

Financial Deficit or Democratic Deficit?

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COURSE DESCRIPTION

The current global economic crisis severely affected the EU, hitting particularly some vulnerable economies. Accordingly, the EU has been forced to take action quickly, in order to help these economies to pull out of the crisis.

Financial support was raised from EU Member States, from EU resources as well as from resources external to the EU, such as the World Bank and the IMF. These organizations also help EU institutions with monetary advising in the process of monitoring the financial recovery of the Eurozone.

The establishment of a new financial vehicle (ESM) backed by EU legislation completed this process, subjecting any financial assistance to strict domestic budget, debt and deficit discipline, to be constantly monitored at EU level. These legal arrangements were joined by Eurozone and other EU Member States. In some cases, Member States joined these arrangements only after carefully consulting with their domestic Constitutional Courts.

Nevertheless, these arrangements are constantly being criticized by the public, by politicians and by many scholars for being counter-democratic.

This course intends to examine the ESM and complementary EU legislation, discussing the legal, economic and political implications thereof, concentrating, particularly, on the relationship and tension between domestic and supra-national regimes in the context of a monetary union.

The course will refer to questions such as: to what extent is it legitimate for a supra-national system to interfere in domestic affairs of a Member State? Who should determine domestic economic priorities or preferences and who would be responsible for their social and political implications? Where should one draw the red line for external financial intervention, as precondition for financial assistance, in case of a country which is in a severe financial situation? Do payers have an automatic right to be players? Do the people in a country suffering a severe economic crisis automatically lose their democratic rights to affect decision making processes and if not – to what extent should they be able to affect this process? Is it legitimate to argue that when domestic decision-makers, democratically elected, signed the ESM (a public international law agreement) the public in their country must obey this agreement? Is it correct to assume that the EU regime is not a democratic regime, or does it suggest a different model of democratic regime than the one which is common in democratic countries? To what extent is the perception of democracy relevant to the monetary system? Does the ESM include democratic elements? Is the balance of interests reflected by the ESM satisfactory? Can the same democratic perception or

principles apply with regard to all sources of financial assistance (EU resources, Member States' resources, IMF/World Bank resources)?

These questions have not been yet fully worked out at EU level, becoming all the more relevant in light of the the so-called "5 Presidents' Report" issued on 22 June 2015.

LEARNING FORMAT

The learning format includes interactive lectures, class discussions and short simulation-games, in which students will personally experience and discuss the dilemmas involved.

PERFORMANCE REQUIREMENTS AND GRADING

This is a hands-on course; most of the learning is experienced in the classroom and cannot be attained only through reading. Therefore, **full attendance in class is required**; useful and productive participation is expected, and both will contribute to the final grade. Active contribution to class discussion, based on home reading, and fulfilling the participation requirement will award the participant a passing grade.

Grade breakdown:

Attendance	50%
Informed and productive participation in all classes and exercises	50%

READING MATERIAL

The following is a list of basic sources, just a 'taste' out of endless reading materials on this issue. The purpose of the required reading is to familiarize you with the relevant EU legislation and leading writers in the field and expose you to different names, views and approaches.

EU Legal Sources

- Treaty on the Functioning of the EU (TFEU), Arts.130, 136, 140. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0047:0200:en:PDF>
- The Statute of the European System of Central Banks and the European Central Bank. <http://www.ecb.int/ecb/legal/1341/1343/html/index.en.html>

- Treaty Establishing the European Stability Mechanism (ESM). Retrieved from <http://www.european-council.europa.eu/media/582311/05-tesm2.en12.pdf>
- Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG). http://european-council.europa.eu/media/639235/st00tscg26_en12.pdf
- Decision 2003/223/EC of the Council, meeting in the composition of the heads of state or government of 21 March 2003 on the amendment of Article 10.2 of the Statute of the European System of Central Banks and the European Central Bank. OJ L 83, 66.

The 'Six Pack'

- Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure. OJ L 306, 33.
- Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States. OJ L 306, 41.
- Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area, OJ L 306, 1.
- Regulation (EU) No 1174/2011 of the European Parliament and of the Council of 16 November 2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area. OJ L 306, 8.
- Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies. OJ L 306, 12.
- Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances. OJ L 306, 25.

The 'Two Pack'

- Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability. OJ L 140, 1.
- Regulation (EU) No 473/2013 of the European Parliament and of the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area. OJ L 140, 11.

Leading Writers and Literature

- Habermass, J., Democracy, Solidarity and the European Crisis, in: Grozelier et al. (eds.), Roadmap to a Social Europe, pp. 4-13.
http://www.abetterway.ie/download/pdf/roadmap_to_social_europe_sej_oct_2013.pdf#page=9
- Maduro, M., De Witte, B., & Kumm, M. (2012). The democratic governance of the Euro, Policy Paper 2012/08. Florence: Robert Schuman Centre for Advanced Studies (RSCAS). http://cadmus.eui.eu/bitstream/handle/1814/23981/RSCAS_PP_2012_08.pdf?sequence=1
- Majone, G. (1998). Europe's 'democratic deficit': The question of standards. *European Law Journal*, 4(1), 5-28.
- Moravcsik, A. (2012). Europe after the crisis: How to sustain the common currency. *Foreign Affairs*, 91(3), 54-68.
- Nicolaidis, K. (2013). *European Democracy and Its Crisis*. *Journal of Common Market Studies*, 51(2), pp. 351–369.

Czech Republic's Constitutional Court Case

- Lisbon II Case (Czech Republic Constitutional Court)
<http://www.usoud.cz/file/2506>

The 5 Presidents' Report

Junckers, J.C. (in close cooperation with Tusk, D., Dijsselbloem, J., Draghi, M. and Schultz, M.), Completing Europe's Economic and Monetary Union (June 2015)
http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf

Additional information is included in the Power Point presentations on the course's website, which will set the basis for class discussion and activities.

CLASSES PLAN

Please note that there may be some alterations according to instructor's discretion

Unit # 1

Topics Covered:

- Course Intro

- **The perception of democracy:** introduction

Reading Material:

Nicolaides, K. (2013). *European Demoicracy and Its Crisis*. Journal of Common Market Studies, 51(2), pp. 351–369.

Class discussion:

- Is there a single European 'people' (demos) or are there different peoples (demoi)?
 - What is the difference between the two concepts (demos/demoi)?
 - How does the expectation for democracy/demoicracy change the vision of democratic regime in the EU?
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Unit # 2

Topics Covered:

- **The Players:** getting to know the architects of the ESM, appreciating to what extent the decision making process was 'democratic'.

Reading Material:

Majone, G. (1998). Europe's 'democratic deficit': The question of standards. European Law Journal, 4(1), 5-28.

Class discussion:

What are the democratic/non democratic elements in the structure and functioning of the institutions involved in the decision making process regarding the crisis: the European Council, the Council of the EU, the Commission, the EU parliament, the ECB?

Unit # 3

Topics Covered:

- **The EMU Framework:** introduction

Reading Material:

European Commission:

- *About EFSF*. <http://www.efsf.europa.eu/about/index.htm>

- *European financial stability facility*.
http://ec.europa.eu/economy_finance/european_stabilisation_actions/efsf/index_en.htm
- *European financial stabilization mechanism (EFSM)*.
http://ec.europa.eu/economy_finance/eu_borrower/efsm/index_en.htm
- *Financial assistance in EU Member States*. Retrieved from
http://ec.europa.eu/economy_finance/assistance_eu_ms/index_en.htm

European Central Bank:

Technical features of outright monetary transactions
http://www.ecb.int/press/pr/date/2012/html/pr120906_1.en.html

Moravcsik, A. (2012). Europe after the crisis: How to sustain the common currency. *Foreign Affairs*, 91(3), 54-68.

Class discussion:

What were the weaknesses of the temporary mechanism to pull out of the crisis?

Unit # 4

Topics Covered:

- **The ESM , Six Pack and Two pack:** assessment in terms of democracy.

Reading Material:

The ESM Treaty, the Six Pack and Two Pack legislation – see above.

Maduro, M., De Witte, B., & Kumm, M. (2012). The democratic governance of the Euro, Policy Paper 2012/08. Florence: Robert Schuman Centre for Advanced Studies (RSCAS), pp.3-12.
http://cadmus.eui.eu/bitstream/handle/1814/23981/RSCAS_PP_2012_08.pdf?sequence=1

Class discussion:

What are the democratic and non-democratic elements of the ESM, Six Pack and Two Pack?

Unit # 5

Topics Covered:

- **The Assisted Countries**

Reading Material:

Habermass, J., Democracy, Solidarity and the European Crisis, in: Grozelier et al. (eds.), Roadmap to a Social Europe, pp. 4-13.

http://www.abetterway.ie/download/pdf/roadmap_to_social_europe_sej_oct_2013.pdf#page=9

Class discussion:

- Would assisted countries define the crisis like the assisting countries define it?
 - What may be the implications of a different definition to the crisis for the economies involved?
 - Is the perception of democracy similar to strong and weak countries? What elements of democracy are important to each of the two groups?
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Unit # 6

Topics Covered:

- **National-Supranational: Constitutional Courts' Position**
- **Towards an ever closer EMU? The '5 Presidents' Report'**
- Lessons for other EMU/EU countries
- Course summary

Reading Material:

- the '5 Presidents' Report'.
- Lisbon II Case (Czech Republic Constitutional Court):
<http://www.usoud.cz/file/2506>

Class discussion:

- What legal conditions does the Czech Constitutional Court define as preconditions to its interference to limit EU intervention in internal affairs?
 - What are the democratic and non-democratic elements in the 5 presidents' report?
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Additional voluntary reading:

Baratta, R. (2012). *Legal issues of the 'Fiscal Compact' – Searching for a mature democratic governance of the Euro*. EUDO, European University Institute, Florence, Italy. Available at <http://ssrn.com/abstract=2196998>.

Cameron, D. (2013). *Speech in Full*. The Telegraph, 23 January. Retrieved from: <http://www.telegraph.co.uk/news/worldnews/europe/eu/9820230/David-Camersons-EU-speech-in-full.html>

Everson, M., & Rodrigues, F. (2012). A crisis of governance: Can comitology theory help legitimise ECB/ESCB operations in: E. Chiti, A. G. Menendez, & P. G. Teixeira (Eds.), *The European rescue of the European Union?* ARENA report No. 3/12. Oslo, Norway: University of Oslo, pp. 193-228.

- Fabbrini, F. (2015). *From Executive Federalism to Executive Government: Current Problems and Future Prospects in the Governance of the EMU*. In: Fabbrini, F., Ballin, E.H. & Somsen, H. (eds.) *What form of Government for the European Government and the Eurozone?* Bloomsbury: Hart Publishing, pp. 289-306.
- Grathwohl, D. (2012). *German top court may seek readjustment of ESM*. DW website, September 11th. Available at <http://www.dw.de/german-top-court-may-seek-readjustment-to-esm/a-16229513>.
- Grimm, D. (1995). *Does Europe Need a Constitution?* 1(3) European Law Journal, pp. 282-302.
- Grimm, D. (2015). *The Democratic Costs of Constitutionalization: the European Case*. 21(4) European Law Journal, pp. 460-473.
- Hix, S. and Føllesdal, A. (2006). *Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik*, 44 (3) Journal of Common Market Studies, pp. 533-562.
- Krugmann, P. (2012). *End this depression now*. New York, NY, and London: W. W. Norton and Company.
- Lorca, M. (2012). The Eurozone and the economic crisis: An innovative SWOT analysis (pp. 85-102, at 85). In R. Joaquin (Ed.), *The state of the union(s) – the Eurozone crisis, comparative regional integration, and the EU model*. Miami, FL: University of Miami. Available at <http://www.as.miami.edu/eucenter/books/EU%20BOOK%202012-120601.pdf#page=115>
- Mair, P. (2005). *Popular Democracy and the European Union Polity*. European Governance Papers No. C-05-03. Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT>
- Mair, P. (2013). *Ruling the Void: the Hollowing of Western Democracy*. London: Verso.
- Mair, P. (2014). In: Van Biezen (ed.) *On Parties, Party Systems and Democracy: Selected Writings of Peter Mair*. ECPR: University of Essex, pp. 459-512.
- Majone, G. (1998). Europe's 'democratic deficit': The question of standards. *European Law Journal*, 4(1), 5-28.
- Majone, G. (2012). *Rethinking European integration after the debt crisis*. Working Paper No. 3/2012, London: The European Institute, UCL. <http://www.ucl.ac.uk/european-institute/analysis-publications/publications/WP3.pdf>
- Moravcsik, A. (2002). In defence of the democratic deficit: Reassessing legitimacy in the European Union. *Journal of Common Market Studies*, 40(4), 603-624.
- Moravcsik, A. (2012). Europe after the crisis: How to sustain the common currency. *Foreign Affairs*, 91(3), 54-68. http://www.princeton.edu/~amoravcs/library/after_crisis.pdf
- Munin, N. (2014.) *From Financial Deficit to Democratic Deficit?* *Journal of Multidisciplinary Studies*, St. Tomas University, Florida, 6(1), pp. 5-29.
- Ponzano, P. (2012). *Democracy and European governance*. Center for Studies on Federalism Discussion Paper 07, November 2012. Available at http://www.csfederalismo.it/images/stories/discussion_papers/07_p.ponzano_en.pdf
- Rubini, N. (2010). Teaching PIIGS to fly. *Project Syndicate*. Available at http://relooney.fatcow.com/0_New_6765.pdf
- Sandbu, M. (2015). *Europe's Orphan: the Future of the Euro and the Politics of Debt*. Princeton University Press, Princeton and Oxford.
- Scharpf, F.W. (1997). *Economic Integration, Democracy and the Welfare State*. *Journal of European Public Policy*, 4(1), pp. 18-36.

- Scharpf, F.W. (2010). *Community and Autonomy*. Frankfurt, Germany: Max Planck Institute.
- Schmidt, V. (2012). The Eurozone crisis and challenges for democracy, pp. 103-116, p. 111. In R. Joaquin (Ed.), *The state of the union(s): The Eurozone crisis, comparative regional integration, and the EU model*. Miami, FL: University of Miami.
- Schmidt, V. (2015). *The Forgotten Problem of Democratic Legitimacy: "Governing by the Rules" and "Ruling by the Numbers"*. In: Matthijs, M. & Blyth, M. (eds.) *The Future of the Euro*. NY: Oxford University Press, pp. 90-116.
- Schweiger, C. & Magone, J.M. (2014). *Differentiated Integration and the Cleavage in the EU Under Crisis Conditions*. *Perspectives on European Politics and Society*, 2014 Vol. 15, No. 3, pp. 259–265. Available at <http://www.tandfonline.com/doi/pdf/10.1080/15705854.2014.912394>
- Scotto, N. (2012). How does the financial crisis affect the independence of the European Central Bank? In: E. Chiti, A. G. Menendez, & P. G. Teixeira (Eds.), *The European rescue of the European Union?* ARENA report No. 3/12. Oslo, Norway: University of Oslo, pp. 347-390.
- Weiler, J.H.H. (1996). *European neo-constitutionalism: in search of foundations for the European constitutional order*. *Political Studies*, 44, pp. 517–533.