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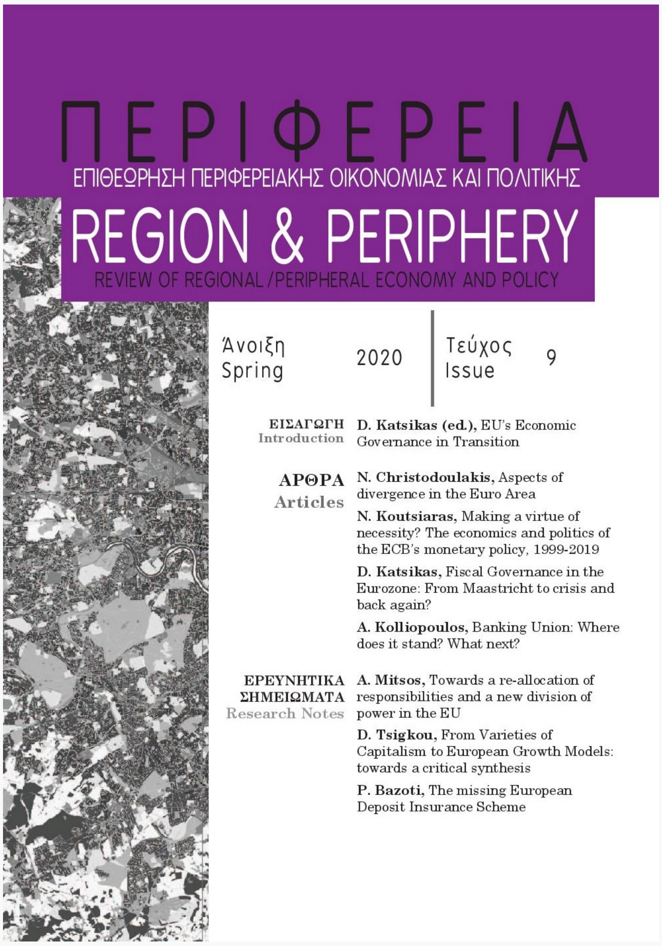

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Αχιλλέας Μητσός

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Towards a re-allocation of responsibilities and a new division of power in the EU*

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Abstract

The crisis has brought about a major re-allocation of responsibilities and power between and within states and institutions. The radical change in EU economic governance does not only refer to the involvement of supranational institutions and bodies in the decisions on the total national budget but also on the structure of national revenues and expenditures and the level of specific categories of revenue and expenditure of national budgets. In addition, the introduction of all sorts of conditionalities adds a wide range of measures and policies to those in which the EU and the member states have co-responsibility. Furthermore, the economic crisis has brought about significant changes in the institutional balance of the European Union. More and more critical decisions seem to be taken solely as a result of intergovernmental consultations. The European Council is strengthened and assumes the dominant role, the European Parliament is marginalized, the Council of Ministers often becomes a simple forum for validation of major decisions taken in other informal bodies and the European Commission sees its role restricted to its executive responsibility.

KEY-WORDS: Economic governance, EU Institutions, New intergovermentalism.

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Περίληψη

Η κρίση έχει επιφέρει σημαντική ανακατανομή αρμοδιοτήτων και ισχύος μεταξύ και εντός κρατών και θεσμών. Η ριζική αλλαγή στην οικονομική διακυβέρνηση της Ε.Ε. δεν αναφέρεται μόνο στη συμμετοχή υπερεθνικών θεσμικών οργάνων και οργανισμών στις αποφάσεις για τον συνολικό εθνικό προϋπολογισμό, αλλά και στη διάρθρωση των εθνικών εσόδων και δαπανών και στο επίπεδο των ειδικών κατηγοριών των εσόδων και των δαπανών των εθνικών προϋπολογισμών. Επιπλέον, η εισαγωγή αιρεσιμοτήτων προσθέτει ένα ευρύ φάσμα μέτρων και πο-

λιτικών σε αυτές που η Ε.Ε. και τα κράτη μέλη έχουν συνυπευθυνότητα. Ακόμα, η οικονομική κρίση έχει επιφέρει σημαντικές αλλαγές στη θεσμική ισορροπία της Ευρωπαϊκής Ένωσης. Όλο και πιο κρίσιμες αποφάσεις φαίνεται να λαμβάνονται αποκλειστικά ως αποτέλεσμα διακυβερνητικών διαβουλεύσεων. Το Ευρωπαϊκό Συμβούλιο ενισχύεται και αναλαμβάνει τον κυρίαρχο ρόλο, το Ευρωπαϊκό Κοινοβούλιο περιθωριοποιείται, το Συμβούλιο Των Υπουργών γίνεται συχνά ένα απλό φόρουμ για την επικύρωση των σημαντικών αποφάσεων που λαμβάνονται σε άλλα άτυπα όργανα και η Ευρωπαϊκή Επιτροπή βλέπει τον ρόλο της να περιορίζεται στις εκτελεστικές της αρμοδιότητες.

ΛΕΞΕΙΣ-ΚΛΕΙΔΙΑ: Οικονομική διακυβέρνηση, Θεσμοί της Ε.Ε., Νέος διακυβερνητισμός.

1. In addition to unprecedented and multiple redistribution of income, the crisis has brought about a major re-allocation of responsibilities and power between and within states and institutions

The crisis led to a large transnational redistribution of income and wealth. This uneven and asymmetric impact has reinforced the already significant imbalances between the EU center and the countries of the periphery, with the South as the big loser. The major victim of this redistribution, Greece, in terms of GDP per capita, ranked 15th among the 28 member states in 2008 (with 93% of the EU average) and, ten years later, with 67% of the average, ranked 25th, with only the last three acceding countries, Bulgaria, Romania and Croatia, to follow.

Perhaps less prominent, but equally if not more impressive, is the redistribution of income and wealth within each country. In many member states, including Greece, large class, occupational, interregional and intergenerational redistributions are taking place and there is a clear deterioration in income and wealth inequality indicators.

But beyond that, the institutional balance on which the European Union rests is being disrupted by major long-term consequences and new balances are sought in the division of responsibilities and power between member states and the EU, among the institutions that make up the EU, as well as between the methods of decision-making and the two functions, transnational and supranational, which have always co-existed in the process of European integration.

2. New powers are transferred to the EU "by stealth", without altering the Treaties

The neofunctionalist account describes the process of integration as an incremental process which is driven by the demands of interest groups for market integration and supranational institutions responding to these demands, following the functional logic which characterizes highly interdependent economies and linkages between different policy areas (Vilpišauskas 2013, p. 364). This process, 'integration by stealth' according to Majone (2005), had reached its limit when the next step was to transfer national sovereignty on the particularly sensitive area of redistribution and the harmonization of social policy through fiscal policy (Habermas 2015). And yet, with the need for 'result-based legitimacy', even this 'red line' now seems to be overrun (Chalmers, et al. 2016). The crisis has resulted to a new wave of "legislation through the back door".

The radical change in EU economic governance, with the adoption of the "European Semester" and all the procedures for more effective coordination of member states' financial and budgetary plans, does not only refer to the involvement of supranational institutions and bodies in the decisions on the total national budget and the relationship between revenues and expenditures. The need to prevent future toxic problems for all countries leads to a direct EU involvement, in practice a co-decision of EU and the member states, on the *structure* of national revenues and expenditures and *the level* of specific categories of revenue and expenditure of national budgets.

EU member states (and not just the countries under surveillance, not even only the eurozone ones) delegate national competence to areas for which the Treaty does *not* provide for harmonization. The level of pensions and more generally the insurance and pension policy, the extent of tax burdens and the efficiency of the national tax system are classic examples in this regard. Through the surveillance process, the EU intervenes and co-determines with each country not only the annual budget, but also policies that would otherwise remain almost completely in the hands of governments.

In addition, the introduction of all sorts of *conditionalities* add a wide range of measures and policies to those in which EU and the member states have co-responsibility. Input and output conditionalities are introduced in the structural funds, the use of macro-conditionalities is generalised and, according to the Commission's proposal for the future budget, a new, "political" conditionality would be introduced, linking participation of a member State in the budget with the acceptance of the rule of law and EU values. In some cases, this extension of the areas of co-responsibility goes beyond the areas defined by the Treaty as areas of "shared competence"[1] and, as a result, many aspects of social or education policy or even the way justice is delivered, are influenced by this new form of economic governance.

The advantage EU gets from this generalized use of conditionalities, is that the effectiveness of Community goals and policies may significantly increase, turning "soft", non-binding, decisions into "hard" ones. The threat, for example, that failure to implement a specific pension reform will cut off financial aid makes the choice of the pension system an EU policy, while previously the EU could only express wishes in this regard. It should be noted that the establishment of conditionality has always been a classic consequence when it comes to external assistance from organizations such as the International Monetary Fund or the World Bank, but its use within the EU is a relatively new phenomenon[2]. The prevailing perception was that the establishment of conditionalities was a practice of international organizations, but was not appropriate for the implementation of Community policy. After all, it is difficult to imagine the use of such conditionalities within a single state, or a "quasi state".

What needs to be emphasized is that this intrusion of EU in new areas and policies is not politically or ideologically neutral. What is strengthened is the role of the EU in promoting more «liberal», market creating policies vis-à-vis more «interventionist» policies (industrial, research, regional development, etc.). The dominant position of the economy in relation to the social dimension is exacerbated.

3. The economic crisis has brought about significant changes in the institutional balance of the European Union

The financial and economic crisis has brought about significant changes in the institutional balance of the European Union. This institutional re-balancing of recent years has been the result of the crisis, its expression and the cause of new imbalances, even if specific institutional arrangements of the Treaty of Lisbon, coupled with a substantial shift in the overall approach on the part of Germany,[3] a federalism-friendly member-state, have provided the ground for this new institutional balance.

The European Council is the big winner. It is precisely because of the particular political weight of the crisis and the widespread perception of high risk, that the European Council's leadership is considered indispensable and irreplaceable. As Bressanelli and Chelotti (2016, p. 515) write: "indeed, the European Council is perfectly located within the institutional architecture to determine and/or modify the Best Alternative to a Negotiated Agreement (BATNAs) of the negotiating parties".

The number of European Council meetings has almost tripled during the crisis (Fabbrini and Puetter 2016, p. 489), but with the main characteristic that fundamental decisions are taken essentially *outside* the European Council, by one country, or, at best, by a group of countries. Never before has the concept of '*directoire*' been so obvious. Too often, Germany and its 'allies', or, sometimes, Germany together with France, made all substantive decisions. In practice, formally, it was at the European Council that all major decisions to deal with the crisis were taken (after, often difficult, intra-governmental negotiations were mediated in some countries, such as in Germany, between the Chancellor and the Minister of Finance) and the ECFIN Council, and in particular the "informal" Eurogroup of eurozone finance ministers, were simply invited to implement them,[4] serving in reality only as a forum for communication and enforcement of those decisions, while the Commission's role was reduced to that of the secretariat, and the European Parliament was completely absent.

The European Council is strengthened and assumes the dominant role, the European Parliament is marginalized, the Council of Ministers often becomes a simple forum for validation of major decisions taken in other informal bodies and the European Commission sees its role confined to the implementation of decisions. The Commission is often referred to as the "big loser" of the new institutional balance (Laffan 2016: 919), while perhaps the "major transformation" of its role should be emphasized. Finally, another institution, a genuine "federal" one, the European Central Bank, sees its position being upgraded, even though it did so by reinterpreting the rules without admitting to this publicly – in other words, "by stealth", (Laffan 2016:919).

4. Towards a "new intergovernmentalism"

The dominance of the European Council caused a serious blow to the "Community method", the central elements of which have always been the following: (a) The Commission has the exclusive right of (legislative) initiative, (b) the final decision is taken jointly by Parliament and the Council (of Ministers), by a simple majority of members of Parliament and a qualified majority of member states; and (c) the implementation of any decisions is left to the Commission (often, as in the Structural Funds in a 'partnership' with the member states).

The European Council, precisely because it expresses the leadership of the governments of the member states, that is to say, the people in charge of the major decisions, now functions as "deus ex machina", as opposed to the necessarily complex and time-consuming classical Community method (Bertoncini and Kreilinger 2012). In practice, not only at the European Council, but also at the Council of Ministers, the principle of unanimity reverts to major decisions, thereby forcing the European Parliament to marginalization.

This "new intergovernmentalism"[5] marks a paradox. While the Lisbon Treaty increases the number of policy areas where decisions are taken by the 'Community method', in practice the European Union has become no more a 'federation'. On the contrary, more and more critical decisions seem to be taken solely as a result of intergovernmental consultations, at least on major issues, with Parliament complaining about returning to an exclusively advisory role and with the Commission restricted to its executive responsibility.

In the long run, the new institutional equilibrium may prove to be the most significant impact of the crisis on the European integration process. As emphasized by Dawson (2015), the crisis has challenged existing forms of accountability. The intergovernmental and Community methods are not only descriptive categories but contain specific structures of democratic accountability. The intergovernmental method is based on democratic legitimization through national parliaments, the Community through mainly the European Parliament. On the contrary, post-crisis economic governance tends to move to a 'grey zone'. Jürgen Habermas' "executive federalism" (Habermas 2015, see also Konstantinidis-Treurniert 2018, p. 138) seems to be prevalent, while "democratic federalism", namely the transformation of the European project into a process increasingly driven by the people, not the technocratic elites, fades away. Perhaps most importantly, this new institutional equilibrium does not represent a simple parenthesis in times of crisis, but a new, permanent distribution of roles and responsibilities.

Notes

* Many of the thoughts contained in this article are also included in A. Mitsos, in collaboration with D. Katsikas, *EU Fiscal Policy. Towards "fiscal union"?* ELIAMEP for the Bank of Greece, forthcoming.

1. It is recalled that, while for most policy areas the Treaty provides for "multi-level governance" ("shared competence"), there remain areas for which either the Union or member states maintain exclusive competence. The latter include e.g. educational policy.
2. Concerning the financing of the European Structural and Investment Funds it is recalled that the original conditionalities were reserved exclusively for the Cohesion Fund, but since 2014 they are extended to other Funds (Regional, Social, etc.).

3. Chancellor A. Merkel, already in 2010 in her speech at Bruges 2010 (Merkel 2010), has argued for the need, at least in part, to abandon the 'Community method' and to adopt the 'Union method', essentially that method which member states would consider every time to be the most appropriate.
4. The establishment of the Eurogroup is one of the key institutional reforms (Von Ordarza 2013), with a permanent presidency and, although introduced into the Treaty by Protocol 14 as an "informal" body, it has, in practice, direct implementing powers. On the legal nature of the Eurogroup, see Καραγκούνης and Ράντου 2013.
5. On 'new intergovernmentalism', see in particular Bressanelli and Chelotti (2015), Bicketon, Hodson and Puetter (2015), Dawson (2015), as well as Dehouse (2016) and other articles in the related issue 38: 5 of the Journal of European Integration, 2016, as well as Buti and Krobath (2019).

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