

From EU Governance of Crisis to Crisis of EU Governance: Regulatory Failure, Redistributive Conflict and Eurosceptic Publics*

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Introduction

Financial crisis, euro crisis, Greek crisis, Crimean crisis, Ukraine crisis, Syria crisis, migration crisis – even the greatest optimist cannot deny that Europe has been suffering through a whole series of crises ever since the Lehman Brothers bank collapsed in 2008. EU scholars and pundits agree that Europe has failed to govern the multiple crises because the European Union has been too weak to prevent the breakdown of banks, contain sovereign debt, generate economic growth, create new jobs, promote stability and democracy in its Southern and Eastern neighbourhood, stop transnational terrorism, and fight climate change. Some even argue that the EU has not only failed to provide solutions but that is actually part of the problem undermining the capacity of its Member States to effectively and democratically govern their markets and societies in the 21st century (Majone, 2014; Scharpf, 2015). Although some Eastern European governments may have been most outspoken in claiming that not more but less Europe is the only way to get out of the various crises and avert catastrophe in the future, Dutch, Danish and British politicians, however, have voiced similar arguments supporting David Cameron's symbolic request to exempt the UK from the goal of 'an ever closer union' in the preamble of the Treaties to avoid Brexit.

How much Europe is necessary for effective and legitimate governance in Europe amid enduring crises? Is more or rather less European integration the answer to Europe's governance failures? This contribution will argue that Europe's problem is not too little integration. The EU has the power to take action. The Fiscal Pact, the Six-Pack, the European Stability Mechanism, the Banking Union, the sanctions against Russia, the Association Agreement with Ukraine, reallocation quotas for refugees, more than €10 billion for assisting countries inside and outside the EU to cope with the migration flows – these are only some of the more prominent measures the EU has adopted in response to the crises over the past few years. Sceptics contend that this is too little too late, particularly in the current crisis. Yet, whether the new laws and institutions will be sufficient is hard to tell as long as they have not taken effect. While the Member States have made significant legal and financial commitments at the EU level, many of them have shown little inclination to follow up and comply. This is particularly evident with regard to the attempts of the EU to tackle the

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historic influx of migrants. Funds are not paid, refugees and asylum-seekers not accepted, laws not implemented and enforced. The EU does not so much lack the capacity to take binding decisions; it is its Member States that do not comply with these decisions. I will use the euro crisis and the failure of the EU to deal with the migration flows to argue that at the heart of Europe's crises lies a growing commitment-compliance gap, which has exacerbated the regulatory deficits of EU governance in these two core areas of the European integration project. The failure of Member States to put policies they agreed upon at the EU level into practice has its cause in euro-nationalists dominating the politicization of EU policies and institutions, which have been empowered by the way in which the Member States sought to solve the euro crisis. The growing contestation of, and opposition to, the EU and its policies *per se* is not the problem. Nor is it the return of nationalism in Europe or the lack of a European public sphere. Instead of an outright rejection of European integration, we see the mobilization of illiberal, nationalist ideas of Europe, which are exclusionary, xenophobic and anti-Islam. I will argue that this euro-nationalism not only undermines the legitimacy but also the effectiveness of EU governance. It has been fuelled by the mix of Member State negotiation and competition in the shadow of supranational hierarchy, which has worked for the EU as a regulatory state but which is not suitable for dealing with the redistributive issues that have come to dominate important areas of European integration. In fact simply extending the EU's governance mix from regulatory to redistributive policies is likely to further undermine its effectiveness and legitimacy.

In order to develop this argument, the contribution proceeds in three steps. The first part will analyze how the EU has adjusted its governance mix to cope with the euro crisis. Drawing on my previous work, I will demonstrate that the euro crises management resulted in a strengthening of supranational centralization on the one hand and intergovernmental co-ordination in the shadow of supranational hierarchy on the other. The second part will show that the EU has invoked this governance mix to deal with its next crisis caused by the historic influx of migrants and refugees. While it has been able to generate substantial commitment to taking action, the EU faces growing non-compliance problems at the domestic level. I will argue that the refusal of Member State governments to honour their financial and legal commitments is mostly due to increasing politicization driven by the rise of populist forces that mobilize illiberal, nationalist ideas of Europe against the redistributive effects of many EU crises policies.

The contribution concludes with some considerations on how to solve the EU's governance crisis. Rather than pursuing a functionalist strategy of deepening European integration, I will argue that the post-functionalist EU is in need of a new governance mix. Supranational centralization and supranational joint decision-making may be appropriate for regulatory policies. When applied to redistributive issues, however, they fail to generate sufficient social acceptance at the domestic level. Seeking to depoliticize redistributive policies by delegating them to supranational institutions, such as the European Central Bank, the European Commission and a European Border and Coast Guard has backfired. The transfer of political authority to EU institutions, which results in a loss or at least severe constraints on national sovereignty, has fuelled opposition to an increasingly intrusive and undemocratic EU empowering eurosceptic populist forces at both ends of the political spectrum. Rather than being principally opposed to the European integration project, they advocate ideas of an exclusionary, nationalist EU that protects the national

sovereignty and cultural heritage of its Member States. These illiberal ideas challenge the effectiveness and the legitimacy of both EU policies and EU institutions. What is necessary is a strengthening of cosmopolitan voices in the politicization of the EU and its policies that appeal to the Europeanized identities of EU citizens based on shared values of solidarity, liberty and humanity, to upgrade the European common interest and scale up solidarity among Europeans.

I. The EU's Changing Governance Mix: More of the Same

Some EU scholars argue that the EU has been in crisis for the past 40 years starting with the eurosclerosis in the 1970s and early 1980s. Crisis arose whenever the Member States resisted (further) transfer of political authority to the EU level or opposed EU interference into their domestic affairs even though joint action at the EU level appeared to be clearly needed (Tömmel, 2016). In the attempt to 'escape from deadlock', the EU developed new modes of governance, such as the Open Method of Coordination (Héritier, 1999). But overall, the Member States have institutionalized different combinations of competition and negotiation in the shadow of supranational hierarchy.

Varieties of EU Governance

To overcome Member State resistance against the harmonization of regulatory standards in the creation of the internal market, the Member States resorted first to framework legislation setting common goals and basic rules and procedures leaving it to Member States to implement their own policies. Compliance with EU framework legislation is monitored by the European Commission and the European Court of Justice (ECJ), while enforcement ultimately lies with the Member States. The subsequent extension of the EU's regulatory competencies and qualified majority voting since the Single European Act in 1986 facilitated the use of the Community Method or what I refer to as supranational joint decision-making, which the Lisbon Treaty of 2010 made the default mode of governance applying to almost all policies of the single market and in the framework of justice and home affairs.

Second, the Member States delegated political authority to independent supranational agencies. The European Commission and the European Central Bank can set and enforce legally binding decisions without requiring the consent of the Member States. This supranational centralization does not only apply in competition and monetary policy. Since the 1990s, the Council has increasingly tasked the Commission with the adoption of EU laws (König *et al.*, 2012). Such delegated or tertiary legislation (Junge *et al.*, 2015) can be adopted by the Commission under the implementing powers given to it by the Treaties (Article 291 TFEU), or under the delegated powers provided by earlier legal acts. It usually involves the further elaboration or updating of standards and technical issues. They are passed through the so-called comitology procedure, which involves committees consisting of Member State representatives with voting power and the Commission which sets the agenda and chairs the committee meetings. Decision-making happens behind closed doors and is in stark contrast to the adoption of legal acts under supranational joint-decision-making; the European Parliament has the right to comment on whether a draft exceeds the implementing powers of the Commission but has no power to amend or reject the directive.

Third, the principle of mutual recognition established by the ECJ in 1979 with its seminal *Cassis de Dijon* decision allows high-regulating Member States to maintain their regulatory standards but prevents them from using those standards as non-tariff trade barriers against low-regulating Member States. It constitutes the framework for a moderate regulatory competition between the Member States in the shadow of supranational hierarchy since EU law mandating the opening of national markets generates competitive pressure not only on domestic companies but also on public regulation within the Member States (Sun and Pelkmans, 1995, pp. 68–69). At the same time, the principle of mutual recognition constrains the dynamics of a race to the bottom by requiring that states (implicitly) agree on minimum standards. It thereby significantly expands the shadow of supranational hierarchy in the single market since the dismantling of non-tariff barriers does not require the consent of the Member States – unlike the harmonization of national standards at the EU level. This form of ‘horizontal transfer of sovereignty’ (Nicolaidis and Shaffer, 2005) also travelled to other areas where it serves as a functional equivalent to supranational joint decision-making. It has been increasingly invoked in justice and home affairs, for example, in the area of asylum and immigration policy or criminal law, where the national regulations of Member States are too divergent to allow for agreement in the inter- and transgovernmental negotiation systems (Schmidt, 2007). The principle of mutual recognition facilitates cross-border law enforcement since different national standards with regard to criminal codes can no longer obstruct judicial co-operation between Member States (Lavenex, 2007).

Fourth, transgovernmental networks help supranational, national and subnational public actors to informally co-ordinate their interests and reach agreements through the exchange of resources and arguments. The shadow of supranational hierarchy generated by majority rule in the Council and judicial review of the ECJ significantly influences the dynamics and outcomes of inter- and transgovernmental negotiation systems. On the one hand, the perceived threat of a majority decision in the Council increases the willingness of governmental actors to come to an agreement. On the other hand, inter- and transgovernmental actors have to make sure that their agreements are likely to stand up to scrutiny by the Commission and the ECJ. The parameters set by their interpretation of European law are not always oriented towards mere market liberalization and free competition but may also support market-correcting policies. The ‘dual mechanism of anticipated reactions and the fleet in being’ (Scharpf, 1997, p. 200) is particularly prevalent in the single market but also has an impact on other policy sectors, such as the environment, social policy and tax policy (Héritier and Lehmkuhl, 2008).

These transgovernmental networks also help to fill the ‘regulatory gap’ at the EU level, when Member States have been reluctant to transfer regulatory authority to the EU level and instead delegated them to independent regulatory agencies or ministries at the national level (Coen and Héritier, 2006). National regulatory authorities have formed informal networks to exchange information and develop ‘best practice’ rules and procedures to address common problems (Coen and Thatcher, 2008). While these regulatory and operational networks may be open to the participation of private actors (for example, providers and consumers), they are transgovernmental rather than transnational in character (Eberlein and Grande, 2005). Even if the Member States have not delegated regulatory competencies to the EU, transgovernmental networks operate under the shadow of supranational framework regulation, which ‘regulates the regulators’ (Eberlein and Grande, 2005, p. 98) by setting minimum requirements for the regulatory regimes in the Member States (Levi-Faur, 1999).

If It Ain't Completely Broken, Don't Fix It!

The EU's governance mix has evolved over time developing different varieties of inter- and transgovernmental negotiation and regulatory competition in the shadow of supranational hierarchy (Börzel, 2010, 2012). Economic and monetary union (EMU) combines supranational centralization in the form of delegating the authority to make monetary policy to the European Central Bank (ECB) with the intergovernmental co-ordination of national economic policies in the Eurogroup to safe-guard macroeconomic stability in the shadow of the Stability and Growth Pact and the Excessive Deficit Protocol Procedure on the one hand and the competition of national economic systems in the internal market on the other. Asylum and migration policy mixes supranational decision-making to set common standards on the treatment of asylum seekers and refugees in the Schengen passport-free area and regulatory competition in the shadow of supranational hierarchy to facilitate cross-border law enforcement.

Both governance regimes have been criticized for Member States giving up rather than transferring political authority to the EU level. Monetary union deprives euro countries of key instruments of macroeconomic management without, for example, providing the EU with the ability to contradict the effects of cheap credit availability resulting from the uniformity of ECB interest rates (Scharpf, 2015, 2016; Streeck and Elsässer, 2016). In a similar vein, the Schengen states abolished internal border controls without creating a common external border control and a common administration to handle asylum seekers and refugees. Despite these birth defects, however, the euro and Schengen appeared to work well enough.

Warnings that the governance mix of EMU failed to ensure sufficient convergence among surplus and deficit countries were ignored (Bayoumi and Eichengreen, 1993; Scharpf, 2015; Streeck and Elsässer, 2016) and demands by Spain, Italy and Greece for burden-sharing dismissed (Thielemann and El-Enany, 2010). The Stability and Growth Pact and the Excessive Deficit Procedure Protocol were to impose fiscal discipline on the Member States to prevent spillover effects from unsustainable national deficits. Re-admission agreements with neighbouring countries were to limit the number of asylum seekers to be handled by the Member States in charge of protecting the EU's external borders.

Only when the EU was hit by the collapse of US real estate banks in 2008, and after Libya and Syria collapsed in 2011, respectively, did the Member States have to acknowledge the deficits of the regulatory governance mixes. Since the EU lacked the political authority for a forceful response to both crises, Member States have resorted to unilateral action – bailing out their domestic banks, stopping the registration of refugees and asylum seekers, passing them on to their neighbours, taking them on without registration, and closing off their borders.

EU Crisis Management by Default

Since EMU and the Schengen regime have deprived the Member States of core instruments to mitigate external asymmetric shocks, unilateral action has done little to manage the crises. Consequently, and rather reluctantly, Member State governments sought to find common solutions at the EU level. To prevent the breakdown of the eurozone and protect the common currency against future challenges, the euro countries established a whole set of supranational institutions which constitute the most far-reaching

deepening of European integration since the creation of EMU in 1999 – without even touching the Treaties. Rather than fundamentally changing the previous governance mix by establishing a ‘new intergovernmentalism’ (Bickerton *et al.*, 2014), the Fiscal Compact, the European Stability Mechanism, the Banking Union, the Macro-economic Imbalance Mechanism, and the European Semester reinforce supranational centralization and inter- and transgovernmental co-ordination as the two main governance modes of EMU, placing the latter under a strict shadow of supranational hierarchy.

Certainly, the European Council has played a key role in making decisions in response to the crisis (Bickerton *et al.*, 2014; Puetter, 2014). However, this does not necessarily imply a weakening of supranational institutions (Fabbrini, 2013; Nugent and Rhinard, 2016).¹ The Commission was tasked with transforming Member State decisions into technical proposals for legislative measures including the Six Pack and the Two Pack adopted by supranational decision-making, that is, the ordinary or special legislative procedure. The Macro-economic Imbalance Mechanism and the European Semester substantially strengthen the budgetary and macroeconomic surveillance capacities of the Commission (Savage and Verdun, 2016). Tightening the rules for fiscal discipline of the Stability and Growth Pact and giving the Commission the power to monitor Member State fiscal activities and sanction excessive deficits and debts cast a substantial shadow of supranational hierarchy over the intergovernmental co-ordination of economic, fiscal and budgetary policies that formally remain the political authority of the Member States, but supranational rules and surveillance severely limit Member State discretion.

In a similar vein, the Banking Union creates supranational banking rules (single rulebook) and centralizes banking supervision in the hands of the ECB to avert market failure by banks.² The so-called Single Supervisory Mechanism provides for the monitoring and enforcement of a common regulatory framework formed by a series of directives adopted under supranational decision-making, including the Capital Requirements Regulation and Directive implementing the Basel III capital requirements for banks, the Deposit Guarantee Scheme Directive regulating deposit insurance, and the Bank Recovery and Resolution Directive, which establishes the Single Resolution Mechanism and the Single Resolution Fund to regulate and finance the restructuring of troubled banks (de Rynk, 2016). With the European Commission, the ECB obtained comprehensive surveillance powers, which comprise full access to bank data and the right to carry out onsite inspections. The new system takes away Member State authority for financial supervision under the Lamfalussy Process, which provided at best a ‘light touch’ regulation (Quaglia, 2010).

Strengthening supranational centralization and placing intergovernmental co-ordination under a shadow of supranational hierarchy may be a rupture with the past approach of centralized monetary and decentralized economic policy (de Rynk, 2016). Yet, it is fully in line with the EU’s default strategy to deepen integration in the face of Member State resistance against a transfer of political authority to the EU level by supranational centralization (*cf.* Chalmers *et al.*, 2016b). This also applies to the changing role of the ECB, which in a similar vein to the Commission has transformed from a technocratic supranational agent with a very specific mandate into a political actor taking monetary decisions with redistributive consequences, such as quantitative easing or purchasing government debt

¹ See Dinan’s contribution to this volume.

² See Hodson’s contribution in this volume.

on secondary markets, but being shielded against political and electoral accountability (Chang, 2016, p. 493).

The changes in the EU's governance mix are also a far cry from calls for a genuine social and political union, which would have the legal and fiscal authority to protect and support specific social rights (Habermas, 2013). The incremental adjustments of the previous governance mix not only raise questions about its effectiveness in preventing future crisis (Scharpf, 2016). They also heighten problems of legitimacy since supranational centralization and intergovernmental co-ordination in the shadow of supranational hierarchy hardly provide for the democratic control and participation the German Constitutional Court demands and EU scholars deem necessary to counter increasing euroscepticism among EU citizens (Fasone, 2013; Hix, 2015; Risse, 2015b).

Whether the reform of the existing governance mix will suffice to protect the eurozone against future external shocks is beyond the scope of this contribution. What is of interest here is that the default strategy of the EU to respond to the refugee crisis by resorting to supranational centralization and inter- and transgovernmental co-ordination in the shadow of supranational hierarchy has not worked. Quite the contrary: I argue attempts at depoliticizing controversial issues by supranational centralization silencing public controversies over EU policies and EU institutions have backfired turning the 'constraining dissensus' (Hooghe and Marks, 2009) into euroscepticism (Grande and Kriesi, 2014). The politicization of the EU as a polity by populist politicians mostly on the right has not only made it impossible for Member State governments to agree on creating new supranational institutions, such as a European Border and Coast Guard, or supranational rules for intergovernmental co-ordination, such as institutionalized reallocation quota, it also undermines their compliance with decisions already adopted under supranational joint decision-making or intergovernmental co-ordination – bringing the entire Schengen system down.

II. The Commitment–Compliance Gap: From Regulation to Redistribution

The combination of negotiation and competition in the shadow of supranational hierarchy has prevented and corrected market failures (on the EU model of regulatory governance see Eckert, 2011; Finger, 2011). Yet, it has clear limits when dealing with issues of redistribution. In (re-)distributive policy areas, such as taxation of mobile capital, employment, social policy or economic governance, the Member States have been very reluctant to resort to supranational joint decision-making and supranational centralization in order to counteract politically undesired outcomes of the internal market. At the same time, EU market and monetary integration impedes the Member States in maintaining such functions. The single currency largely deprives the Member States of their core instruments for national macro-economic stabilization, while the fiscal austerity rules put serious constraints on state expenditures. Softer modes of governance (intergovernmental negotiations and competition) are unlikely to respond to this 'European problem-solving gap' (Scharpf 2006, p. 855), elucidated once again by the financial crisis.

Masking Redistribution

The imminent threat of sovereign debt has been contained and there are signs that the economies of the crisis countries are recovering, with the exception of

Greece.³ Yet, the South of Europe continues to suffer from long-term developmental problems. So far 'hard' supranational centralization to discipline the banking sector and Member State spending policies has done little to narrow the gap between the EU's Northern core and its Southern (and Eastern) periphery since they do little to tackle the structural weaknesses that hold back Spain, Portugal, Greece and Italy's capacity to grow and adjust to economic shocks (European Commission, 2016b).⁴ This would require the EU to address the overall low governance capacities of creditor countries, their poor education and skills, weak productivity performance and very poor multi-factor productivity scores (Bohle and Greskovits, 2012; Molina and Rhodes, 2008; van Ark *et al.*, 2013). The failure to do so has increased the democratic legitimacy deficit of the EU by insulating political decisions from institutional and electoral accountability, both at the EU and the national level (Scharpf, 2015; Streeck and Elsässer, 2016; de Wilde *et al.*, 2016). What is more, rather than alleviating the social costs of the euro crisis, the reformed EU governance mix interferes with domestic economic and social policy producing or at least exacerbating redistributive effects that are now attributed to the EU (Hix, 2015; Polyakova and Fligstein, 2016; Scharpf, 2015). Through their financial guarantees, assistance and interventions, the ESM and the ECB, directly or indirectly, have engaged in massive redistribution among and within the Member States. The euro crisis has definitely turned EMU into a redistributive issue by increasing the scale and the visibility of redistribution.

To be sure, EMU has never been a purely regulatory issue. While the Member States could not agree on supranationalizing economic, fiscal and budgetary policies, it was clear that overcoming the diverging economic performance between Northern surplus and Southern deficit countries would require some financial transfer by the former to help the latter raise productivity (Streeck and Elsässer, 2016). The structural funds were to provide fiscal assistance to buffer economic and social adjustment costs imposed by the internal market (George and Bache, 2001; Hooghe, 1996), and later the common currency. However, with Eastern enlargement, the Southern European euro countries had to increasingly share the funds with the new Member States in Central and Eastern Europe. Maintaining their initial level of financial transfer would have required an increase of the EU budget from 1 to 4 per cent of EU GDP, which the net payers and surplus euro countries rejected insisting that competitiveness could only be improved by austerity and structural reforms to become self-sufficient (Streeck and Elsässer, 2016, pp. 17–19). The drop in EU financial assistance for the deficit countries was at least partly compensated by access to cheap credit, which, however, was used for consumption rather than investment (Scharpf, 2015).

When the deficit countries had to go into sovereign debt to bail out their troubled banks, the surplus countries came to the rescue. Cheap credit was made conditional on the implementation of austerity programmes, stringently enforced fiscal restructuring and structural reforms, overseen by the International Monetary Fund, the European Commission and the European Central Bank. To support Member States with substantial public debt, two temporary rescue funds were set up in 2010, the European Financial

³ See Featherstone's contribution to this volume.

⁴ In the Country Reports published in the framework of the European Semester 2016, the European Commission considers these structural weaknesses the key challenge for the recovery and growth potential of European economies. Available online at: http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm. Last accessed: 27 February 2016.

Stabilization Mechanism (EFSM), guaranteed by the European Commission through the EU budget, and the European Financial Stability Facility (EFSF), which was guaranteed by the eurozone members. These temporary lending facilities were replaced in 2012 with the European Stability Mechanism (ESM), a permanent European emergency fund with a lending capacity of €500 billion. The various bailout mechanisms and rescue packages have turned the EU by all practical means into a transfer union – despite the ‘no bailout clause’ (Article 123 TFEU). ‘The prohibition on international compensation payments in the Maastricht Treaty is no more than pro forma: with significant performance differences between countries joined in a monetary union, there is no way around some sort of inter-country redistribution’ (Streeck and Elsässer, 2016, p. 8). Many argue that the installed transfer mechanisms are not enough to deal with the economic and social costs of the euro crises and the structural reforms the creditor countries demand in return for their financial solidarity. In order to help Member States equalize the regional effects of asymmetrical shocks and raise the productivity of deficit countries, the EU needs to become a truly fiscal union replacing intergovernmental economic policy co-ordination under ‘soft law’ (Hodson and Maher, 2001) with a common taxation, pension and employment insurance system (Scharpf, 2015; Streeck and Elsässer, 2016). Moreover, the EU would have to make sure that the Member States engage in stronger redistribution at the domestic level. Inequality and social exclusion are not only - and increasingly less - an issue between but rather within the Member States (Copsey, 2015). The required redistribution would be of such magnitude that the economic growth in surplus countries would no longer suffice to pay for the fiscal transfers. Nor would the necessary transfer of political authority find sufficient support among political elites and mass publics in Europe given that the distribution of the adjustment burden between creditor and debtor countries in the Euro crisis has already been the most divisive conflict (Genschel and Jachtenfuchs, 2016b).

Unwilling to change the treaties to give the EU substantial redistributive authority, the Member State governments have sought to depoliticize redistributive issues by masking them behind regulatory policies (Genschel and Jachtenfuchs, 2016a). Regulatory policies do have redistributive implications (Wilson, 1980). Yet these are mostly felt at the implementation stage and concealed by imposing the same obligations on all Member States (Majone, 1994). As a result Member States have found it less difficult to transfer regulatory authority to the EU level and to agree on common regulatory policies. Not surprisingly then, the creditor countries have framed the euro crisis as a regulatory issue, a problem of too lenient fiscal and budgetary rules and too lax enforcement (Chang, 2016, p. 495). The solution, hence, is not fiscal transfer but compliance with stricter austerity rules and structural reforms enforced by the Commission and the ECB, which will enable debtor countries to become self-sufficient. Financial assistance is only a temporary means to buffer adjustment costs and help build reform capacities.

Yet, regulatory governance is ultimately inadequate to deal with redistributive issues (Majone, 1994), particularly if it seeks to mask them instead of addressing them head on. The euro crisis marks ‘the end of the Eurocrats’ dream’ (Chalmers *et al.*, 2016a) of ever closer harmonization through technocratic integration. The failure to recognize the need for a different governance mix to tackle redistribution that does not rely on supranational centralization and limits supranational joint decision-making has further politicized the EU as a system of governance whose democratic credentials are not only questioned by populist politicians and citizens rallying against the socioeconomic effects of the crisis

but by the constitutional courts of several Member States, which have reserved the right to review and, if necessary, nullify changes in the EU's governance mix (Fabbrini, 2014; Joerges, 2016). As a result, the willingness of Member States to comply with EU austerity rules and procedures is waning. Greece may ultimately have no choice since it is insolvent.⁵ But the governments in Portugal, Spain and Ireland have demanded more flexibility for example in assessing Member States' budget and growth policies. So have France and Italy, which never fully complied with the EU's deficit rules in the first place. It remains to be seen to what extent the financial markets will instill budgetary discipline. The EU itself has only limited authority and capacity to enforce its laws and decisions. The reliance on Member State enforcement authorities allowed the EU to externalize compliance costs but turned '[n]ational administrations into both ... vehicles for securing its goals and the central impediments to realising them' (Chalmers *et al.*, 2016b, p. 9). The massive redistributive effects of EU regulatory governance on the domestic level have exacerbated the divergence between EU decision-making and enforcement capacities.

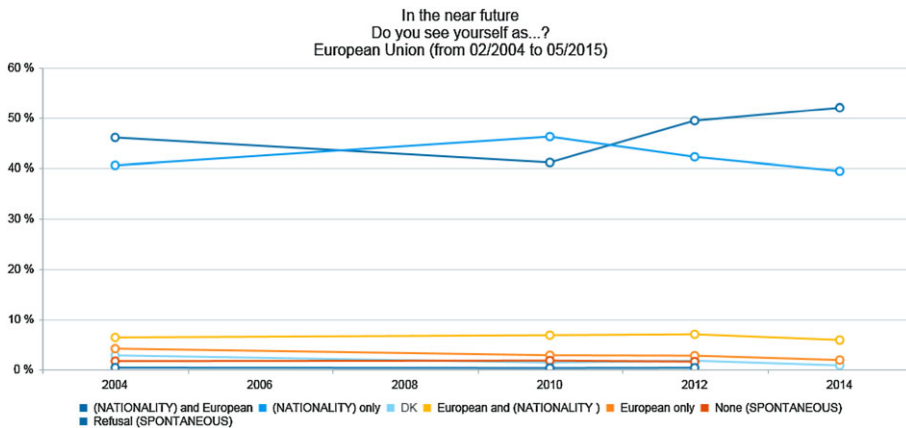
Open non-compliance with supranational rules does not only render EU law ineffective; it fuels the politicization of the EU between compliant and non-compliant Member States (Genschel and Jachtenfuchs, 2016b, p. 50). While the former denounce the illegitimate interference with national democratic sovereignty, the latter emphasize that the EU is a community of law, in which *pacta sunt servanda*. The EU had been a latent cleavage in most of the Member States before the euro crisis (Hooghe and Marks, 2009). However, the politicization of EU policies and institutions has not only intensified since the EU has been confronted with a growing influx of migrants and refugees, many claim that it is also nationally segmented dividing EU citizens along national boundaries (de Wilde *et al.*, 2016; Genschel and Jachtenfuchs, 2016b, p. 49; Polyakova and Fligstein, 2016). We still lack the data to measure how Europeanized the politicization of migration actually is. I will argue below that the biggest challenge for EU governance is that politicization is dominated by populist positions advocating illiberal, nationalist ideas of Europe that do not principally oppose the EU but promote an EU that is different from the liberal modernization project that has been constitutive for European integration so far.

Populist forces have not been able to constrain supranational centralization of monetary policy and the building of a strong shadow of supranational hierarchy over intergovernmental co-ordination of economic policy. Member State governments successfully managed to depoliticize and shield decision-making against public scrutiny and silence public debates by avoiding treaty reforms, using secondary legislation (for example, Six Pack, Two Pack), establishing treaties outside the EU framework (for example, the Fiscal Compact), and delegating decision-making powers to non-majoritarian, technocratic supranational bodies (for example, Banking Union) (Genschel and Jachtenfuchs, 2016b, p. 54; Grande and Kriesi, 2016, p. 399; Howarth and Quaglia, 2013; Schimmelfennig, 2014, p. 336).⁶ Yet, the successful attempts of Member State governments at managing the euro crisis by 'integration by stealth' (Majone, 2005) have come at a price to be paid once the next crisis hit. When controversial EU policies are isolated from political and electoral accountability, citizens, political parties and interest groups redirect their opposition and discontent with these policies towards the EU as a polity as such contesting its legitimacy to make such policies in the first place (Mair, 2007).

⁵ See Featherstone's contribution to this volume.

⁶ See Kriesi's contribution to this volume.

Figure 1: Identification with the EU (EU Average, 2004–15)



Source: Eurobarometer data base. Available online at: <http://ec.europa.eu/COMMFrontOffice/PublicOpinion/index.cfm/Chart/getChart/chartType/lineChart/themeKy/41/groupKy/206/savFile/190>. Last accessed: 24 February 2016.

Defying Redistribution

Given the seeming success of integration by stealth in mastering the euro crisis, the Commission and the Member States resorted to the same strategy to cope with the historical influx of migrants. Yet this time they were not able to use supranational centralization to depoliticize redistributive issues by masking them behind regulatory policies. This is not only because migration and refugee policies touch upon core issues of state sovereignty and national identity which are particularly likely to get politicized (Genschel and Jachtenfuchs, 2016b, p. 52). The failure of the EU to come to terms with the redistributive implications of the euro crisis have empowered euro-nationalist positions in many Member States to an extent that their governments are not only constrained in making commitments at the EU level for joint decisions but lack the political support to comply with them domestically.

In particular citizens hit worst by the euro crisis have felt that the EU has failed to provide supranational solutions to problems caused by European integration (Polyakova and Fligstein, 2016, p. 61). The EU not only stopped being part of the solution. For many citizens particularly in Southern Europe it has become part of the problem (Majone, 2014; Scharpf, 2015).⁷ As a result European citizens have increasingly turned to their national governments to provide solutions and protect their interests. This has not, however, resulted in a nationalist backlash as claimed by Polyakova and Fligstein (2016). Most Europeans still believe that the crises require European rather than national solutions (Risse, 2014). Nor do survey data support a surge of nationalist identities, that is, growing numbers of Europeans who identify exclusively with their nation-state (see Figure 1). With the exception of summer 2010, the identification levels with the EU have increased or remained stable during the euro crisis, including in the debtor countries (Risse, 2014). This should not be too surprising since the literature has found no evidence for a strong

⁷ See Kriesi's contribution to this volume.

impact of the EU and its institutions on the Europeanization of national identities (*cf.* Checkel and Katzenstein, 2009).

Whether the ‘Europeanization of national identities is sufficient to sustain carefully crafted (re-)distributive policies on the European level’ (Kuhn and Stoeckel, 2014; Risse, 2014, p. 1208;) is still debated in the literature (Polyakova and Fligstein, 2016; Streeck and Elsässer, 2016). In early 2016, a majority of 57 per cent of EU citizens continued to support EMU and more than two thirds of EU citizens still wanted a common European policy on migration.⁸ I argue that the effectiveness and legitimacy of EU governance is undermined by the growing politicization of the EU that is not so much anti-Europe or nationally segmented but dominated by appeals to illiberal, nationalist ideas of Europe which are exclusionary and anti-Islam. Acknowledging that the politicization of the EU and European integration is a cyclical rather than a linear process and differs across (groups of) Member States,⁹ political conflict over the EU has intensified in public media and party competition (de Wilde *et al.*, 2016; Grande and Kriesi, 2016; Statham and Trenz, 2014). With the euro crisis citizens have not only become more aware of and worried about EU governance, their attitudes have become more polarized rather than being neutral, ambivalent or indifferent towards the EU (de Wilde *et al.*, 2016). Arguably, the level of politicization is not as unprecedented as some scholars argue (de Wilde *et al.*, 2016; Grande and Kriesi, 2016; Risse, 2015a; Schimmelfennig, 2014, p. 322); nor does it necessarily have to constrain further integration as claimed by post-functionalists (Hooghe and Marks, 2009) or undermine the EU’s output legitimacy by paralyzing EU decision-making (Scharpf, 2009, 2015). Replacing ‘politics without policy’ (Schmidt, 2006) with ‘politics about polity’ (de Wilde *et al.*, 2016, p. 14) in the Member States can strengthen democracy by enabling citizens to make better informed choices as well as by fostering diffuse support for and identification with the EU (Follesdal, 2015; Harrison and Bruter, 2015). Hence, politicization can both promote and impair the deepening and broadening of European integration depending on certain scope conditions (de Wilde *et al.*, 2016; Genschel and Jachtenfuchs, 2016b; Grande and Kriesi, 2016; Risse, 2014; Zürn, 2012).

The crisis of EU governance is not caused by politicization *per se* nor by its national segmentation. The eurozone crisis and the migration flows have been framed as European issues of common concern and have been debated in transnationally interconnected public spheres (Risse, 2014). However, the growing politicization of EU affairs is dominated by a peculiar type of ‘politics about polity’, which takes place along the ‘cosmopolitan-nationalist’ cleavage. This new cultural cleavage emerged as a consequence of globalization (Grande and Kriesi, 2016). Rather than being a ‘pro- and anti-EU cleavage’ (Grande and Kriesi, 2014, p. 191), it counters liberal ideas of Europe, embodied by the values of the enlightenment, such as human rights, democracy, the rule of law and the market economy, with nationalist and xenophobic ideas of Europe based on an essentialist interpretation of the continent’s Christian heritage (Risse, 2010).¹⁰ An emerging ‘cleavage coalition’ (Grande and Kriesi, 2014) of eurosceptic political forces on the radical right of the political spectrum have exploited the cosmopolitan-nationalist cleavage that pitches

⁸ Available online at: <http://ec.europa.eu/COMMFrontOffice/PublicOpinion/index.cfm/Chart/getChart/themeKy/29/groupKy/180>. Last accessed: 29 February 2016.

⁹ See Kriesi’s contribution to this volume.

¹⁰ See Kriesi’s contribution to this volume.

the winners from globalization and European integration against its losers (Fligstein, 2009; Kriesi *et al.*, 2008). Using euro-nationalist frames and claims advocating an exclusionary and anti-globalist ‘fortress Europe’, the Front National in France, the United Kingdom Independence Party (UKIP), the Party for Freedom in the Netherlands, the Freedom Party Austria (FPÖ), the Sweden Democrats, the Danish People’s Party, the Alternative for Germany (AfD), Hungary’s Fidesz, and increasingly Poland’s Law and Justice Party (PiS) have managed to mobilize the fears, the discontent and the frustrations of those Europeans who perceive themselves as the losers of European integration pressures more broadly speaking. This euro-nationalist mobilization feeding on the ‘politics of fear’ (Wodak, 2015) takes place in transnationally interconnected public spheres and has been increasingly successful in electoral politics because supporters of cosmopolitan Europe have sought to silence debates on EU affairs rather than defend liberal values (Grande and Kriesi, 2014).

As expected by post-functionalism, the dominance of euro-nationalist positions in the politicization of EU affairs has increasingly impaired an upgrading of the common European interest (Hooghe and Marks, 2009; Mair, 2007). The ‘constraining dissensus’, which had replaced the ‘permissive consensus’ in the past two decades, is increasingly turning into opposition not so much against Europe *per se* but against the liberal values, including solidarity, liberty and humanity, around which the European project has been constructed. Member States were able to circumvent domestic opposition in the euro crisis by supranational delegation. At the same time, however, their attempts at depoliticizing the management of the euro crisis empowered populist forces advocating an illiberal, nationalist Europe as a result of which governments are not only constrained but increasingly prevented from reaching common European solutions necessary to tackle the migration and refugee challenges rather than merely seeking to externalize them.

Interestingly, the governance failure of the EU in coming to terms with the migration flows is not only and maybe not even be primarily related to deadlock in decision-making. Between the end of September 2015 and end of April 2016, the Member States agreed on a whole set of joint measures aiming at ‘sharing the responsibility’ (Council of the European Union, 2015b) for the refugees who had already entered the territory of the EU on the one hand and managing future migration flows on the other.¹¹ Action was taken by supranational decision-making, drawing on the EU’s legal framework for a common asylum and migration policy. Core measures include the Asylum, Migration and Integration Fund (AMIF) set up for the period 2014–20 with a total of €2.4 billion for the management of migration flows by the Member States, including registration, integration and return; the adoption of a common list of safe countries of origin; the reallocation of 120,000 ‘persons in clear need of international protection’; the establishment of additional hot spots in Italy (five) and Greece (six); and the deployment of an additional 165 Frontex experts to Greece and Italy to help with the registration of refugees (Council of the European Union, 2015b; European Commission, 2015a, 2015b, 2015c, 2015d, 2015e; European Parliament/European Council, 2014, 2015). The three EU agencies operating on migration-related issues (Frontex, the European Asylum Support Office/EASO and Europol) also received a reinforcement of 120 new staff.¹²

¹¹ See Monar’s contribution to this volume.

¹² Draft Amending Budget No. 7 to the General Budget 2015 (30 September 2015). Available online at: http://opac.oireachtas.ie/AWData/Library3/FINdoclaidd061015_172233.pdf. Last accessed: 27 February 2016.

Regarding the stronger protection of the EU's external border, the rescue of refugees and the fight against human trafficking and smuggling, the EU created a new military operation (EUNAVFOR MED) in the Mediterranean Sea in May 2015, and tripled the budget for its already existing operations, Triton and Poseidon in December 2015 (Council of the European Union, 2015a; European Commission, 2015g).

To support third countries that host refugees or are located on major migration routes to the EU, the EU earmarked more than €2 billion within the framework of its European Neighbourhood Policy and Development Cooperation, respectively, including the launching of the Madad Trust Fund for Syria (€654 million) in December 2014 and the Emergency Trust Fund for Africa (€1.8 billion) in November 2015 (Directorate General for Developmental Cooperation of the Italian Ministry of Foreign Affairs and International Cooperation and the European Commission on Behalf of the European Union, 2014; European Commission, 2015f). To help Greece and other Member States struggling with the influx of refugees, in March 2016 the Commission unveiled plans for a refugee emergency fund of €700 million to be disbursed over the next three years. Rather than national governments, the assistance targets aid organizations on the ground, such as UN agencies and non-governmental networks.¹³

In October 2015 the EU agreed to assist transit countries in the Western Balkans, which are current or potential candidates for EU membership, with a plan containing no fewer than 17 points, aimed at building additional reception capacities along the Western Balkan route and stepping up national and co-ordinated efforts to return migrants not in need of international protection with the help of EU financial and technical assistance (Commission and the Heads of State or Government of Albania, 2015). One of the points also refers to an EU–Turkey Joint Action Plan to help Turkey host, register and re-admit migrants and control its borders with Greece and Bulgaria in return for financial assistance, visa liberalization, and the opening of new chapters in Turkey's accession process, which has stalled for almost 10 years. The original €1 billion for setting up six additional refugee camps in Turkey were stepped up to a €3 billion Facility for Refugees at the EU–Turkey summit on 29 November 2015, when the Joint Action Plan was activated (European Commission, 2015h).

These are only the most important measures, the vast majority of which the EU adopted in less than three months under EU primary and secondary law. The co-ordinated European response, however, has failed to reach a fair sharing of responsibility for 'register and process those in need of protection, and to swiftly return those who are not to their home countries or other safe third countries they have transited through' (European Commission, 2016a, p. 3). Maybe, over €10 billion and a series of legal measures are insufficient to accomplish these goals. However, we will probably never know because Member States have squarely refused to put most of them into practice.¹⁴

Denmark opted out of the AMIF while the other 27 have been slow in implementing projects. Some Member States amended their lists of safe countries of origin, adding for example the Western Balkan countries; others, however, still (at the time of writing) do not even foresee the notion of safe countries in their national legislation, despite the legal obligation under the Asylum Procedures Directive. By April 2016, only 615

¹³ *EUobserver*, 2 March 2016.

¹⁴ For the most recent assessment of the progress or lack thereof see European Commission (2016a).

refugees and asylum seekers had been relocated. Slovakia and Hungary challenged the reallocation scheme at the ECJ, Slovenia and Croatia refused to take any refugees and asylum seekers at all, the UK had no obligation because it opted out of Schengen but agreed to take 20,000 from Syria directly. So did Ireland, which offered to accept 20 on a voluntary basis. The remaining 19 Member States made available in total a mere 4,575 places (European Commission, 2016a, Annex 2). Only three of the additional 11 hot spots are operational: two in Italy and one in Greece at the time of writing (European Commission, 2016a, p. 8–9). As of April 2016 the Commission is still waiting for the Member States to send additional experts for Frontex and European Asylum Support Office (European Commission, 2016a, p. 9). Funding pledged by the Member States outside their obligation under the EU budget has not fully been met. Of the €654 million committed to the Madad Trust Fund for Syria, €594 million has come from the EU budget, but only €60.5 million from 19 Member States. The Trust Fund for Africa is approaching the €1.8 billion pledged, but funding from the Member States that is to match the EU's contribution amounts to under €82 million (European Commission, 2016a, p. 7).

Most of the 17 points on which the European Council and the Western Balkan countries had agreed in October 2015 were rendered obsolete by the meeting 'Managing Migration Together' of the Austrian government and nine Western Balkan countries in Vienna on 24 February 2016 to which neither Greece nor any representative of the EU were invited (Bundesministerium für Inneres der Republik Österreich, 2016). In the absence of a European solution, the governments agreed that national measures had to be taken to tighten border controls. Instead of creating reception capacities for 50,000 refugees along the Balkan route and providing temporary shelter, food, water and sanitation for people in need, Croatia, Slovenia and Serbia followed the example of Austria and introduced daily caps for people allowed to apply for asylum or transiting to other countries. Macedonia has effectively closed its border to Greece, only letting in a limited number of refugees from Syria and Iraq every day. This comes close to the 'Plan B' the four Visegrad Countries (V4) called for in their meeting with the heads of government of Macedonia and Bulgaria on 15 February 2016, shifting the EU's external border to Greece's with Macedonia and Bulgaria in the event of Greece not being able to control its border with Turkey.¹⁵ The co-ordinated unilateralism of the Western Balkan candidate countries and some Member States, including Austria, the V4 and Bulgaria, is building up a humanitarian crisis in Greece, where thousands of migrants remain stranded.

Regarding the EU–Turkey Joint Action Plans, on which all hopes for a common European solution appeared to rest in spring 2016, neither the Member States nor Turkey had implemented any of their commitments during the first three months after the agreement had been reached (European Commission, 2016a, pp. 18–19). No money had been transferred to Turkey given the reluctance to tighten the control of its borders with Greece, take on criminal networks of traffickers and smugglers or re-admit migrants. To tackle the issue of non-implementation, the EU signed an agreement with Turkey on 18 March 2016 introducing a 'one in, one out' policy. In exchange for each 'irregular' migrant that Turkey takes back from Greece, the EU will resettle one Syrian refugee from Turkey. Moreover, the EU allotted another €3 billion to help Turkey provide temporary protection for Syrians. The up to 72,000 Syrians will be resettled according to a

¹⁵ Available online at: <https://euobserver.com/migration/132277>. Last accessed: 27 February 2016.

reallocation scheme agreed by the EU for the 120,000 refugees. In the first two weeks of April, some 500 refugees were sent back from Greece to Turkey and an equivalent number of Syrians resettled in the EU. More than ten times the number of new refugees arrived on Greek islands during that time. Most of them immediately filed for asylum, so did many of the 50,000 already stranded in the country after the closure of the Western Balkan route. Greek authorities will have to process thousands of applications and provide the applicants, who have the right to appeal in court, with a place to stay. Whether the economically battered country, whose asylum system has been so deficient that the European Court of Human Rights ruled that EU Member States must not return people there, will be able to cope is an open question. Next to employing 4,000 additional judges, case officers, translators and border guards, Greece will have to establish the necessary administrative and legal procedures and turn its already ill-equipped hot spots (asylum processing facilities) into proper reception facilities and detention centres. The EU and the other Member States have promised to provide 2,300 experts and will foot most of the €300 million the operation is estimated to cost. Yet, the legal responsibility and administrative burden has been again placed on Greece instead of sharing equally among the Member States. Moreover, it remains to be seen how many of the Member States will be willing to accept Syrian refugees to be resettled from Turkey. Finally, it is unclear what will happen if the refugee flows return to their previous routes through Libya into Italy. While the number of migrants crossing the Aegean from Turkey into Greece has declined, those crossing to Italy have more than doubled since the EU–Turkey agreement entered into force. We will have to see whether European courts will accept Turkey as a safe country to which migrants can only be returned under EU law. Libya will certainly not be deemed safe. Austria has already announced tighter checks on its border with Italy in anticipation of a surge of migrants. And on 5 May 2016, the Commission agreed to extend select internal border controls introduced by Austria, Germany, Denmark and Sweden for another six months due to a lack of effective external controls by Greece.

Europe has never seemed further away from a joint solution. The non-compliance with commitments Member States have made over the past six months has resulted in the breakdown of the Common European Asylum System and total defiance of the Schengen rules. Greece and Italy as Member States of first entry stopped registering and accommodating migrants some time ago. They never really managed to return migrants not qualifying for asylum or refugee status to their country of origin (European Commission, 2016a, pp. 9–10). Returning migrants to Greece as a country of first entry (Dublin transfers) has not been possible since 2010 not least because the European Court of Human Rights and the European Court of Justice have raised concerns about the human rights situation (European Commission, 2016a, p. 10). This is one of the reasons why the German government in September 2015 unilaterally decided not to turn back any migrants at its border. Whether this decision encouraged even more migrants to make their way to Europe is an open question. However the use of daily caps to restrict access and the building of razor-wire fences to stop them altogether are violations of both EU Schengen rules and international law.

To be fair non-compliance with the Common European Asylum System had been a problem before the historical influx of migrants and refugees hit the EU. In 2015 the Commission took legal action against virtually all Member States for not applying the five directives the EU had adopted between 2001 and 2011 to provide minimum standards on

asylum procedures, reception conditions for asylum seekers, temporary protection and recognition of refugees and the deportation of illegal migrants as well as the Dublin and Eurodac fingerprinting regulations (European Commission, 2016a, pp. 19–20).

In the face of blatant non-compliance with existing EU laws and decisions the Commission has pushed for supranational centralization. In addition to turning the EASO into the ‘European Union Agency for Asylum’ with new powers to monitor and evaluate Member States’ policies, it called for the creation of an EU Border and Coast Guard Agency (EBCG) to replace the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (Frontex) (European Commission, 2015i). It will monitor the EU’s external borders to ensure that EU legal standards for border management are implemented. In order to strengthen its surveillance capacity, the staff of Frontex will be doubled and a rapid reserve pool of border guards put at its disposal. Most importantly, similar to the European Central Bank under the Single Supervisory Mechanism, the EBCG will be able to require Member States to take timely corrective action; in case of failure to do so, the EBCG would be empowered to intervene directly without the consent of the Member State concerned. Finally, a European Return Office, created within EBCG, will deploy European Return Intervention Teams to return illegally staying third-country nationals. The EU border guards could also enforce the mandatory and semi-automatic mechanism for redistributing asylum seekers and refugees, which the Commission suggested as part of the planned reform of the Dublin Regulation.¹⁶ The proposed distribution key system is to be activated whenever a Member State faces a disproportionate number of asylum applications, such as more than 150 per cent of its capacity). It shall reflect the relative size, wealth and absorption capacities of Member States and shall be monitored by the EASO with the help of a computerised system. Member States refusing to accept asylum seekers shall have to pay a €250,000 ‘solidarity contribution’ to the hosting Member State. The computerized reallocation is to depoliticize EU decisions on asylum. It would break with the core rule of the Dublin regime established in 1990 that the Member State through which asylum seekers and refugees first entered the EU have to handle their applications on behalf of all other Member States and have to accept those migrants that others forcibly return to them. If the so-called Dublin III Regulation is amended by a new regulation, national parliaments would not even have to give their consent (European Parliament/European Council, 2013). At the time of writing it is highly questionable, however, whether the Council will adopt the Commission’s formal proposal for the supranational centralization of the Common Asylum System even if only a qualified majority is necessary. Slovakia and Hungary have already filed court cases against temporary reallocation quota. An automatic reallocation mechanism would fly right into the face of Hungarian Prime Minister Orbán and his referendum, where he plans to ask Hungarians whether they ‘want the EU to be able, without the consent of the Parliament, to prescribe the mandatory settlement of non-Hungarian citizens into Hungary?’¹⁷

In sum, the migration flows have seen an even more intensified, one-sided politicization than the euro crisis where populist forces in the Member States, at times joining forces, appeal to illiberal, nationalist and exclusionary ideas of Europe. By justifying

¹⁶ *EUobserver*, 4 May 2016.

¹⁷ *EUobserver*, 24 February 2016.

national unilateralism as a response to the absence of, and to generate pressure for, a joint European approach, Germany, Austria and the V4 have so far reached exactly the opposite position or so it seems.

III. Stuck in Post-functionalism Governance: A Plea for Transnationalized Cosmopolitanism

Even those who see crisis as ‘the natural ways of development for the EU’ (Àgh, 2014, p. 5), acknowledge that the most recent series of crises has attained a new quality since it may challenge the very foundations of the project of European Integration. Unlike in the past, muddling through, experimenting with new modes of governance or extending the mix of supranational centralization and intergovernmental co-ordination in the shadow of supranational hierarchy do not provide the necessary escape from the EU’s failure to manage the crises Europe has been facing.

I have argued that the governance crisis of the EU is not caused by the weakness of the ‘Community of Europeans’ (Risse, 2010) or the inability of Europeans to show enough ‘solidarity among strangers’ (Habermas, 2006) when it comes to redistribution. Nor is it the growing politicization of the EU and European integration *per se*. The failure to adopt and implement common European solutions to the crises is rooted in the political controversies over who should bear what costs, which are driven by populist politicians that advocate an illiberal, nationalist Europe, which is exclusionary and anti-Islam. Their growing electoral success not only impedes national governments from agreeing on workable policies at the EU level but also undermines their compliance with already adopted EU laws and agreements. The failure to come up with common European solutions further fuels euro-nationalist populism. This is the bad news. The good news is that there is a way out of this vicious circle. The lesson of the euro crisis is that trying to depoliticize EU redistributive issues and silencing public debates by isolating EU decisions from public scrutiny is not only futile but counter-productive. What the EU needs instead is not necessarily *more* transnationalized politicization either. Other Europeans are already present in national public spheres ‘as both speakers and audiences’ (Risse, 2014, p. 1211). They also use similar common European frames and claims across borders (Risse, 2014; *cf.* Risse, 2015a). The issue rather is that populist politicians, such as Geert Wilders, Marine Le Pen, Victor Orbán or Jarosław Kaczyński with their illiberal, nationalist ideas of Europe have dominated the transnational politicization of the EU and its crises policies. Liberal voices, which represent the opposite pole and appeal to the Europeanized national identities invoking solidarity, liberty and humanity to mobilize support for the institutionalization of redistribution at the EU level, have been far weaker, both among governments and societal actors.

National public spheres are sufficiently Europeanized to allow for transnational debates on the future of the EU and European integration (Risse, 2015a). Students of politicization have recommended focusing these debates on policy rather than constitutional and constitutive issues. Europeans should argue over what kind of policies they want from the EU, rather than over who they are, who belongs to them or how much power the EU should have (Copsey, 2015; Risse, 2015a). Substantive policy issues are also easier to square with the more traditional socioeconomic cleavages in the Member States (left–right) that are orthogonal to the cosmopolitan–nationalist cleavage (Kriesi

et al., 2008; Risse, 2010). However, constitutive and constitutional issues have become politicized (Grande and Kriesi, 2014; Statham and Trenz, 2014) and are here to stay. Attempts to ignore or reframe them as policy issues are not only likely to be futile but will fuel euroscepticism. Moreover, redistribution is not only about policy it is about who we are and who belongs to us. I would, therefore, argue that we need to strengthen cosmopolitanism as the opposite pole to nationalism in the polarized contestation of Europe (for a similar argument see Grande and Kriesi, 2014). The upgrading of the common European interest and the scaling up of solidarity among Europeans requires state and civil society actors that invoke liberal, inclusionary frames to mobilize support among the majority of Europeans with Europeanized identities. Inclusionary and redistributive policies require the transfer of more political authority to the EU level. However, rather than supranational centralization and supranational decision-making, EU redistributive policy-making should rely on intergovernmental coordination in not too strong a shadow of supranational hierarchy. The EU can set minimum standards and goals, which should be binding but leave the Member States sufficient discretion in exercising their political authority for economic and migration policy.¹⁸ This governance mix has worked for policy adoption in the past – the issue is implementation and compliance, which can only be assured by more political and electoral accountability, not less. An EU-framework for redistribution requires the involvement of national parliaments since the European Parliament alone is unlikely to have sufficient democratic legitimacy to generate social acceptance of EU redistributive policy among Europeans. The EU has to start relying on the social acceptance of Europeans in the Member States to ensure compliance, rather than granting more supranational enforcement powers to the Commission, the European Court of Justice, the ECB or newly created supranational bodies, such as a European Border and Coast Guard or a European Union Agency of Asylum.

Finally, EU and national decision-makers should stop accommodating national governments and parties that appeal to illiberal, nationalist ideas of Europe as a fortress against globalization and Islam in referenda or electoral campaigns on membership, the allocation of political authority between the EU and the national level, or redistributive issues. If this means ‘core Europe’,¹⁹ so be it. More likely, however, we should see more differentiated integration (Schimmelfennig and Winzen, 2014). Rather than excluding them altogether, Member States that prefer unilateralism over co-operation on and compliance with EU policies and institutions should be given the opportunity to exit parts of the EU, such as Schengen or the euro. This might render the EU more complex but it will certainly not be its ultimate demise. On the contrary, putting a price-tag on non-co-operation and non-compliance would help unite ‘integrationist’, ‘protectionist’ and ‘minimalist’ Member States in the ‘Europeanist camp’²⁰ behind solidarity, liberty and humanity, which have made European integration the most successful peace project in history.

¹⁸ For a similar argument see Nicolaidis and Watson (2016).

¹⁹ Available online at: <https://www.cducsu.de/upload/schaeublelamers94.pdf>. Last accessed: 25 February 2016.

²⁰ See Kriesi's contribution to this volume.

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