

The Euro Crisis and the Democratic Governance of the Euro: Legal and Political Issues of a Fiscal Crisis

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Highlights

On 10 May 2012, leading academics from the fields of economics, law, political science and history met, at the European University Institute, with the President of the European Commission José Manuel Durão Barroso and high-ranking officials to discuss the subject of ‘Democratic Governance of the Euro’. At the GGP High-Level Policy Seminar, policy recommendations to strengthen democratic participation and legitimacy in the European Union in the context of the current crisis were debated.,

Amongst the participants, there was general consensus that more and deeper integration is needed to respond to the challenges posed by the Euro crisis. Building on this commonly shared view, the seminar debate turned on ways and models to reach such higher level of integration in a democratically legitimate manner. This Policy Brief highlights the following five of the discussed options – non-exclusionary and interrelated in nature – to enhance democratic governance of the Euro:

(1) Politicizing the EU by politicizing the European Commission through the transformation of the next election to the European Parliament into an electoral competition on the presidency of the European Commission;

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(2) Introducing a tax at the European level to equip the European Union with resources independent from Member States and to make citizens aware of the existing benefits of integration;

(3) Adding an institutional reform component to European policies, so that grant of European funds becomes conditional on targeted institutional reforms;

(4) Strengthening the relation between the European Union and national parliaments by furthering exchange and making European institutions more accountable towards national constituents;

(5) Increasing transparency and accountability of the European Stability Mechanism (ESM).



José Manuel Durão Barroso, President of the European Commission, and Miguel Poiars Maduro, Director of the Global Governance Programme

I. Background

The fiscal crisis has exposed the most important element of the European Union's democratic deficit: the scope and level of politics has not followed the scope and level of political problems in Europe. Throughout the last decades, the European integration project has generated a deep interdependence between national policies; yet this interrelation has never translated itself into European politics. If one Member State adopts problematic fiscal policies, the impacts thereof will be felt in other Member States and although these issues are of a European dimension, they are in a good part still governed at the national level and still largely dependent on national politics. Hence, the Euro crisis serves as an example of our incapacity to internalize the degree and democratic consequences of the interdependence generated by integration.

Moreover, the fiscal crisis has altered the realities of democratic governance and policy making within the European Union. Sixpack, Fiscal Compact (TSCG) and European Stability Mechanism (ESM), which were all introduced in reaction to the

crisis, have contributed to this change. On the one hand, new institutions have been created in order to ensure fiscal stability. On the other hand, existing European institutions have taken on new responsibilities. Exemplary for this development stands the introduction of the task for the European Commission and the Council of the European Union to review national budgets (as stipulated in the Sixpack and Articles 5 et seq TSCG). Furthermore, some of these instruments have been decided upon outside the Community method and even the EU legal framework. Looking at the Fiscal Compact, as an example, it was adopted in the form of a classical international agreement.

From a democratic point of view, these changes share one problematic feature: They have been introduced in such short time that democratic legitimization thereof has not been able to keep up pace. This has contributed further to transform the crisis of the Euro into a crisis of the European Union. Two aspects highlight this development: first, intergovernmentalism is on the rise. Far reaching decisions are taken by small political elites in late night conferences without sufficient involvement of existing Union bodies and European citizens. Results are presented as being without any alternative and with-

out an open political debate having taken place in the Union. Second, euro skepticism is on the rise. Many citizens do not see European institutions as reacting soundly to the crisis. Instead, they blame primarily the European Union for the current problems, although it has played an only minor role in their creation.

Against this background, participants to the seminar discussed what could be done to remedy the failures of the current system. Bearing in mind that a credible solution to the current crisis depends on addressing the democratic deficit of the European Union but also provides an opportunity to do so, they sought ways to create a constitutional moment within the existing Treaty framework that enables citizens to (re-)connect with the European Union.

II. Key Issues and Proposals

1. Politization of the European Commission

The first proposal argued that the next elections to the European Parliament should be transformed into an electoral competition on the presidency of the European Commission. According to the suggestion, political groups in the European Parliament shall designate candidates for the next election on the post of President of the Commission. By doing so, the President of Commission would be equipped with more direct democratic support. The increase in power of the Commission under the new fiscal mechanisms would be met with an increase in the institution's legitimacy. This would also serve to increase the political capital of the President of the European Commission, granting him or her a more effective political authority to develop an agenda for the Union that would have been endorsed by citizens. To illustrate this point by means of a hypothetical: had candidates for President of the Commission discussed the options of Eurobonds or new own resources as a response to the fiscal crisis during the last elections to the European Parliament, the Commission's proposals on the issue would have enjoyed greater political capital. Furthermore, by making the election of President of the Commission dependent on the composition of the European Parliament, citizens would become more interested in its election, as well. They would no longer see their choices as being limited to being either for or against the Union as such. Instead, an emergent European political debate would highlight to European citizens alternative visions of what the European Union could look like in the future.

The suggestion raised critiques as to the feasibility and desirability of such politization. As regards the proposal's feasibility, it is questionable whether candidates can be established in the absence of true

European parties. In addition, it is uncertain whether the Heads of government of the Member States, who currently propose the candidate for President of the Commission in the Council of the European Union, will accept such change in practice. With regard to its desirability, there is the danger of over-politizing and thereby weakening the Commission. The institution's independence could be called into question. Furthermore, it is possible that after future elections, the President of the Commission's political orientation will not align with that of the parliamentary majority. Under such a constellation, ideological cleavages would have been created that would hinder instead of fostering cooperation.

In reaction to these objections, the proposal's proponents replied that the benefits of such politization would nevertheless outweigh the risks linked to a lower perception of the Commission's independence. The latter would, in any event, be put into question in light of its increased role in national economic and social policies and it's better to assume the consequences of this. As to the fact that the Treaty on European Union (TEU) still entrusts the choice of President of the Commission to the Heads of government of the Member States, the proposal proponents argue that the political dynamic and legitimacy generated by such electoral process, together with the fact that the President of the Commission needs to be approved by Parliament, would give national governments no choice but to appoint the candidate having "won" the elections. In addition, they argued that this proposal will preserve some hybrid character of the Commission: a pluralist composition of the Commission and influence by Member States will be insured by the fact that Member States continue to put forward candidates for the College of Commissioners. This should not be seen as a problem but as part of the gradual evolution of the EU political system.

2. No Representation without Taxation

The second proposal was to introduce a tax at the European level, if necessary under the method of enhanced cooperation. Two arguments were put forward in favour of the suggestion: first, a European tax will equip the Union with independent funds to supplement its surveillance policy of austerity measures with targeted supports and investments (allowing it to act not only with a "stick" but also with "carrots"). Second, it will make the European Union more accountable: it would highlight the "European character" of the activities to be taxed at EU level and it would distribute 'its' money and not that of the States. The underlying democratic rationale is that of establishing a clear connection between the Union's financial resources and the wealth it generates. European citizens will become more aware not only of the role of the European Union, but also of the benefits of integration. The solidarity discourse will also be altered: the Union would no longer be seen as transferring money from one State to another, but distributing the wealth generated by the process of European integration.

As possible options for European taxation, participants to the debate mentioned in particular introduction of a Financial Transaction Tax (FTT) and reform of the VAT on cross-border economic activities. Concerning the FTT, they stressed that is essential to consider the objectives – creating a source of revenue, gaining political support, regulating banks – one wants to pursue when designing the tax. It was pointed out the difficulties in the construction of a FTT due the high mobility of capital. Nevertheless, many participants to the seminar perceived a FTT as a sensible option because the European Union could show that, due to its transnational nature, it is capable of regulating financial transactions more effectively than the Member States. Moreover, the tax was seen as having the potential to be strongly supported by European citizens.



Leading scholars from legal, economic, historical and social backgrounds discuss proposals for the reform of the Euro area governance in light of democratic principles (High-Level Policy Seminar The Democratic Governance of the Euro, 10 May 2012, EUI)

Following up on this last point, taxation experts emphasized that, in the event of a European tax, politicians will need to find a clear link between the chosen form of taxation and its benefits.

3. 'Power of the Purse'

Participants to the High-Level Policy Seminar put forward the idea to enhance reforms in the Member States not only through the threat of sanctions, but also via the means of positive incentives. The European Union should follow a 'sticks and carrots' approach. A first way to do so is making the grant of European funds conditional on targeted institutional reforms. Instead of giving money for projects of the Member States, the European Union should use its 'power of the purse' to only support projects and programmes that meet its (to be set up) substantive conditions (including systemic reforms).

The alternative to allow Member States to spend on investment projects beyond the limits of the Fiscal Compact was also discussed. There was no consensus in this respect. One suggestion was to allow such

investments under the condition that they would be subject to a regime similar to the existing state aid regime.

Responding to the critique that such proposals add little to an increase of democratic legitimacy, its proponents on the one hand stated that one needs to evaluate the suggestions in comparison to the policies now in place, which give the Commission only the tool of sanctions to promote reforms. On the other hand, they pointed out two substantive arguments: democracy requires a polity to offer something besides disciplining its constituents in order to gain acceptance; moreover, linking European Union policies and expenditures with systemic reforms in the Member States can result in the European Union playing a more effective role in remedying democratic failures at the national level.

4. Political Kooperationsverhältnis

The fourth option discussed to increase democratic governance within Europe was to establish a relation of stronger cooperation between European institu-

tions, such as Commission and Parliament, and national parliaments. Given that the Commission has now the power to control national budgets, therefore a fundamental part of the work of national parliaments, it is important to strengthen the direct dialogue amongst those actors. Fora of debate could be established to increase the sense of ownership by national parliaments as well as a sense of accountability by the Commission. For example, one could initiate debates within national parliaments under the label of ‘the state of the State in the Union’. In these debates, the President of the Commission or a European Commissioner would be required to present a summary of the reports, recommendations and assessments that the Union will produce for each State.

Furthermore, several participants stressed how important it would be for national politicians to change their conduct of externalizing political costs to the EU and internalizing the accomplishments and successes of integration to their own advantage. It was thought that political debates, at national level, involving both EU and national political actors may help remedying this situation.

5. Accountability and the ESM

Last, the debate turned to the specific design of the European Stability Mechanism (ESM). Highlighting the key role it plays in reacting to the fiscal crisis, it was argued that its accountability needs to be increased. Several of the proposals that the Policy Report “The Euro Crisis and the Democratic Governance of the Euro” puts forward were briefly discussed. In particular, means to enhance the accountability of the Board of Governors of the ESM were suggested. Under the current framework, the Board of Governors itself is entrusted with the settlement of disputes arising on the interpretation and application of the ESM Treaty between the ESM and one

of its member states. Instead of having the Board act as a *judex in causa propria*, an independent Board of Appeal could be created as a surveillance body. Furthermore, the ESM Treaty in its present form does not require the Board of Governors to state reasons for its decisions. Hence, a second suggestion was to create an obligation – similar to that of all EU institutions under Article 296 Treaty on the functioning of the European Union (TFEU) – for the Board to motivate its decisions.

6. Conclusions

In the end, participants to the High-Level Policy Seminar agreed that realization of all or a combination of the discussed proposals will reduce the European Union’s democratic deficit and advance democratic governance of the Euro.

