level of political community, begins to reframe the terms on which we conceive of political membership."

4.2. Regulation of Secession of European Sub-National Entities and its Consequences in International Law and in EU Law

The legal issues generated by separatist movements in Europe have to be addressed both from an EU and international law perspective—mainly because such a challenge to the geo-political status-quo has to be checked not only in terms of socio-political legitimacy, but also of constitutional and international legality.

In this respect, Walker (2014) and Connolly (2013) depict the interlaced legal framework related to the right to self-determination, secession and its consequences relative to EU membership in very reserved terms. Connolly (2013, 67, 68) states that "International law is frequently described as taking a neutral stance towards secession; acts of secession are evaluated under domestic law, while international law is only concerned with regulating secession's consequences" and "nonetheless, secession is clearly disfavored" while "in the post-colonial era, it would appear that the right to self-determination never amounts to a unilateral right to secede." For Walker (2014, 26), self-determination (spe-

cific for international law) and secession are two "liminal concepts . . . situated both within and outside the boundary of legality."

Connolly (2013, 68) pinpoints the origins of the modern concept of self-determination in US President Woodrow Wilson's Fourteen Points following the First World War. Wilson's idealistic vision of self-determination implied that "well-defined national elements" should be given "the utmost satisfaction that can be accorded them without introducing new, or perpetuating old, elements of discord or antagonism."

Walker (2014, 26) identifies the concept of self-determination in a number of influential postwar instruments (e.g., in Art. 1(2) of the UN Charter; in the common Art. 1(1) of the two global human rights treaties adopted by the UN in 1966; and in the General Assembly's Resolution 1541 (XV) of 1960 and in its later Declaration on Friendly Relations of 1970). Although he emphasizes the fundamental role of self-determination, as a "cornerstone of the international legal system," that "allows us to identify the *legitimate subjects of international law*—those collective state actors to whom sovereignty is attributable and whose territorial integrity is to be respected," Walker also acknowledges the limits to that right.

Summarizing the main findings of the studies on self-determination and secession, we can highlight the following. After the adoption of the UN Charter, the legal status of self-determination has changed and self-determination became almost entirely associated with the process of decolonization, manifested in the form of a right to independent statehood—only when applied to overseas or "saltwater" colonies (Connolly 2013, 70). Secession without the former parent states' consent is an exception for non-colonial territories in the UN Charter age (the only successful examples are Bangladesh, Eritrea, and Kosovo).

According to international jurisprudence, there is an option of a possible but much disputed right to "remedial secession" but only as a means of last resort to counter the oppression of a minority population (which is deprived of fundamental democratic liberties and is exposed to severe human rights abuses)—a case that is not congruent with the situation of European sub-national entities, which are democratically entitled and socially and economically protected polities (Walker 2014, 15).

From the point of view of the legal consequences entailed by a potential successful secession of a European sub-national entity, Connolly (2013) identifies two aspects: the first is mainly related to the *EU membership question* for the newly founded political entity and the second is linked with the international law issue of *treaty succession* and *state continuity* and *extinction*.

In respect to the *EU membership question*, while sub-state nationalists just assume direct EU membership for their new states (or, at least, an easy admission

through an accelerated and streamlined procedure), the otherwise reserved and neutral EU officials (e.g. the former European Commission President José Manuel Barroso) opined that a new state created by secession from an EU member state would have to apply for membership on its own, following the EU's regular application procedure as provided under Article 49 of the TEU (the latter position corresponds to the practice of international organizations, being supported by both EU and international law).

The general rule in international law regarding the *law of state succession*, as mirrored in the 1978 Vienna Convention on Succession of States in Respect of Treaties, assigns continuing treaty commitments to all successor states covering the territory of the predecessor state, but this principle is subject to a far-reaching exception for international organizations (the effect of Article 34 being limited by Article 4 of the Convention)—this limitation applies especially in the case of an organization as profoundly and intricately integrated as the EU. Therefore, "it is required simply to indicate which entity in a post-separation context should be the *single continuator state*, thereby automatically inheriting the existing rights and obligations of club membership and avoiding the burden of any special rules and procedures associated with membership acquisition" (Walker 2014, 16).

As international law commonly assumes the persistent existence of states (even if states are faced with losses of territory or population), the extinction of states is relatively rare, and the overarching principle concerning *state continuity and extinction* that the UN and several international organizations (e.g., the International Monetary Fund and the World Bank) have embraced proclaims that "a member state retains its membership despite a loss of territory, while a new state established on the former territory of a member state must apply for membership on its own" (Connolly 2013, 86).

Consequently, by reviewing the history of international practice and the regulations concerning secession of European sub-national entities and its consequences in international law and in EU law, we consider that the most realistic perspectives for sub-state national entities for the future encompass two main elements: there is only room for a *consensual, negotiated secession* from their parent state (in order to obtain international law legitimacy); and the most likely way of joining the EU (as newly formed political entities) is that of *regular*, *"non-priority" EU accession*.

5. Conclusions

As the study of extant literature has shown, the European Union can be best described as a sui generis political entity and subject of international law which could represent a new form of "networked" statehood based on a complex system of international and multilevel institutional arrangements.

The main EU problem is related to the fact that its institutional spread and complexity reflect the composite nature of the EU polity and the challenges presented by the way in which it combines distinct areas—national (Council and European Council), supra-national (Commission, Court of Justice) and popular (European Parliament)—with the interests of these individual actors only partially reconciled in a political form which holds no unchallenged core of sovereignty.

We consider that the reframing role of the European Union (including the support for sub-national participation in the EU legislative process) alters the calculation of the instrumental and symbolic value associated with statehood and its alternatives, modifying the balance of sub-national forces in Europe, and offers the possibility to focus on generating a deeper bond between its institutions and its citizens and on constructing a stronger identity—be it through civic, political, economic, technological, or cultural means.

Furthermore, the future development of the EU will be certainly shaped by the explosive evolution of technology and by the deep cultural, social and economic changes it entails—transformations that have a significant disruptive potential, which will further allow for centrifugal forces to exert pressure on the member states if not properly addressed through a modern, pragmatic and streamlined European and national institutional framework.

Nevertheless, the legal and administrative success of the European Union could be further enhanced by developing a proper European citizenship and through strengthening the common European sense of belonging and identification of the people living within the EU—because, as Dr. Kenneth Pelletier (1994, 137) of the Stanford Center for Research and Disease Prevention writes, "a sense of belonging . . . appears to be a basic human need—as basic as food and shelter. In fact, social support may be one of the critical elements distinguishing those who remain healthy from those who become ill."

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Abstract

From Decentralization to Independence in 21st Century Europe:
Economic and Legal Challenges of Developing the EU's Institutional Framework
on the Backdrop of a Hyper-Technological Economy

Contemplating the economic crisis and the independence movements within the EU, a paradoxical question arises: does European integration foster centrifugal forces that can break apart subnational entities? This study will answer the question after a careful examination of the conceptual foundations related to the EU's institutional framework. The author conducts his investigation from both economic and legal perspectives, focusing on the disruptions and opportunities generated by a hyperconnected society and following three directions. First, he considers the evolution of the EU's Institutional Framework from the perspective of juridical and political science. Second, he identifies the most important macroeconomic and technological factors shaping the EU's institutional framework and competitiveness. Third, he assesses the main traits of separatism and provides key features of a new competitive European paradigm.

Keywords

comparative advantage, EU's economic competitiveness, decentralization, separatism, "soft spaces"—alternative administrative geographies