The Democratic Ambivalence of EU Disintegration: A Mapping of Costs and Benefits

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Abstract: Since Brexit, there has been increasing interest in democratic theory in the question of the conditions under which reversals of European integration can be considered legitimate. So far, however, the literature is very much focused on the specific case of the United Kingdom's withdrawal from the European Union. In this article, I seek to prepare the ground for a systematic theory that clarifies, at a general level, the scope and limits as well as the actors and procedures of democratically legitimate disintegration. To that end, I map the potential democratic costs and benefits of EU disintegration. In doing so, I distinguish five types of disintegration: retreat, revocation, exit, expulsion, and dissolution. All of these measures can produce conflicts between the democratic claims of citizens and peoples. Many of these cannot be resolved but must be dealt with politically. Overall, disintegration bears more potential costs for citizens than for peoples.

Zusammenfassung: Seit dem Brexit gibt es in der Demokratietheorie ein zunehmendes Interesse an der Frage, unter welchen Bedingungen Umkehren der europäischen Integration als legitim gelten können. Bislang konzentriert sich die Literatur allerdings stark auf den spezifischen Fall des Austritts des Vereinigten Königreichs aus der Europäischen Union. In diesem Artikel geht es mir darum, den Boden für eine systematische Theorie zu bereiten, die auf einer allgemeinen Ebene den Umfang und die Grenzen sowie die Akteure und Verfahren demokratisch legitimierter Desintegration bestimmt. Zu diesem Zweck identifiziere ich die demokratischen Kosten und Vorteile, die EU-Desintegration potenziell mit sich bringt. Dabei unterscheide ich fünf Typen von Desintegration: Rückzug, Rücknahme, Austritt, Ausschluss und Auflösung. Alle diese Maßnahmen können zu Konflikten zwischen demokratischen Ansprüchen von Bürgern und Völkern führen. Diese können häufig nicht gelöst werden, sondern müssen politisch bearbeitet werden. Insgesamt birgt Desintegration mehr potenzielle Kosten für Bürger als für Völker.

Résumé: Depuis Brexit, la question des conditions dans lesquelles l’intégration européenne peut être légitimement inversée gagne un intérêt croissant en théorie de la démocratie. Cependant, la littérature existante se concentre surtout sur le cas spécifique du retrait du Royaume-Uni de l’Union Européenne. Dans cet article, je pose les bases d’une théorie systématique de la désintégration démocratique qui clarifie, à un niveau général, sa portée, ses limites, ainsi que les acteurs et les procédures qui peuvent la rendre légitime. J’identifie les coûts et bénéfices démocratiques potentiels de la désintégration de l’UE et distingue cinq types de désintégration : le retrait, la révocation, la sortie, l’expulsion et la dissolution. Toutes ces mesures peuvent générer des conflits entre les revendications démocratiques des citoyens et des peuples. S’ils ne peuvent être résolus, ils doivent être traités politiquement. Dans l’ensemble, la désintégration a un coût potentiellement plus élevé pour les citoyens que pour les peuples.

KEYWORDS: Disintegration, Differentiation, Democracy, Legitimacy, European Union
Introduction

There is a shift in the perception of European disintegration. Since the decision of the United Kingdom (UK) to leave the European Union (EU), what used to be a doomsday scenario has increasingly come to be seen as one of the available instruments in the shaping of the EU. Brexit seems to have confirmed that even the departure of a major member state does not necessarily destabilize the EU, but can even lead to greater cohesiveness (Chopin and Lequesne 2020). As a result, we see the emergence of political demands or considerations to reverse other aspects of European integration as well. Notably, this is true not only for Eurosceptics seeking to undermine the EU, but also for pro-European actors trying to strengthen the overall process of integration. Even the European Commission’s “White Paper on the Future of Europe”, presented in March 2017, which outlines five scenarios for the future of the EU, includes two proposals (“Nothing but the single market” and “Doing less more efficiently”) that would involve steps of disintegration (European Commission 2017: 29; on this point, see Leruth et al. 2019: 1014). Or think of the conflicts about the Economic and Monetary Union (EMU). When the euro crisis laid bare the dysfunctionalities of a non-optimal currency area, the question was raised whether the EMU should be dissolved and replaced, or at least allow the exit of individual states – a debate which has received new momentum in Italy in the wake of the COVID-19 crisis (Scharpf 2016; Lapavitsas 2018; Baccaro et al. 2020).

The new attitude towards disintegration – to conceive of it as a potentially constructive measure in the shaping of the EU – is also reflected in scholarly proposals for the future of European integration. For example, a recent model for the EU as a federal union promotes a decoupling of the economic project of the single market from the EU as a political project. Member states with a sovereignist orientation are to withdraw from the EU’s supranational institutions and move to a lower level of integration in order to facilitate deeper integration in ‘core Europe’ (Fabbrini 2019). Going even further, proponents of an antifederalist model for the EU promote a general re-nationalization of certain competences in order to strengthen state sovereignty and democratic control over EU politics. Part of the idea is that targeted measures of disintegration that reduce the EU’s supranational character might be a way of countering anti-EU populism (Jörke and Sonnicksen 2020). Finally, disintegration has also been brought into play as a way of defending fundamental principles of the EU constitutional order. In light of democratic backsliding, i.e. illiberal and authoritarian patterns in member states such as Hungary and Poland, some have entertained the idea that, as a measure of last resort, the EU should be able to expel member states (Müller 2013: 147).¹

In short, the idea is taking root that even if one is guided in principle by the objective of an ever closer union, occasional decisions to reverse certain aspects of European integration – which can remain below the threshold of member state withdrawal – may be appropriate in certain situations. Against this background, democratic theory shows a growing interest in the legitimacy of disintegration. The existing literature primarily deals with (or at least responds to) the Brexit case and asks to what extent the UK’s withdrawal from the EU can be considered legitimate, and how its ramifications, both for individuals and collectives, should be addressed (Bellamy 2019; Huber 2019; Kostakopoulou 2018; Kröger 2019; Lord 2017; Morgan 2016; Olsen and Rostbøll 2017). What is missing,¹

¹ For an alternative strategy of countering democratic backsliding with differentiated integration, see Bellamy and Kröger (2021) in this special issue.
however, is an analysis that extends beyond Brexit and takes the debate to a more general level by comparing the democratic implications of different possible forms of disintegration. Such an analysis is crucial if future research is to develop a systematic theory of democratically legitimate disintegration, i.e. one that determines the justifiable scope and limits as well as the adequate actors and procedures of democratic decisions to reverse European integration. To prepare the ground for such a theory, my goal in this article is to provide a comprehensive mapping of the potential democratic costs and benefits of EU disintegration. In doing so, I cover five types of disintegration – retreat, revocation, exit, expulsion, and dissolution – and consider the different democratic claims of individuals and collectives involved in and potentially affected by such decisions.

The article is structured as follows. In the first step, I clarify my use of the concept of disintegration and, engaging with the literature on differentiated integration, outline a typology of the forms that it can potentially take. In the second step, I present preliminary considerations on a systematic theory of democratically legitimate disintegration. I argue that in order to approach the question of who should be allowed to decide in what way about what forms of disintegration, we first need an answer to the more immediate question of what democratic gains and losses reversals of European integration may involve. I explain why this question needs to be approached from the perspective of both citizens and peoples, each considered from national and European standpoints. In the third step, I map the potential democratic costs and benefits of disintegration along these dimensions, asking what the different possible types of reversing integration imply in terms of self-government. In the conclusion, I draw out the main lessons. Disintegration tends to produce conflicts between different democratic claims, which often cannot be resolved but need to be dealt with politically. Overall, the analysis shows that citizens have more to lose than peoples. While many types of disintegration pose a threat to the (political) rights of individuals, for collectives they are primarily a way of asserting self-determination.

European Disintegration: Concept and Typology

Although disintegration receives increasing attention in the literature, there is no generally shared understanding of the concept. In part, this has to do with the fact that disintegration has been applied to various phenomena, ranging from the exit of member states to non-compliance with EU law (Pircher and Loxbo 2020; Walter 2020). Another problem is that it is often left unexplained how disintegration relates to similar notions such as differentiated integration (DI) or differentiation, which have also been invoked to analyse developments such as Brexit (Martill 2020). Thus, let me clarify my use of the concept and explain what kinds of cases will be the focus of my analysis of democratic costs and benefits (and what forms of disintegration I leave aside).

As I use the term, disintegration provides a counter-concept to integration – it describes the reversal of integration. Disintegration can be observed when previously integrated relations cease to be integrated. This already sets the concept apart from DI, where the EU member states deepen their integration, although not all of them participate (or not to the same degree).\(^2\) A basic distinction then needs to be drawn between intentional and unintentional disintegration. Disintegration can result from deliberate decisions, as in the case of Brexit, but it can also be an unwanted side effect of other processes such as

\(^2\) Note, however, that some parts of the DI literature have started to use a concept of differentiated disintegration in order to capture processes where DI switches into reverse gear (see Gänzle et al. 2020).
growing economic and political divergence due to the COVID-19 crisis (on the latter, see Jones 2020). Furthermore, we can distinguish between formal and informal disintegration. Disintegration can either be given a clear legal form – for example, the abolishment of certain institutions such as the EMU – or manifest itself more diffusely in phenomena such as a “weakening sense of community” among EU citizens (Börzel and Risse 2019: 240). My concern is with intentional and formal measures of disintegration. These are the decisions that give rise to the question of whether, and if so under what conditions, disintegration can be considered democratically legitimate.

The focus on intentional and formal measures implies that I am concerned with the reversal of legal-institutional developments. Just like integration, such forms of disintegration can be conceptualized as a process or as an outcome (Rosamon 2016: 867-868). To use the example of Brexit, we can either understand the UK’s departure from the EU as one of multiple events in an ongoing process that has no specified endpoint or think of it as a particular case, i.e. as a definable outcome. In this article, I adopt a perspective oriented towards outcomes and focus on concrete scenarios of EU disintegration. In principle, these can be located either at the policy level or at the constitutional level. Disintegration at the policy level (i.e. in secondary law) is difficult to pin down conceptually. To contrast it from more profane policy dismantling (Gravey and Jordan 2020), we should speak of disintegration only if the reversal concerns rules that play a key integrative function. In any case, my interest is in decisions at the constitutional level (i.e. in primary law), including decisions about EU membership. As these are the types of disintegration that modify the structure and competences of the EU, they are the ones that raise the most serious questions of democratic legitimacy.

Equipped with these specifications of the concept (reversal, intentional, formal, outcome, constitutional), we can now turn to the construction of a typology of disintegration. In this context, two further distinctions need to come into play. As Schimmelfennig and Winzen (2020: 138) have noted, disintegration can be either uniform or differentiated – i.e. the respective measures can either be taken by all member states or only by one (or some) of them. This distinction allows us to clarify how the concept of disintegration relates to the concept of differentiation. Differentiation is a notion that includes DI, but is broader in that it also refers to differentiated disintegration. However, it does not cover uniform disintegration (Fossum 2015: 800). This means that an analysis that is concerned with both uniform and differentiated forms of disintegration, as the one I conduct in this article, has a certain overlap with the subject matter of differentiation, but is not congruent with it. Turning to the other important distinction, a reversal of integration can be either partial or comprehensive. By that I mean that the member states either limit their actions to the re-nationalization of individual competences (or the abolishment of particular EU institutions) or completely depart from the EU political system. Building on the distinctions of uniform vs. differentiated and partial vs. comprehensive, we can outline five types of disintegration.

**Retreat:** The first type is the selective retreat of individual member states from certain rules or obligations they were previously subject to and others continue to be bound by.

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3 In addition to conventional forms of DI, differentiation also refers to “first, cases where some states integrate more closely whilst, at the same time and for connected reasons, others disintegrate from their previous levels of involvement with the Union; and second, cases where even notionally full members come to be regarded as having different membership status” (Fossum 2015: 800).
Such an arrangement, which requires the consent of all member states, is something the UK sought but failed to achieve before the Brexit referendum.4

Revocation: The second type is a collective decision of all member states to revoke a particular aspect of European integration while holding on to the project as such. Here, one could think, for example, of an abolishment of the EMU and return to a system of national currencies combined with a new kind of exchange rate mechanism.

Exit: The third type consists in the exit of one or several member states from the EU, as in the case of Brexit. Disintegration here is comprehensive in the sense that former member states no longer form part of the EU political system. This is not to deny that there will usually still be forms of external integration.

Expulsion: The fourth type is the expulsion of a member state. This measure, for which the current EU treaties provide no legal basis (but which has been discussed as a potentially desirable option) is similar in outcome to withdrawal. Yet, it differs significantly in the way it comes about, as it has to be enforced against the will of a member state.

Dissolution: The fifth type is a collective decision to dissolve the EU. While this at present appears as a purely hypothetical scenario, it is crucial to examine its democratic credentials, as it is an open question whether a return to a Westphalian order in Europe is at all permissible from the perspective of democratic theory.5

Towards a Systematic Theory of Democratically Legitimate Disintegration

So far, there is no systematic theory that clarifies the conditions for democratically legitimate reversals of European integration. In this section, I consider what would be required in order to move towards one, arguing that particular attention should be paid to democratic costs and benefits. In doing so, I assume that the direction of European (dis)integration depends to a significant extent on the political choices of the actors involved. Explanatory theories of disintegration are often characterized by a certain determinism that leaves little room for democratic agency. Much of the debate revolves around the question of the conditions under which traditional theories of international relations and European integration – such as realism, neo-functionalism, liberal intergovernmentalism, or comparative federalism – would expect disintegration to occur (for comparative treatments, see Vollaard 2018; Webber 2019a). However, if one assumes, for example, that it is primarily the preferences of powerful states or functional logics of spill-over that determine whether European integration progresses or regresses, then there is no real place for democratic voluntarism and hence not much need to ponder questions of legitimacy. While I do not mean to deny that European integration creates path-dependencies and that the protagonists operate under various kinds of external constraints, I assume that there is a certain “autonomy of the political” (Webber 2019b: 1138) that creates significant scope for democratic decisions. In principle, the member states (and their citizens) are free to shape the EU as they see fit.

4 Retreat differs from opt-out, which is an instrument of DI. In the case of opt-outs “integration progresses overall but at least one state remains at the status quo or does not participate at the same level of integration as the others”, while retreat means a “selective reduction of a state’s adherence to the integrated legal rules, which results in an overall lowering of the level and scope of integration” (Schimmelfennig and Winzen 2020: 137).

5 I leave aside forms of external disintegration – i.e. the case of non-member states seeking to reduce their legal ties to the EU (see Schimmelfennig and Winzen 2020: 139).
This autonomy of the political raises the question of the democratic costs and benefits of disintegration. As I have argued elsewhere, reversals of European integration are democratically ambivalent. While disintegration can under certain conditions enhance citizens’ political autonomy, for example, if it serves to abolish democratically deficient rules or institutions, it can just as well diminish or even eliminate possibilities for self-government (Patberg 2020a). But what exactly are the positive and negative effects that we may have to reckon with? In approaching this question, the first thing to note is that the EU is not only composed of democracies but itself structured as a democratic system. This democratic system has inspired a number of normative theories of EU democracy which, to varying degrees and in different ways, point prescriptively beyond the existing EU polity. Irrespective of their differences regarding the desirable future of the EU, at their diagnostic core all of these theories share the view that European integration has brought about, as a matter of fact, democratic rights, institutions, and capacities for self-government across borders (e.g. Cheneval and Schimmelfennig 2013; Eriksen 2014; Habermas 2011; Nicolaïdis 2015). These normative achievements, which are likely to be affected when the member states reverse certain aspects of integration, form the starting point of my analysis. In other words, I do not operate with an ideal theory of EU democracy but approach the question of legitimate disintegration through a reconstructive lens. I consider the normative value of the EU’s existing democratic structures and ask how they may be affected by retreat, reversal, exit, expulsion, or dissolution.

In this evaluative enterprise, I draw on an understanding of democracy that combines procedural and substantive elements, in the sense that the openness of democratic decision-making is assumed to be subject to certain constraints, which are essentially defined by the preconditions of self-government, which include, e.g., certain basic rights of citizens (Habermas 1996). This inherent self-limitation rules out a minimalist notion of democracy, according to which all that is required for legitimacy is a competitive vote. Especially where democracy is exercised at a meta-level, i.e. in decisions about the structure and competences of democratic systems, questions of legitimacy cannot be answered without considering the possible impact of decisions on the institutional framework of ‘normal’ democracy. While citizens have the right to freely shape their political systems, democratic voluntarism may reach its normative limits or have to be reconfigured where decisions threaten established forms of self-government. Even if adverse effects do not immediately rule out certain types of measures as democratically illegitimate, they need to play a key role in our evaluative considerations (see Patberg 2017). The key point now is that EU disintegration can be understood as a (particularly intricate) form of meta-democracy. We are dealing with democratic decisions to reverse institutional developments in a democratic order at the supra-state level. Thus, if we eventually want to arrive at a systematic theory of democratically legitimate disintegration, we need to have a clear understanding of the democratic costs and benefits potentially involved.

At this point, it should be noted that disintegration can generate costs and benefits of different kinds, not only democratic ones. For example, one might ask to what extent reversals of European integration affect the EU’s ability to promote economic prosperity or to provide security. While such considerations may be relevant for a comprehensive normative assessment of disintegration (something that I do not attempt in this article), they have no direct bearing on the question of democratic legitimacy. From a democratic perspective, the legitimacy of collectively binding decisions does not depend on their material effects. Policy disagreements should be resolved in the political arena, not in
political theory. Accordingly, I focus on democratic costs and benefits. This is the crucial question if we eventually want to determine to what extent the political system that has been established at the EU level limits the actors’ scope for democratically legitimate decisions on disintegration – and which options should be available or what paths must still be opened up. Crucially, the democratic effects of particular steps of disintegration are not necessarily unidirectional. One and the same measure can have both negative and positive implications. Furthermore, in the EU’s multi-level system reversals of integration can be detrimental to democracy on one level and beneficial to it on another. An analysis of these effects needs to cover not only the different types of disintegration outlined above, but also the plurality of democratic entitlements involved in and potentially affected by the respective measures – which leads me to the next question.

Disintegration can have negative and positive implications for democracy – but about whose democratic costs and benefits are we talking? As I will now argue, EU disintegration gives rise to both cosmopolitan and statist concerns. In other words, we need to consider its consequences for both individuals and collectives. Generally speaking, cosmopolitanism is a normative approach to international politics whose basic premise is the equal moral worth of persons (Held 2010). Individuals are treated as the ultimate units of normative concern, while collectives (and their institutions) are seen as having only indirect value – namely, to the extent that they contribute to the realization of cosmopolitan principles. By contrast, statism emphasizes the normative significance of nation-states, especially to the extent that they have established legitimate political systems, and therefore puts peoples centre stage (Rawls 1999). Looking at the democratic order that has been established at the EU level, it seems clear that both perspectives are needed in order to assess the democratic costs and benefits of disintegration. This has to do with the compound nature of the EU polity and the fact that its democratic system combines different chains of legitimation, some of which put the citizens at the centre, while others are oriented towards the peoples.

In contrast to national democracy, where the only relevant units of normative concern are free and equal citizens, EU democracy is in significant respects also a form of self-government among free and equal peoples. The EU is a voluntary association of sovereign states, which are committed to maintaining their systems of national democracy and the ability to control their own political destiny. Accordingly, the member states and their peoples have not merged into a larger whole, but form part of a (supranational) democratic order that recognizes more than one source of legitimacy. As the provisions on the principles of EU democracy in Article 10 of the Treaty on European Union (TEU) explain, “[c]itizens are directly represented at Union level in the European Parliament”, while “Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens”. In this way, the EU’s democratic order combines cosmopolitan and statist elements. It serves both the citizens (directly) and the peoples (via the member states) as a structure for self-government across borders. As the interests of individuals and collectives do not necessarily align, we must assess the effects disintegration has on both of them.

In the case of citizens, the question is how disintegration affects their ability to govern themselves democratically through adequate procedures and institutions. This means that the focus needs to be on the relations between citizens and public authorities as well as between citizens themselves. In the case of the peoples, the question is what consequences disintegration has for their standing as free and equal members of the EU. Crucially, the
implications for citizens and peoples need to be considered both in a national and in a European perspective, as democratic costs and benefits can arise both within individual member states and in cross-border relations. In the case of citizens, this means that we need to examine what the possibility of disintegration implies for their relation to national governments and fellow citizens, but also how it affects their relation to EU institutions and the citizens of other member states. Similarly, we need to inquire into the democratic gains and losses that disintegration may create for individual peoples, but also take account of the positive and negative consequences that may arise for the member state peoples as a group. A combination of these axes (citizens/peoples and national/European perspective) leads to a four-field matrix that allows for a comprehensive mapping of the democratic costs and benefits of disintegration (see Table 1).

In tracking the potential effects of EU disintegration I cast my net wide, as democratic costs and benefits can arise in different ‘currencies’. First, I include implications with regard to democratic rights. This concerns both democratic rights to bring about disintegration and the effects that their use can have on other democratic rights. Second, I take into account the potential consequences disintegration has with regard to democratic institutions – for example, how it affects their functionality or accessibility, or simply their existence. Third, I keep an eye out for the possible impact on democratic capacities, by which I mean the ability to intervene into the systemic processes that condition the life of citizens. Even if democratic rights and institutions remain formally intact, they can be hollowed out – for example, if a revocation of competences means that the EU loses control over certain political problems that can only be tackled through international cooperation. Note that not all of these aspects are necessarily at stake in each type of disintegration. Moreover, not every type of disintegration (i.e. retreat, revocation, exit, expulsion, dissolution) generates democratic costs and benefits on all four dimensions of legitimacy. Accordingly, when discussing the different dimensions in the next section, I do not go through all of the types one by one, but focus on the ones relevant in each case.

### Potential Democratic Costs and Benefits of Disintegration

In asking what citizens and peoples can gain and lose, in democratic terms, through disintegration, I am concerned with potential benefits and costs. What consequences a type of disintegration has can depend on how it is employed. In the case of revocation, for example, it may be that a re-nationalization of competence A increases democratic control (e.g. because it transfers public authority from a technocratic EU agency to national

| Table 1: Democratic Legitimacy Dimensions of EU Disintegration |
|---------------------------------------------------------------|
| **National perspective**                                      |
| **Citizens**  
  Dimension 1: What does the possibility of disintegration imply for citizens’ relations to their national government and to their fellow citizens? |
| **Peoples**  
  Dimension 3: What does the possibility of disintegration imply for individual peoples – for their democratic standing within the EU? |
| **European perspective**                                     |
| Dimension 2: What does the possibility of disintegration imply for citizens’ relations to EU institutions and to the citizens of other member states? |
| Dimension 4: What does the possibility of disintegration imply for the peoples of the EU as a collective – for their democratic relations to each other? |
parliaments), while a re-nationalization of competence B undermines it (e.g. because it weakens the EU’s democratic institutions). Note also that in some cases the question of whether or not potential democratic gains and losses identified in theory can be realized in practice depends on the procedures that are put in place for decisions about disintegration. For example, whether the right to leave the EU provides the citizens of a member state with an additional democratic option depends on how and by whom a withdrawal decision (e.g. an exit referendum) can be triggered. For these reasons, I do not discuss the outcomes of particular cases but the general implications of the abstract types of disintegration. What democratic costs and benefits do they potentially involve (for a summary, see Table 2)?

**Dimension 1: Citizens in a National Perspective**

What does the possibility of disintegration imply for citizens’ relations to their national government and to their fellow citizens? Assessed from this perspective, the potentially beneficial options of disintegration are differentiated ones – namely, retreat and exit. These provide citizens with democratic ways to respond if they feel their government has taken integration too far, i.e. agreed to steps that lack (or have lost, in the time that has passed since their establishment) public support. Due to the fact that European integration is mainly propelled by means of intergovernmental treaty making, domestic publics are usually one step behind when it comes to shaping the EU. De facto, citizens have for the most part been sidelined in such decisions (Patberg 2020b; for an opposing view, see Moravcsik 2018). If a situation arises in which the EU or certain aspects of it increasingly lack support among the citizens of a member state, but national public authorities, especially the government, hold on to them, democratic rights to initiate disintegration may offer a form of redress. This is what one may describe as the reasonable core of the – in many ways problematic – Brexit slogan ‘take back control’. If discontent with the EU is limited to particular aspects of it, citizens may seek a retreat of their state from particular regimes. If they come to hold the view that the project of European integration as such is no longer in their collective interest, the right to exit offers a democratic way out.

However, to provide citizens with the possibility to initiate an EU exit also comes with significant costs for the democratic relations among them. When a member state leaves, individuals lose their status as EU citizens and are thus stripped of the corresponding democratic entitlements such as the right to vote in European elections or the right to advance European Citizens’ Initiatives. They lose access to the EU’s democratic institutions such as the European Parliament – and also to the Court of Justice of the European Union. One might argue that this is a self-imposed and therefore unproblematic loss of political rights. After all, it is up to the citizens themselves whether they want their state to remain part of the EU or not. Also, one might say that the democratic rights of EU citizens lose their purpose once one is no longer subjected to the EU’s decisions. Nevertheless, the right to leave the EU implies that domestic majorities can impose an exit on their fellow citizens and thus strip them of democratic entitlements against their will. This is a high price to pay. With regard to the national level, most democratic theorists would insist that free and equal citizens cannot be deprived of their political rights – even if some of them vote for it. Of course, we may still come to the conclusion, in an overall assessment of disintegration, that such a step is permissible at the European level (or can be under certain conditions), but it is certainly a democratic cost that needs to be factored in. This also applies for the case of expulsion, where the loss of political rights would even
Table 2: Democratic Costs and Benefits of Disintegration

| Citizens | Benefits: |
|----------|-----------|
| • Retreat/exit offer possibilities to intervene if the own government takes the integration process too far |
| • Exit puts individuals’ democratic rights as EU citizens in the hands of domestic majorities |
| • Expulsion puts individuals’ democratic rights as EU citizens in the hands of other member states |

| Costs: |
| • Exit exposes national peoples to the possibility of heteronomous influence |
| • Expulsion puts the political status of national peoples in the hands of other member states |

| Peoples | Benefits: |
|---------|-----------|
| • Retreat can provide a solution when a disregard of diversity between the member states undermines domestic democracy |
| • Exit implies the capacity to regain formal independence/domestic democratic control over issues delegated to the EU |

| Costs: |
| • Exit exposes national peoples to the possibility of heteronomous influence |
| • Expulsion puts the political status of national peoples in the hands of other member states |

| European perspective | Benefits: |
|----------------------|-----------|
| • Revocation provides a possibility to review and reverse steps of integration that undermine EU democracy |

| Costs: |
| • Revocation carries the danger of a weakening or loss of democratic rights, institutions, and capacities at the EU level |
| • Dissolution means the abolishment of EU democracy |
| • Exit/expulsion imply loss of democratic capacities and the substitution of a shared democratic order with intergovernmental diplomacy |
| • Exit decisions subject EU citizens resident in the member state concerned without a say |

| Costs: |
| • Exit exposes national peoples to the possibility of heteronomous influence |
| • Expulsion puts the political status of national peoples in the hands of other member states |
| • Exit can undermine freedom and equality between former and remaining member states and lead to new forms of domination |
| • Dissolution would mean the end of the EU’s possibilities to tame inequalities between the member state peoples |
be imposed from the outside – namely, by the other member states. To allow for the possibility of expulsion means that national citizens have to accept that external actors may deprive them of their status as EU citizens.

**Dimension 2: Citizens in a European Perspective**

What does the possibility of disintegration imply for citizens’ relations to EU institutions and to the citizens of other member states? From the shared European perspective of citizens, the only potentially beneficial type of disintegration is revocation, which may allow them to counteract dynamics of European integration that undermine their ability to (co-)govern themselves across borders. European integration is a long-term project without a predefined *finalité*, characterized by an incremental and to some extent experimental mode of development. For this reason, it tends to produce unintended consequences, which can be detrimental to democracy. Think of the technocratic style of governance during the euro crisis and the institutional change brought about in a questionable mode of emergency politics (Scicluna and Auer 2019; White 2020). For citizens, a capacity to review and, if necessary, reverse such forms of ‘runaway integration’ constitutes a democratic benefit. If certain formal or informal steps of integration have a negative impact on their shared democratic institutions or lead to new forms of public authority that are not subject to sufficient democratic control, the reversal of such measures can provide a democratic remedy. In short, if European integration results in dysfunctionalities that undermine EU democracy, targeted steps of disintegration may be an adequate countermeasure.

However, disintegration also carries the opposite risk of a weakening or even loss of EU democracy. In an interconnected world, not every issue can be democratically addressed at any level. Some matters are entirely beyond political intervention when the formal responsibility lies with the nation-state (Zürn 2000). If a re-nationalization of competences impairs the EU’s ability to address political problems of a cross-border nature, it may thus diminish the capacity of citizens to govern themselves. Note also that revocation could potentially involve the withdrawal of EU citizens’ democratic rights or the abolishment of democratic EU institutions – something that is unavoidable in the case of dissolution, which simply amounts to the end of EU democracy. When it comes to exit and expulsion, a loss of democratic capacities may result from the diminishing territorial reach of the EU. The citizens of the former and of the remaining member states, who previously shared a political system for self-government across borders, can no longer address common problems in a democratic manner, while many systemic interdependencies between their states (e.g. economic, social, or environmental) will persist and still require regulation. They fall back to intergovernmental diplomacy with all its known asymmetries between executives on the one hand and legislatures and publics on the other. Finally, the right to leave the EU also produces democratic costs in that it contradicts the all-subjected principle, according to which everyone to whom a collectively binding decision applies should have an equal democratic say in its making. Citizens resident in other member states than their own need to accept that their lives can be unravelled by exit decisions in whose making they may not participate.

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6 Note that one can take this perspective without assuming a European demos. The citizens of the member states have a shared interest in the EU’s democratic order irrespective of whether we conceive of them as members of a single political community or as members of several demoi.
Dimension 3: Peoples in a National Perspective

What does the possibility of disintegration imply for individual peoples – for their democratic standing within the EU? Seen through this lens, it is again the differentiated options of retreat and exit that are potentially beneficial. The significance of retreat can be explained with reference to the debate about opt-outs, which are increasingly seen as a key instrument for securing the democratic legitimacy of further integration. Differentiated integration is a way of accommodating diversity between the member states – whether it comes in the form of unequal stakes in collective decisions, differences in public cultures and identities, or disagreements in terms of values and interests (Bellamy and Kröger 2017). Analogously, if it turns out that already established forms of integration disregard diversity and thus constitute a problem for individual member states (e.g. because they undermine their capacity to govern themselves domestically in accordance with their respective public cultures), retreat may be an adequate response. The right to exit, in turn, secures the peoples’ ability to fully regain formal independence. No one can prevent the political communities of the member states from re-establishing domestic democratic control over issues delegated to the EU. Of course, once we take into account questions of democratic capacity, it may appear doubtful whether, in the final analysis, such a step really produces democratic gains. Nevertheless, the freedom to leave the EU is critical for the peoples’ continued ability to determine their own political destiny.

The immediate downside of the right to exit is that each of the peoples has to live with the fact that they cannot stop others from leaving, even if they have an interest in doing so. To allow for this type of disintegration requires each national people to accept that other member states can unilaterally take a decision whose consequences – for example, the loss of gains from cooperation – must be borne by all. Here, we again encounter a conflict of disintegration with the all-subjected principle and thus another democratic cost. The same right that ensures that national peoples exercise democratic control over their own political status exposes them to the possibility of far-reaching heteronomous influence. Note that this problem is even more pronounced in the case of expulsion. If the possibility of expelling a member state were to be codified in the EU treaties (on this option, see Hausteiner 2020: 59-62), each national people would have to accept that the rest of the EU could take a fundamental decision on its political status without them having a say in it. This raises serious doubts as to whether a decision to exclude a member state can ever be democratic in nature. One might object that a people threatened with expulsion at least in principle has the possibility to remove the reason for such a decision – for example, by reversing democratic backsliding (or whatever would constitute the legal basis). Moreover, the mismatch between decision-makers and subjected parties is a problem that expulsion shares with the right to exit, where our intuitions may be different. Nevertheless, the problem of a heteronomous decision about the status of a sovereign political entity remains.

Dimension 4: Peoples in a European Perspective

What does the possibility of disintegration imply for the peoples of the EU as a collective – for their democratic relations to each other? From the shared perspective of the national demoi, the possible democratic benefits of disintegration primarily lie in the possibility of

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7 A member state’s decision to trigger Article 50 TEU not merely affects but also subjects the rest of the EU because it creates an obligation for them to cut their legal ties with the departing state.
taking corrective action when European integration undermines freedom and equality among them. The euro crisis, for example, has taught us that highly problematic asymmetries between the member states can quickly arise – in this case between debtor and creditor countries – with the result that some of them become rule makers and others rule takers (Moschella 2017). Such a development is troublesome not only from the perspective of the peoples who are disadvantaged, but for all members of the EU, as it calls into question the democratic nature of their common order. In such situations, the collective of EU peoples may allow individual retreat from certain rules or obligations, or engage in revocation, in order to re-establish freedom and equality. Releasing individual member states from treaty obligations others continue to be bound by can be a way to re-establish their democratic agency. Similarly, revoking the steps of integration that led to asymmetrical relations between the EU peoples can, depending on how the subsequent arrangement is designed, be a way to restore symmetrical relations. In an extreme scenario, in which the EU’s democratic order proves to be beyond repair, leaving or even dissolving the EU also present themselves as measures against the domination of peoples.

Expulsion may be potentially beneficial for other reasons – namely, as a way of safeguarding the integrity of EU democracy if a member state is in persistent and systematic breach of its fundamental principles, and if other mechanisms for defending democracy prove to be insufficient. This is not to suggest that the EU currently finds itself in such a situation. In fact, it is controversial whether the EU really lacks the necessary tools to defend its democratic principles against the recent authoritarian tendencies in Hungary and Poland or whether the primary problem is the relevant European actors’ lack of political will to act decisively (Schepele and Kelemen 2020). Nevertheless, a situation may arise where measures that presuppose the reversibility (or at least containability) of a member state’s democratic backsliding are no longer viable because the departure from democratic principles is too far advanced. As Jan-Werner Müller puts it, if “democratic institutions are not merely being eroded or partly dismantled but rather blown to bits (in a military coup, for example), the EU ought to have the option of expelling a member state completely” (Müller 2013: 147). In such an extreme case, expulsion would yield democratic gains, as it would spare the European peoples having to tolerate representatives of a ‘rogue state’ participating in the EU’s decision-making processes, thus carrying an undemocratic element into them.

On the other hand, disintegration can just as well distort the democratic relations between the peoples and lead to new asymmetries and forms of domination. The potential democratic costs are manifold. Given that the EU’s democratic order is not differentiated, retreat can create a constellation in which member state peoples continue to participate in EU decisions on aspects of European integration they no longer participate in (on such problems of congruence, see Heermann and Leuffen 2020). Furthermore, powerful member states have a better chance of achieving such arrangements and might seek them for reasons of self-interest. Here, one might entertain the thought that the UK’s attempt from before the Brexit referendum to renegotiate the conditions of its membership (‘new settlement’) should be described in this way. If a member state has sufficient power to obtain concessions that create unfair advantages, retreat can have negative effects on the EU’s democratic order. When it comes to EU exit, freedom and equality can be undermined between former and remaining member states – primarily to the detriment of those who leave, as the situation of current integrated non-members such as Norway indicates (Eriksen 2019: 93-116). States that end their EU membership are likely to still be affected by EU decisions and, depending on how their relation to the EU is re-organized, to a significant extent bound by EU law, both without an equal say or access to the EU’s
democratic institutions. Finally, in the case of a dissolution of the EU it can be expected that asymmetries currently tamed (or at least balanced) by the EU political system would unfold full force on the unequal playing field of international relations.

Conclusion

The mapping of democratic costs and benefits provided in this article allows us to advance our understanding of the legitimacy of disintegration – which I examined on four dimensions. As we have seen, the democratic ambivalence of disintegration can manifest itself within individual dimensions. For example, on Dimension 1 a right to leave the EU can enable citizens to reverse steps of integration the government has undertaken, but which lack or have lost public support. At the same time, exit means that citizens can be deprived by their fellow citizens of their democratic rights in the EU. Many conflicts also arise between the dimensions. For example, on Dimension 3 retreat can be seen as a possible solution when certain EU rules or institutions disregard diversity and thus undermine domestic democracy. Yet, on Dimension 4 it appears as a potential source of congruence problems within the EU’s democratic order and an instrument that invites exploitation by powerful states. Beyond such specific conflicts, we also need to consider that disintegration has not only immediate effects but also broader, long-term implications. Reversals of European integration that seem to generate democratic benefits in the short term might do permanent damage to the overall project of building a European democratic order and thus result in high costs in the long term. Finally, as many of the conflicts can hardly be avoided, a systematic theory of democratically legitimate disintegration must focus primarily on how they can be dealt with politically. In a compound order such as the EU, which connects different subjects of legitimacy, disintegration will never be ‘democratically flawless’.

Another result of the analysis is that disintegration bears more potential costs for citizens than for peoples. This has to do with the fact that while many types of disintegration threaten (political) rights of individuals, for collectives they are primarily a way of asserting self-determination. At the same time, the potential benefits for citizens are fewer than for peoples and will be difficult to realize in practice, as citizens de facto lack the necessary mechanisms to trigger processes of disintegration. If disintegration is to be not only an instrument that the member states use on behalf of their peoples, but also a means for citizens to shape the public authorities that represent them, then procedural reforms are needed. Another key point is that, regardless of whether we look at citizens or peoples, most potential gains are associated with the less far-reaching and more realistic forms of disintegration, i.e. retreat, revocation, and exit. By contrast, expulsion could at best be democratically beneficial in the extreme case of an ‘outlaw’ member state. Similarly, it is difficult to imagine a scenario in which EU democracy has become dysfunctional to an extent that the gains from a dissolution could outweigh the losses of a complete extinction of the democratic rights, institutions, and capacities that the EU provides. In order to be suitable as a constructive measure in the shaping of European integration, disintegration needs to be carried out in a minimally invasive manner.

This leads me to the question of practical implications. The analysis presented here can enable new answers to the question of what would be required for more democratic processes of EU disintegration. One example is the post-Brexit debate about a reform of Article 50 TEU, i.e. whether the EU needs new treaty exit rules. In this regard, the main

\[8\] In this debate, which so far primarily takes place among scholars of EU law, there is a clear interest in normative arguments that may inform reform proposals (see Garner 2020).
lesson is that close attention should be paid to the potential conflicts between different
democratic claims – and how to address them. The present regime of EU exit serves
almost exclusively the democratic right of peoples to decide on their own political status.
What is barely reflected, however, is, first, the interest of citizens who do not support the
withdrawal of their state to retain their democratic rights as EU citizens; second, the
democratic interest of citizens from other member states residing in the country in
question not to be subjected to exit decisions without a say; and third, the interest of the
peoples of the remaining member states in maintaining common democratic institutions
with the departing member state. What this example illustrates is that the democratic
legitimacy of disintegration cannot simply be achieved by opening or foreclosing options.
If disintegration – especially the ‘milder’ forms of retreat, revocation, and exit – are to be
considered as real political options, their democratic ambivalence needs to be navigated.
Who should have a say in which decisions about disintegration and what kind of a say
should that be? Would there have to be mechanisms of contestation such as access to
judicial review or veto powers for particular actors? Such are the questions that a
systematic theory of democratically legitimate disintegration will have to address. The
development of answers will have to start from the potential democratic costs and benefits
identified in this article.

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