

Beyond the Crisis: The Governance of Europe's Economic, Political, and Legal Transformation

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Chapter Abstracts

1. Introduction: The Governance of the Transformation of Europe's Economic, Political, and Constitutional Constellation since the Euro Crisis

Mark Dawson, Henrik Enderlein, and Christian Joerges

Regardless of its cause, the euro crisis has transformed Europe's economic, political, and constitutional constellation. Indeed, the present construction of the eurozone is fraught with risk and requires quite a fundamental overhaul. This introduction to the volume provides an overview of the current state of the European Union, in particular the economic and monetary union, and introduces the concept of exploratory governance as a way of thinking about the policy choices made under extreme uncertainty, as has been the case during the euro crisis. The chapter then justifies the volume's interdisciplinary approach, which goes beyond much of the existing literature by exploring changes in EU governance through distinct lenses. In this sense, the volume recognises the high interdependence of the different dimensions of both the crisis and any response to it: Leaders building a renewed architecture for the eurozone require solutions that combine elements of functionality, institutional feasibility, and constitutional legitimacy.

Part I. Economic Governance

2. Towards an Ever Closer Economic and Monetary Union? The Politics and Economics of Exploratory Governance

Henrik Enderlein

The chapter argues that economic and monetary union (EMU) in Europe is a showcase of 'exploratory governance'. The euro was created as a functionally motivated logical step in the process of European integration in order to make the single market work. Given the lack of agreement on how to achieve this, the EMU was established as a highly imperfect system and thus inherently unstable and continuously prone to collapse. Since its inception, the EMU has lacked the necessary levels of economic integration and convergence to allow the single currency to function properly. Despite significant action during the crisis years 2010-2013, today's EMU is still incomplete. What is required today is a focus on political choices in the process towards a strengthened or enhanced EMU.

3. Making the Euro Strive for the next 100 Years: What Is Needed and What Is Missing?

Marcel Fratzscher

There is hardly a more controversial debate in Europe than that about the advantages, disadvantages, and future of the euro. Has the euro been a success? What role does it play in the current European crisis? What are the prospects for the future? This chapter addresses these questions, as they are essential for understanding whether we are on the right path of European integration and what policy-makers should do. The chapter starts by analysing why the euro was

created in the first place. It then discusses the experience of the euro in the first ten years of its existence and asks whether the euro is a culprit that shares responsibility for the European crisis. The final part of this chapter then analyses what Europe has to do to make the euro not only sustainable but also successful in the long run.

4. Rebalancing and Completing the European Monetary Union

Loukas Tsoukalis

Previous attempts at European monetary integration ended up as German-led arrangements with shrinking membership. With the euro, the stakes are much higher. The biggest international financial crisis since 1929 has transformed itself into an existential crisis of the common currency. Systemic weaknesses of the Maastricht construction feed into individual national failures. Since then, many unthinkables have happened to save the euro, but the price paid has been very high. Europe is divided, the economic strategy flawed, and the politics toxic. Germany has emerged as the indispensable country, while Greece remains the weakest member. We need a more balanced approach combining structural reform with fiscal and monetary measures to boost demand. We also need a new European grand bargain aiming at a more effective and legitimate governance of the euro, while also providing more room for flexibility and differentiation for those who need it, such as the UK.

5. Rebalancing the Governance of the Euro Area

Jean Pisani-Ferry

Alongside the setting-up of a crisis management regime and the creation of a banking union, the strengthening of economic governance has been a major pillar of the European Union's response to the eurozone crisis. Between 2010 and 2014, the economic and monetary union (EMU) was the subject of a series of reforms, more than ever before in such a short time span. Yet, two years after this major legislative effort, few policy-makers would dare to claim 'mission accomplished'. This chapter outlines and discusses alternative possible directions for the reform of the euro area's economic governance. To this end, the reforms introduced in recent years, as well as the main shortcomings of the resulting policy system, are briefly reviewed. The chapter then proceeds with a presentation and analysis of alternative templates for governance reform and concludes with proposals for a practical agenda.

Part II. Institutional Transformation through the Euro Crisis

6. Opening Pandora's Box? The Crisis and the EU Institutions

Mark Dawson

This section of our volume discusses the ways in which the euro crisis has transformed the European Union's constitutional and institutional structure. While the EU's institutional set-up has often been based either on compromise between national and ideological interests, or on conflict minimisation, the crisis has severely disrupted the old consensus-based model of EU governance. Critical questions that have often been suppressed by particular aspects of the EU's institutional design—e.g. how to reconcile national and supranational institutions; the proper role of the EU courts in regulating the economy; and the limits and scope of delegation to technocratic governance institutions—can no longer be deferred indefinitely. The Pandora's Box of integration has been opened, with few

certainties as to what the constitutional structure of the EU will look like in the decades to come and as to how that structure can be held accountable.

7. Emerging from the Euro Crisis: The Institutional Dilemmas of a Political Union

Sergio Fabbrini

The euro crisis has radically transformed the institutional and legal configuration of the European Union (EU) as formalised by the 2009 Lisbon Treaty. The EU emerging from the crisis is characterised first by the institutional and legal separation between eurozone and non-eurozone member states and second, by an intergovernmental logic presiding over the functioning of the former. Regarding the separation between the two areas of member states, this chapter argues that it should be formalised in two different treaties, preserving at the same time the shared framework of the single market. Regarding the governance of the eurozone, it is necessary to create a political union based on an original form of separation of powers between executive and legislative institutions. A political union of demographically asymmetric and nationally differentiated states can function only compounding intergovernmental and supranational interests.

8. The Role of Courts in the Wake of the Eurozone Crisis

Alicia Hinarejos

The sovereign debt crisis has caused significant changes in the architecture of economic and monetary union and its constitutional underpinnings, and it has unleashed a broad debate on the future of European integration. This chapter analyses the different ways in which both the Court of Justice of the EU and certain national courts have been involved in the judicial review of post-crisis legal developments. Despite the significance of these developments, both EU and national courts have shown deference to the political process, to varying degrees. This degree of restraint is both problematic and hardly surprising, and it comes as a response to a different set of challenges in each category of cases. The chapter critically analyses the role played by the Court of Justice and national courts so far, and provides an overview of the challenges ahead.

9. Banking on Union: EU Governance between Risk and Uncertainty

Michelle Everson

Where the recognition driven by the financial and sovereign debt crises that a revolutionised financial system also poses dangers to futurising growth such that the primary regulatory aim has become the perfection of market utility by means of control of systemic risk, the European Central Bank now sits at the apex of a system of paradoxically permissive interventionism, which, it is postulated, can both maximise capital formation and provide financial stability. This chapter investigates this proposition, detailing first how conflicting goals of capital maximisation and financial probity are seemingly reconciled within a regime of 'really-responsive' supervision dedicated to the maintenance of 'sound European money'. Thereafter, the analysis details the problems found within permissive interventionism, whereby further efforts to square the circle of secure competition within structures of what can be termed 'democratised technocracy' create their own hazards, once again placing the future of the European Union in doubt.

Part III. Legitimacy Problems and Normative Perspectives

10. Europe's Legitimacy in the Crisis

Christian Joerges

Economic governance and institutional transformation, the focus of the previous two parts of this volume, are not only interdependent but also inextricably intertwined with the legitimacy problématique of the European integration project. The functioning and governance of markets cannot be insulated from social concerns and the claims of citizens, while the functioning of the European Union's institutional configuration depends on the integrity of these institutions and their trustworthiness in the minds of European citizens. 'Legitimacy' is a notion that reminds us of the need to fill the normative and empirical gaps exposed by the first two parts of this volume. This third part then seeks to provide an orientation for understanding legitimacy and its erosion, and to explore how legitimacy as an asset may regain strength.

11. The Inter-Democratic Deficit of the European Union

Daniel Innerarity

We are still unable to identify the true crisis in Europe. Is it a lack of *demos* or *cratos*? Is the democracy, legitimacy, or justice inadequate? Is it intelligibility or too little politicisation? This chapter introduces three hypotheses. First, attempts to explain the crisis that focus on a single deficit are unsatisfactory. Instead, the discussion should focus on how these deficiencies are expressed and the extent to which each is involved. It makes no sense to entrust the entire solution to strengthening one criterion (e.g. participation, effectiveness, or communication). Second, polarising the legitimacy framework around two possibilities (input and output) is a simplification that does not reflect how results and procedures, effectiveness, and consent are related in democracies. Third, the resulting description cannot be less complex than that which it describes, so the task of repairing EU legitimacy should be carried out by dividing labour between institutions, criteria, and values.

12. Political Legitimacy, Credible Commitment, and Euro Governance

Albert Weale

Deepening economic governance and the crisis of the eurozone underscore the issue of political legitimacy in the EU. Analytically, legitimacy may be understood by reference to modern social contract theory, which states the conditions under which actors can credibly commit to one another for their mutual advantage. The same theory also shows that when a promised commitment is broken, various instruments of monitoring and compliance will be introduced, a pattern that has been observed in reforms to eurozone governance. Yet, in understanding such a contract, attention needs to be paid to context. The depoliticisation of money involves an affirmation of some types of political responsibility and the denationalisation of money is not credible unless it can secure continuing domestic political support. Given the constraint on political developments, the greater inclusion of national parliaments in the European policy process is essential.

13. Paradoxical Europe: The Eurozone Crisis and the Unanticipated Consequences of Integration

Maurizio Bach

The European Union is suffering one of the deepest confidence and legitimisation crises in its history, which can be recognised as an unintended and paradoxical effect of crisis management. The chapter

examines these effects by adopting the sociological paradigm of self-perpetuating social processes. Mainly three characteristics of the European regime foster the paradoxical dynamics of the crisis and significantly weaken the prospects of rational crisis management: first, the EU's low problem-solving capacity in the light of the dual system of concurrent intergovernmental and supranational policy aspirations; second, the political short-term pragmatism against the background of a prevailing method of functionalist European integration; and third, the closed system of monetary union, which forecloses an exit option, with its conflict-intensifying effects.

14. Constitutionalism and the Law of the European Economy

Christian Joerges

The dominating strands of European law scholarship have failed to take the political dimensions of the economy seriously. This chapter presents assessments on various aspects of constitutionalism and the law of the European economy. In discussing European 'economic constitutionalism', the chapter points out the deficiencies of the integration through law project, which has rested on a one-size-fits-all assumption and has thus failed to come to terms with Europe's diversity. It then highlights the judicial fiction of a 'stability community' and introduces the concept of 'diagonal conflict' to characterise the basic dilemma resulting from the Maastricht Treaty compromise. Finally, the chapter traces the authoritarian managerialism style of economic governance that has emerged from the recent crises and pleads for political contestation, rather than normalisation, as a way toward cooperative problem-solving and legitimacy.

Part IV. Governance Indicators

15. Inequality in Economic Perceptions within and between EU Member Countries

Liam F. McGrath

The eurozone crisis has led to considerable economic divergence between EU member states and has affected economic conditions for citizens. Yet whilst much is known of objective economic conditions, less is known of citizens' perceptions of economic conditions, particularly regarding their own well-being. In this chapter, we develop a measure of underlying economic perceptions for income groups within EU countries. Using data from Gallup (2007–2013) and a Bayesian measurement model, we place group perceptions on a single dimension. From this, we explore inequality between income groups' economic perceptions within EU countries and, by segmenting countries by eurozone membership as well as whether countries were severely affected by sovereign debt crises, we identify differential trends in economic perceptions between EU countries. These results shed light on issues related to legitimacy and inequality within the EU and particularly during the crisis.