

Journal of Contemporary European Research

Volume 10, Issue 2 (2014)

‘Runaway Train Never Going Back?’ The Implications of the New Economic Governance for Democracy in the EU

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Citation

Dobbels, M. (2014). “Runaway Train Never Going Back?’ The Implications of the New Economic Governance for Democracy in the EU’, *Journal of Contemporary European Research*. 10 (2), pp. 203-220.

First published at: www.jcer.net

Abstract

When the debt crisis erupted in late 2009 in the European Union it was addressed with a fundamental reform of the EU's system of economic governance. These reforms pushed an agenda of fiscal austerity and more integration by putting national budgets under strict European supervision. Situating itself in the wider academic debate on the EU's democratic nature, this article determines the extent to which the reforms have affected the EU's democratic legitimacy by analysing them in the light of four vectors of legitimation (indirect, parliamentary, technocratic and procedural legitimacy). It will show that having had a considerable impact on the substance of the legislation, the European Parliament has strengthened the technocratic aspects of the reforms, but has compromised both the EU's procedural and indirect legitimacy. By consequence, national parliaments who are most affected by the reforms are left on their own to catch up with the ever running train of European integration. The new reforms may have brought about a more robust and efficient Stability and Growth Pact; this article shows it scores low in terms of procedural, indirect and parliamentary legitimacy.

Keywords

Economic governance; Legitimacy; Democracy; European Parliament; National parliaments; Stability and Growth Pact

When the Greek debt crisis erupted in late 2009 and spread over Europe in the following months, no one could have predicted its impact on the European Union's system of economic governance. Barely two years later, the Council and the European Parliament (EP) adopted a package of measures to strengthen and reform the Stability and Growth Pact (SGP); further legislative measures were proposed by the Commission in November 2011, and in March 2012 twenty-five member states signed a new fiscal treaty on stability, coordination and governance in the Economic and Monetary Union (EMU), the so-called Fiscal Compact. The reforms pushed an agenda of fiscal austerity and deeper European integration by effectively putting national budgets under strict European supervision and thus national parliamentary control under pressure.

Integration and the transfer of competences to the supranational level inevitably involves a shift of power away from the national level, in this case the national parliaments. Ever since the Maastricht Treaty, volumes have been written on the European Union's presumed democratic deficit and on how this deficit could be addressed (Majone 2010; Moravcsik 2002; Coultrap 1999; Bowler and Farrell 1993). In what follows, a concise synthesis of the academic debate is presented and linked to the four vectors of legitimation (indirect, parliamentary, procedural and technocratic legitimacy) in the EU as defined by Lord and Magnette (2004). These vectors could help in understanding the impact of the reforms made in economic governance.

This analytical frame is used to analyse the recent reforms in economic governance. It is argued that although the EP had a considerable impact on the substance of the legislative reforms, proof of strong parliamentary legitimacy, it primarily strengthened the supranational and technocratic character of the system. In a process that was largely steered from the top down by the European Council, the flanking measures the EP introduced have delivered more transparency and efficiency but have also put national parliamentary procedures to control the budget further under pressure.

This pulls both against the indirect (national) legitimacy and the procedural legitimacy of the new system. Indeed, it will mostly be up to national parliaments themselves to address the democratic deficit resulting from these reforms by adapting their internal control cycle. Their track record on involvement in EU decision-making through the subsidiarity check introduced by the Lisbon Treaty suggests this process will take more than just procedural adaptations. The further integration of EMU thus poses questions in relation to three dimensions of legitimacy: indirect, parliamentary and procedural legitimacy.

In the following section the analytical framework is outlined based on a synthesis of the academic debate on the EU's democratic nature. The third section then briefly introduces the main reforms in economic governance and assesses these against the four vectors of legitimation and the wider literature on the democratic deficit.

THE DEBATE ON THE EU'S DEMOCRATIC NATURE: WHAT DEMOCRATIC DEFICIT?

Further integration is almost always linked to questions on democratic legitimacy. The debate on the European Union's democratic nature really came to the fore at the time of the ratification of the Maastricht Treaty. Not only did Denmark reject the treaty in a first referendum, but also the 'petit oui' in the French referendum brought forward reflections in both the political and the academic worlds on the treaty's democratic implications (Norris 1997: 276). The Maastricht Treaty had famously granted co-decision to the EP and had extended qualified majority voting in the Council to a number of areas, thus strengthening the supranational character of the decision-making process (Beetham and Lord 1998). Since then, a debate has erupted on the so-called democratic deficit of the EU, such that, as Kohler-Koch and Rittberger (2007) have said, the debate on the democratic legitimacy of the EU is crowded territory.

Crowded Territory: The Academic Debate

The decision to grant co-decision to the European Parliament at the time of the Maastricht Treaty was partly meant to compensate for the shift away from unanimity in the Council and restore the resulting loss in terms of democratic control in the legislative decision-making process. The logic behind this linkage is that of a zero-sum game whereby the inter-institutional balance of power is altered: take power away from the Council and give more to the European Parliament. Or, as Bowler and Farrell (1993: 45) argue, 'as the E[uropean] C[ommission]'s influence over the Member States increases, there is a need to protect the 'democratic' (i.e. legislative) check on executive procedure'. Throughout two decades of treaty changes there has been a common attempt to address the democratic deficit, whether by strengthening the role of the European Parliament in decision-making or in the appointment of a new European Commission. This stems from the idea that the democratic nature of the EU can be enhanced by reinforcing the institution which is supposed to represent European citizens directly. The logic is that when powers are transferred from the national executive to the European executive, a similar transfer should take place in the legislative branch (Bowler and Farrell 1993). By 'parliamentarising' decision-making, the process would become more transparent and more democratic.

Yet, the solution of giving the European Parliament more power has come under pressure in recent years. Majone (2010: 150) for instance objects that the continuous expansion in powers of the European Parliament has not led to a 'notable increase in democratic legitimacy'. The main critique is that even though the European Parliament is directly elected, its elections are of a secondary order with no European but national electorates, an ever decreasing number of voters and national

issues dominating the campaign (Corbett, Jacobs and Shackleton 2011). Indeed, elections for the European Parliament are a process during which very little transnational deliberation takes place (Moravcsik 2002: 604). Consequently there is hardly a connection between politics at the EU level and national public opinion since there is no electoral contest connected to political behaviour in the EU institutions (Follesdal and Hix 2006: 553). Moreover, the degree of representativeness of the EP has raised concerns as it is unclear who or what MEPs actually represent (see Bowler and Farrell 1993: 47). From a legal perspective too the decision to give more powers to the European Parliament as a means to address the democratic deficit has come under pressure. The 2009 ruling of the German Constitutional Court (GCC) on the Lisbon Treaty famously considered the European Parliament did not provide substantial democratic legitimacy because not all citizens are equally represented.¹ Instead, the Court pleaded for more control by the German Bundestag and Bundesrat over the positions defended by the German government at the EU level (Blauberger 2010: 52; Best 2009; Bundesverfassungsgericht 2009: paras 148, 280).

Measures taken at the supranational level to address the democratic deficit are in a sense only of a secondary nature as the core of the deficit actually resides at the national level (Börzel and Sprungk 2009: 364). Indeed, further and deeper integration such as established by the Maastricht and Lisbon Treaties first and foremost affects the relationship between the executive and the legislative branch at the national level. By transferring power to the transnational level, the former rids itself of much of the control exercised by the latter (Andersen and Burns 1996). Deeper integration and supranationalisation thus hold the risk of turning national parliaments into 'mere recipients of orders' (Decker 2002: 259). This has resulted in increased scrutiny of national parliaments over EU affairs in some member states, most notably in, Denmark, Germany, the Netherlands, Sweden and the United Kingdom. Nevertheless, control remains more restricted as compared to national politics because a considerable part of what happens at the European level still escapes national legislatures (Börzel and Sprungk 2009: 367). As explained above, this dimension of the debate found resonance with the GCC's ruling of 2009. The GCC branded the EU as an intergovernmental 'Staatenverbund' which derives its legitimacy and authority solely from the legislative power of its member states. In this view, it is not the EU, but the member states that have to be democratic. (Liebert 2010; Muckenberger 2009: 587;). Its remedy to address the democratic deficit resulting from further integration is thus to strengthen control of the German parliaments over EU decision-making. However, as Muckenberger (2009: 588) remarks, this uniform conception of nation state sovereignty and democracy is a very one-sided view and hard to maintain in an age of multi-level systems of governance, of which the EU as a prime example.

The concept of subsidiarity is closely connected to this dimension of the debate on the democratic deficit. Not surprisingly it came to the centre of attention at the time of the ratification of the Maastricht Treaty. In legal terms, subsidiarity is a concept that is rarely applied by courts and has a rather ambiguous meaning (Chaplin 1997; Estella 2002: 74-75). The Treaty on European Union defines it as a principle that governs the limits of Union competences by requiring that the Union only acts 'if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States (...) but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level' (Article 5: European Union 2010: 18). In practice, the European Court of Justice has been reluctant to rule on the substantial interpretation of the concept, leaving this up to the legislator, and has instead focused on the procedural steps required to make an assessment of Union initiatives according to this principle (Schütze 2009: 526). There are no clear legal directives in the treaty on how to determine its substantial application and neither did a set of guidelines, approved by the European Council in Edinburgh in 1992, provide for the necessary clarity to steer the political decisions on whether or not a measure has passed the subsidiarity-test (Bermann 1994: 371). Consequently, the interpretation of the concept is a political rather than a legal matter and both supporters and opponents of deeper integration have invoked it (Chaplin 1997: 117). Adding to its complex nature, Estella (2002) shows that although 'subsidiarity' embodies the principle of

diversity as opposed to unification, it has not really been an effective tool to stop Community action or further integration. It is also doubtful whether the special status of subsidiarity in the Lisbon Treaty will change much in this respect. The treaties now provide for a possibility whereby not only the legislators but also national parliaments can assess Community initiatives against the principle of subsidiarity. It thus not only adds to the assessment's procedure but also strengthens its character of diversity by presenting it as a 'safeguard of federalism' (Schütze 2009: 526). The mechanism foresees in it both a yellow card² and an orange card³ to be given by national parliaments in the light of Commission initiatives. Neither mechanism however, provides for a veto.

Another dimension of the debate on the democratic deficit argues that institutional adaptations, be they at the national or at the European level, do not necessarily and effectively address the democratic deficit (Tsakatika 2007). The argument here is in fact of a more fundamental nature as it calls into question the benchmarks or baselines against which the EU's democratic legitimacy is assessed. Coultrap (1999) and Majone (2010) for instance, argue that it is irrelevant to evaluate the Union according to a national parliamentary model. The argument goes that because the EU is a *sui generis* political entity, democratic theories and tests need to be adapted to its particular nature. Coultrap (1999) proposes a more American, 'pluralist model' that takes account of the multi-level structure of EU decision-making, with each level providing legitimacy, and an important position for societal interest groups that try to influence decision-making.

Moravcsik's (2002) assessment of the democratic deficit takes account of the same view as a starting point and comes to the conclusion that the current institutional checks and balances and separation of powers are sufficient to guarantee democratic legitimacy in the EU. He argues that the EU should not be assessed against idealistic standards but against existing advanced industrial democracies and finds that the checks and balances in place reflect the low electoral salient functions the EU performs; functions which are often delegated in national systems and do not require high expenditure (Moravcsik 2002: 603, 608). In addition, Moravcsik (2002: 617-618) also denies claims that the European project's focus on 'negative integration', i.e. liberalisation and decentralised market competition, leads to a race to the bottom in regulatory social protection as the level of social welfare provision has remained relatively stable and member states are still fully responsible for policies on pensions, health care and employment. He thus concludes that '[w]hen judged by the practices of existing nation-states and in the context of a multi-level system, there is little evidence that the EU suffers from a fundamental democratic deficit' (Moravcsik 2002: 621).

On a similar note, Christiansen (1997) argues that national models of parliamentary democracy cannot be transposed without modification to the European level and that in reality these very models rarely match the ideal-type democracy they are supposed to promote. Christiansen therefore advises looking beyond the decision-making procedures to the actual capacity of the European framework to take decisions efficiently and effectively before judging its democratic legitimacy. He finds that both the EU's transnational problem-solving capacity in the context of the regulation of transnational markets and the ingrained respect for diversity of identities and cultural values legitimise the integration process. He therefore concludes that the desire to shape the EU according to ideal-type majoritarian models of democracy might even work counter-productively by leading to a centralisation of decision-making, delegitimising the system for fixed minorities. This would, in the face of the dominant models, improve democratic accountability and legitimacy but would also give 'away the advantages of the current accommodation system. This likely result might not just result in no increase, but in fact a loss in legitimacy' (Christiansen 1997: 12). He therefore warns critics of European integration to think twice 'before demanding the wholesale expansion of parliamentary powers and/or elements of direct democracy' (*ibid.*).

At the other end of the debate, others argue that no matter which model is used, the core element of a democracy, namely a common political identity, remains absent in the EU. Decker (2002: 258) states that democracy supposes 'the presence of a common political identity which serves as a basis

upon which all governmental or parliamentary decisions can be interpreted as being expressions of democratic self-determination'. When power is supranationalised it does not necessarily mean that the basis upon which that power is vested can also be transposed to the supranational level. As Estella (2002: 48) argues, the creation of a new polis does not automatically imply a new demos emerging from the addition of old demoi. Like Decker, Estella concludes that there is no common political identity, as even in an integrated Europe electorates still think in terms of 'us and them' in the context of decisions taken at the EU level. This logic is exacerbated when decisions are adopted by majority vote instead of by unanimity. Majone (2010) goes yet another step and blames the 'integrationist elites' for having consciously pursued a political project of 'integration by stealth'⁴ without having a majority of voters in favour of it. He not only addresses the normative dimension of the debate by criticising the limited accountability of EU policy-makers but also argues that integration has not reduced transaction costs or made the policy-making process more efficient, thereby aggravating the democratic deficit (Majone 2010: 151-152, 158). Majone argues for giving up on the 'Community method' and to rethink the integration process radically by finding out 'the level of integration a majority of European voters are willing to support' and thus to renationalise ineffective or 'perverted' policies such as the Common Agricultural Policy (Majone 2010: 173-174).

Four Vectors of Democratic Legitimacy in the EU

On the basis of this overview the four vectors scheme as defined by Lord and Magnette (2004) is taken as the framework for analysis. Lord and Magnette (2004) define four ideal-type vectors of democratic legitimation in the EU: indirect, parliamentary, technocratic and procedural legitimacy. The concept of vectors is used because they are 'articulated as suppositions about general directions in which the legitimation of the Union ought to be headed, rather than as fully developed theories. Second, like vectors, they sometimes reinforce, and at other times, pull against one another' (Lord and Magnette 2004: 184).

1. Indirect legitimacy: checks and balances at the national level. The first vector of indirect legitimacy depends on the legitimacy of the EU's member states and on the Union's respect for their sovereignty (ibid.: 185). As explained above, the EU thus in part draws its legitimacy from sufficient national control on decision-making. Checks and balances in the Council of Ministers and in national parliaments can therefore reinforce it when power is transferred.
2. Parliamentary legitimacy: the European Parliament as the saviour of democracy. The second vector is based on the view that the EU's democratic nature is ensured dually by a 'Council of governments and a directly elected Parliament' (ibid.: 185-186). The vector of parliamentary legitimacy therefore requires representative structures, of which the EP is the prime example in the EU.
3. Technocratic legitimacy: output counts. The third vector of technocratic legitimacy argues that the Union draws its legitimacy from its technical ability to offer solutions that are 'able to improve the welfare of the overwhelming majority of citizens in terms of their own felt preferences' (ibid.: 186).
4. Procedural legitimacy: the case for transparency. Finally, the fourth vector of procedural legitimacy is linked to issues such as transparency, the balance of interests, proportionality, legal certainty and consultation of stakeholders (ibid.: 187). Legitimacy is assured through fixed procedures to control actors involved in EU decision-making and hold them effectively to account (Majone 1999). Procedural legitimacy addresses concerns with technocratic legitimacy in that the latter is deemed insufficient without a

‘normative agreement on how groups and individuals should be treated in (...) decision-making processes’ (Lord and Magnette 2004: 187).

The four vectors of legitimacy as outlined above are now connected to the reformed system of economic governance as each vector is assessed in light of the reforms that took place.

LEGITIMACY IN THE REFORMED SYSTEM OF ECONOMIC GOVERNANCE

In response to the Greek debt crisis of 2009, the Council and the EP adopted a package of six measures (the so-called six-pack) to strengthen and reform the Stability and Growth Pact (SGP); two additional measures were proposed by the European Commission in November 2011, and in March 2012 twenty-five member states agreed to a new treaty for deeper fiscal integration. For the purpose of this contribution, the analysis is limited to these reforms.

Before going into the actual analysis, it is useful to outline briefly the main changes in economic governance that have taken place over the past three years. In the next section, the six-pack, two additional regulations proposed by the Commission in 2011, the European Semester and the Fiscal Compact are briefly introduced. After this, the political and institutional dynamics behind these reforms are analysed in the light of the four vectors.

The Reformed Economic Governance of the EU

The Stability and Growth Pact (SGP) which entered into force in 1999 was designed to enforce the limits set by European Monetary Union, namely the requirement that member states need to keep their fiscal deficit below a threshold of three per cent of GDP and their debt level at sixty per cent or below. Yet the SGP proved to be flawed in two respects: it failed to identify and remedy the triggers of the crisis in countries like Ireland and Spain (i.e. large private sector liabilities), and in 2003, when both France and Germany exceeded the three per cent limit, the Excessive Deficit Procedure (EDP) forcing member states to adapt their national budgets so that the target is reached was not implemented (McArdle 2012). In addition, the system did not stop Greece from submitting the fraudulent statistics that led to its ongoing crisis. In 2005, the SGP was reformed for the first time by the introduction of country-specific mid-term objectives depending on each member state's debt level and growth potential. Five years later, the six-pack was introduced as the second reform and the EU's first legislative response to the European debt crisis. Six measures, five regulations and one directive, were proposed with the aim of reinforcing the SGP.

The measures were approved by both the Council and the EP in the second half of 2011 and include reinforced surveillance in the EDP, quasi-automatic sanction procedures whereby the Commission can only be stopped if a qualified majority in the Council expresses itself to be against the sanctions (i.e. reverse qualified majority voting), equal status to the debt criterion as compared to the deficit target for the launching of the EDP, and minimum requirements for budgetary planning. In addition a new procedure was established, named the Macro-economic Imbalances Procedure (MIP), which meets the concern that the triggers for the Irish and Spanish crisis were overlooked by detecting macro-economic imbalances that could jeopardise EMU's operation. Like the EDP, it foresees corrective action plans and the possibility of the Commission taking sanctions against a Eurozone member state that repeatedly fails to adopt corrective measures.

In November 2011, the Commission came forward with two additional proposals designed to strengthen economic governance further. One regulation proposes enhanced economic and budgetary surveillance of member states with serious financial stability difficulties and/or member

states that receive financial assistance from the European Financial Stability Facility (EFSF), the European Stability Mechanism (ESM) or other international financial institutions such as the International Monetary Fund (IMF) (European Commission 2011a). A second regulation proposes an additional layer of control as part of the EDP. It foresees among other aspects that Eurozone members have to submit their annual draft budgets to the Commission and the Eurogroup for scrutiny no later than 15 October each year and that member states make public their medium-term fiscal plans and budgetary frameworks annually, no later than 15 April. For member states with an on-going EDP, there will be even closer monitoring and auditing by the Commission of the government's budgetary plans and accounts (European Commission 2011b).

Next to these eight legislative measures, the strengthened Stability and Growth Pact was also made part of the European Semester, an annual exercise which synchronises all requirements that member states have to fulfil as part of the SGP under the form of a submission of their Stability or Convergence Plans as well as the submission of the national reform plans member states have to adopt in the framework of the Europe 2020 strategy for growth and jobs. So, like the medium-term fiscal plans and budgetary frameworks, the stability plans and the national reform plans have to be submitted in April each year. While plans related to the SGP are mainly of a fiscal nature, national reform plans deal with measures that are non-fiscal and aimed at reaching the (non-binding) EU 2020 targets in fields such as employment, poverty reduction, energy saving, education and innovation. Nevertheless, these elements too have a considerable impact on a member state's budgetary plans.

In addition, the intergovernmental treaty on stability, coordination and governance in EMU concluded in 2012, known as the Fiscal Compact, requires those member states with a debt level higher than 60 per cent to enshrine in their legal system, at the constitutional or equivalent level, the rule that budgets should be in balance or in surplus and never exceed a structural deficit of 0.5 per cent.⁵ The European Court of Justice will be able to verify the transposition of this rule. Its decisions will be binding and penalties of up to 0.1 per cent of GDP can be taken. Furthermore, under the Fiscal Compact all member states will have to report on their national debt issuance plans before adopting them nationally and member states in an EDP will have to submit their structural reform plans to the Commission and the Council (Treaty on Stability, Coordination and Governance in the Economic and Monetary Union 2012).

The six-pack, two-pack and the Fiscal Compact now constitute the basis of the EU's system of economic governance in which budgetary discipline and debt reduction are central.

The Implications of the Reforms in Economic Governance for Legitimacy: an Analysis According to Four Vectors of Legitimacy

Even at the time of EMU's inception concerns were raised over its stability and viability. Inman and Rubinfeld (1998: 13) wrote that it would be a balancing act between 'protecting rights, encouraging political participation, and promoting economic efficiency'. The fact that no political union was established in parallel with monetary union led Verdun (1998: 125) to the assessment that there were not enough 'points of access' for national citizens and politicians to express their dissatisfaction with the way the system worked. She concluded that EMU 'suffers moderately from a democratic deficit', and that this is mainly due to the lack of domestic features and a true government that could carry out economic policies (1998: 107). Back in 1996, warnings were heard about the poor design and EMU's

weak foundations of popular accountability (...). [I]f an economic crisis comes, pitting member against member, or member against the Union, it will come too quickly and on too

large a scale to be dealt with in the usual way. When EMU fails that test, the entire structure could fold (The Economist, in Norris 1997: 227).

It is clear that this test has now come. As we have seen in the previous section the crisis was confronted with a reform of the Stability and Growth Pact and a new treaty pushing an agenda of severe budgetary discipline. The economic crisis has in a way caught up with Moravcsik's (2002: 607-608) argument that the setting of fiscal priorities and fiscal authority is the sole prerogative of the member states and that therefore the European Union does not need the same intensity of democratic scrutiny as national states. Indeed, the measures described above now paint an impressive picture of enhanced European control of national budgets with serious consequences for national sovereignty. It is fair to say that the European Union's grip on national budgetary cycles and on the content of these budgets has been remarkably strengthened over the past two years. But what are the implications for democratic control in light of the vectors outlined above?

Vector 1: Indirect legitimacy: national checks and balances

Budgetary power is one of the most important prerogatives of the nation state. In light of the reforms and the debate on the democratic deficit outlined above, it would be interesting to see a) whether member states have been able to leave their mark on the new system, and b) whether national parliaments raised any subsidiarity concerns when the reform measures for economic governance were proposed. As will be clear from the analysis in the light of other vectors, national parliaments are heavily affected by these reforms.

a) Indirect legitimacy through the Council

An analysis of the European Council's conclusions, the statements of the Heads of State and Government of the Eurozone and the report of the task force on economic governance chaired by Herman Van Rompuy show the deep involvement of the highest national political level during both the stage of legislative initiation and the actual legislative negotiations (Bocquillon and Dobbels 2013). Even though, formally speaking, the European Commission has a quasi-monopoly to propose legislation, the content of the six-pack proposals was largely determined in the task force by the national finance ministers and their 'sherpas'; mostly members of the Economic and Financial Committee of the Council. The report of the task force, which worked 'in close cooperation' with the European Commission, was indeed the blueprint for the Commission's eventual proposals. Notwithstanding the legislative procedure being launched by the Commission, the European Council also intervened directly in the process by setting deadlines and reinforcing certain agreements and positions when according to the treaty it should not perform any legislative functions.

The examples are numerous. The European Council set the pace and deadlines for the negotiations (European Council 2010c: 2) and urged both co-legislators to accelerate their work (European Council 2010d: 2). In addition, the heads of state and government of the Euro area made detailed declarations on the numerical benchmark for debt reduction (Heads of State and Government of the Euro Area 2011a: 2) and when a deal looked unlikely by the end of the Hungarian Presidency in June 2011, the Eurozone chefs again intervened declaring their full support for the Polish Presidency on reaching an agreement on the voting rules in the SGP (Heads of State and Government of the Euro Area 2011b: 4).

These interventions show the close involvement of the member states, often at the highest levels, in setting up the reformed SGP. In a similar way, the idea of having a fiscal compact originated in the European Council. Even though sovereignty was transferred from the national level to the European

level, the agenda for reform was thus mainly set by the member states themselves. They have also retained a role in the implementation of the new procedures through the Council of Ministers. It is therefore fair to say that in terms of indirect legitimacy, the reforms score high in terms of government involvement. It would be interesting to see, however, if and how national parliaments reacted to the reforms. The analysis is limited to the subsidiarity check which is the instrument for national parliamentary scrutiny provided for by the treaties.

b) National parliaments and the reformed system of economic governance

On each of the five regulations and the one directive of the six-pack, between 12 and 17 national parliaments made use of their right to do a subsidiarity check. For the regulation establishing closer scrutiny on national budgets by the European Commission and the Eurogroup, 14 parliaments scrutinised the Commission proposal. The thresholds for forcing the European Commission to answer were not reached, although some parliaments raised concerns about the legitimacy of the proposals.

On 25 January 2012, the Swedish Riksdag (IPEX 2012) adopted an opinion stating that the proposal on closer scrutiny by the European Commission and the Eurogroup of national budgets did not include sufficient guarantees to protect the national competences on fiscal policy. A day before, the French Senate (IPEX 2012) had asked the Commission for further clarifications on the ex-ante control of member states' medium term fiscal plans and annual budgets in the light of subsidiarity and democratic control over budgets. Despite not reaching the threshold of one third or half of the parliaments expressing concerns, the Commission still sent a reply to both national parliaments stating that the prerogatives of national parliaments are and will be respected (IPEX 2012). The same pattern emerged for the six-pack. On all proposals the Italian parliament expressed concerns related to the numerical benchmark for reducing the debt levels. The chamber of representatives warned against a much too one-sided focus for assessing debt reduction. The Commission replied that other factors would be taken into account as well, such as an ageing population, or cyclical conditions. Finally, the enforcement of the EDP raised concerns among two more member states: Portugal and Luxembourg, with Luxembourg asking for earlier involvement of national parliaments in the drawing up of the mid-term budgetary targets under the EDP to ensure sufficient democratic scrutiny. The Commission concurred and replied that it is up to the member states to assure the timely involvement of national parliaments.

The new mechanism of subsidiarity checks thus raised the concerns of member states about the democratic nature of the new system of economic governance, but seems to have resulted in little more than a dialogue between the European Commission and national parliaments rather than leading to thorough reflections by the Commission on its proposals. This is partly because the threshold of member states having subsidiarity concerns was never reached, and partly because there is not yet a real culture of holding the Commission to account in the national parliaments. The same can be said of the Fiscal Compact where only a few national parliaments expressed concerns. The French Senate criticised the obligation for member states to inscribe the 'balanced budget' rule in their constitutions, arguing that the EU Treaties explicitly stipulate that political and constitutional structures are the sole responsibility of member states (IPEX 2012). The Czech Parliament also expressed concerns, leading the government not to sign up to the Fiscal Compact.

The fact that more parliaments did not protest is remarkable, because the new system touches greatly upon the prerogatives of national parliaments. The economic governance reforms have first and foremost strengthened the supranational level: it is now easier for the Commission to issue warnings and take sanctions against member states not complying with the requirements of the Stability and Growth Pact. In addition, the set-up of the European semester whereby national reform

plans and stability and convergence plans have to be submitted as early as April of each year, often with preparatory meetings already starting in March of each year (see European Commission 2011c), creates tension with the work cycle of national parliaments as both plans are supposed to be the basis for national budgets. The Commission proposal of November 2011 for a regulation strengthens this further by requiring control of national budgetary plans by the Commission and the Eurogroup before the formal approval of national parliaments.

With the budget cycle starting much earlier than before and the locus of decision-making being the Council and the Commission, national parliaments will have to adapt themselves to the new situation in exercising their control tasks. They will have to make the system more transparent by starting the parliamentary and democratic debate on the formulation of the national budget much earlier than they do now.

If anything, this brief analysis shows that although the role of national parliaments has come under pressure in the new system, they did not have a great ex-ante impact on the reforms through the early warning system as established by the Lisbon Treaty. In the next section the focus is placed on the EP in light of the parliamentary legitimacy vector.

Vector 2: Parliamentary legitimacy: the EP's role and impact

One of the reasons the negotiations on the six-pack were relatively protracted despite the pressure on the co-legislators to conclude a deal in the first reading, was the discussion concerning the automaticity of the warnings given before sanctions are taken. In the previous system, the Council could easily block the Commission's decision that no effective action had been taken by a member state under the EDP, because a qualified majority was necessary to confirm them. During the six-pack negotiations the EP was pleading for a reverse qualified majority rule, meaning the Council would need a qualified majority to stop the final warning from being issued – making sanctions much likelier. Such 'semi-automaticity' was already included once it had been established that a member state was not taking adequate measures to comply with the SGP, but the EP pleaded for this mechanism to be introduced at the very beginning of the process. In the end, and partly due to the pressure of time, the Parliament obtained the following concession by the Council: a mechanism of semi-automaticity is introduced at the beginning of the procedure, whereby a cooling-off period of one month is introduced in case the Council does not adopt the Commission's final warning, after which the decision is automatically adopted unless a (simple) majority of Eurozone members votes it down within ten days. The compromise, tipping the balance clearly in favour of the EP's position on this issue concluded the deal on the six-pack. The system thus requires Eurozone member states to find either a majority or a qualified majority at important steps in the EDP procedure to stop (the possibility of) sanctions being taken. A similar system was adopted for the new MIP.

The EP also obtained an enforced 'economic dialogue' whereby it can invite the President of the European Commission, the President of the Eurogroup and the President of the European Council to discuss the broad orientations of the EU's economic policy and on-going procedures, as well as member states subject to sanctions, although the latter may decline such an invitation. In addition, on the EP's insistence the European Semester, including the submission of the SGP's stability and convergence plans and the Europe 2020 national reform plans, is now mentioned in the six-pack, which gives these instruments a more solid legal base. Having the Greek crisis in mind, the EP also obtained the possibility for the Commission to issue a new type of fine for Eurozone members who submit fraudulent statistics on deficits and debt. Finally on the MIP, the Parliament enlarged the scope so that unemployment would also be one of the indicators under scrutiny, and successfully introduced the provision that the Commission will not only consider trade deficits in their

assessment of macro-economic imbalances, but also current-account surpluses such as Germany's and the Netherlands' (Phillips 2011).

The EP may have had an important impact on the drafting of the new legislation; most changes however strengthened the supranational character of the new procedures without providing much Parliamentary oversight. The EP successfully asked for a strengthening of the automaticity of sanctions being proposed by the European Commission, created new sanctions for the submission of fraudulent data, and codified the European Semester's system and timing. At the same time, the 'economic dialogue' that should lead to more accountability, has an open-ended character and boils down to more transparency rather than binding parliamentary oversight. Indeed, the SGP is still dominated by the Council and the Commission, with the latter's position clearly strengthened. In addition, although the EP obtained observer status at the negotiation table on the Fiscal Compact, its fundamental concerns voiced in a resolution voted in November 2011 were largely ignored (Beres 2011). In this resolution the EP expressed its scepticism about the necessity for and the form of the Fiscal Compact, arguing its goals could be more effectively achieved through EU law. Its demand to mention project bonds, a financial transaction tax and a roadmap for Eurobonds were not included in the final agreement.

This snubbing does seem to have changed the discourse inside the Parliament towards more scepticism vis-à-vis the new system. The controversial nature of the six-pack was already put under the spotlight by the tight voting results in plenary as many MEPs on the left voted against or abstained on some parts of the pack (Phillips 2011a). And the Fiscal Compact and the proposed regulation for closer scrutiny on national budgets were further criticised in a resolution which got broad support in the Parliament. Drafted by French Socialist MEP Pervenche Beres (2011: 4), the EP said that

the lack of transparency in decision-making and opinion forming processes, particularly in the European Council and the Council of Ministers, is undermining citizens' trust in European integration and the democracies of the European Union and is hindering the exercise of active, constructive control by citizens.

It further stressed that 'parliamentary debate on economic policy guidelines is the cornerstone of any democratic system' and added that 'EU economic policy coordination will work only if it becomes more democratic and less technocratic' (ibid.).

The dust is thus far from settled, but the reforms as they stand now seem to have strengthened supranational control considerably and weakened parliamentary scrutiny. The Commission is clearly in the driver's seat as the neutral and technocratic watchdog over the implementation of the new rules. In the next section this issue will be addressed in light of the technocratic legitimacy vector.

Vector 3: Technocratic legitimacy: a strengthened European Commission

It is clear that the reforms in economic governance, and especially the amendments made to the EDP and the newly established MIP, make the system more enforceable, by consequence more effective and, given the semi-automaticity of the sanctions, probably more efficient as well. The European Commission is strengthened in its role as watchdog over the SGP. If the goal of the reforms was to make the system of economic governance more robust and watertight, it is fair to say that the EU's capacity in converging the fiscal policies of the member states (and in particular those of the Eurozone) has been enhanced. The criteria of convergence that were defined for European Monetary Union at the time of the Maastricht Treaty are more compelling than before. With Belgium, France, Hungary, the Netherlands and Spain already under pressure by the

Commission to apply the new rules during the first European semester (see *infra*), it is clear that the Commission is taking its new powers seriously and wants to avoid the laxity shown in 2003.

It also remains to be seen what the effects of centralising economic governance will be on the output side in the medium and long term. Will the reforms as argued by the European Commission and the European Council President prevent new crises from taking place? Are the foundations of the new design strong enough to make EMU a lasting project? It is too early to tell. The fact is that the reforms remain controversial and that the European Commission's neutrality and objectivity have been questioned by many on the left side of the political spectrum (see for instance De Standaard 2012; Lemoine 2012). In this light, Lord and Magnette's assertion (2004: 1986) that in order to achieve technocratic legitimacy solutions and decisions should be 'able to improve the welfare of the overwhelming majority of citizens in terms of their own felt preferences', has come under pressure. Increasingly, commentators and observers, both academics and practitioners, have expressed concerns regarding the democratic legitimacy of the reforms being executed, warning that European leaders seem to have lost touch with the wider public (see for instance Bolton 2011; De Grauwe 2011; Hamilton 2011). Euroscepticism seems to be rising in public opinion since the economic crisis (see for instance Gluchowski 2012; Prieto 2012; EUbusiness 2011; Lecomte 2010). Also, the election results in the first round of the French presidential elections in which parties on the far right and left voiced fundamental criticism of the European project and won votes and similar results at the Greek elections in May and June 2012 show that there remain concerns about whether the reforms are supported by the wider public. It is therefore no surprise that the EU reacted with relief when the Irish referendum on the fiscal compact passed with sixty per cent of voters voting in favour of the new treaty (RTE 2012).

It is clear that certainly the efficiency and output of the new system of economic governance has been enhanced, but it remains to be seen whether the reforms will have the desired outcome in terms of welfare or whether public opinion will become more critical vis-à-vis the ongoing reforms.

Vector 4: Procedural legitimacy

As set out in the theoretical framework, procedural legitimacy is the plug to fill the gaps left by technocratic legitimacy. The previous section showed that the reforms score highly in terms of technocratic effectiveness and efficiency, but that questions remain as to the level of support for the reforms. Elements such as transparency, a balance of interests, proportionality, legal certainty and consultation of stakeholders could meet these concerns, especially as the reforms touch upon highly politically salient issues of member state competence such as pension reforms, wage setting mechanisms, unit labour costs, social security expenses, and health care. This was already evident in a number of member states that came under closer scrutiny in the framework of the reformed EDP and the new MIP.⁶ As EU policy-making is going beyond the low electoral salient functions as described by Moravcsik (2002), the need for transparency and a balance of interests is high.

The co-legislators and the European Commission tried to capture these concerns when setting up the new system by clearly spelling out the steps of the European Semester and by defining the criteria against which the assessments in the EDP and the MIP would be made. In addition, the main stakeholders, the member states, are consulted before the Commission makes public its assessment and have the possibility, through the Council of Ministers and the European Council, of reacting. Yet, as explained above, the thresholds to stop warnings from being issued, sanctions from being taken and recommendations from being made are high with the reverse qualified majority rule. Unsurprisingly, this has led to criticism in member states that were negatively assessed. Where the Spanish government argued that the European Commission was not taking account of the grave economic situation when assessing its budget and should introduce flexibility (UPI 2012), the Belgian

government criticised the Commission's recommendations for being too restrictive and for not making the distinction between the legally binding targets and the policy measures to reach them, which member states can freely decide (Windels and Buxant 2012).

It is clear that the new system is still struggling to find the 'normative agreement on how groups and individual should be treated in (...) decision-making processes' required for procedural legitimacy (Lord and Magnette 2004: 187). In this respect, it is probably useful to refer back to the position of national parliaments in the new system. A more intense and timely involvement through a structural dialogue with the European Commission could not only address parliamentary and procedural legitimacy, but could take national parliaments from the side-line into the centre of economic governance.

CONCLUDING REMARKS: THE NEW ECONOMIC GOVERNANCE AND DEMOCRACY: WHERE DO WE GO FROM HERE?

Looking at the reformed economic governance in light of the four vectors, concerns can be raised about three of them. It was demonstrated that the EP had a considerable impact on the outcome of the six-pack negotiations and will be a tough partner at the negotiation table on the proposed regulation regarding the monitoring of national budgets; proof of a strong parliamentary vector. However, it also emerged that the EP strengthened the supranational component of the reformed economic governance by lowering the threshold for sanctions to be taken and even adding an additional type of sanction. This strengthened the technocratic aspect of the reforms but pulls against procedural legitimacy. In addition, the EP hardly has a substantial role to play in implementing the new procedures, apart from being involved in an economic dialogue with the European Commission and the Council.

National parliaments are arguably most affected by the reformed system of economic governance. The analysis showed that the new procedures put the operation of national parliaments under pressure. They will need to adapt in order to play their traditional role in the preparation of national budgets. Despite this, only a small number of them raised concerns related to subsidiarity in the light of the Commission's legislative proposals and the Fiscal Compact. By consequence, thresholds to trigger the yellow or orange card were far from being reached. This raises concerns in terms of both the procedural and the indirect (national) legitimacy of the new system.

As Lord and Magnette (2004) pointed out, the vectors are intertwined in reality. They interact and can clash with each other. In this case both procedural and indirect legitimacy have been diminished for the sake of technocratic legitimacy. This is a classic pattern of policy-making in times where spillovers are presented as necessary steps of a predominantly technical nature (Majone 2010). The need for output and efficiency spurs the technocratic legitimacy of the reforms but results in the fact that transparency, proportionality and the support of the wider public lag behind. With time, however, pressure mounts to correct this imbalance. The demand by national parliaments to be more closely involved in the new system and the political calls for a more balanced system of economic governance which finds resonance with the electorates are a first indication of this.

The inherent contradiction in the monetary union described by Lord and Magnette (2004: 192) is ever present today. The new reforms may have brought about a more robust and efficient Stability and Growth Pact; the debate on its legitimacy has only just begun.

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¹ A German MEP represents over 800,000 voters while a Maltese MEP represents around 66,000 voters.

² If one third of the national parliaments cast a negative vote (with each parliament having 2 votes) against a given measure, the draft 'must be reviewed'. For measures taken under the ordinary legislative procedure the threshold is a majority of the votes.

³ The orange card foresees that if the European Commission maintains its proposal but a simple majority of national parliaments continue to object it must submit its justification for maintaining it to the co-legislators.

⁴ Majone (2010: 159) defines integration by stealth as a technocratic method of pushing for more integration 'under the guise of economic integration' by presenting this integration as a 'fait accompli' rendering opposition and argument 'useless'.

⁵ This is more stringent than the 1 per cent of GDP required by one of the six-pack regulations, which according to the treaty is now the rule for member states with debt levels significantly below 60 per cent of GDP and where risks in terms of long-term sustainability of public finances are low.

⁶ Member states such as Belgium (see van Haver and De Wilde 2012), Hungary (see Euractiv 2012), the Netherlands (The Economic Times 2012) and Spain (see Chaffin 2012) are the most prominent examples.

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