Abstract

The Eurozone’s economic crisis has generated a crisis of democratic legitimacy, as deteriorating economics and increasingly volatile politics have combined with restrictive governance processes focused on ‘governing by the rules and ruling by the numbers’. Using the systems-related terms of democratic theory, this paper analyzes this legitimacy crisis in terms of problems with ‘output’ policy performance, responsiveness to citizen’s ‘input’ politics, and the quality of ‘throughput’ governance processes. The paper focuses on how such problems of legitimacy play out for EU institutional actors—ECB, Council, Commission, and EP—as they have sought to reinterpret the throughput rules in response to problems of input and output in coordination with other policy actors, often without admitting this in communication to the public. The paper thereby seeks to lend insight into on-going processes of ideational innovation and discursive legitimation during the Eurozone crisis using a discursive institutionalist framework of analysis.
The European Union is in the throes not just of an economic crisis but also of a crisis of democratic legitimacy. Public trust in national and EU institutions has been falling together with support for European economic integration while citizen dissatisfaction with national governments and disaffection from the EU has been on the rise (Hobolt 2015; Kriesi and Grande 2015). This has translated into increasingly volatile national politics, with the electoral cycling of incumbent governments and the growth of populism, as extremist parties with anti-euro and anti-EU messages get attention, votes, and even seats in national parliaments and the European Parliament (Bosco and Verney 2012; Mair 2013; Taggart and Szczerbiak 2013). Such toxic politics have been fueled by the poor economic performance of the EU, and in particular of Eurozone members. Growth remains elusive and deflation threatens in a Europe characterized by increasing divergence between the export-rich surplus economies of Northern Europe and the rest, which struggle under the burdens of high debt, rising poverty and inequality, along with continuing high levels of unemployment, in particular of youth (Enderlein et al. 2012; Scharpf 2012).

Eurozone governance processes focused on stability-based macroeconomic policies mandating restrictive numerical targets on deficits and debt, with surveillance and ‘structural reform’ for countries falling short of the targets, have failed to solve the economic problems while contributing to the political ones. In the absence of any deeper political integration that could provide greater democratic representation and control over an ever expanding supranational governance, and in the face of major divisions among EU actors over what to do and how, the EU ended up ‘governing by the rules and ruling by the numbers’ in the Eurozone. At the inception of the crisis, the European Central Bank (ECB) continued to follow the ‘one size fits none’ rules of monetary policy that had exacerbated (rather than reduced) member-states’ economic divergences (Enderlein et al., 2012). The Council became dominated by ‘one size fits one’ rules of intergovernmental negotiation that gave one member-state (i.e., Germany) outsized influence. The EU Commission applied the ‘one size fits all’ rules of budgetary austerity to very different member-state economies. As for the European Parliament (EP), it had almost ‘no size at all’ when it came to setting policy.

But as the crisis evolved from 2010 through 2014, and as EU institutional actors became increasingly concerned about continued poor economic performance and growing political volatility, they slowly began to reinterpret the rules and recalibrate the numbers, albeit mostly without admitting it in their communicative discourse to the public. Instead, they mainly continued to insist that they were sticking to the rules even as, behind closed doors in their coordinative discourses of policy construction, they were debating, contesting, and compromising on rules (re)interpretation.

From 2010 through 2014, the European Central Bank (ECB) slowly moved from the ‘one size fits none’ rules to ‘whatever it takes’ (in the famous phrase of the ECB president Mario Draghi in July 2012) and then to quantitative easing, even as it continued to deny acting as a lender of last resort. Although the Council largely continued to govern by the ‘one size fits one’ rules, it intermittently agreed to instruments of deeper integration, to the need for growth (by 2012), and then flexibility (by 2014), even as it kept up the discourse of rules-based
austerity and structural reform. Moreover, despite the fact that the EU Commission continued its discourse of strict and uniform adherence to the ‘one size fits all’ rules, it gradually allowed for increasing flexibility in applying the rules and calculating the numbers. Finally, even though the European Parliament (EP) continued to have almost ‘no size at all’, its increasing critiques along with its successful push to have the appointment of Commission President linked to the winning party in the EP elections in May 2014 ensured it an increasing presence if not yet major influence over Eurozone policy.

The challenge for EU institutional actors, then, has been how to get beyond the original rules to more workable ones. This has not just been a question of overcoming the institutional logics that make formally changing the rules very difficult so long as there is significant disagreement among the member-states about what to do and how to do it (Scharpf 1999); the political logics that have reinforced the institutional gridlock, given diverging national perceptions of the crisis and political pressures on EU member-state leaders; or the potential legal constraints that limit what they can do constitutionally (F. Fabbrini 2014). It has also been a question of how to build legitimacy for reinterpreting the rules—no easy task given the complexity of EU institutional and political logics and the potential legal obstacles.

To analyze questions of democratic legitimacy during the Eurozone crisis, this article turns for definitions to the systems concepts often use in the EU studies literature. These include the ‘output’ effectiveness of EU policies, the EU’s ‘input’ responsiveness to citizens’ political concerns (Scharpf 1999, 2012), and the ‘throughput’ quality of the EU’s policymaking processes (Schmidt 2013). For the ways in which EU institutional actors employ these concepts in the dynamics of legitimation, the article turns to the analytic framework of discursive institutionalism, which considers the substantive content of ideas and the interactive processes of discourse in institutional context (Schmidt 2008). Most useful for this article is the discursive institutionalist analysis of the ways in which EU institutional actors seek to legitimate their reinterpretations with one another in a coordinative discourse of policy construction and with the public in a communicative discourse of political legitimation.

The first part of the article defines the three legitimacy concepts and applies them to the Eurozone crisis, considering how they play out in relation to other factors, including institutional and political logics, power and position. The second part of the article explores the pathways to legitimacy of each of the principal EU institutional actors (ECB, Council, Commission, and EP) as, confronted by rapidly changing events, failing solutions, and constraining institutions from 2010 through 2014, they increasingly sought to retain legitimacy by reinterpreting the (throughput) rules in order to achieve better policy (output) performance and political (input) responsiveness. The article contends that even though reinterpreting the rules without publicly admitting it—‘by stealth’—may arguably have been the only feasible course of action, and may have helped to improve output legitimacy, it risked undermining citizens’ perceptions of input legitimacy and endangered throughput accountability and transparency.

**Conceptualizing Legitimacy in the Euro Crisis**

Democratic legitimacy is predicated on governments’ ability to govern responsibly and effectively while responding to citizen’s political preferences, policy concerns, and social values, as expressed directly through the ballot box and/or indirectly via their access to policymaking (e.g., Beetham and Lord 1998; Mair 2013). Prior to the European Union’s sovereign debt crisis, the debate remained open as to whether the EU fulfilled these conditions
for legitimacy. While some scholars argued that the EU was largely democratically legitimate (e.g., Caporaso and Tarrow 2008; Majone 1998; Moravcsik 2002), others insisted that it suffered from a democratic deficit at the EU and/or national level (Follesdal 2006; Mair 2006; Hix 2008). This division in scholarly opinion has largely disappeared. Most scholars now agree that the EU confronts major challenges with regard to legitimacy as a result of the policies, the politics, and/or the processes of Eurozone governance (e.g., Scharpf 2012; Mair 2013; and even Majone 2009). Their arguments map well onto the systems-based concepts through which democratic theorists have often discussed questions of legitimacy in the EU—in terms of output, input, and throughput.

Output Legitimacy

‘Output’ is a performance criterion for establishing legitimacy focused on policy effectiveness. Output legitimacy is contingent on acceptance of the coercive powers of political authorities governing ‘for the people’ so long as their exercise is seen to serve the common good of the polity and is constrained by the norms of the community (Scharpf 1999, 2012). How such legitimacy is established and by whom, however, is contested. Output legitimacy is often defined and evaluated in two distinct ways: political and technical.

Technical evaluations of policies’ output legitimacy are the domain of experts whose assessments are based on their technical knowledge and philosophies, with judgments likely to invoke economic principles such as competitiveness, fiscal balance, growth, or social wellbeing. Disagreements take the form of cognitive arguments in the policy sphere, as part of a ‘coordinative’ discourse of policy construction and legitimation among technical actors. Technical output legitimacy is associated in particular with ‘non-majoritarian’ institutions, with battles for control among technical actors whose weapons of choice are mathematical calculations, economic formulations, socio-economic impact assessments, macro-economic charts and graphs, and the like.

Ultimately, however, output legitimacy is political. Political evaluations of policies’ output legitimacy depend on the extent to which they resonate with citizen values and community norms, with judgments likely to invoke normative principles of distributive justice, fairness, or equity. Disagreements in political output legitimacy take the form of normative arguments aired through public debates, deliberation, and contestation in the political sphere, as part of a ‘communicative’ discourse of political debate, contestation, deliberation, and legitimation. However technically legitimate to the experts, a policy’s effectiveness and performance has to be judged according to the extent to which it resonates with citizen values, builds identity, and conforms to a community’s normative principles.

In recent years technical actors have become increasingly aware of the need to legitimate their policies externally with the more general public and not just internally to the ‘principals’ to whom they are accountable as ‘agents’ (Bovens 2007). As a result, they have sought to ensure that their judgments not only serve to inform political actors but that they also feed into public communications and help to influence public attitudes and debates—whether indirectly, through their use by political actors, or directly, as technical actors themselves join in the political debate. Technical actors’ attempts at establishing ‘political’ output legitimacy tend to be focused on building public understanding and trust in their work in order to reinforce their authority, to achieve ‘credible commitments,’ and to ensure that the policy is accepted by the public as appropriate and justified (Cashore 2002). Technical actors have increasingly accepted that they need to engage not just in a coordinative discourse but also a
communicative one, in which they need to develop communicative strategies on a daily basis, given this ‘mediatized’ age (Hajer 2012).

During the Eurozone crisis, the output legitimacy of the policies has been in question as a result of the Eurozone’s poor economic performance. Critics have argued that the reasons for the poor (output) performance resulted from the lack of effectiveness of the policies. These include the (mis)framing of the crisis as one of public profligacy rather than private debt; the (mis)diagnosis of the crisis as resulting from member-states’ failure to follow the agreed-upon rules rather than the structure of the Euro; the choice of remedies— austerity and structural reform rather than macroeconomic stimulus and growth; and the lack of deep solutions, including some form of EU-wide debt mutualization and socio-economic support system (e.g., Blyth 2013; DeGrauwe and Ji 2013; Enderlein et al. 2012; Scharpf 2012; Schelkle 2015). Moreover, most critics also show that the continued problems for member-states under surveillance or in programs had much less to do with their indebtedness or ‘competitiveness’ than with the ‘sudden stop’ of market finance resulting from the uncertainty generated by EU leaders’ pronouncements or (in)action on Eurozone solidarity (Jones 2010, 2015; Mabbett and Schelkle 2014).

Finally, the problems of output performance are also evident from the macroeconomic and socioeconomic data. The evidence can be seen in the slowing of the Eurozone economy as a whole, so much so that even the most successful countries have low growth while deflation has become a serious risk. As for the program countries that have experienced the harshest austerity policies, most now have much higher debt to GDP ratios than at first, while even those that have been touted as success stories, such as Latvia or Ireland, have done so at the cost of major emigration of their populations in search of jobs (which brings down unemployment figures) and of major increases in poverty and social exclusion. The socioeconomic figures show the serious consequences across Europe, including extremely high rates across Europe of unemployment (above 11% in 2014) and youth unemployment (around 23% in the euro area in 2014) but much higher in countries in the periphery, with unemployment topping 25 percent in Spain and Greece, and youth unemployment over 40% in Italy and over 50% in Spain and Greece in 2014.

All of this has helped precipitate a ‘humanitarian crisis’ for in Europe. A Council of Europe report (2013) concluded that austerity programs in response to the crisis had undermined human rights in key areas, largely as a result of public social spending cuts, and especially in countries under international bailout programs—in particular as a result of the Troika demand that public spending in program countries not exceed 6 percent of GDP. The report in particular condemned increasing homelessness in Southern Europe, Ireland, and the UK as well as failures to provide adequate safeguards to ensure access to the minimum essential levels of food—as governments limited food subsidies—and even of water in the case of Ireland. For 2014, moreover, a Caritas Europe report (2015) found that more than 1/3 of the population in five EU Member States in the periphery were at risk of poverty or social exclusion; and one in three children or more live in poverty in 14 of the 28 EU countries.

Input Legitimacy

‘Input’ is a political criterion for establishing legitimacy centered on citizen participation and representation. Input legitimacy depends upon the exercise of collective self-governing ‘by the people’ so as to ensure political authorities’ responsiveness to peoples’ preferences, as shaped through political debate in a common public space and political competition in political institutions that ensure officials’ accountability via general elections (Scharpf 1999,
In the EU, input legitimacy can be defined and evaluated in two intertwined ways: at the EU level and at the national level.

At the EU level, input legitimacy is directly linked to EU institutional actors’ different sources of legitimacy, some of which may be derived from other EU or national level institutions as opposed to inherent in the institutional actor itself. Thus, while the Council and the EP can claim input legitimacy derived from ‘the people,’ either indirectly for member-state leaders in the Council or directly via European Parliamentary elections, the ECB and the Commission have at best a diffuse source of input legitimacy retained from the ‘shadow’ of politics through institutional appointment and delegation or from their accountability to an input legitimate body (see discussion below for each institutional actor). At the national level, input legitimacy encompasses the wide range of modes of government ‘by the people’ as opposed to output-related government ‘for the people.’ Another way of conceiving of this is as political authorities engaged in ‘responsive’ governing (input) as opposed to ‘responsible’ governing (output) discussed above (Mair 2013).

The problem for EU input legitimacy is that it depends on both national and EU levels but that the main source of input legitimacy remains at the national level, given the lack of an EU government directly elected by ‘the people,’ let alone any ‘demos’ or coherent sense of EU identity (as opposed to the composite national plus EU identity held by a majority of citizens). This is highly problematic for national input legitimacy, in particular when citizens begin to question the output legitimacy of policies made at the EU level that they are unable to alter through national politics.

During the Eurozone crisis, input legitimacy at both levels has also been in question. As the output performance of Eurozone policies has worsened while the hierarchical controls of the EU over national economic governance have tightened, citizens’ attitudes towards both their national governments and EU governance have declined dramatically. The problem is that the EU in the midst of the Eurozone crisis has actually unsettled the balance between the two main functions of national level political parties in their relations with their constituents. The crisis has forced parties to privilege responsibility over representation, by enhancing their governing role to the detriment of their responsiveness to national electorates (Mair 2013). This includes opposition parties that may have campaigned against the very policies that they will be expected to implement when they gain office, even against ‘the will of the people.’ In consequence, even as national electorates clamor for more domestic input into the decisions that affect their lives, governments are forced to provide output based on decisions that emanate from the EU, which may not be in tune with domestic perceptions of output policies that would produce good and appropriate results.

Citizens’ discontents have been most evident in the increasing turnover of incumbent governments, the rise of new parties on the extremes, and a growing loss of trust in the EU as well as in national governments. It also finds expression in the two opposing poles of technocracy and populism, both of which have only one thing in common: their assault on mainstream party government (Bickerton and Invernizzi 2015). Scholars worry in particular about the increasing political volatility accompanied by growing Euroskepticism and the rise of extremist parties that come from citizens’ sense that they have little recourse in the face of EU-generated policies of which they disapprove (e.g., Gómez-Reino and Lamazares 2013; Mair 2013; Taggart and Szczerbiak 2013). But while citizens have increasingly questioned the legitimacy of the EU level on national input grounds, the EU has also come in for increasing criticism on purely EU level grounds, largely due to the Eurozone crisis. This has to do with
how different EU institutional actors have conceptualized their own input legitimacy, and the problems resulting therefrom for national politics.

**Throughput Legitimacy**

Throughput legitimacy is a procedural criterion for establishing legitimacy focused on the quality of the policymaking processes (Schmidt 2013; see also Zürn 2000; Benz and Papadopoulos 2006). Throughput legitimacy encompasses the efficacy of the decision-making (Scharpf 1999), the accountability of those engaged in making the decisions (Olsen 2013; Héritier and Lehmkuhl 2011), the transparency of the information (Héritier 2012; Cini 2014), and the processes’ inclusiveness and openness to consultation and interest intermediation (e.g., Greenwood 2007; Liebert and Trenz 2009). Theorizing these various kinds of procedural criteria in terms of ‘throughput’ legitimacy is a relatively new way of grouping together the wide range of ways in which policymaking processes are evaluated. But it is very useful because it enables us to separate out the (throughput) processes from the (output) policies they may produce as well as from the (input) politics by which those policies were generated, and thereby to theorize both the interaction effects of the different kinds of legitimizing criteria within throughput and the interaction effects between throughput and input or output.

The throughput quality of the governance processes has long been among the central ways in which EU institutional actors have sought to counter claims about the poverty of the EU’s input legitimacy and to reinforce claims to its output legitimacy. In so doing, they have operated under the assumption that good throughput may involve the same kinds of trade-offs as output and input, in which good policy (output) performance can make up for little citizen (input) participation, or vice-versa. What they failed to recognize is that throughput quality cannot compensate for either failed output or minimal input, whereas bad throughput—when governance practices appear oppressive, incompetent, corrupt, or biased—can negatively affect input and output by seeming to skew representative politics or taint policy solutions (see Schmidt 2013).

Throughput legitimacy has also been in question during the course of the Eurozone crisis. Scholars have criticized the lack of (throughput) efficacy of the stability rules-based governance as well as the delayed responses of institutional actors that exacerbated the crisis (Jones 2010; Blyth 2013). They have expressed concern over the loss of (throughput) openness and inclusiveness with the shift toward supranational and intergovernmental governance or ‘executive federalism’ (Habermas 2011) to the detriment of any significant involvement of the European Parliament (EP), not to mention national parliaments or citizens’ political involvement (Crum 2013; S. Fabbrini 2013; Puetter 2012).

(Throughput) transparency has equally been at risk as a result of the fact that EU institutional actors have tended to reinterpret the rules ‘by stealth,’ that is, by not saying (let alone seeking to legitimate) what they were doing. Although reinterpreting the rules may certainly enhance output legitimacy, not admitting it in the public discourse can skew the input politics. To illustrate: when EU institutional actors ease the rules but continue to proclaim that they are imposing strict austerity and structural reform, Southern Europeans will continue to feel oppressed even when accommodated while Northern Europeans will feel deceived, regardless. (Throughput) accountability is concomitantly at issue, given that any exercise in political or administrative discretion demands rules for stretching or breaking the rules—or at the very
least agreement on who has the authority to make or break those rules.¹ Note that such rules reinterpretation should not be seen as the same as ‘informal governance,’ in which making exceptions to the rules is part of a process of negotiated agreement that actually reinforces the legitimacy of the formal rules (Kliene 2013). In the Eurozone crisis, such reinterpretation is not so much about making exceptions to the rules as creating exceptional rules while denying it.

EU Institutional Actors’ Reinterpretations of the (Throughput) Rules ‘by Stealth’

Such reinterpretation of the rules ‘by stealth’ raises two questions: First, with regard to throughput legitimacy, how do EU institutional actors go about legitimating their reinterpretations of the legally binding rules where there are no rules for bending or breaking those rules? Put another way, who judges the scientific validity or normative appropriateness of the reinterpretations? Second, with regard to input legitimacy, can EU actors legitimate their reinterpretations to the public, when they don’t admit—or even deny—to the public what they are doing behind closed doors?

The answer to the first question is embedded in EU institutional actors’ own definitions of legitimacy as well as in the institutional settings in which they operate. Conceptualizations not just of efficacy but even more importantly of accountability (political as much as bureaucratic) need to be embedded in institutional understandings of what constitutes ‘democratic’ norms and standards for evaluation, in particular in an ‘unsettled polity’ like the EU, where principal-agent theories of compliance and control cannot account for the complexity of organizational relations (Olsen 2013). To establish how EU institutional actors build legitimacy for their reinterpretations therefore requires looking at those actors’ own very different institutional configurations and frameworks for legitimation. And it entails recognizing that EU actors build their authority to change the rules following their own particular pathway to legitimacy. The answer to the second question—how to legitimate such reinterpretations to the public—remains elusive, because EU institutional actors have not been admitting what they have been doing, by reinterpreting the rules ‘by stealth.’

Differences in Technical and Political Actors’ Pathways to Legitimacy

Differences between technical and political actors affect throughput legitimacy as much as output and input legitimacy. Technical actors seek to come up with innovative policies in coordination with expert communities while political actors seek to reframe the issues in communication with their national constituencies. More specifically, technical actors in the ECB and Commission first engage with expert communities to develop new ideas as well as to legitimate their ideas, building internal agreement after which they may coordinate with other EU actors and communicate to the public. Political actors in the Council and EP instead privilege communication with national constituencies to build legitimacy, often without admitting that the technocratic actors may have their tacit agreement, and even if their ideas may have come from EU technocratic actors and/or national expert communities, their agreements from negotiations in closed Council sessions, parliamentary committees, and/or co-decision-making ‘trilogues’ (between Council, Commission, and EP).

But how then do EU institutional actors communicate about such reinterpretations of the rules? Mostly by denying that what they are doing actually changes the rules, or even is a

¹ Thanks to André Sapir for this comment, made in the wrap-up session of the Conference on “Europe in a Post Crisis World,” Center for European Studies, Harvard University (Oct. 31-Nov. 1, 2013).
reinterpretation of the rules. The ECB slowly but surely came closer and closer to doing things that an LOLR would do, all the while denying, and then passing over in silence, the fact that it was reinterpreting the rules laid out in the Charter or the treaties. The member-state leaders in the Council have consistently claimed to be sticking to the rules, even as they demand and/or agree to flexibility that delays or revises their application. The Commission has claimed to impose a restrictive interpretation of the austerity rules on the member-states even as it makes exceptions and adjustments.

So why do EU institutional actors not just admit that they are making the rules work better through their reinterpretations? The problem is that they not only have difficulty coordinating their agreements. They have even more difficulty communicating to a public that consists not just of ‘the people’ but also the markets. Problematically, what EU actors say in the communicative discourse to the public can work at cross-purposes, given the multiple audiences. For example, communication about new policy initiatives that might calm the global markets can easily inflame the national publics of Northern Europe while comforting Southern Europe, or vice-versa. Agreements within the coordinative discourse among EU actors may be difficult where EU political actors think such an agreement will be hard to ‘sell’ to their national publics—in particular if they may appear to be contradicting themselves on discourses ‘selling’ an earlier agreement. Moreover, such agreements (or lack thereof) may be communicated through the media to the markets, possibly increasing their panic, and to the people, possibly reinforcing their resistance to any proposed solutions. At the same time, the markets themselves may respond directly to the coordinative discourse among EU technical actors when it is communicated by the specialized press or in online venues by experts and think-tanks, as well as to EU political leaders’ actions or, more likely, non-action (Schmidt 2014b). Illustrative of this problematic interaction is the example offered by Jörg Asmussen, a German member of the Executive Board of the ECB, about Chancellor Merkel’s political discourse legitimating her turnabout on the first Greek bailout. By insisting that ‘the future of the Euro is at stake,’ she was to blame for the newspaper headlines, ‘Merkel questions survival of Euro,’ that in turn sowed panic in the markets (Asmussen 2012; see discussion in Schmidt 2014).

In short, both technical and political actors have very good reasons for not admitting publicly to what they have been doing. These include the potential volatility of the markets as well as its continuing schizophrenia, as it seems to expect austerity and growth at the same time; the uncertain reactions from different segments of the public; the possible opposition from other players; not to mention the threat of potential legal challenges (the referral of the ECB’s Outright Monetary Transactions (OMT) program to the German Constitutional Court being a case in point).

But not admitting that one is legitimately reinterpreting the rules casts suspicion on the output performance and input responsiveness of the reinterpretations themselves, despite the fact that they have been done in the interests of good output and responsive input. With regard to output legitimacy, reinterpretation by stealth makes EU technical actors appear incompetent—or ideologically bullheaded—because they appear to be sticking to rules that don’t work. And this may thereby taint public perceptions of the policy performance. With regard to input legitimacy, the fact that mainstream politicians must obfuscate about the reinterpretations tends to skew the politics, making them appear less responsive than they actually are. Worse,

it leaves their actions open to critique by the political extremes—who claim to ‘tell the truth’ while politicians lie, don’t care, or care only about their own clientelist and/or class interests.

For technical actors in particular, moreover, reinterpreting the rules by stealth implies exercising a significant amount of discretion without significant democratic input accountability. This is less of a problem for the ECB, which has engaged in an elaborate communicative strategy to justify why it has been reinterpreting the rules (without calling this reinterpretation), than the Commission, which has been denying its own increasingly flexible interpretation of the rules. A further problem for the Commission is that its supranational oversight procedures give it a kind of built-in discretion without any built-in input accountability, in particular with regard to the Macroeconomic Imbalance Procedure (see Scharpf 2012a).

It is perhaps testimony to the Commission’s own recognition of the problems of input legitimacy that it has yet to find any member-state so much in breach of the rules that it has to recommend penalties. That said, putting a member-state into an MIP already serious limits its margins of manoeuver, thus potentially having a negative impact on the country’s output performance (Alcidi et al., 2014). In the Excessive Deficit Procedure, in contrast, the Commission does have explicit numbers that trigger the process. But here, (re)interpretations are also involved in the ‘politics of numbers,’ given the discretionary decisions related to the statistics that in some cases have promoted flexibility (e.g., moving to the ‘structural deficit’) but other times penalize already weak countries (e.g., deciding whether to classify the money governments spend on loss-making public enterprises part of their deficit or simply as financial transactions, depending upon market expectations that the enterprise will return to profitability, which penalizes—see Mabbett and Schelkle 2014).

**EU Technical and Political Actors in Fast and Slow-Burning Crises**

Finally, the nature of the crisis itself matters greatly, as do the policy areas in which the crisis plays itself out. EU institutional actors respond differently when confronted with fast-burning crises as opposed to slower burning ones. In fast-burning crises, actors often have little time for reflection, and tend to form ideas about interests and coalitions based around those interests very quickly, with ideational and resource battles ensuing over problem definitions and policy initiatives, and action swift when a crisis peak is hit. Moreover, they are often likely to go back to old fixes, which may have worked in the past, but are generally inadequate to respond to the new challenges. For example, the Greek sovereign debt crisis of 2009/2010 was the Council’s fast-burning crisis, as member-states thought first and foremost about their immediate interests, which helps to explain the delays in responding, the mistaken framing of the crisis and diagnosis of the problems, as well as the chosen remedies—to reinforce the rules. The ECB’s fast-burning crisis was the ever-increasing scale of the market attacks on the Euro between 2010 and 2012 and the spillover effects on the banks, actual and potential, that meant that the ECB backed hesitantly into one non-standard measure after the other rather than taking decisive action immediately. The Commission’s fast-burning crisis began in 2010 and 2011, when it had to reverse its approach to the rules, from the easing of the rules in the EERP (European Economic Recovery Plan) related to the fiscal stimulus in 2009 to the highly restrictive European Semester.

In slow-burning crises, actors have more time to work out their interest-based ideas and coalitions, to reflect and consult more widely, such that battles may be fought not only over problem definitions and policies but also over programmatic redefinitions and philosophies, with interest-based coalitions shifting as a result of deliberation and persuasion as well as, of
course, altered circumstances and unexpected events. For technical actors like the ECB, the fast-burning crisis turned into a slow-burning one after July 2012, such that it could then turn to institution building, in particular with regard to Banking Union (Braun 2013). For the Commission, the slow burn probably began in 2012, as we see the first reinterpretation of the rules for some countries and the return of social policy concerns to the European Semester, if only on paper (Zeitlin and Vanhercke 2014).

For political actors like the Council, the slow-burning crisis also came in July 2012, as a result of ECB action stopping market attacks. The difference is that once the crisis slowed, the member-states in the Council no longer felt the pressure to take any kind of even bolder action, such as to go any farther into financial union (Jabko 2015). It took Draghi a full year to cajole Merkel into accepting banking union (Spiegel May 2014). And member-state leaders who want to shift the focus to growth and investment are still fighting, although they have benefited from Commission further easing the rules.

This suggests that there may very well be differences in the interaction effects between technical and political actors in the midst of crisis, whether fast or slow burning. Technical actors in fast-burning crises have difficulty reinterpreting the rules significantly, given that they are engaging in ‘seat-of-the-pants fixes as they wait for political actors to change the rules and engage in the big reforms. But although political actors during fast-burning crises are likely to take bolder action, they are unlikely to do so until or unless new ideas have been circulating, which means that the technical actors will have had to prepare the ground already. Perhaps this means that the EU needs to wait for the next major crisis, and hope that the technical actors have done the innovative thinking to help spur the political actors to big reforms.

Explaining EU Institutional Change in terms of Neo-Institutional Theory
But why, one might ask, do EU institutional actors not then just change the rules? The obstacles are well known. On the dimension of ideas, in addition to the problems of communication discussed above, they come from the continuing divergence in policy preferences, in particular between core and periphery countries, and from differing philosophical ideas about how to govern the economy, which pits neo-liberals and ordo-liberals against so-called neo-Keynesians. On the institutional dimension, the built-in obstacles to action come from the constitutional and legal realities of the EU that make changing the rules extremely difficult, in particular in such uncharted territory. Devising ways to take and legitimate any bail out action at all under existing rules that explicitly forbid bailouts or financial assistance was a sign of great ingenuity, but also helps explain why the actions taken were anything but a model of leadership (Schmidt 2010, 200-201). Moreover, unanimity rules for treaties makes coordinating agreement on what to do, let alone how to do it, very difficult, while changing the rules, once agreed, is even more problematic as a result of the EU’s ‘joint decision trap’ (Scharpf 1999, 2012, 2014).

Institutional settings that confer power and consecrate position naturally also make a difference to EU actors’ legitimization routes. In the case of technical actors, the ECB has the autonomy to reinterpret the rules set out in its Charter so long as it can build a sense of agreement about what to do via an epistemic community of banking and economic experts that serves to persuade its own member-state bankers of the reinterpretation’s economic validity—although often it will also need to persuade powerful Council members of the reinterpretation’s appropriateness. The Commission has much less margin for maneuver, since the rules it devises and administers have been decided by the Council (with the EP in certain
instances) and pushed by the ECB. In contrast, political actors like the Council and the EP may be in a better position in principle to change the rules since as the legislators they make the rules. In practice, however, the EP has little remit with regard to Eurozone governance while both the Council and EP are boxed in by diverging preferences—in particular between ‘creditor’ and ‘debtor’ countries—and caught in a ‘politics of constraint’ that is very difficult to reverse (Laffan 2014).

Re-interpreting the rules ‘by stealth,’ thus, seems the only ‘rational’ response in a situation where institutionally embedded constraints combine with divergences in preferences and philosophical ideas. But if actors deny that they do what they do, do we need to examine discourse at all? Isn’t this just ‘cheap talk’, as rationalists might argue?

No talk is ‘cheap,’ even if actors deny, manipulate, or lie about what they do. Actions have consequences but so do words (as in ‘speech acts’—Searle 1969). In the case of the Eurozone crisis, denying that they are reinterpreting the formal rules even as they do so informally may be the only way for EU institutional actors to move forward—in particular because any formalized change in the rules is unlikely where there is little agreement on how to proceed and where formal rules (e.g., the unanimity rule) make Treaty change difficult if not impossible. But not acknowledging up front that the rules don’t work means that institutional actors continue to operate under rules that are sub-optimal, and that constrain the range of possible solutions. Moreover, it leaves their actions open at any time to challenge and to de-legitimization.

By the same token, however, not saying what they are doing may give EU institutional actors the space necessary to reinterpret the rules incrementally—until such a time as those actors gain agreement to legitimate changing the rules formally (assuming that their informal changes have proven successful). One could therefore additionally think of this exercise in discursive institutionalist terms as lending insight into the ideas and discursive interactions underlying the ‘interstitial’ processes of institutional change that occur between two formal rule revisions, as theorized in rational choice institutionalist terms (e.g., Héritier and Karagiannis 2013).

If we were instead to think of this in the more micro-foundational terms developed in sociology, this exercise is akin to the ‘sense-making’ of social agents whose ‘bricolage’ enables them to draw from the ‘tool-kit’ of their cultural repertoires in order to innovate (Carstensen 2011), and who construct specific narratives and broader ideas in order to understand what is happening in a situation of ‘disruptive ambiguity’ (Borrás and Seabrooke 2014). This surely describes EU institutional actors at the beginning of the crisis, whether the ECB engaging in increasingly ‘non-standard’ policies while claiming that this was within its remit, or Chancellor Merkel first assuming that by waiting the markets would calm themselves, and then when the panic hit, agreeing to bailout mechanisms in exchange for reinforcement of the stability rules.

This discursive institutionalist approach to rules reinterpretation also serves to complement other neo-institutionalist approaches (Schmidt 2008, 2010). It adds another level of analysis to historical institutionalist descriptions of rules change—whether through ‘drift,’ where actors change the rules by failing to update them; ‘layering,’ where one set of rules is added to another; ‘conversion,’ where a set of rules is used for other purposes; or ‘reinterpretation’ (Streeck and Thelen 2005)—by focusing in on the ideational and discursive processes of transformation through rule generation and legitimization. In the Eurozone crisis, discursive
processes may involve denying in the communicative discourse to the public that layering, conversion, and/or reinterpretation are going on, even as this is being worked out incrementally through a coordinative discourse among key policy actors and discursive communities. The pronouncements of EU leaders after council meetings nicely illustrates this phenomenon, since whatever they agreed and gave away inside, outside, in their press conferences, the British refrain was consistently that they maintained their ‘red lines,’ the French, that they got what they most wanted, or the Germans, that they engineered the appropriate compromise. Similarly for the Commission, even as the rules have been reinterpreted ever more flexibility, often with Council agreement, the public pronouncements continued to proclaim strict adherence to the rules.

Moreover, while such denials may certainly be part of a strategic game to get around the rules and structures, explainable in rational institutionalist terms, our game players are not ‘rational agents’ in the sense of having perfect information and fixed preferences, and their ‘game’ will not work through calculated strategies for how to get what they want in and around the institutions. In the midst of crisis flux and uncertainty, players’ preferences keep shifting, they can’t predict what will come next, and their game is one of constantly re-negotiating agreements.

Our players are ‘sense-making’ (Borrás and Seabrooke 2014) or ‘sentient’ agents (Schmidt 2008) who, although all to some extent caught inside the institutionally path dependent constraints set by the rules (in a historical institutionalist sense), may differ from one another in the extent to which they may also be caught inside the ideational constraints embodied by the rules. Some agents may believe so deeply in the rules focused on ‘stability’ that, regardless of their output performance, they are certain that the rules will work in time, if only everyone truly followed them. These are the ordo-liberals of the ‘Brussels-Frankfurt consensus,’ including the ECB, the Commission, German leaders, and the Bundesbank. Others, however, may be more pragmatic or even opportunistic, such as leaders in Southern Europe and in France, who play by the rules simply because they can’t do otherwise—and yet press for alternative ideas focused on ‘growth.’ Moreover, even ideologues may recognize in moments of crisis that something needs to be done—such that even though they may continue to hold to an underlying philosophy, they may agree that the policy ideas need to be changed in light of the crisis (Schmidt and Thatcher 2013). This may help explain the brief embrace of neo-Keynesian policies for nine months in response to the financial crisis of 2008; or that the head of the Bundesbank, Jens Weidman, after even taking the ECB to the German Constitutional Court for its pledge to do ‘whatever it takes’ via OMT (Outright Monetary Transactions) program, suddenly agreed shortly afterwards that quantitative easing was appropriate, once deflation became a concern—although he backtracked subsequently.

But if EU actors differ in their institutional power and position, and yet all have different ideas about the rules even as they re-interpret them while denying it in their discourse, how, then, can we deal with the relationship of ideas with power? By recognizing that ideas also have power, which comes in three different forms: power through ideas, power over ideas, and power in ideas (Carstensen and Schmidt n/a).

First, and perhaps most commonly analysed within discursive institutionalism, ideational power through ideas occurs when actors have the capacity to persuade other actors of the cognitive validity and/or normative value of their worldview through the use of ideational elements. Such power through ideas can occur in a number of ways in both the coordinative and communicative spheres, whether by technical actors who battle for control using their
graphs and charts to convince other technical actors of the validity of their interpretations of the data and/or by political actors making normative appeals to constituents through public debates and contestation. In the Eurozone crisis, the ECB President Mario Draghi in particular certainly exercised power through ideas to persuade other EU actors and the public at large that the ECB’s reinterpretations of its Charter were not only necessary—because of dangers facing the Eurozone—but also appropriate because they fit the established rules—even though these actually constituted very loose interpretations, especially compared to those of his predecessor, Jean-Claude Trichet.

Second, ideational power over ideas is manifested as the capacity of actors to control and dominate the meaning of ideas. This may occur both directly, say, by elite actors’ coercive power to impose their ideas, and indirectly, by actors shaming opponents into conformity—as when social movements’ activism pushes elites to adopt their ideas—or resisting alternative interpretations—as in the power of neo-liberal economic experts to shut out neo-Keynesian alternatives. An example of such power over ideas during the Eurozone crisis has been Germany’s power to impose on all other member-states its framing of the crisis (as one of public debt), its diagnosis of the crisis (as caused by not following the stability rules), its remedies (austerity and structural reform), and its refusal of any real solutions (e.g., some greater sharing of financial risks through, say, eurobonds).

Third, and finally, ideational power shows itself when certain ideas enjoy authority in structuring thought or institutionalizing certain ideas at the expense of other ideas—as in analyses following Foucault, Bourdieu, or Gramsci. Here ideational power concerns the ways that historically specific structures of meaning or the institutional setup of a polity or a policy area enhances or diminishes the ability of actors to promote their ideas. This also fits with historical or sociological institutionalist approaches to ideas. Such power in ideas certainly describes ordo-liberal thought in Germany and the way it dominates the public’s view of debt (which also means sin in German), as well as that of leaders such as the German Finance Minister Wolfgang Schäuble and the head of the Bundesbank Jens Weidleran.

In what follows, we look briefly at each EU institutional actor in turn in order to sketch out their differential pathways to legitimacy ‘by stealth’ during fast and slow-burning phases of the Eurozone crisis.

**The ECB: From ‘One Size Fits None’ to ‘Whatever it Takes’**

At the outset of the crisis, the ECB’s response was largely centered on throughput legitimacy. The ECB’s discourse of ‘credibility’ signaled strict adherence to monetary policy-making that concentrated on fighting inflation and to monetary decision-making insulated from political pressures. The discourse along with the processes changed slowly, however, as strictly following a narrow interpretation of the ECB’s mandate, or the ‘one size fits none’ rules, turned out to be deleterious to output performance, which is at the foundation of the ECB’s conceptualization of its legitimacy. And the ECB’s lack of coordination with political leaders as well as poor communication to the markets did little to resolve the crisis. Output legitimacy increased, however, as the ECB’s monetary policies shifted to respond to the crisis, moving from ‘non-standard’ to ‘unorthodox,’ as its discourse dropped ‘credibility’ in favor of ‘stability,’ and as the ECB president coordinated more closely with influential political leaders while communicating more effectively to the markets.
As a non-majoritarian institution, the ECB has generally been seen as legitimated by its output policy performance and, arguably, its throughput processes, with good rules-based output seen as a trade off for any deficiencies in political input. As ordo- and neo-liberal thought suggests, isolating the regulatory institutions carrying out the policies from majoritarian politics is as important for output performance as is instituting the right kinds of policies (e.g., Majone 1998). All central banks in advanced industrialized countries have over the years become increasingly insulated from input politics for this reason, and the ECB is the example of this par excellence (Scharpf 2012). It has autonomy without any significant or at least sufficient democratic control from the classic ‘democratic circuit’ of parliamentary oversight (Héritier and Lehmkuhl 2011, pp. 138-9). But the ECB is therefore even more keenly aware of the need to succeed (and to be perceived as succeeding) in its (output) policy performance as well as to ensure the (throughput) quality of its governance processes. This also means managing the perceptions of a wide range of actors not only directly, through citizens’ experience of monetary policy performance, but also indirectly, through the effectiveness of the ECB’s communicative discourse and/or coordination with the groups engaged with the ECB in building, implementing, or assessing the Euro’s effectiveness (see Scharpf 1999, and discussion in Jones 2009).

Initially, the ECB sought to manage perceptions with a communicative discourse focused on the quality of its throughput processes, by emphasizing the importance of maintaining its ‘credibility’ through strict adherence to its (throughput) rules of inflation-fighting while resisting any (input) political pressures from member-state leaders. This was the main mantra of ECB president Jean-Claude Trichet, whose discourse focused on ‘credibility’ as the financial crisis turned into a crisis of the real economy and then a sovereign debt crisis, and as he insisted that the ECB was not and could never be a lender of last resort (LOLR) (Trichet 2009). His successor, Mario Draghi (2011) continued with the discourse of ‘credibility’ while denying that the ECB could be a LOLR, when appointed head of the ECB in late 2011. But very soon thereafter (by Spring 2012) switched his legitimizing discourse changed from one focused on ‘credibility’ to ‘stability’. This was not easy, since it involved internal fights within the ECB, and stability was not accepted as on a par with credibility until the euro itself was clearly in danger. In using the word ‘stability’, the ECB sought to conjure up the ‘stability paradigm’ underlying EMU (Heipertz and Verdun 2010, p. 93), and thereby to reassure all and sundry that the ECB remained committed to its basic philosophy, as outlined in the Charter. As ECB officials themselves explained, in a crisis the central bank ‘must stand ready to back up the market while increasing its communication to explain that its primary objective has not changed in crisis mode’ (Drudi et al., 2012, p. 890). This also opened up space for the ECB to engage in informal interactions with EU leaders in the Council. And unlike Trichet, who seemed most concerned about maintaining his autonomy for purposes of ‘credibility’, Draghi sought to coordinate with Council leaders, including engaging in a concerted year-long effort to persuade Chancellor Merkel in particular that ‘unorthodox’ bond-buying programs and banking union were essential, so as to get around Bundesbank opposition (Spiegel 2014).

Importantly, however, while the ECB quickly switched its discourse from credibility to stability beginning in 2011 and undertook a range of bond-buying programs, it continued to deny that it would or could act as a lender of last resort (LOLR), even as it slowly layered on incremental ‘unorthodox’ policy changes that brought it closer and closer to one (Buitier and Rahbari 2012). This had a negative impact on the course of the crisis itself, since the discourse of denial kept the markets worried and primed for panic and attack, while the actual policies created their own knock-on effects for member-states, the banks, and the ECB itself (Blyth
Only in July 2012, when Draghi pledged to do ‘whatever it takes to preserve the euro’, did the markets stop their massive attacks against Spanish and Italian sovereign debt, convinced that this constituted a pledge to act as an LOLR (although the ECB never stated this—and hedged the statement by adding that it would do whatever it takes ‘within our mandate’). The one significant difference from what central banks ordinarily do as LOLRs is that the ECB made its pledge conditional on the Italian and Spanish governments asking for it to purchase their debt and in exchange agreeing to a conditionality program focused on austerity and structural reform. The ECB’s pledge in 2014 to engage in quantitative easing to stay off deflation—begun in early 2015—was yet another step toward becoming an LOLR without admitting it.

While the ECB thus appears to have managed incrementally to reinterpret the (throughput) rules so as to move slowly toward better (output) economic performance, the question of its input legitimacy remains. Although the absence of even the shadow of input legitimacy can be seen to pose little problem when the ECB remains within its charter-based remit to guide monetary policy, as a trade-off with output legitimacy, it can be problematic where the ECB goes beyond that remit. The ECB is on thin ice when it pushes more input-legitimate actors like the Council and individual member-states to implement policies focused on austerity and structural reform, to join with the IMF and the Commission as part of the ‘Troika’ to impose conditionality on program countries (Eichengreen 2013), or to send secret letters to Prime Ministers threatening withdrawal of Central Bank support if they do not follow ECB demands.

The Council: From ‘One Size Fits One’ Rules to more Politicized Governance?

The Council also slowly modified its interpretation of the rules and its discourse during the Eurozone crisis, but the rules under which the Council governed itself did not change much. During the Eurozone crisis, the institutional balance in decision-making in the Council shifted massively toward intergovernmental governance, on the grounds that the member-states in the Council were the most input legitimate (S. Fabbrini 2013). And in such intergovernmental decision-making, one member-state in particular, Germany, predominated in a politically fragmented Council. The result was ‘one size fits one’ governance, in which the response to the fast-burning crisis beginning in 2010 largely focused on reinforcing the rules-based, numbers-targeting approach of the Stability and Growth Pact, with a discourse centered on the need for ‘stability.’ That said, over time, in response to failing output performance an increasingly volatile input politics, the Council agreed to further deepening of economic integration and even added to the ‘stability’ discourse first a new objective—growth—and then a new approach to rule-following—flexibility.

Of all the EU level institutional actors, the European Council has claimed for itself the greatest input legitimacy during the crisis, and has acted accordingly by increasing intergovernmental decision-making. The argument articulated by Council members was that they, as the elected representatives of the citizens, could best represent their constituencies through the concentration of decision-making in the Council while also responding most rapidly to the crisis. German Chancellor Merkel, for example, explicitly commended this new ‘Union Method’ in a speech at the College of Europe in Bruges (Nov. 2, 2010); while French President Sarkozy defined a more democratic Europe as ‘a Europe in which its political leaders decide’ in a speech in Toulon (Dec. 1, 2011). But in so doing, EU member-state leaders have failed to recognize that intergovernmental decision-making can be input legitimate only for decisions to which leaders agree for their own citizens, not those that they
would impose on other member-states’ citizens, let alone delegate to their agent (the Commission) to implement (Scharpf 2013, pp. 138-9). Moreover, rather than a representative arena, the Council in this context acts more like an international treaty body, in which intergovernmental negotiation gives those leaders with the greatest bargaining power (read Germany) an undemocratic advantage in the closed door negotiating sessions of the Council. Although academic scholarship on the Council has suggested that the deliberative mode prevails over hard bargaining even where qualified majority voting occurs because of the focus on consensus (Novak 2010, Puetter 2012), in Eurozone crisis governance deliberation occurs in the shadow of Germany.

Germany’s outsize influence in the Council is most apparent in the focus on EU economic governance through rules and numbers in successive pacts, due not only to Germany’s bargaining power but also to its ideational influence (Jacoby 2015). Merkel made good on her pledge to the German public that: ‘I will take care that we make sure together with our partners that the whole of Europe commits herself to ‘a new Stability Culture’ (cited in Howarth and Rommerskirchen 2013, p. 762). Moreover, she also helped frame the crisis as one of public debt, aided by her Minister of Finance Wolfgang Schäuble, who repeatedly communicated the need to engage in austerity because: ‘…Piling on more debt now will stunt rather than stimulate growth in the long run’ (Financial Times, Sept. 5, 2011).

To be sure, Germany has also changed its position in response to changing circumstances and pressures from fellow member-states and other EU institutional actors as well as from internal German political actors, in particular the Social Democrats (Jacoby 2015). And naturally, Germany was not the only member-state promoting this set of ideas, nor appealing only to its own electoral constituencies in so doing. Germany’s main supporters in Council meetings were the Finns and the Dutch, but there were also the Slovaks and other CEECs who saw Greece not so much as the profligate cousin as the richer one. Moreover, French President Sarkozy himself was perfectly willing to agree to a quid pro quo in which a rescue plan would be accompanied by an austerity program, since this was more in line with the preferences of his own center-right constituency. And even his Socialist successor, President Hollande towed the line—agreeing that France needed to regain economic credibility before it could be credible in pushing for a change in rules. Germany’s outsize power, in other words, also lies in the political coalitions constructed with it and around it, to push forward its agenda; and in its delaying or veto power when it comes to EU leaders who have tried to change that agenda.

Growth entered the discourse only in late 2011, in response to the continued poor economic performance that threatened output legitimacy, raised first by Italian Prime Minister, Mario Monti, and quickly followed in the campaign discourse of French Socialist presidential candidate François Hollande in early 2012. But the discourse did nothing to change the rules, or the rule-following, including by Monti and Hollande. Only in 2014 did the discussion of growth intensify, accompanied by demands by Italian Prime Minister Renzi for greater flexibility. As of summer 2014, however, nothing had formally changed, as Merkel declared that there was no need to change the rules since the Stability and Growth Pact already contained all the necessary flexibility (Reuters, June 18, 2014). But debates over flexibility returned to center stage in October 2014 with the very public wrangling over the vetting of national budgets, in a skirmish that was as much about input legitimacy as it was about output performance. While Hollande and Renzi pressed for less austerity to promote growth, even as they reaffirmed their respect for the rules, Merkel sought to ensure that the principle of rule following was respected, even in the breach.
By late 2014 and early 2015, the Council’s ‘one size fits one’ governance seemed to be loosening, with the increasing politicization of EU leaders’ coordinative discussions and public communications. Even Germany was no longer always ‘one,’ as illustrated by the discussions with the Syriza government over Greek debt extension, in which the conservative German Finance Minister pushed one way, the social democratic leader pushed the other, and Merkel played the pragmatist. This kind of politicization may very well be a backdoor into adding to the Council’s input legitimacy, through greater public debate and deliberation of the issues, including on agreements with regard to increased flexibility.

The Commission: Between a Rock and a Hard Place in ‘One Size Fits All’ Governance

During the crisis between 2010 and late 2014, the Commission also incrementally altered its interpretation of the rules, mostly without acknowledging it. But unlike the ECB, which has the autonomy to reinterpret its own rules, and therefore communicated that its reinterpretations remain true to its cardinal rules, the Commission largely sought to hide its increasing flexibility with a continued harsh discourse focused on its ‘one size fits all’ rules pushing austerity and structural reforms. The reasons for this have much to do with the Commission’s own institutional position as well as its sources of and bases for legitimacy, all of which put it between a rock and a hard place. In the absence of real remedies to the crisis, such as a fiscal union or Eurobonds, the Commission was stuck with searching for solutions ‘like the drunk who looks for his lost keys under the lamp post’ because ‘that’s where the light is’ (Mabbett and Schelkle 2014). Recognizing this reality, in particular as output performance deteriorated, the Commission made exceptions and flexible adjustments for non-program countries, even as it denied this publicly so as to circumvent objections from pro-austerity Council members.

As befits a bureaucracy, the EU Commission has no input legitimacy per se but rather derives it from the input legitimate bodies to which it is accountable, that is, from the Council and increasingly over the years the EP. In the Eurozone crisis, increasing intergovernmentalism meant that the Commission saw its accountability as focused first and foremost on the Council—in which the rules-focused austerity coalition predominated, especially at first. At the same time, however, the Commission’s own increasing supranational powers in the context of the European Semester, which gave it quasi-independent powers and discretionary authority to enforce the various oversight functions of the macroeconomic imbalance and excessive deficit procedures, along with its participation in the ‘Troika’, also linked its legitimacy to the output performance of the policies it administered.

At first, the Barroso Commission focused on strictly enforcing the rules and calculating the numbers, with a discourse that emphasized austerity and structural reforms. Administrative responsibility was centralized under the Directorate-General of Economics and Finance (DG ECFIN), with Commission President Barroso having granted the Commissioner in charge, Olli Rehn, autonomy of decision. In the 2011 and 2012 European Semester exercises in particular, the vetting process tended to be narrowly focused on reaching the economic targets to the exclusion of social concerns. Anecdotal evidence suggests that the other Directorates-General felt that DG ECFIN lacked transparency and inclusiveness, by keeping its deliberations secret, working out the numbers on its own, and making its decisions before informing the Commission as a whole (interview with senior Commission official, Sept. 2013). The Commission’s participation in the Troika was regarded as even harsher for program countries under conditionality. In the IMF’s (2013) critique of the Greek bailout, it condemned the Commission’s emphasis on the throughput processes to the detriment of
output performance, stating that: ‘the Commission, with the focus of its reforms more on compliance with EU norms than on growth impact, was not able to contribute much to identifying growth enhancing structural reforms’ (IMF 2013, p. 13). A similar critique was echoed in a June 2014 report by the French Commissariat on Strategy with regard to the European Semester, which suggested that the efficacy of the approach ‘merits discussion’ in view of the formalism and heaviness of the procedures, the possible ineffectiveness of sanctions, and the poor integration of the social and employment dimensions (Nicolaïi and Valla 2014, p. 16).

Slowly over the course of successive European Semester exercises, however, as evidence of poor output performance continued to mount, the Commission began to apply the rules more flexibly, even as it continued with a harsh communicative discourse to the public focused on sticking to the rules of austerity and structural reform. In so doing, the Commission sought to forestall problems with the markets, which it assumed wanted such policies; to avoid conflict with the Council, given the internal political divisions; and to ensure against any possible legal action. Even in 2013, when the Commission tacitly acknowledged the failure of fiscal consolidation policies by agreeing to ease the policy on rapid deficit reduction, Commissioner Rehn (2013) denied problems with the policies, by claiming that things were getting slightly better because the response offered ‘a policy mix where building a stability culture and pursuing structural reforms supportive of growth and jobs go hand in hand’. But while such lack of transparency in the first years may have undermined throughput legitimacy, it provided a cover for the Commission to concentrate on improving (output) performance.

Slowly and incrementally, the Commission increased flexibility in the application of the rules by delaying putting countries into the Macroeconomic Deficit Procedures, granting derogations to the rules for member-states subject to Excessive Deficit Procedures, and recalibrating the numbers by revising the instruments for calculation (Mabbett and Schelkle 2014). Moreover, in the interests of throughput inclusiveness, the process also became more open over time, as DG ECFIN began to allow greater effective participation from other DGs, in particular DG Employment, and in so doing included social issues in the considerations and recommendations (Zeitlin and Vanhercke 2014). That said, such added throughput inclusiveness did not necessarily translate into output performance on the social dimension, since although social concerns increasingly appeared in the recommendations, pressures for rapid deficit reductions meant that member-state governments continued to focus on reaching the economic targets, to the detriment of the social. Moreover, the continued expressed belief that structural reform produces growth meant not just that the Commission did little to promote such growth in its own initiatives—including not demanding that such reforms were in conformity its own Europe 2020 agenda (which pledged to create the conditions for growth by promoting employment, improving education, and reducing poverty and social exclusion). It also entailed keeping a rather inflexible approach to the remaining rules, for example, by allowing only those countries that posted a primary surplus to delay deficit reduction in order to propel growth. This is why France and Italy were granted delays in 2013 but Spain was not, until the Commission agreed to change the calculation of the ‘structural deficit’ as proposed by the Spanish government (because it underestimated the impact of unemployment) but refused to generalize this calculation out of ‘concern in some capitals’ (read Germany) that using better estimates might ease up the pressures on program countries (Wall Street Journal Sept. 24, 2013). Such inconsistency in granting derogations to the rules only adds to problems of throughput legitimacy.
Only with the inception of a new Commission in January 2015 has the discourse seemed to be in greater sync with actual practice, suggesting better chances for greater throughput legitimacy. The Juncker Commission began presenting structural reform as a *quid quo pro* for greater flexibility through slower deficit reduction (with France and Italy given a two-year extension on deficit reduction on these grounds). It also pledged to do more to alleviate the social costs of the crisis, as well as to promote growth through an investment fund. And its Annual Growth Survey of 2015 for the first time put fiscal consolidation—now renamed ‘fiscal responsibility’—in third place, following investment for growth in first place, and structural reform in second place—now with a much wider set of recommendations, instead of the narrow focus on labor market flexibility of the AGS of 2011. Moreover, its now double accountability—not just with the Council but now also with the EP as a result of the appointment of the leader of the winning majority in EP elections as Commission President—may give it the needed independence from the Council to be more truly innovative during the slow-burning crisis phase.

*The European Parliament: Still ‘No Size at All’?*

If during the euro crisis the ECB started with ‘one size fits none’ rules and the Council continues with ‘one size fits one’ governing while the Commission remains ‘one size fits all’ ruling by numbers, then the European Parliament must be seen as having almost ‘no size at all’. The European Parliament, the most legitimate of EU institutions in theory because directly elected by the citizens, suffers in practice from the fact that it remains largely invisible or irrelevant to the majority of EU citizens—a product of its ‘second-order’ status in elections in which national political concerns have dominated political debate and voting behavior (Franklin and van der Eijk 2007) and evidenced by the increasingly high rates of abstention over time from voting in EP elections (with participation rates at an all-time low in 2009 of 43%, which was however topped by the results of the May 2014 vote, at 42.54%).

During the Eurozone Crisis, moreover, the EP has largely been excluded from most decisions on the euro by EU treaties as well as in cases where international institutions have been involved. The EP’s exclusion has thereby also precluded in most instances the parliamentary debates that could serve to amend and/or legitimize policies negotiated behind closed doors by the Council. Moreover, where the EP did have a say, in the Six-Pack and Two-Pack, it largely voted to give the Commission exclusive power to apply the rules, denying itself the ability to oversee the Commission’s decision even as it limited Commission discretion by specifying numerical targets for intervention. Here, the heightened sense of crisis together with the discourse of ‘no alternative’ and the less than transparent system of parliamentary ‘trilogues’ with Council and Commission was such that most MEPs voted in favor of austerity and fiscal tightening—indeed, pushed for more stringent measures than were on the table.

That said, despite its minimal formal input, the EP has more recently informally increased its impact on decision-making through pointed criticisms of other EU institutions, and in particular the ‘throughput’ processes of the Commission. For example, in two non-binding reports, the EP condemned the ‘lack of appropriate scrutiny and democratic accountability as a whole’ along with the negative social consequences due to a lack of a ‘proper impact assessment’ on citizens such as cuts in healthcare, increased unemployment, youth migration and rising poverty. Additionally, it blamed finance ministers and the Eurogroup for ‘failing to give clear and consistent political pointers to the Commission and for failing to shoulder their share of responsibility in their capacity as final decision-taker’ (Euractiv, March 14, 2014).
But until the EP gains more say over Eurozone decision-making, it will not have any robust input into current intergovernmental politics, nor can it affect output policies. The election of the Commission President via the EP 2014 elections could, however, make a difference. As mentioned above, the Commission now has clearer double accountability—to the EP for its political (input) accountability and to the Council for its bureaucratic (throughput) accountability. This could ideally help rebalance the EU system not only by ensuring the EP greater oversight over the Commission but also by giving the Commission greater legitimacy by putting in the shadow of EU politics. EP politics will also matter, however, in particular if it were able to play upon differences in the Council. But this assumes that the grand coalition of major parties in the EP will be able to reach agreement on a coherent orientation for the Commission, and that this would prevail even over and against Council preferences.

**CONCLUSION**

Whereas at the inception of the Eurozone crisis, EU institutional actors mainly focused on ‘governing by the rules’ and ‘ruling by the numbers’, over the course of the crisis they began reinterpreting the throughput rules in an effort to improve output performance and input responsiveness. The ECB moved from its initial ‘one size fits none’ (throughput) rules of inflation targeting to doing ‘whatever it takes’ for (output) policy results in order to ‘save’ the euro. In exchange, however, the ECB demanded of other EU institutional actors and member-state governments greater commitment to austerity and structural reform. The Council largely followed the ECB’s demands, mainly because in the European Council’s ‘one size fits one’ (throughput) governing mode, the bargaining power of the most powerful—read Germany and its coalitional allies—enabled them largely to impose their preferences with regard to the stringent rules and restrictive numbers. And yet, even Germany’s position changed, as it went from a focus on stability above all to a discourse that included growth and flexibility (so long as it stays within the ‘rules’). As for the European Commission, its strict enforcement of the ‘one size fits all’ (throughput) numerical targets moderated over time, as the Commission began to apply the rules more flexibly in response to negative (output) results. Finally, in all of this, the European Parliament (EP) had almost ‘no size at all’, with little (input) role in Eurozone governance. But the politicized campaign and subsequent appointment of the leader of the majority as Commission President may confer greater legitimacy on the Commission—thereby enabling it to legitimate its reinterpretations of the rules in both communicative discourses to the public and coordinative discourses to other EU institutional actors. Moreover, it will also provide some opening to citizens, even if this may initially only increase the presence of Euroskeptic in the EP rather than producing a more progressive majority.

Since 2010, then incremental changes have already occurred in the rules, as reinterpretations have increased their flexibility. But little radical change is likely in the immediate future, since we cannot expect EU institutional actors to reverse financial stability rules and numerical targets that have become embedded in their practice as well as touted in their discourse—even in the unlikely event that there were to be a shift in the political orientation of the EP and the Council. However, in a positive take on the future, this does not rule out the incremental reinterpretation of the rules and recalculation of the numbers over the medium term by a Commission with the legitimacy to exercise greater discretion in its economic governance so as to enhance the growth potential of member-states’ political economies. Moreover, were the political majority in the Council to shift from center-right to center-left governments, initiatives promoting greater solidarity could combine with the now more flexible rule-following to promote even more positive (output) performance. If this were the
outcome, then the Euro crisis would have done what past crises have been touted to do: after an initial period of delayed or failed responses, the EU muddles through to a more positive set of results while deepening its own integration. But this leaves open the question as to whether these more positive results represent an optimal solution.

These are not dangerous times yet, but nationalisms are rising, putting increasing pressures on member-state politics. There is still a window to respond—but time is short. As the crisis continues and disillusionment sets in, the negative forces will become increasingly difficult to reverse. It will become harder and harder to resolve the crisis with innovative ideas because polarization will increase, not decrease. EU institutional actors need to seize the moment. And for a beginning, they need to recognize that while the reinterpretation of the rules by stealth may have been useful up until now, it is no longer. EU institutional actors, technical and political, need to begin by telling the truth—that they are reinterpretating the rules—and they need to legitimate their reinterpretations in order to move forward, through fast and slow burning crises, in order to end the Eurozone crisis itself, once and for all.
REFERENCES
Cashore, B. 2002. ‘Legitimacy and the privatization of environmental governance’, Governance, 15, 503-529
Enderlein, H. et al. (2012): Completing the Euro – A road map towards fiscal union in Europe. Notre Europe Study No. 92


*Europeanization* (Basingstoke: Palgrave Macmillan), pp. 154-166.


