

Empirical legitimation analysis in International Relations: How to learn from the insights – and avoid the mistakes – of research in EU Studies

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The political legitimation (or de-legitimation) of the European Union (EU) has been the object of much empirical research. This paper argues that this research holds lessons that can inform debates about the legitimation of global governance more generally. After some conceptual clarifications, the paper presents a critical review of the literature on the EU's legitimation, focusing on six crucial aspects – (1) the emergence and change of legitimation debates; (2) the arenas where legitimation occurs; (3) the role of the state as a reference point in legitimacy assessments; (4) the difference between various objects of legitimation; (5) the actors that trigger legitimation change; as well as (6) the relationship between legitimation and polity development. In each of these respects, the paper identifies important insights that can be gained from EU Studies, but also conceptual and methodological weaknesses in the EU-related literature that researchers working on other aspects of global governance should avoid. The paper closes by formulating a set of general desiderata for empirical legitimation research in International Relations.

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Introduction

In the past two decades, scholarly interest in the analysis of legitimacy has grown markedly in International Relations (IR). This development is usually attributed to the growing authority of global governance institutions, which implies that the state – the traditional focal point for assessments of legitimacy – is no longer the only political unit perceived as being in need of explicit legitimation (Hurrelmann, Schneider & Steffek, 2007; Bernstein & Coleman, 2009; Nullmeier et al., 2010). While some of the resulting scholarly work has concentrated on the normative evaluation of global governance (Coicaud & Heiskanen, 2001; Buchanan & Keohane, 2006), the increased interest in legitimacy among IR scholars has also resulted in a number of studies that approach legitimation processes from an empirical perspective, examining for instance explicit challenges to the legitimacy of global political actors (Clark & Reus-Smit, 2007), their self-legitimation strategies (Steffek, 2003; Zaum, 2013; Dingwerth, Lehmann, Reichel, Weise & Witt, 2014), the emergence of new legitimation principles (Clark, 2007), or the politicization of world politics in the population, including the resulting legitimation debates (Zürn, Binder & Ecker-Ehrhardt, 2013; Zürn & Ecker-Ehrhardt, 2013; Zürn, 2014; Ecker-Ehrhardt, 2015).

This article seeks to make a contribution to this latter, empirical strand of the debate by reviewing the relevant literature that has been published about the legitimacy of the European Union (EU). Its starting point is the observation that, in the IR discourse on legitimacy, frequent reference is made to the EU example. This is unsurprising given the EU's comprehensive scope of policy competencies and extraordinarily high level of supranational institutionalization, which make it a poster-child for academic discussions about the internationalization of political power. In other words, the increase in international authority that is usually credited with triggering the

'legitimacy turn' in IR has proceeded unusually far in the EU context, which means that the EU can be interpreted as something like a forerunner for developments that might occur, over time, on other contexts of global governance as well. This makes it interesting for IR scholars to take a close look at the extensive empirical work on legitimation that has been done in EU Studies.

In this paper, I want to give a critical overview of this work, pointing to some of the insights that have been gained for the empirical analysis of legitimacy more broadly, but also to some of the problems that have hampered the scholarly quality of EU-related legitimation research, and that researchers working on other aspects of global governance might wish to avoid. After some conceptual clarifications, the article will highlight six important aspects of empirical legitimation research in regional and global settings – (1) the emergence and change of legitimation debates; (2) the differentiation of various legitimation arenas; (3) the role of the state as a reference point in legitimacy assessments; (4) the differentiation between various legitimation objects; (5) the actors that trigger legitimation change; and (6) the relationship between legitimation and polity development – in which EU-related academic work holds valuable lessons for global governance more broadly. The paper closes by formulating a set of desiderata for empirical research that applies to the study of legitimation both in the EU and elsewhere.

Legitimacy and legitimation: Some conceptual clarifications

At its most basic, the idea of legitimacy refers to the rightfulness of political rule (Coicaud, 2002; Hurrelmann, Schneider & Steffek, 2007, pp. 3-9). In the language of Max Weber, it denotes a situation in which the exercise of rule 'enjoys the prestige of being considered binding' and is hence treated as requiring compliance, regardless of individual interests or expediency (Weber,

1968, p. 31). As Weber pointed out, the degree to which political rule and its components – political systems and institutions, rulers and governance arrangements, norms and operating principles, individual laws or policies – are legitimate may be evaluated based on criteria that vary across time and place. Regardless of this variation, the fact that legitimacy evaluations focus on the ideas of rightfulness and bindingness means that they represent normative validity claims of a generalizable character. This distinguishes legitimacy from broader concepts such as support or stability, which may as well be grounded in non-normative considerations, such as habitual obedience, fear of coercion and sanctions, or instrumental cost-benefit calculations (Pakulski, 1986; Barker, 1990, pp. 20-44).

The distinction that this article, along with much of the literature, makes between normative and empirical approaches to legitimacy research is not meant to deny this inescapable normativity of legitimacy. Instead, it points to the fact that social scientists can be both authors and observers of legitimacy evaluations (Barker, 2001, pp. 1-29; Hurrelmann, Schneider & Steffek, 2007, pp. 3-8). In the first case, social scientists perform these legitimacy evaluations themselves, based on criteria of rightfulness that they consider appropriate and the application of these criteria to existing or imagined political systems. This approach results in statements of a *normative* kind. In the second case, by contrast, social scientists examine the legitimacy evaluations performed by other actors – for instance, political elites or citizens. This approach results in statements of an *empirical* kind, which may describe, for instance, the rightfulness of certain institutions as being more or less widely accepted or certain legitimacy claims as being used more or less frequently.

This article, as indicated above, is interested only in the second, empirical approach to research on legitimacy. In applying this approach, it makes a further distinction between

legitimacy as an attribute of governance arrangements and *legitimation* as the process in which legitimacy is claimed/disputed or affirmed/withdrawn (Barker, 2001, pp. 1-29). As Rodney Barker has pointed out, only the latter, legitimation, is directly accessible to empirical research. According to Barker, “‘legitimacy’ does not exist as a feasible subject of empirical or historical inquiry, in the same sense that God does not exist as a possible subject for social scientific study. We need to speak of both legitimacy and God when describing the actions of people engaged in politics and religion, but when we do so, we are describing their actions and language, not any independent phenomenon’ (Ibid., p. 26). In other words, all that can be empirically observed are processes of legitimation (including, of course, the possibility of de-legitimation), but in their analysis, we can draw inferences on the (empirical) legitimacy of the political systems or institutions to which these processes relate.

Empirical legitimation, in this understanding, is a communicative phenomenon. This is what links legitimation to the concept of justification examined in this Special Issue. However, because legitimation refers to the ideas of rightfulness and bindingness of political rule, it must be understood as a *specific kind* of justification. As stressed in the Introduction to this Special Issue, justification as such is omnipresent in social life (Abulof & Kornprobst, 2016; see also Boltanski & Thévenot, 2006). Yet the rightfulness and bindingness of political rule is explicitly brought up only in a small subset of justification processes. This is true even if we restrict our analysis to *political* justification, focusing on processes of collective decision-making. Most political activities and discourses deal with the content of public policy, and never raise legitimacy-related questions. When a government defends its policies, a Supreme Court gives reasons for its decisions, or protesters on the streets demand a certain course of action, we are

clearly dealing with instances of justification, but legitimacy claims that explicitly refer to the rightfulness and bindingness of rule come up only in exceptional cases.

Legitimation, in other words, is a subset of justification. Even public protest and criticism should not *prima facie* be interpreted as indicating legitimacy problems. Christian Reus-Smit is hence correct in putting the conceptual bar for the definition of ‘legitimacy crises’ fairly high, by arguing that such crises only exist when ‘the level of social recognition that [an actor or institution and] its identity, interests, practices, norms, or procedures are rightful declines to the point where the actor or institution must either adapt (by reconstituting the social bases of its legitimacy, or by investing more heavily in material practices of coercion or bribery) or face disempowerment’ (Reus-Smit, 2007, p. 158). This means that political actors or institutions may be subject to heavy criticism without their legitimacy being challenged.

For empirical research on legitimation, it is nevertheless beneficial to situate legitimation activities and discourses within the broader political justification processes that occur in a society. The understanding of legitimation proposed here implies that legitimation emerges from such processes: A social object (institution, norm, etc.) can only be legitimate or illegitimate once it has been politicized – meaning that it has become politically salient and controversial in collective decision-making processes (Zürn, Binder & Ecker-Ehrhardt, 2013; Zürn, 2014) – and questions about its political justification have hence been raised. *Politicization*, and the justification processes that it entails, should hence be seen as a necessary, but not sufficient condition of legitimation: A political system or its constitutive components can be politically salient and controversial without being explicitly evaluated in terms of the rightfulness of political rule. On the other hand, if and when evaluations of legitimacy take place, these necessarily imply politicization. A political system that is not politicized cannot sensibly be

described as legitimate or illegitimate in an empirical sense, rather it is simply ‘a-legitimate’ (Steffek, 2007, p. 190).

Based on these conceptual clarifications, the following sections of my review will examine six central aspects of empirical legitimation that have been examined in EU-related research. In line with the considerations above, I cast the net widely in identifying the relevant EU-related literature, and included research on broader politicization trends that constitute a necessary condition for legitimation to occur. The six aspects highlighted here have been identified in an inductive fashion, based on the frequency with which they are addressed in the examined literature. They are presented in an order that corresponds to an idealized legitimation sequence, beginning with the emergence of legitimation debates, continuing with their structure and content, and ending with their political consequences. For each of the six aspects, I will highlight the contributions, but also the conceptual and/or empirical weaknesses, of EU-related research, so that lessons can be drawn for studies on the empirical legitimacy of other global governance institutions.

How does legitimation emerge and change? The ‘permissive consensus’ and its abuses

Empirical research on the EU’s legitimation can be dated back at least to the early 1970s, but it exploded in the 1990s, after the rejection of the Maastricht Treaty in the Danish referendum of 1991. Since then, the most important story told by the majority of contributions is one of seminal trend: from non-politicization – and hence ‘a-legitimacy’ – to increasingly more intensive politicization, including explicit challenges to the EU’s legitimacy. ‘[In] the first three decades of integration’, write Liesbet Hooghe and Gary Marks in one of the most widely cited recent contributions to the debate, ‘the creation of a European legal system was driven by the demand

for adjudication of economic disputes between firms. The implications for most people (except perhaps farmers) were limited or not transparent. Public opinion was quiescent. These were the years of *permissive consensus*, of deals cut by insulated elites. The period since 1991 might be described, by contrast, as one of *constraining dissensus*. Elites, that is, party leaders in positions of authority, must look over their shoulders when negotiating European issues. What they see does not reassure them' (Hooghe & Marks, 2009, p. 5; emphasis in original).

Hooghe and Marks cite a long list of empirical studies to show that, indeed, European integration is now contested in member-states public discourse, and does resonate in public opinion (Ibid., pp. 6-18). These findings have been emphatically affirmed by other authors, based on the secondary analysis of existing research (de Wilde & Zürn, 2012) or on original case studies of recent episodes in EU politics (Statham & Trezn, 2013). As far as the description of current realities is concerned, there are few reasons to doubt the accuracy of this research. Regarding the analysis of legitimation change over time, however, it often remains unsatisfactory. The reason is that many studies compare the EU's current state of contested legitimacy, for which empirical evidence is collected, with a constructed reference point that is not itself empirically validated: the 'permissive consensus' of the early integration years.

The concept of 'permissive consensus' was introduced to European integration research in the early 1970s by Leon Lindberg and Stuart Scheingold. However, Lindberg and Scheingold did not develop a systematic definition; rather they referred to the concept in a metaphorical fashion to describe a situation in which European integration is not in danger of being faced with widespread and focused popular opposition (Lindberg & Scheingold, 1970, p. 41). The European population, they argued, does not take much interest in the politics of European integration, but supports the broad goals of the unification project, and treats European institutions as 'an

accepted part of the political landscape' (Ibid., p. 62). Whether such a situation is adequately described as a 'consensus' is questionable, but this is not an issue that must concern us here. What mattered for Lindberg and Scheingold is that the mixture of a lack of detailed interest in European integration and generally positive inclinations towards constitutes a 'permissive' instrument for the functioning and further development of European institutions. It 'provides relative assurance that the goals of the Community are widely shared and that normal operations of the community system will be accepted as authoritative and legitimate. And if these goals and these normal operations conduce to the progressive growth of the system, this too is likely to meet with general acceptance' (Ibid., p. 121).

The ways in which the 'permissive consensus' concept is used in many recent discussions of the EU's legitimacy suggests that European integration before the early 1990s was virtually uncontested. But empirical evidence for this assertion is seldom provided. A few studies that take a broader historical perspective suggest that this view is inadequate. Claudia Schrag Sternberg (2013), for instance, in an impressive qualitative analysis of political and media discourses, shows that the history of discursive legitimation and de-legitimation of European integration can be traced back until at least the 1950s. Her analysis does not disprove the hypothesis of increasing political contestation about the EU's legitimacy, but it does show that the historical continuities in EU-related legitimation debates are as striking as the discontinuities. Studies that have used methods of quantitative discourse analysis to track politicization or legitimation processes over time, for instance in party manifestos (Green-Pedersen, 2012; Spoon, 2012) or media debates (Hutter & Grande, 2014), invite similar conclusions. While they do generally show longer-term trends of increasing political contestation, they also reveal that this trend does not start from a situation of complete 'a-legitimacy', that it does not unfold evenly over time, and

that developments in various member states sometimes differ quite dramatically. Changes in the EU's empirical legitimation, therefore, should not be conceptualized as an unambiguous and unidirectional trend 'from permissive consensus to constraining dissensus', rather they are better approached as a development that proceeds in fits and starts, including slowdowns and outright reversals, and therefore must be studied using carefully conceptualized longitudinal research designs.

Where does legitimation occur? Unpacking the 'public sphere'

The definitions of legitimacy and legitimation developed above imply that the construction or deconstruction of legitimacy is a multifaceted phenomenon that involves multiple actors and consists of a variety of activities. Researchers in EU Studies have applied a large array of research approaches and methodological instruments to track evidence of legitimation (or politicization as its necessary condition). These include studies of political discourse such as government communication (Crespy & Schmidt, 2013), parliamentary debates (Wendler, 2014), party manifestos and positions (Benoit & Laver, 2006; Spoon, 2012; Hutter & Grande, 2014), and media reporting (Statham & Trenz, 2013), studies of protest (Imig, 2004) and public opinion (McLaren, 2006; Thomassen, 2009), as well as studies based on qualitative methods such as focus groups (White, 2011; Duchesne, Frazer, Haegel & Van Ingelgom, 2013; Van Ingelgom, 2014). The discipline of IR can surely learn from these diverse conceptual and methodological instruments. In interpreting research results, however, EU related research has often fallen victim to a tendency of over-aggregation, driven by a desire to present diverse insights into the EU's legitimation as part of one comprehensive phenomenon, rather than allowing for internal differentiation.

The conceptual brace that is most frequently used to hold together such aggregated interpretations is the concept of the ‘public sphere’, which is understood as encompassing all of the above-mentioned sites of legitimation, regardless of whether they are populated by actors with a professional interest in the EU (such as politicians and media personnel) or citizens who discuss EU politics as laypeople. In the context of debates about a politicization of European integration, Paul Statham and Hans-Jörg Trenz have expressed this idea as follows: ‘[A] public sphere includes not only those who take an active part in the debate, but it presupposes that communication resonates among others, a “public”, for whom it is also relevant. This resonance of public communication between institutional actors and publics is carried primarily by mass-mediated political debates. This effectively “brings the public back in” to European politics’ (Statham and Trenz, 2015, p. 292).

This conception allows Statham and Trenz to treat their own research results on EU-related debates in newspapers as relevant not only to the media, but to the EU citizenry as a whole. Existing evidence suggests, however, that debates about the EU and its legitimacy differ quite fundamentally depending on the discursive arena in which they take place. It makes sense to distinguish at least three kinds of such arenas (Hurrelmann, Gora & Wagner, 2015): (a) *institutional arenas* at the core of the political system, which are populated by politicians (e.g., the European Parliament or national parliaments); (b) *intermediary arenas* linking political decision-making processes to the broader citizenry, which are dominated by participants with a professional interest in politics (political parties, interest groups, the media, etc.); and (c) *citizen arenas* in which laypeople communicate about politics (at the workplace, in discussions with friends, etc.).

Most empirical studies on politicization and legitimation in the EU have thus far dealt with the first two types of arena, often implicitly assuming that the findings could be generalized to the third. But research that has focused on citizen discourses indicates that European integration remains less contested in citizen arenas than in institutional and intermediary arenas (White, 2011; Duchesne, Frazer, Haegel & Van Ingelgom, 2013; Van Ingelgom, 2014). What is more, only a selection of the legitimating arguments presented in institutional or intermediary arenas resonates with the citizens. In my own research, I have found that while media statements about the EU make use of a considerable range of pragmatic, moral, and identity-oriented arguments in favor of European integration (Hurrelmann, Gora & Wagner, 2013), participants in focus groups with EU citizens tend to frame pro-EU arguments in a much narrower fashion, focusing primarily on direct effects of integration on their own personal lives, such as passport-free travel or the common currency (Hurrelmann, Gora & Wagner, 2015). In seeking to assess the potential legitimation challenges, studies on the empirical legitimacy of the EU must not gloss over such differences by applying overly generalized concepts (such as that of the ‘public sphere’), but should rather seek to differentiate carefully how the EU is legitimated (or de-legitimated) by various speakers and in various discursive arenas. This does not imply, of course, that these political arenas are closed off against each other. An analysis of inter-arena interactions, mapping whether (and how) certain legitimating or de-legitimizing arguments spread from one arena to the next, also presupposes that these arenas are conceptually and empirically disentangled.

How is legitimacy related to the state? Different kinds of multilevel assessments

As the EU constitutes a relatively new and unfamiliar addition to the political landscape – an ‘unidentified political object’, as former European Commission President Jacques Delors (1985, p. 2) famously put it – the formation of legitimation discourses related to its institutions and activities does not necessarily follow established patterns. Unsurprisingly, more conventional political objects, especially the state and its procedures of representative democracy, often serve as a reference point for EU-related legitimation discourses. Many authors argue that, when assessed against the democratic institutions and principles that define the state, the EU will necessarily fall short, as its decision-making processes do not conform to state-based benchmarks of democratic legitimacy. Even if democratic accountability in the EU was expanded beyond the status quo, explains Philippe Schmitter, this problem would persist, as ‘the nonstate European policy [would] have to come up with novel institutions in order to democratize itself’, and as a result, politicians and citizens accustomed to state-based democracy ‘would have considerable difficulty in recognizing these novel rules and practices as “democratic”’ (Schmitter, 1999, p. 14).

The assumption that the state and its legitimacy, justified by democratic standards, constitutes the most important reference point for the EU is also at the core of many explicitly critical assessments of the legitimacy of the European integration process. Not only Thatcherite British Euroskeptics, such as John Laughland (1998), but also academics with social democratic leanings, including Fritz Scharpf (1994; 2009), have interpreted the process of European integration as one in which high-legitimacy state institutions lose powers, whereas low-legitimacy EU bodies become politically more visible and influential, with a double-negative effect on overall legitimacy. Yet while this analysis may be defensible as a normative

assessment, it should not be assumed that it also adequately represents the EU's empirical legitimacy. First, empirical legitimation research has shown that the normative criteria privileged in democratic theory do not represent the only, and often not even the dominant, criteria by which a state's legitimacy is assessed (Gilley, 2006; Hurrelmann, Krell-Laluhová, Nullmeier, Schneider & Wiesner, 2009). Second, in real-world legitimation processes, member states of the EU are not everywhere assessed positively, nor is the EU always seen negatively. As a result, the relationships established between the EU and its member states are significantly more diverse than the zero-sum (or even negative-sum) models cited above, which assume that the traditional, non-internationalized state enjoys full legitimacy, and everything that diverges or moves away from this model will necessarily be perceived as deficient. Rather, there may be multiple constellations of state-related and EU-related legitimacy assessments. Based on public opinion data, Guido Martinotti and Sonia Stefanizzi (1995) have distinguished 'integrated' citizen orientations (positive assessments of both the EU and one's member state) from orientations that are 'nation-statist' (negative assessment of the EU, positive assessment of one's member state), 'innovative/escapist' (positive assessment of the EU, negative assessment of one's member state), or 'alienated' (negative assessments of both the EU and one's member state). Martinotti and Stefanizzi show that all four types of orientation exist in the European population, and that their relative strength differs systematically between member states.

The typology by Martinotti and Stefanizzi does not tell us whether there is actually a connection between the legitimacy assessments of European and member-state institutions, or whether the respective assessments are performed independently. Yet more recent research, relying on both public opinion studies (Anderson, 1998; Rohrschneider, 2002; Kritzinger, 2003; Hooghe & Marks, 2005) and qualitative analysis of legitimation discourses (Hurrelmann, 2008;

Hurrelmann, Gora & Wagner, 2013), has established that perceptions of member-state legitimacy demonstrably influence how the legitimacy of the EU is assessed. These studies also show that there are different ways in which such multilevel legitimacy assessments are constructed. For instance, sometimes EU-related and member-state-related assessment do indeed stand in a zero-sum relationship to each other, meaning that perceived legitimacy problems of the EU are treated as an argument supporting the legitimacy of the member states, or vice versa. However, research has also found positive sum constructions, where the legitimacy of the EU and the member states are perceived as mutually supporting each other, or integrated assessments of Europe as a multilevel system in which the state- and the EU-level are no longer explicitly distinguished (Ibid.). This implies is that, while multilevel legitimacy assessments potentially matter a great deal for the EU's legitimacy, they prove too diverse empirically to just assume that one specific kind of assessment – affirming the state's traditional legitimacy and de-legitimizing the EU in comparison – necessarily constitutes the most prevalent pattern. Empirical research will hence have to explicitly distinguish various constructions of multilevel legitimacy, to determine which of these constructions dominates in any given context.

What does legitimation address? Squaring contextualization and differentiation

This call for differentiation can also be extended to that various objects of legitimation *within* the EU. Thus far, most of the EU-related literature on politicization and legitimation treats 'the EU' (or 'European integration') as one unitary and homogeneous legitimation object. The advantage of this approach is that political debates about the EU can be compared to debates about other political issues, such as economic policy, migration, or the environment. Christoffer Green-Pedersen has defended this research strategy, which he labels an agenda-setting perspective, as

follows: '[T]he question of the politicisation of European integration must be seen as relative. How is the issue ranked in the hierarchy of issues that constitutes the agenda[s] of political parties and the electorate? [...] Politicisation thus refers to an issue with a prominent position on both agendas. As outlined above, agenda-setting literature approaches the question by comparing across issues' (Green-Pedersen, 2012, pp. 117, 121).

There are clear benefits to such attempts at contextualization, designed to prevent the drawing of far-reaching conclusions from what might ultimately be a relatively minor segment of political discourse. Yet at the same time, this approach introduces a bias: It defines European integration primarily in terms of fundamental questions of membership and institutional development, and distinguishes these from policy issues, which are treated as irrelevant to European integration. In doing so, it neglects how strongly policy making in EU member-states has become Europeanized. As a result of this bias, many academic debates about the politicization and legitimation of European integration deal disproportionately with Euroskeptical political parties (Hooghe & Marks, 2009; Adam & Maier, 2011), which raise fundamental issues about European integration, but which have until fairly recently remained relatively marginal in most member states.

After six decades of European integration, the internal complexity of the European construction has grown to such an extent that it is very questionable whether 'the EU' can be treated as one homogeneous object of politicization or legitimation. Rather, it seems appropriate in empirical studies to distinguish five potential objects: (a) *European integration as an idea*, in other words, the basic principle of exercising political authority in a Europe-wide context; (b) *the EU as an organization*, including its basic organizational traits, one's country's membership, and the EU's geographical reach; (c) *the EU's constitutional structure*, including its institutions,

objectives and responsibilities, as well as decision-making procedures; (d) *specific policy issues* that are currently on the agenda of the EU's legislative, executive, or judiciary institutions; as well as (e) *domesticated issues*, that is, issues in member-state politics that emerge as an implication of membership, such as cuts to national budgets mandated by Eurozone requirements (for a similar distinction, see Hurrelmann, Gora & Wagner, 2015). A categorization of this kind is particularly important to assess the implications of intensified political contestation: Other things being equal, we can assume that contestation about policy and domesticated issues, even if issues of legitimacy are raised, constitutes a less fundamental challenge to the EU than contestation about the idea of integration, the EU as an organization, or its institutions.

Debates in the context of the ongoing Eurozone crisis provide a good illustration of the value of such distinctions. There is little doubt that the crisis has led to increased contestation about EU issues, including explicit legitimacy challenges that question the appropriateness of the EU's crisis response (Schimmelfennig, 2014; Statham & Trezz, 2015). On the other hand, it is noteworthy that most of this contestation has occurred in domestic political arenas, in the context of member-state elections or decision-making processes; it has, in other words, politicized the European integration primarily as a domesticated issue (Genschel & Jachtenfuchs, 2014; Baglioni & Hurrelmann, 2016). This explains, in part, why the crisis-induced politicization, in spite of its EU-critical impetus, has not prevented the significant steps towards further supranational integration that were taken by the EU institutions in response to the crisis (Schimmelfennig, 2014). The example shows that, in research about the EU's politicization and legitimation, it is important to balance attempts at contextualization, which relate findings about 'the EU' to findings on comparable political objects, with an explicit differentiation of various European integration objects that captures the EU's institutional complexity.

What triggers legitimation change? Top-down and bottom-up processes

As is well known, European integration was initiated as an elite project whose main architects were not interested in – and at times actively sought to discourage – significant citizen mobilization (Majone, 2005). In research on the EU's politicization and legitimation, this (plausible) interpretation of the history of European integration has resulted in a tendency to view shifts towards the increasing contestation of EU-related issues exclusively as bottom-up processes forced by insurgent citizens on unwilling political decision makers, thus challenging the legitimacy of an elite-led integration project from the outside. Paul Statham and Hans-Jörg Trenz have described this assumed trajectory as follows: 'As EU-level influence in decision making increases, a diffuse awareness by European citizens that the 'EU matters' drives a new polarization of opinions or interests, which then leads to an increase in public claims by collective actors that address policy formulation' (Statham & Trenz, 2015, p. 292). The EU's political elites, by contrast, are conceptualized as being interested only in de-politicization, trying to withdraw EU decision-making processes from public scrutiny and potential legitimation challenges (see also de Wilde & Zürn, 2012; Schimmelfennig, 2014).

There is ample evidence, not least from the Eurozone crisis, to show that such bottom-up trajectories are indeed a relevant feature of EU-related legitimation processes. It is important to recognize, however, that politicization and legitimation processes occur in a top-down fashion as well. Political leaders can be assumed to always be engaged in attempts to legitimate their own rule, even though the audience of such self-legitimation practices is not necessarily the whole citizenry. As Rodney Barker has suggested, the successive expansion of the audiences to which rulers' legitimation claims are directed is one way of conceptualizing the growth of the EU

polity: 'In this case, governors begin by legitimating themselves in their own eyes, then in those of their immediate 'cousins', and only when they actually begin governing, and hence creating, their citizens do they legitimate themselves in the eyes of their subjects' (Barker, 2003, p. 166). The point here is not to suggest that the last stage in this top-down legitimation sequence has already been reached for all potential EU-related legitimation objects, but rather that it is important to realize that bottom-up politicization and legitimation processes interact with top-down processes. Many shifts in the EU's legitimation can only be understood if both types of processes are taken into account.

A particularly good illustration is the case of the proposed Constitutional Treaty, which failed in the French and Dutch referendums in 2005. The constitutional project was not the result of pressure for constitutionalization originating from the citizens; rather the project was devised by member-state governments in an attempt to bring the EU 'closer to its citizens' and to increase the EU's legitimacy (European Council, 2001). The constitutional debates between 2000 and 2005 provide plenty of evidence detailing that the proposed constitution was seen by many of its 'framers' as a device to bolster the citizens' attachment to the EU polity, *inter alia* through the inclusion of a large number of symbolic provisions, thus allowing for a shift from technocratic to more democratic legitimation strategies (Scicluna, 2012). This attempt at legitimation change through top-down politicization, however, resulted in failure, mainly because, in this particular instance, the (state-like) legitimacy claims contained in the constitution did not match most citizens' legitimacy evaluations of the EU (Moravcsik, 2006; Hurrelmann, 2007). The example of the Constitutional Treaty shows that politicization and legitimation dynamics in the EU can only be understood if both bottom-up and top-down processes are taken into account, and their interaction is analyzed.

How does legitimation relate to polity development? The fallacies of functionalism

The debate about legitimation in the EU is strongly dominated by variants of functionalist regional integration theory. This becomes particularly clear if we examine politicization, which – as explained above – constitutes a necessary condition for legitimation to occur. The concept of politicization was first introduced into discussions of European integration by neo-functionalists, who hypothesized that the growing contestation about regional issues would be one of the unintended consequences of the creation of regional institutions – a special case of ‘spillover’, as it were (Schmitter, 1969). A number of contemporary authors have built on this logic. Pieter de Wilde and Michael Zürn, while not using the term ‘neo-functionalism’, describe a similar process of increases in EU authority triggering politicization, a process that in their opinion is shaped by a number of intermediary factors (such as party and media strategies), but cannot be stopped or reversed as long as EU authority is not reduced (de Wilde & Zürn, 2012). Liesbet Hooghe and Gary Marks have labelled their theory of politicization ‘post-functionalism’; its main difference to neo-functionalism lies not in the explanation of how politicization comes about, but in the fact that politicization is explicitly conceptualized as a process that mobilizes national identity concerns against European integration, and hence functions as a constraint on further steps towards supranational institutional integration (Hooghe & Marks, 2009). In contrast to this account, Paul Statham and Hans-Jörg Trenz have developed a theory they call ‘democratic functionalism’; it assumes that politicization is not only the automatic effect of increased EU authority, but also unleashes a constant pressure towards the democratization of EU governance (Statham & Trenz, 2015). All of these theoretical accounts have in common that politicization, and the legitimation debates that it may give rise to, are interpreted as standing in a quasi-

deterministic relationship to the development of the EU polity: Politicization is interpreted as a necessary consequence of certain stages of polity development, and understood as having clearly defined implications for the polity's future – even though there is disagreement between the various authors about what exactly these implications might be.

However, the trajectories of past politicization processes give reason for doubt whether the coupling of politicization/legitimation and polity development is necessarily so tight. Research by Swen Hutter and Edgar Grande on the politicization of European integration in electoral campaigns shows, for example, that in the United Kingdom, politicization levels have receded – albeit in an uneven fashion – since the accession debates of the 1970s, regardless of the fact that EU powers have grown since then (Hutter & Grande, 2014). In a similar vein, a study of my own on EU-related media debates between 2000 and 2009 reveals that the politicization that was intentionally triggered by political elites in the EU's constitutional debates was quite effectively contained by the same elites when the Lisbon Treaty was debated. Even though the Lisbon Treaty was largely identical to the Constitution, with the exception of the latter's symbolic provisions, media debates about it were less intensive, to a greater extent dominated by politicians, and more likely to affirm the EU's legitimacy (Hurrelmann, Gora & Wagner, 2013). A final example is a recent study by Frank Schimmelfennig, who shows that in spite of the politicization triggered by the Eurozone crisis, political elites have been able to implement a number of far-reaching institutional reforms of EU governance, many of which strengthen technocratic supranational institutions (Schimmelfennig, 2014). In other words, the crisis-induced politicization did not prove 'constraining' on the EU's polity development, at least not in the sense of preventing further integration steps, nor did it push the EU into a more democratic direction.

These examples highlight that, when it comes to the EU's politicization and legitimation, theories of functionalist automaticity have to be approached with caution. The successive growth of EU competencies and supranational institutionalization clearly makes it more likely that EU governance is politicized, and becomes subject to legitimation debates, but processes of contestation will only be triggered if political actors – governing elites, political parties, interest groups, journalists, civil society groups, etc. – explicitly raise EU issues as topics of collective decision making, and find a receptive audience for their claims in public discourse. Such discursive dynamics will also determine the precise shape that politicization/legitimation takes – the aspects of the EU to which it relates (membership, institutions, policy, etc.), the kinds of arguments/legitimation standards that are advanced (economic prosperity, democracy, common values, etc.), the political cleavages that become apparent in the debates (member state vs. member state, left vs. right, winners vs. losers of integration, etc.), and so on. Patterns of legitimation are not necessarily stable either; like all public discourse, legitimation debates are subject to issue attention cycles that might see them disappear as topics of discussion as soon as they become 'old news' and new, more pressing issues of public debate come up (Hurrelmann, Krell-Laluhová, Nullmeier, Schneider & Wiesner, 2009). Finally, precisely because the EU is a creation of political elites, there is not necessarily a close relationship between its politicization/legitimation and institutional development. The future shape of European integration will depend on both institutional and political configurations, but these two aspects need not develop in sync.

Conclusion: Desiderata for the Empirical Study of Legitimacy in IR

Our survey of EU-related research has shown that there is a high density of studies on the legitimation and politicization of the EU, which provide important conceptual, methodological, and substantive insights for empirical legitimation research in IR. The discipline of IR is hence well advised to look to EU Studies when conceptualizing empirical research on the legitimation and politicization of global governance. Our analysis has also shown, however, that EU related research suffers from a number of problems, rooted in conceptual fuzziness, untested assumptions, over-aggregation, or lack of empirical rigour, which research in IR should seek to avoid. By way of conclusion, we can summarize the results of our discussion by formulating six desiderata for the empirical study of legitimacy, which apply both to the EU and to global governance more widely:

1. *Legitimation analysis must study the emergence and change of legitimation debates using longitudinal research designs, rather than by comparing current realities to analytical constructs of the past.* While the concept of ‘permissive consensus’ is not widely used in IR, some of the existing discussions of legitimation of global governance proceed in a fashion not dissimilar to that identified in EU Studies: They assume that international politics before globalization was more-or-less completely ‘a-legitimate’, so that any evidence of politicization now can be treated as indicative of a general and unidirectional trend (Zürn, Binder & Ecker-Ehrhardt, 2013). Our analysis above outlines the dangers of this approach; it highlights that assumptions of a shift from ‘a-legitimacy’ to more contested legitimation must always be empirically detailed.
2. *Legitimation analysis must differentiate various discursive arenas in which legitimation may occur, and must proceed cautiously when using aggregated conceptions of a public sphere.*

The fact that the density of empirical research on legitimation is thus far thinner in IR than in EU Studies means that the incentives for over-aggregation might be particularly pronounced. This might lead to researchers making sweeping generalizations, for instance the claim (in an otherwise excellent article) that ‘newspapers [...] are a good proxy for public debates about policies’ (Rixen & Zangl, 2013, p. 373). The experience from EU Studies suggests that, rather than making such generalizations, researchers should carefully define the domain of what they are studying, to leave room for a differentiated analysis of various legitimation arenas. Only after evidence from various discursive settings has been obtained should researchers consider which forms of re-aggregation are appropriate.

3. *Legitimation analysis must not assume that positive assessments of the state constitute a universal benchmark for assessments of global governance, but should rather pay attention to diverse relationships of multilevel legitimacy.* In IR as well as EU Studies, it is tempting to treat the state, and its assumed democratic legitimacy, as a reference point for legitimacy assessments of non-state institutions. But while assessments of various political levels have indeed been shown to be related, this does not imply that the traditional state is always legitimate, or even more legitimate than international organizations; it also does not mean that shifts of power from the state to global governance arrangements necessarily cause legitimacy problems (Scharpf, 2000). Rather, researchers have to observe empirically how the legitimacy of global governance is constructed, and which relationships to the state – and other political levels – are established in the process.
4. *Legitimation analysis must differentiate various aspects of global governance that may be politicized, rather than treating them as a unitary object of legitimation.* This rule might, at first sight, be considered less relevant for IR than for EU Studies, given that no International

Organization is as complex institutionally as the EU. But many global governance institutions have of course reached considerable complexity. And even when analyzing intergovernmental institutions that are weakly institutionalized, such as G7/G8, a legitimation analysis that does not distinguish between, say, the principle of intergovernmental cooperation, its processes, and concrete cooperation outputs, or between intergovernmental decision-making at a summit and domestic decision-making in preparation for the summit (Nonhoff, Gronau, Nullmeier & Schneider, 2009), is necessarily incapable of capturing the full complexity of legitimation and politicization processes in the international sphere.

5. *Legitimation analysis must examine the interplay of top-down and bottom-up legitimation processes as triggers of legitimation change, rather than focussing exclusively on citizen mobilization and activism.* High-profile citizen mobilization against global governance institutions, such as the protests against the World Trade Organization in Seattle (1999) or against the G8 in Genoa (2001), are the most visible evidence of (de-)legitimation practices in matters of international politics. It is important, however, to complement the analysis of such bottom-up processes with research on top-down legitimation by political elites. The latter may involve attempts at de-politicization, seeking to withdrawing global governance from legitimation debates, but as the example of the EU has shown, elites may also attempt to (selectively) politicize some of their activities in order to shore up legitimation.
6. *Legitimation analysis must pay close attention to discursive and institutional dynamics, rather than assuming a necessary and unidirectional connection between legitimation and polity development.* Our discussion of the EU has pointed to the limits of various types of functionalist theories that assume a close conceptual connection between the development of EU institutions and the way in which European integration is politicized and/or legitimated in

the population. In IR as well, attempts to forge such connections – for instance by claiming that non-transparent international institutions are more likely to face popular rejection than transparent ones (Zürn, Binder & Ecker-Ehrhardt, 2013, p. 98), or that politicization will result in institutions becoming less prone to executive decision making (Zürn, 2014, p. 59) – must be treated with caution. These might be useful research hypotheses, but they must always be verified through careful analysis of both institutional and discursive dynamics.

If empirical legitimation analysis in IR follows these rules, it will be able to avoid some of the pitfalls that have, at times, undermined the quality of legitimation research in EU Studies. The systematic and differentiated approach advocated here would also open the door for more comparative research on the legitimation of global or regional governance, which promises to augment our understanding of its facets, causes and consequences. It is clear that, for pragmatic reasons (funding limitations, etc.), not each and every study will be able to conform to all of these rules. My own past research, most certainly, has violated a number of them. This does not, however, undermine their usefulness as a (tentative) guideline for how to conceptualize research on legitimation in IR.

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