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Emergency politics in the European Union: intergovernmental drift as a reaction to the crisis

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This is work in progress. Comments welcome.

"You never want a serious crisis to go to waste. And what I mean by that is it's an opportunity to do the things you think you could not do before".
Rahm Emanuel (chief of staff of then President-elect Barak Obama, speaking in 2008).

Abstract
This paper draws on the concept of emergency politics and the concomitant notion of the state of exception (as they have evolved and been applied in European constitutional and political history) to shed light on how the European Union's handling of the ongoing crisis has affected the EU's institutional architecture and operation. The paper draws on empirical evidence from post-2008 EMU-related reforms and demonstrates that – overall – the crisis has been used (by the supporters of the TINA – there is no alternative - doctrine) to undermine the progress towards parliamentarisation that the EU has made via the Treaty of Lisbon which, tellingly, was signed before the onset of the crisis. Unlike the reforms that are associated with that treaty and were partly meant to render the political and ideological element much more prominent, the EU's crisis management has tended to reinforce the logic of the TINA doctrine and the intergovernmental element of the EU's institutional edifice.

Introduction[1]

The purpose of this paper is to examine the EU's collective response to the crisis from the perspective of emergency politics as well as the implications of this response for the evolving EU polity. There are two principal reasons why this is worth doing, in addition to the Schmittian idea that one understands the ordinary by examining the extraordinary (Schmitt 2005 [1922], 5-6). First, a whole array of institutions and processes has been created in response to a crisis that has tested the foundations on which economic and monetary union and the EU more broadly are based. Understanding these changes will help us gain a better understanding of the EU as it currently stands. However, and this is the second motive, existing analyses of the impact of the handling of the crisis on the EU's institutional architecture tend to focus on individual elements such as the European Commission (Bauer and Becker 2014, Dehousse 2015) or Parliament (Rittberger 2014) while a much broader analysis (White 2015) ignores key developments of the post-Maastricht era but, crucially, there is disagreement between them. While some scholars argue that the EU's supranational elements have been enhanced (Dehousse 2015, Bauer and Becker 2014), others disagree (Chang 2013, White 2015) or take a more nuanced view (Dawson 2015, Schwarzer 2012).

The overarching argument that this paper presents is that the literature on the state of exception and emergency politics helps us make sense of post-2008 developments by highlighting the suspension of ordinary norms, the temporal paradox (the asymmetry between urgency and the long-term implications of responses to crises), the redistribution of power not only in the Schmittian sense of who is sovereign (Schmitt 2005 [1922], 5) but also as a result of crisis management (at least in terms of the relationship between executives and legislatures) and, finally, the role of discourse. The EU's collective response to the post-2008 crisis displays several of the characteristics of emergency politics – so, in that sense I am in agreement with (White 2015) – *but* this response goes against the most significant institutional development since the early 1990s, namely the EU's intensifying parliamentarisation (Rittberger 2012), i.e. the enactment of institutional changes that approximate it to the model that dominates in its member states, namely parliamentary democracy, the most emblematic of these changes being the post-Lisbon contestation for EU executive office – specifically the Presidency of the European Commission. It is argued that the opponents of parliamentarisation and explicit political contestation of the content and future direction of the project have seized the opportunity afforded to them by the ongoing crisis to question and challenge recent developments introduced by the Treaty of Lisbon, preferring instead to cement existing arrangements and practices that appear to forestall, or at least delay and undermine parliamentarisation and political contestation. This has, at least for the time being, benefitted the interests of the supporters of the 'TINA doctrine' (there is no alternative) which dominate the collective handling of the crisis. This is an important departure from White's argument because one of the ways in which the EU and its predecessors had

[1] The author has benefited from comments made by participants at the ECPR workshop on crisis and transformation at the University of Trento on 29 May 2015, the Conference of Europeanists (especially Jonathan White) at Sciences Po, Paris, 8-10 July 2015, Mareike Kleine, Philippe Marlière, Anand Menon, Myrto Tsakatika and Argyris G. Passas on an earlier draft of this paper. The usual disclaimer applies.

originally departed from the parliamentary model – for reasons that are historically understandable – was the appointment and composition of the European Commission (especially the president) as well as the original sidelining of the European Parliament. The latter has been largely reversed[2] - leading Fabbrini to argue that the 'EP has finally become an institution of equal standing with the Council' (Fabbrini 2013, 5) - but the former has remained in place until the early 2000s by which time the value-laden nature of the EU and its policies had become much more obvious – hence Joschka Fischer's call of May 2000 to discuss the *finalité politique* of European integration (Fischer 2000). Developments that took place during the 2000s and especially the Treaty of Lisbon (signed in 2007, i.e. *before* the onset of the crisis) were partly meant to render the political and ideological element much more prominent – hence the direct link between the result of European elections on the one hand, and the presidency of the Commission on the other, as well as the formal move away (from the Treaty of Nice onwards) from unanimity for key nominations including the presidency of the Commission. This was part of a broader process that one may call 'parliamentarisation' of the EU (Rittberger 2012). Yet, as will be demonstrated, one of the key elements of the EU's response was the partial but clear switch from the supranational to a much more intergovernmental path. As in true emergency politics, norms have been set aside, without being formally revised or breached, all done in the name of necessity as a response to an exceptional and urgent threat.

The next section presents and analyses the two central concepts of emergency and state of exception and the relationship between them. The section that follows it presents some empirical evidence which – on the whole – underpins the central argument, namely that the ongoing crisis has been used (sometimes openly and formally, sometimes informally and covertly) to (a) contest or challenge recently taken steps towards the parliamentarisation of the European Union at the heart of which is political contestation about the content and future direction of the entire project and (b) steer it towards an intergovernmental path.

Emergency politics and the state of exception

In democratic polities emergency and the related (but narrower) concept of the state of exception have the following central characteristics that can be clustered under two headings, namely (a) time and (b) institutions or institutional change, both of which permeate existing work on emergency, the state of exception and the concept of emergency politics 'in which actions departing from conventional practice are rationalised as necessary responses to exceptional and urgent threats' (White 2015, 300, see also Honig 2009). As Agamben notes, the concept of the state of exception is the product of the democratic-revolutionary tradition, not the absolutist one and dates back to Article 92 of the constitution of 22 Frimaire Year 8, that allowed a city or region to be declared *hors la constitution* in cases of armed revolt or disturbances that

[2] This has been done not only via the co-decision (now ordinary legislative) procedure (OLP) but also the operation of decision making within the EP on a majoritarian basis since the preferences of the single largest parliamentary group determine the handling of approximately two thirds of cases handled under the OLP. This is a key feature of early agreements (Reh et al. 2013, Costa, Dehousse, and Trakalová 2011). The Lisbon Treaty has also given to the EP veto power in relation to both the EU's entire annual budget and its 7-year financial framework.

threatened the security of the state and involved not only the extension of military powers to the civil sphere but also the suspension of the constitution or the norms thereof that protect individual liberties but over time the two models have merged into a single juridical phenomenon entitled 'state of exception' (Agamben 2005, 5).

Emergency and the state of exception relate to extraordinary events, processes or a state of affairs that generate a necessity[3]. It is worth pointing out that – as Agamben notes – in German the corresponding terms are not only *Ausnahmezustand* (where Ausnahme means exception) but also *Notzustand* (where Not means necessity) i.e. state of necessity. However, proclaiming a necessity entails a subjective, rather than an objective, judgment[4] (for the relevant debate see Agamben 2005, 29-30).

Due to emergency's extraordinary nature[5], the state of exception is by definition based on the need to *deviate*[6] from the applicable ordinary, routine, standard operating procedures of the polity in question. This means that the norm remains in place but is not applied (Agamben 2005, 38, Honig 2009, 66-7, Schmitt 2005 [1922], 14).

Emergency and the concomitant state of exception imply urgency or a significant degree of time pressure generated by the extraordinary nature of events/crisis. While the causes may be diverse, the assimilation of military and economic ones is a longstanding feature of the practice of the state of exception. This has been encountered in France, as well as in inter-war Germany and the parallel has been strong also in the USA as demonstrated by the debate surrounding the New Deal (Agamben 2005, 22). Scheuerman argues that

> substantial evidence suggests that the *scope* of economic emergency powers has increased significantly in most liberal democracies since the nineteenth century. Initially a mere supplement to *wartime* emergency powers, executive-dominated emergency economic regulation now represents a more or less *permanent* feature of political life in many liberal democracies
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> (Scheuerman 2000, 1870).

The assimilation of military and economic causes is not devoid of major consequences. Quite the opposite is true, at least in terms of the political discourse that surrounds emergency politics (see below).

Urgency and the need to deviate from the usually slow applicable standard operating procedures are causally linked to each other. The former causes the latter. In addition,

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[3] On necessity and the law see Agamben (2005, 24ff.).

[4] In Honig's terms, the state of exception is 'a condition in which ordinary law is legally suspended and sovereign power operates unfettered, by way of decision' though, contra Schmitt, this 'need not mean that all powers redound to a single unaccountable dictator' (Honig 2009, 66-67).

[5] Rossiter goes as far as to argue that 'the complex system of government of the democratic, constitutional state is essentially designed to function under normal, peaceful conditions, and is often unequal to the exigencies of a great national crisis' (Rossiter 1948, 5).

[6] For Rossiter this deviation is explicitly associated with 'fewer rights' for the citizens and is partly rooted in Rossiter's belief that democracy is suited to operating in normal, not extraordinary circumstances (Rossiter 1948, 5). On the broader issue of how the state of exception relates to the juridical order, Agamben's highlights (2005, 22-23ff.) the presence of two scholarly traditions, i.e. those who include the state of emergency within the sphere of the juridical order (Schmitt 2005 [1922], 12) and 'those who consider it as something external, that is essentially political or in any case extrajuridical, phenomenon'. His own view is echoed by Honig's statement that 'the state of exception is itself a legal condition of alegality' (Honig 2009, 87).

as Bonnie Honig notes, emergency politics involves 'the (re)distribution of governing powers and the mechanisms by which such powers are held accountable or not' (Honig 2009, 68). In democratic polities – because of the need for swift action – the deviation from the applicable standard operating procedure is directly linked to the enhancement (however *temporary*) of the powers of the executive to the detriment[7] of parliamentary, i.e. representative (deliberative and slower), institutions but this enhancement is normally associated with time limits such as 'sunset clauses' etc. However, the need for swift action is not normally understood as negating – but merely postponing – the authorisation of measures taken by the executive. As a result, governments need authorisation for taking extraordinary measures (that give concrete meaning to the state of exception) swiftly, or on a post hoc basis (i.e. as ratification of measures) but in tight time limits or for keeping them in place. There is a constitutional and a parliamentary model of dealing with this issue (Ferejohn and Pasquino 2004, 216ff.).

Executives need authorisation because in democracies individual rights and collective decision making procedures are meant to protect the citizenry and deviations from them if allowed – as in the case of the state of exception caused by an emergency – when necessary, are limited in time and need to be transparent and fully justified[8].

Moreover, the state of exception, notes Agamben, relates to the notion of *pleins pouvoirs*, which predates the separation of powers doctrine and that doctrine's objective of maximising liberty by limiting power. This expression ('full powers') is sometimes, as Agamben notes, used to describe the expansion of the powers of the government 'and in particular the conferral on the executive of the power to issue decrees having the force of law' and is one of the forms that the state of exception can take but does not coincide with it (Agamben 2005, 5-6).

The key point is that in the state of exception the balance of power between legislative and executive institutions changes to the detriment of the former although (a) legislative power logically precedes executive power and (b) in the past, the state of emergency doctrine and practice ascribed a key role to parliament either by handing to it the power to declare the state of emergency or by requiring the ratification of this decision by parliament (Agamben 2005). The latter is a core feature that survives until today[9]. As Agamben notes (2005, 12), in the French tradition of regulating the state of exception, at least since the Constitution of 1848 though not without exceptions, the 'dominant principle' has been that *the power to suspend the law can only be held by the same branch/power that produced the law* (i.e. parliament[10]). This is essential, I argue, if the democratic polity's defining line of accountability is to survive.

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[7] Rossiter distinguishes between 'emergency action of an executive nature' and 'emergency action of a legislative nature' (and associates the latter with a 'crisis of economic depression') (Rossiter 1948, 9) but this distinction is misleading for it obscures the empowerment of the executive as a key common feature of both types of emergency action. As he too acknowledges, '[c]risis government is primarily and often exclusively the business of presidents and prime ministers' (Rossiter 1948, 12).

[8] On the role of the public in this assessment see (Feldman 2008).

[9] See, for example, the UK's Civil Contingencies Act 2004. The regulations that are made by virtue of this act of parliament last for a week unless parliament confirms otherwise.

[10] This is ironic since the French parliament is, for historical reasons, severely constrained by the French Constitution under the Fifth Republic. In Germany, on the other hand, during the interwar period the head of state was entrusted with the power to suspend the law but under conditions that were meant to be specified by parliament which, however, never happened (Agamben 2005, 14-15).

The enhancement of the powers of the executive in the context of the state of exception (across the board and irrespective of the shape of the democratic polity in question) is significant for additional reasons which also underline the need to go beyond a narrow focus on a conception of that state as government by decree and opt – instead – for the more expansive concepts of 'politics of the extraordinary' (Kalyvas 2008), or 'emergency politics' (Honig 2009). While executive institutions – as the term itself indicates (and not only in English or French) – are overwhelmingly associated with action (they are action-orientated institutions), parliamentary ones are predominantly associated with reasoned deliberation, justification and (above all) political contestation at least since the advent of the distinction between the political Left and Right in late 18th-century Europe.

However, emergency politics is associated with a particular kind of political justification. As White notes, '[p]artly because the political debate that would produce it is marginalised, politics in the emergency mode is characterised by the suspension of political justification in all but its most primitive form – survival' (White 2015, 307). This has significant implications. Given that parliament's role as the central forum for the conduct of organised debate (which entails not only offering solutions but also, crucially, justifications for them) on the central issues that affect society as well as the polity is a key characteristic of democratic politics, its sidelining or the curtailment – however temporary this may be – of its powers facilitates, instead of hindering, *la pensée unique* and crucially, skews the debate in favour of the most powerful actors irrespective of the intellectual or other weaknesses of their views[11]. The emphasis on 'survival' is the by-product of the assimilation of economic and military causes of emergency and securitises the debate. As a consequence, it ends up foreclosing[12] (or, at least, does not offer enough space for) a robust debate on alternative responses to the crisis and even obscures, as White appositely notes (2015, 307), the value-laden nature of the sovereign's preferred solution. Opposition to that solution is portrayed (and dismissed) as being tantamount to de facto opposition to survival, i.e. an irresponsible course of action that ought to be rejected.

Finally, the reinforcement of the executive and the fact that in parliamentary democracies executive power tends to be concentrated in the hands of the prime minister does not imply the acceptance of Schmitt's association of sovereignty with a single officeholder who decides on the state of exception. Rather, as White put it (and will be demonstrated in the empirical section of this paper)

> [w]hat we see today […] is something different: an emergency regime co-produced by many rather than centred on the singular author and decision […]. Instead of being tied closely to an agent whose sovereignty it reveals, the emergency regime is a collaborative phenomenon, promoted by those with an interest in its production, and consolidated by those who lack the authority to revoke it or who actively give credence to the authority claims of others.
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> (White 2015, 301)

[11] In that sense, they confirm Carl Schmitt's definition of 'sovereign' as the one who decides on the exception (Schmitt 2005 [1922], 5).

[12] One example of this is the facile rejection of alternatives as 'playing politics', though this does not mean that playing politics is not involved therein. The key point is that not all alternatives are about playing politics but are rejected on this basis.

The extraordinary nature of the situation and the requisite speed of action are not – in and of themselves – sufficient to justify dramatic changes at the level of the polity though a window of opportunity can appear during the crisis. However, in the state of exception the provisional abolition of the distinction between the three branches of government 'tends to become a lasting practice of government' (Agamben 2005, 7, cf. Ferejohn and Pasquino 2004, 210-11). Here, there are two key issues. First, the state of exception can last for a considerable amount of time, as the case of World War I indicates[13]. Second, because of the window of opportunity that opens with the onset of the crisis, the implications of its very swift (due to the emergency) handling may well end up having a totally different relationship with time: they can be lasting, far-reaching, quasi-permanent (i.e. the opposite of short-lived) and this endurance may be designed to be a key component of this response to the emergency; indeed, the more enduring it is, the more robust and convincing it may be meant to look. In support of the claim regarding this temporal paradox[14], Agamben highlights (Agamben 2005, 13) the cases of post-WWI France where both the Poincaré and the Laval governments (in 1924 and 1935) respectively asked for *pleins pouvoirs* on financial grounds (with an effective but implicit assimilation of war and economics as the corresponding political rhetoric indicates). The Laval government passed around 500 decrees that had the force of a law so as to avoid the devaluation of the franc only to be followed by the Blum and Daladier administrations[15]. In more abstract terms, the speed of decision making that the deviation from normal procedures entails may well come at a price and is far from neutral in relation to the preferences of the key decision makers, the rules of the game and the status quo ante or at least the predominant 'reading' as to the causes of the crisis. While this drift may well be meant to be temporary – as it was when the idea of the suspension of the constitution was introduced for the first time (Agamben 2005, 5) - in reality/effect it may well end up being much more enduring[16], shaping de facto the polity.

Therefore, with White, emergency politics is construed here as

> a distinctive mode [of rule] in which actions contravening established procedures and norms are defended – often exclusively – as a response to exceptional circumstances that pose some form of existential threat. It is marked by the interlocking of a provocative practice – for example a policy initiative or decision-making process – with a particular form of validation, which often, though not always, bears the vocabulary of 'emergency', 'exceptional', 'save', 'rescue', 'security' and so on […] A sense of urgency pervades emergency politics, and is commonly used to excuse the pre-empting of debate and patient efforts to build public support. Necessity rather than consent is the organising principle. Importantly, *I approach the politics of emergency as distinct from the*

[13] Agamben uses the example of France (2005, 12) and cites Tingsten who says that during WWI executive power had been transformed into a legislative one in the material sense of the term.

[14] Measures that are meant to address short-term needs end up lasting for a long time – a risk that is associated even with the parliamentary model of regulating the state of emergency (Ferejohn and Pasquino 2004, 219).

[15] Both Left- and Right-wing governments have used emergency economic powers (Scheuerman 2000, 1873).

[16] As White notes, 'there are forms of exceptionalism which, because they stay within narrow parameters, may be acceptable under certain conditions' (White 2015, 303, see also Ferejohn and Pasquino 2004, 212ff.).

> *objective conditions to which actions respond: not every crisis need be handled in an emergency fashion, nor need there be a crisis to occasion this response*. (White 2015, 302-3 - emphasis added).

The next section of the paper presents key elements of the EU's collective response to the ongoing crisis and seeks to demonstrate that this response displays several of the characteristics of emergency politics, i.e. the suspension of ordinary norms, the temporal paradox (the asymmetry between urgency and the long-term implications of responses to crises), the redistribution of power and, finally, a particular kind of discourse (which permeates and underpins the other characteristics of emergency politics).

Emergency politics and the EU's response to the crisis

Setting aside ordinary norms

The first[17] set of exceptional measures introduced in order to save Greece (and, by extension, its private lenders in the European banking system) from bankruptcy took the form of multiple bilateral loans (to the tune of €110bn[18]) made available to Greece in May 2010 and went hand in hand with the involvement of the IMF (on the insistence of Germany[19]) alongside the European Commission and the ECB in what became known as 'the troika'. Greece's first 'bailout' had two intended effects: the country did not go bankrupt in 2010 and European banks (most notably French and German banks) avoided a catastrophic collapse. Europe's 'Lehman Brothers moment' simply did not happen. The key point here is that the treaty's 'no bailout clause'[20] has been set aside. It has not been amended or even formally suspended. Faced with the first real test of its credibility, and despite being the cornerstone of the EMU's institutional edifice as designed in the early 1990s, it has remained unapplied in line with emergency politics as conceptualised in the first section of this paper.

This decision went hand in hand with the beginning of the systematic use of a specific type of *narrative* that is meant to legitimise a series of exceptional measures that go way beyond Greece's bailout of 2010. This narrative takes the form of an enduring

[17] While it is true that the Irish banking crisis had started earlier and the Irish government guaranteed the debts of six Irish banks in September 2008, Greece is used as the starting point here because of the immediate (unlike in the Irish case) involvement of and implications for the EU system. Indeed, the Irish government subsequently (in November 2010) used the financial mechanism (EFSF) used to handle the Greek facet of the crisis.

[18] This was followed by a second bailout in October 2011 that was worth €130bn.

[19] This was partly justified on the basis of the absence of relevant expertise among EU institutions (specifically the European Commission) but, given the IMF's quasi-institutionalised policy preferences, this decision de facto amplified one particular camp within the EU, i.e. those who portrayed the crisis as a sovereign debt crisis. It has also been reported that Angela Merkel wanted the IMF to be involved because she expected the European Commission to be put under pressure in Greece case (Augstein 2015).

[20] The first paragraph of Art. 125 TFEU stipulates that 'The Union shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project.'

barrage of statements from senior politicians at the national level and EU officials – ranging from European Commission (then) President Barroso who referred to the need for 'exceptional measures' 'in exceptional times' to Chancellor Merkel's frequent recourse to the notion that saving Greece was the price to pay for saving the euro which, in turn, (in her words) was also meant to save the European Union (see, e.g. Merkel 2010). One can also add, as White points out (2015, 305), Jean-Claude Trichet's explicitly reference to 'federation by exception'.

As we will see, the narrative and exceptional measures are not only meant to be mutually reinforcing, but they also reflect a contested understanding of the origin of the crisis as well as a contested response to it. This contestation is evident in political, ideological and economic/technocratic terms but the discourse deployed by the dominant actors – with its emphasis on survival and emergency – de facto reduces the scope for a substantive debate in the public domain and, primarily, amongst policy makers. A by-product of this kind of rhetoric is the concealment of the ideological element of the collective response to the crisis.[21]

The temporal paradox

In December 2012, the member states (minus the UK[22]) agreed the 'fiscal compact' on an intergovernmental basis as a result of the UK government's unsuccessful[23] attempt to block other member states' preferred route which was to reform the EU treaty[24]. The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union includes several important elements that relate directly to emergency politics as presented in the previous section. On the *policy front*, it reinforces the logic of the Maastricht Treaty's EMU arrangements. A key part of the EU's collective reaction to the crisis was the establishment of the European Stability Mechanism[25] (ESM). Its creation was based on a political decision reached by the European Council in December 2010 and it involved a formal amendment of the treaty but on the basis of the simplified as opposed to the lengthier, more cumbersome and transparent ordinary procedure that involves a convention where the Commission and EP would play an important role. The aim of the ESM is to 'safeguard the financial stability of the euro area as whole'. It is only available to those euro area countries that have ratified the fiscal compact and provides funds to participating states that need them but on the basis of explicit and formal conditions. This is a point to which I shall return but it is important to state that these conditions reflect the logic of the

[21] On the contrary, actors like Mario Draghi who had, ex officio, less reasons to worry about the ideological debate were more explicit – hence his statement regarding the 'end of the old welfare state' (Draghi 2012).

[22] The Czech Republic as well did not sign the compact but as a result of a change in government in January 2014 the compact has already been ratified by the Czech Senate and is pending ratification in the other house.

[23] The other member states proceeded on a purely intergovernmental base thus prompting David Miliband's quip in the House of Commons: this was the first veto in history that did not stop anything.

[24] Nevertheless, its signatories intend to incorporate it in the EU treaty framework not later than five years after its entry in force, i.e. by the end of 2017.

[25] The ESM replaces two temporary EU funding schemes, namely the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM). The EFSM was established in May 2010 through Council Regulation 407/2010 on the basis of Art. 122 TFEU which stipulates that the EP is merely informed by the President of the Council and involves the mobilisation of guarantees from the EU budget of up to €60 billion.

'sound money' policy paradigm upon which monetary union has been based since the Maastricht Treaty. The fiscal compact's key features include

a) a commitment on the part of the signatories to incorporate into their national legislation (and preferably at constitutional level) a 'balanced budget rule' that compels them to keep their structural deficit within 0.5 per cent of their gross domestic product in the medium term with the concomitant obligation that countries whose debt exceeds 60 per cent of GDP will eliminate the excess at an annual rate of a 20th[26];
b) the Court of Justice of the EU obtains the power to police the introduction of the balanced budget rule in national statute books;
c) though temporary deviations from the structural deficit rule are permitted, the participating countries have agreed to put in place national 'correction mechanisms'.

In addition to re-outlawing Keynesianism (as the Maastricht Treaty had done) or 'constitutionalising austerity' (White 2015, 317, fn. 30) thus effectively preventing the implementation of even a mild version of an alternative economic policy, it is remarkably couched in a concept (the structural deficit) that is highly problematic. Its central position does not reflect the dispassionate analysis of the (arguably *multiple*) causes of the crisis. A large part of the problem relates to the fact that, as was pointed out at the time,

> '[n]obody knows what a structural deficit is. This is no quibble. Consider the structural fiscal positions for 2007, the last largely pre-crisis year, estimated by the International Monetary Fund in October 2007 - in "real time", as it were. This was a year when the indicator needed to scream "crisis". Yet it showed Spain with a large structural surplus and Ireland in structural balance. Both were even in better shape than Germany. Greece did have a sizeable structural deficit. But the French deficit was worse than that of Portugal. The rule would not have discriminated between vulnerable countries and immune ones because it ignores asset bubbles and financial manias. The IMF then had second thoughts. By October 2011, it had concluded that Greece's structural fiscal deficit in 2007 had been 10.4 per cent of GDP, not 4 per cent, and Ireland's 8.4 per cent, not 0.1 per cent. This is not a criticism of the IMF. It merely shows that the concept the euro zone wishes to embed in a new treaty will fail when accuracy is most needed. *The true structural deficit is unknowable.* '
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> (Wolf 2012, emphasis added).

This undermines the view – implicit in both the original design of EMU and much of the handling of the ongoing crisis – that a rule-based (i.e. de-politicised) economic policy and the attendant reliance on technocracy are superior to existing alternatives. Nevertheless, the centrality of the concept of the structural deficit was meant to re-assure - along the lines of the emergency register - two crucial audiences about the EU's emergency response to the crisis, namely the domestic audience within each creditor country (especially Germany) and 'the markets' in relation to the predominance of the sound money paradigm inside the euro area.

This insistence is not due to the lack of radical (Varoufakis, Holland, and Galbraith

[26] This amounts to three per cent of GDP each year for a country like Italy whose debt was, at the time, around 120 per cent of its GDP (Wolf 2012).

2013) as well as non-radical alternatives such as the exclusion of investment from the calculation of the balanced budget (see Creel, Hubert, and Saraceno 2012). Rather, it reflects a particular understanding of the origin of the crisis, i.e. the view that it is a sovereign debt crisis (cf. Baldwin et al. 2015) and, as a consequence, tightening the screw on profligate euro area countries is the appropriate response. Facts, however, belie this view. Unlike Greece, that fits into this narrative, other euro area countries that did not face the same kind of problems have been subject to the same kind of austerity-based policy response. Spain and Ireland, i.e. two countries that in the run-up to the crisis had been hailed as success[27] stories amongst cohesion countries that qualified for the adoption of the euro, actually had not broken EMU's budget- and deficit-related rules. Why then such a renewed emphasis on balanced budgets and low deficits and the institutionalisation (through the inelegantly called 'two-pack' and 'six-pack'[28]) of even more intrusive scrutiny of national public finances across the board that promotes 'a relatively narrow and prescriptive policy agenda' (Dawson 2015)? The de facto effect of this emphasis is to conceal the centrality of (a) the banking element (and its national roots) of the crisis and (b) the major flaws or lacunae in the German-inspired institutional design of EMU. The latter include the failed notion of discipline via the market, i.e. the idea that – given the bailout clause of the treaty – investors would refrain from lending to highly indebted countries or if they did lend to them, they would charge appropriately high interest rates. However, in the case of Greece both of these ideas failed, as the accumulation of debt (in Greece's case) and the comparatively low interest rates charged by core euro area financial institutions indicate.

The redistribution of power

On the *institutional front*, it is arguably apposite to refer to a multifaceted *intergovernmental drift* (*dérive*). The ESM operates on an intergovernmental basis and this is precisely the feature that has been invoked by the chairman of the Eurogroup, Jeroen Dijsselbloem, in a response to the chair of the EP's Economic and Monetary Affairs Committee (see Rittberger 2014, 1179). The European Parliament has criticised both the method used to arrive at this arrangement and its content on grounds that they did not respect the Community method (European Parliament 2011). Although David Cameron's unsuccessful attempt to block the fiscal compact which resulted in the necessarily intergovernmental extra-EU treaty arrangement may appear to be an inconvenience for the promoters of the compact, in reality it was anything but an inconvenience (Scipioni and Dimitrakopoulos 2012). Indeed, as we will see (below), the German Chancellor has been a supporter of intergovernmentalism though not without a 'twist'. The main point here is that, as Moravcsik reminds us (Moravcsik 1998), power is not distributed equally between participants in an intergovernmental arrangement. Some countries are more powerful than others. In the case of the ESM, only Germany has effective veto power for decisions that need the support of a qualified majority (either by the Board of

[27] That is an understanding of success that ignored (i) Spain's unemployment rate that on average was above 10 per cent during that decade and (ii) Ireland's catastrophic property and financial service bubble.

[28] This term refers to a set of six legislative measures (five regulations and one directive) that were adopted in November 2011 and entered in force a month later. They deal with issues regarding the enforcement of budgetary surveillance in the euro area, measures to correct excessive macroeconomic imbalances in the euro area, the reinforcement of the Stability and Growth Pact, the prevention and correction of macroeconomic imbalances, the implementation of the excessive deficit procedure and common rules on budgetary frameworks for the member states.

Governors or the Board of Directors). This is so because those decisions require the support of 80 per cent of the votes cast (Art. 4 para. 5 of the Treaty establishing the ESM) and the distribution of voting power is based on the number of shares in the authorised capital stock of the ESM to which Germany's contribution is the largest and amounts to 27.1 per cent. In addition to this formal element, the actual operation of institutions offers another indication.

In addition, the Eurogroup has taken centre stage during the crisis. It is not a formal institution. Until the Treaty of Lisbon which mentions it (Art. 137 TFEU), it operated on a completely informal basis. Post-Lisbon, the provisions that deal with it are very brief and appear only in an attached protocol (Protocol on the Euro Group). Paradoxically, the protocol explicitly defines it as the *informal* meeting of the ministers of the member states whose currency is the euro but is confined to how its president is elected. Despite its informal nature – which the ECJ implicitly acknowledged in November 2014 (Case T-291/13) – it makes very consequential decisions like the one of 16 March 2013 on the bailout of Cyprus that involved the euphemistically called 'upfront one-off stability levy' or the provision of credit by the European Financial Stability Facility (EFSF) and the European Stability Mechanism (ESM). It is also responsible for preparing and following up decisions of the Euro Summit. The key point here relates to how the Eurogroup has been operating during the crisis. Three features stand out: a) meetings taking place at short notice or even via videoconference (Puetter 2014, 157); b) the absence of formal minutes and any sense of transparency[29] which is, arguably, a key reason behind the Eurogroup's objections to its formalisation; c) the pursuit of negotiations between creditors and debtors on the basis of almost naked power – an inevitable development in the absence of formal rules and transparency - as acknowledged by the Eurogroup's chairman (Spiegel 2015)[30].

Some have argued that the fiscal compact, six-pack and two-pack effectively enhance the supranational element in economic governance, citing as examples the Commission's power to monitor compliance with debt and deficit criteria on an ex post basis, the power to make recommendations for revisions of national budgets prior to their formal adoption by national parliaments under the 'two-pack', its role in monitoring the enactment of debt brakes and in ensuring compliance with the fiscal compact's balanced budget rule[31], as well as its role in monitoring the member states that are in receipt of financial assistance (Dawson 2015, 4, see also Dehousse 2015). However, this argument ignores three key points. First, the backbone of the Commission's role in the Community method is the exclusivity of its legislative initiative as indicated by the fact that it has the power to withdraw the proposal (and thus undermine the EU legislative process) and the fact that in a legislative procedure that normally entails the use of QMV, the Council may amend the Commission's proposal without the Commission's consent but only unanimously. Second, as will be argued below, the Commission's autonomy is very much constrained by the need to

[29] This, even at the peak of the negotiations regarding the latest bailout of Greece (see, e.g. Quatremer 2015).

[30] One could also add the image of Jeroen Dijsselbloem shuttling between the separate offices of the German and Greek finance ministers carrying proposed formulations of Eurogroup communiqués from the latter to the former until one that was acceptable to Wolfgang Schäuble could be found, while other Eurogroup members were reportedly taking a break during a Eurogroup meeting

[31] Respectively under Art. 3(2) and 3(1) of the fiscal compact.

rely (and do so under scrutiny) on the 'unknowable' structural deficit[32]. Finally, as Dawson too acknowledges, the intensity of

> 'supranational interference' depends on whether a state does or does not meet its 'Medium Term Budgetary Objective' as stipulated by (Regulation 1466/97, Art. 5(1)). For states failing to meet this target satisfactorily – or, worse, requiring financial assistance – effective co-government with the European institutions is required (Regulation 473/2013, Art. 9). This is not an obligation imposed on states in good fiscal health.
>
> (Dawson 2015, 6)

One could add that it is the Council, not the Commission, that has the power to impose sanctions[33] in the preventive stage of the revised EDP (Art. 4 para. 1, Regulation 1173/2011, Art. 4(1)). At the same time, the role of the EP is very marginal at best. Under the fiscal compact (Art. 12 para. 5), the EP's president '*may* be invited to be heard' (added emphasis) when the Euro Summit meets. After each such summit the president of the Euro Summit shall present a report to the EP.

The intergovernmental logic that underpins these arrangements is also explicitly supported and promoted by key political leaders at the level of political discourse. The most prominent of them is Angela Merkel who, unlike[34] nearly all of her predecessors who had experienced World War II (Fabbrini 2013, 1011, Augstein 2015), was not known for her pro-EU attitude prior to becoming Chancellor of Germany. In an important but not widely noticed speech at the College of Europe in Bruges Merkel noted her scepticism vis-à-vis the Community method less than a year after the entry in force of the Treaty of Lisbon which brought about the quasi-generalisation of the use of the ordinary legislative procedure – that has come to largely embody the Community method – across areas where the EU legislates (Merkel 2010). Leaving aside the symbolically powerful image of the leader of the largest, wealthiest and most powerful EU member state delivering this message to staff and students at the institution that is thought to 'produce' future EU functionaries, the content of the speech per se is remarkable for a number of reasons. First, she argued that the EU's handling of the crisis showed that the division of labour between the Union and its member states has essentially worked, and contrasted this claim to the re-appearance into the EU debate of the Community method and disapprovingly noted that sometimes MEPs and Commissioners construe themselves as the sole veritable champions of this method and do so in opposition to intergovernmentalism and its supporters. Second, in addition to rightly highlighting the role of the Council (of Ministers) in the Community method, she also pointed out that the European Council should not be overlooked. Third, she argued that the member states decide whether the Union has competence to deal with an issue and approvingly noted, as Herman van Rompuy – then President of the European Council – too had done, that the real choice is, often, not between the Community method and

[32] Dawson himself acknowledges that there are 'key elements of the post-crisis regime – the ESM being the central example – in which supranational institutions are largely excluded' (Dawson 2015, 4).

[33] Up to 0.2 per cent of GDP.

[34] Like her immediate predecessor, she too felt able to articulate material German interests in a much more overt way. It is also plausible that her attitude has been affected by the fact that she grew up in DDR which 'was not involved in the public self- analysis of German responsibilities for the Holocaust and WWII that instead developed in the Western part of Germany (the *Bundesrepublik Deutschland*). A territorial origin that might explain why Angela Merkel is considered to be a European more in the head than the heart.' (Fabbrini 2013, 1011).

intergovernmentalism but between having a coordinated position or nothing at all thus downplaying the importance of not only how this position is arrived at but also whether this is done on the basis of prior commitments as enshrined in the treaty or not. Finally, she pleaded in favour of what she called 'the EU method' which she presented as a kind of third way between the Community method and intergovernmentalism[35]. It involves each institutional player acting in solidarity and in co-ordination with other actors each in their area of responsibility but towards the same objective. She called this "die neue Unionsmethode".

This brings me to my main empirical point in support of my argument regarding emergency politics in the EU's collective handling of the crisis. The institutional logic on which the EU's emergency response is based goes against the grain of the formal reforms introduced during the 2000s, especially the Lisbon Treaty's explicit politicisation of the presidency of the Commission as well as the broader enhancement of the European Parliament through the nearly complete generalisation of the use of the co-decision (now ordinary) legislative procedure. The enhancement of the European Council (Puetter 2014, Ch. 3) as well as the Eurogroup – i.e. two intergovernmental bodies (composed of members of national executives) that to an extent operate on the basis of diplomacy – undermines the progress made in relation to the enhancement of the supranational and ideologically organised European Parliament since Maastricht as well as the decision to open to democratic contestation the nomination and appointment of the president of the European Commission. The creation (Art. 12 (1) of the 'fiscal compact') of the 'Euro Summit' that brings together the heads of state or government of the members of the euro area, its president and the president of the European Commission further highlights the intergovernmental drift. This is so because it entails the additional concentration of powers in the hands of each country's most senior *executive* official, an emphasis on the *inter-state* (and, as a consequence, largely power-based) relations between participants, which, in turn, implies a further weakening of parliamentary institutions since executives are traditionally the dominant actors in the conduct of foreign policy (Scheuerman 2000).

Moreover, while the EP's formal powers have not been reduced as a result of the EU's crisis management, the politics of emergency has arguably shifted the locus of power closer to the intergovernmental institutions even though the epicentre of the crisis is the single currency, i.e. the most advanced element of economic integration. In the fiscal compact we have – for the first time in the history of European integration - a case of deepening *without* the enhancement of the role of the EP as a way of legitimising subsequent decisions (Habermas 2012). This despite the protestations of leaders of the then four largest groups in the EP which criticised the new treaty for failing to respect the Community method of decision making (European Parliament 2012). The key argument here highlights not only the EP's sidelining but the contrast between that decision and the reforms introduced by the Treaty of Lisbon. On the one hand the scope of the 'ordinary legislative procedure' (formerly known as 'co-decision', where the role of the directly elected European Parliament is central, as it should be in a democratic polity) for the adoption of secondary legislation, which has been used for the reform of the Stability and Growth Pact, has been extended through the Treaty of Lisbon that entered in force in

[35] Much less subtle, a year later Nicolas Sarkozy openly argued in favour of intergovernmentalism (Fabbrini 2013, 1012).

December 2009 but months later the same issue is dealt with – albeit with some changes - in an exceptional and intergovernmental form? (Scipioni and Dimitrakopoulos 2012).

One may argue that the EP has managed to carve a role for itself in one important part of the EU's collective response to the crisis, namely its banking element. As Rittberger (2014, 1180-1) shows, the EP used the opportunity offered by the combination of (a) the Commission and the Council's wish to take swift action in relation to the establishment of the Single Supervisory Mechanism (SSM), which is a key part of the emerging banking union, and (b) a regulation aligning the role of the European Banking Authority (EBA) with the legislation on the SSM. As a result, and contrary to the original proposal of the Commission, it managed to strengthen its scrutiny prerogatives vis-à-vis the SSM's supervisory board and obtain the right to approve as well as dismiss (formally) the SSM's chair and vice-chair. The EP managed to do so because, unlike the first case which procedurally rested on the 'special legislative procedure of Art. 127 para. 6 TFEU under which the EP can only issue a non-binding opinion, the second case had to be handled on the basis of the ordinary legislative procedure where the EP is a co-legislator and can thus shape the content of legislation. However, the point here is not that the EP has no power. Rather, the fact that the EP has had to resort to this kind of tactic in order to achieve its objective just a few years after the entry in force of the Treaty of Lisbon that has brought about perhaps the most wide-ranging enhancement of the EP's legislative powers is indicative of the continuing resonance of intergovernmentalism and the member states' willingness to use the crisis so as to mitigate or at least slow down the EU's parliamentarisation.

In addition, central actors – specifically the German Chancellor – have openly challenged one of the most (if not the most) significant institutional reforms introduced by the Treaty of Lisbon, i.e. the more direct link between the outcome of European elections and the selection by the European Council of its nominee for the presidency of the European Commission (Art. 177 para. 7 TEU). After the new Treaty's entry in force, the European Parliament decided to tighten up this link by specifying that *only* candidates who had been nominated by one of its political groups and could muster the requisite majority in the EP would be acceptable nominees. This new system involving *Sptizenkandidaten* was meant to associate a face with each of the political group manifestos and thus render more obvious what is at stake in European elections. Above all, this major change was fully in line with the parliamentary model that is prevalent in the vast majority of the member states and links parliamentary majority with executive office and is a new step in the direction of the EU's path towards parliamentarisation. When the Treaty of Lisbon was signed, the Merkel-led German government presented it to the Bundestag for ratification and mentioned (Deutscher Bundestag 2008, 136) the new provision of Art. 177 as a significant contribution to more democracy because it makes the EP election result a more significant (than has hitherto been the case) factor and pointed out that this is a step towards the personification of European election which would make it more attractive to voters. Before the 2014 European elections Angela Merkel's CDU nominated Jean-Claude Juncker, former Prime Minister of Luxembourg, as its preferred *Spitzenkandidat*. He was subsequently endorsed by the European People's Party (EPP) of which the CDU is a member. However, just days after the election that saw the EPP retain its position as the single largest group in the EP, Mrs Merkel

publicly backtracked and argued that Mr Juncker was *one of* the people who could do the job (Merkel 2014). This amounted to a direct challenge not only to the Treaty but also the pattern of which the aforementioned reform is part. Mrs Merkel's change of tack won her public repudiation by Jürgen Habermas who rightly and publicly noted that if she went ahead with this post-hoc change, why would voters turn out to vote at the next European election (Minkmar 2014)? Although it is likely that the German Chancellor was partly motivated by the wish to (a) retain influence over the next Commission President's agenda and (b) keep on board the British Prime Minister David Cameron (a vocal if belated opponent of the new system), the willingness to challenge this key reform was telling despite the fact that it was, in the end, unsuccessful and reflected the difference between Angela Merkel as CDU leader and German Chancellor (Gutschker 2014).

In addition, the combination of the aforementioned developments in the policy and institutional fronts highlight a major contradiction that has been amplified. On the one hand the appointment to the presidency of the Commission has been made subject to democratic contestation. On the other hand, the use of not even a glimpse of counter-cyclical fiscal stimulus has been allowed. On the one hand a significant degree of political competition for executive office has been injected in the process of appointing the Commission's President, on the other hand the European Commission's hands have been tied because (or to ensure that) 'there is no alternative'. The contradictions do not end here. On the one hand the power of the Commission (at least in a negative sense) has been enhanced through the introduction of reverse qualified majority voting (in the implementation phase of the revised system of economic governance), on the other hand it is bound to rely on the 'unknowable' structural deficit alone.

In intellectual terms, the TINA doctrine is the final central piece in the jigsaw. It aims to forestall debate both on the causes of the (multiple) crises and the appropriate responses to them. Since there is nothing to discuss, the public need not be asked, or if it is asked, this will need to be done only when it suits the strategic interests of the promoters of the TINA doctrine. It also implies that the politicians and the technocrats who set the terms of the debate must be left alone to 'get on with it' since this is an emergency. Note Agamben's point about how necessity is constituted in the state of emergency: 'far from occurring as an objective given, necessity clearly entails a subjective judgment and [that] obviously the only circumstances that are necessary and objective are those that are declared to be so' (Agamben 2005, 30). The notion that 'reading the crisis' (i.e. trying to identify its origins) is highly political – i.e. not an objective given but a contested decision - is demonstrated by an important development that took place in the hegemonic power that is Germany. Only after the elections of 2013 and the SPD's return to power as the junior coalition partner did the German government acknowledge – formally and explicitly, in the written 200-page long, coalition agreement – the *multiplicity* of its causes. In that coalition agreement (i.e. the result of a compromise), CDU/CSU (alongside the SPD) acknowledge that the causes of the crises include the public finances of some member states, the original design of the euro area's architecture as well as the financial service sector (CDU/CSU/SPD 2013, 157). This compromise *followed* a domestic public debate as well as the German federal election (which is how democracies operate in normal times) and is the *antithesis* of the essence of the TINA doctrine as it has been used at the European level. The same coalition agreement reached by the CDU/CSU and the

SPD in December 2013 highlights the centrality of the Community method in the process of European integration ('Die Gemeinschaftsmethode steht im Zentrum der europäischen Einigung') (CDU/CSU/SPD 2013, 158) thus demonstrating the fact that not only the policy but also the institutional element of emergency politics is subjectively constructed.

Conclusion

I have sought to demonstrate that the EU's collective response to the post-2008 crisis displays the characteristics of emergency politics, namely the suspension of ordinary norms, the temporal paradox (the asymmetry between urgency and the long-term implications of responses to crises), the redistribution of power and, finally, a particular kind of discourse. This response (a) it steers the EU towards an intergovernmental path and (b) goes against the most significant institutional development since the advent of the Euro, namely the EU's growing parliamentarisation, i.e. the enactment of institutional changes that approximate it to the model that dominates in its member states, namely parliamentary democracy, the most emblematic of these changes being the post-Lisbon contestation for EU executive office – specifically the Presidency of the European Commission. This is an important development because the EU is way past the era when the 'permissive consensus' was in operation and it (now perhaps more than ever before) explicitly and systematically touches on issues whose treatment is by definition value-laden. In that sense, the EU is a crossroads. Either it will revert to the path of parliamentarisation, i.e. meaningful and explicit political contestation for executive office involving the public, or it will remain on the path of emergency politics with all the dangers that it entails about its cohesion and future prospects.

References

Agamben, Giorgio. 2005. *State of Exception*. Translated by Kevin Attell. Chicago, IL: University of Chicago Press.

Augstein, Franziska. 2015. "Angela Merkel – is the Greek crisis too big for Europe's most powerful woman?" *The Guardian*, 26 June.

Baldwin, Richard, Thorsten Beck, Agnès Bénassy-Quéré, Olivier Blanchard, Giancarlo Corsetti, Paul de Grauwe, Wouter den Haan, Francesco Giavazzi, Daniel Gros, Sebnem Kalemli-Ozcan, Stefano Micossi, Elias Papaioannou, Paolo Pesenti, Christopher Pissarides, Guido Tabellini, and Beatrice Weder di Mauro. 2015. "Rebooting the Eurozone: Step 1 – Agreeing a crisis narrative." VoxEU.org, 20 November. http://www.voxeu.org/article/ez-crisis-consensus-narrative.

Bauer, Michael W., and Stefan Becker. 2014. "The Unexpected Winner of the Crisis: The European Commission's Strengthened Role in Economic Governance." *Journal of European Integration* 36 (3):213-229.

CDU/CSU/SPD. 2013. Deutschlands Zukunft gestalten. Koalitionsvertrag zwischen CDU, CSU und SPD, 18. Legislaturperiode. Berlin: CDU.

Chang, Michelle. 2013. "Fiscal Policy Coordination and the Future of the Community Method." *Journal of European Integration* 35 (3):255–269.

Costa, Olivier, Renaud Dehousse, and Aneta Trakalová. 2011. *La codécision et les «accords précoces»: Progrès ou détournement de la procédure législative?*, *Etudes et recherches 84*. Paris: Notre Europe.
Creel, Jérôme, Paul Hubert, and Francesco Saraceno. 2012. "Fallait-il renforcer le Pacte de stabilité et de croissance?" *Le Monde*, 1 March, Point de vue.
Dawson, Mark. 2015. "The Legal and Political Accountability Structure of 'Post-Crisis' EU Economic Governance." *Journal of Common Market Studies* 53 (5):976–993.
Dehousse, Renaud. 2015. "The New Supranationalism." ECPR General Conference, panel P298. Reflections on the Euro-crisis and the Future of Representative Democracy, Montreal, 26-29 August.
Deutscher Bundestag. 2008. Gesetzentwurf der Bundesregierung. Entwurf eines Gesetzes zum Vertrag von Lissabon vom 13. Dezember 2007. Drucksache 16/8300.
Draghi, Mario. 2012. "Interview with Mario Draghi conducted by Kai Diekmann, Editor in Chief, and Nikolaus Blome, Deputy Editor in Chief on 19 March 2012." *Bild Zeitung*, 23 March. https://www.ecb.europa.eu/press/inter/date/2012/html/sp120323.en.html.
European Parliament. 2011. Press release: Parliament approves Treaty change to allow stability mechanism.
European Parliament. 2012. Press release - New draft treaty on reinforced economic union unacceptable to MEPs. European Parliament.
Fabbrini, Sergio. 2013. "Intergovernmentalism and Its Limits: Assessing the European Union's Answer to the Euro Crisis." *Comparative Political Studies* 46 (9):1003-1029.
Feldman, Leonard C. 2008. "Judging Necessity: Democracy and Extra-legalism." *Political Theory* 36 (4):550-577.
Ferejohn, John, and Pasquale Pasquino. 2004. "The Law of Exception: A Typology of Emergency Powers." *International Journal of Constitutional Law* 2 (2):210–239.
Fischer, Joschka. 2000. Vom Staatenverbund zur Föderation - Gedanken über die Finalität der europäischen Integration. Rede in der Humboldt-Universität in Berlin.
Gutschker, Thomas. 2014. "Warum Merkel nicht herumbrüllt." *FAZ*, 31. Mai. http://www.faz.net/aktuell/politik/europawahl/machtpoker-um-eu-chefposten-warum-merkel-nicht-herumbruellt-12966039.html.
Habermas, Jürgen. 2012. ""Schluss mit der Feigheit der Politiker". Interview." *Vorwärts*, 31 January. http://www.vorwaerts.de/artikel/schluss-mit-der-feigheit-der-politiker.
Honig, Bonnie. 2009. *Emergency Politics: Paradox. Law, Democracy*. Princeton, NJ: Princeton University Press.
Kalyvas, Andreas. 2008. *Democracy and the Politics of the Extraordinary: Max Weber, Carl Schmitt, and Hannah Arendt*. Cambridge: Cambridge University Press.
Merkel, Angela. 2010. *Rede anlässlich der Eröffnung des 61. akademischen Jahres des Europakollegs Brügge*. 2 November.
Merkel, Angela. 2014. Pressekonferenz zum informellen Treffen der Staats- und Regierungschefs der Europäischen Union am 27. Mai 2014. Berlin: Bundesregierung.

Minkmar, Nils. 2014. "Europa wird direkt ins Herz getroffen - Jürgen Habermas im Gespräch." *FAZ*, 29 Mai. http://www.faz.net/aktuell/feuilleton/juergen-habermas-im-gespraech-europa-wird-direkt-ins-herz-getroffen-12963798.html?printPagedArticle=true - pageIndex_2.

Moravcsik, Andrew. 1998. *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*. Ithaca, NY: Cornell University Press.

Puetter, Uwe. 2014. *The European Council and the Council: New Intergovernmentalism and Institutional Change*. Oxford: Oxford University Press.

Quatremer, Jean. 2015. "Il faut mettre fin au secret des négociations entre la Grèce et la zone euro!" Les coulisses de Bruxelles blog, 28 April. http://bruxelles.blogs.liberation.fr/2015/04/27/il-faut-mettre-fin-au-secret-des-negociations-entre-la-grece-et-la-zone-euro/.

Reh, Christine, Adrienne Héritier, Edoardo Bressanelli, and Christel Koop. 2013. "The Informal Politics of Legislation: Explaining Secluded Decision Making in the European Union." *Comparative Political Studies* 46 (9):1112-1142.

Rittberger, Berthold. 2012. "Institutionalizing Representative Democracy in the European Union: The Case of the European Parliament." *Journal of Common Market Studies* 50 (supplement 1):18-37.

Rittberger, Berthold. 2014. "Integration without Representation? The European Parliament and the Reform of Economic Governance in the EU." *Journal of Common Market Studies* 52 (6):1174-1183.

Rossiter, Clinton L. 1948. *Constitutional Dictatorship: Crisis Government in the Modern Democracies*. Princeton, N.J.: Princeton University Press.

Scheuerman, W. E. 2000. "The Economic State of Emergency." *Cardozo Law Review* 21 (5-6):1869–1894.

Schmitt, Carl. 2005 [1922]. *Political theology: four chapters on the concept of sovereignty*. Translated by George Schwab with a foreword by Tracy B. Strong. University of Chicago Press ed. ed. Chicago, IL: University of Chicago Press. Original edition, Politische Theologie : Vier Kapitel zur Lehre von der Souveränität. 2e Ausgabe. München/Leipzig: Duncker & Humblot.

Schwarzer, Daniela. 2012. "The Euro Area Crises, Shifting Power Relations and Institutional Change in the European Union." *Global Policy* 3 (supplement 1):28-41.

Scipioni, Marco, and Dionyssis G. Dimitrakopoulos. 2012. "Exceptionalism as an excuse in Europe's crisis." openDemocracy, 7 February.

Spiegel, Peter. 2015. "Dijsselbloem interview: the annotated transcript." FT Brussels blog, 1 March. http://blogs.ft.com/brusselsblog/2015/03/01/dijsselbloem-interview-the-annotated-transcript/.

Varoufakis, Yanis, Stuart Holland, and James K. Galbraith. 2013. *A Modest Proposal for Resolving the Eurozone Crisis, Version 4.0*.

White, Jonathan. 2015. "Emergency Europe." *Political Studies* 63 (2):300–318.

Wolf, Martin. 2012. "The pain in Spain will test the euro." *Financial Times*, 7 March.