*Paper prepared for the*

*8th Euroacademia International Conference*

*The European Union and the Politicization of Europe*

*25 – 26 October2019*

*Ghent, Belgium*

*This paper is a draft*

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# Legitimacy and EMU: Between Monetary Community and Monetary Association

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## Abstract

We often hear that the Eurozone crisis has not been/is not merely economic, but also political. What does that mean, exactly? The economic aspect can be expressed in numbers: GDP growth, unemployment rates, interest rates, public debt, etc. The political aspect is more elusive and open to various interpretations. One is that the political crisis consists in the inability of political institutions to 'solve' the economic problems that arise from monetary integration. Another is that the crisis exposed and exacerbated a lack of legitimacy. It is this alleged crisis of legitimacy that I am concerned with here. Any assessment of legitimacy starts with a question of principle: Which legitimacy criteria are appropriate for the institution in question? I develop two alternative criteria, one for international institutions we have moral duty to create, and one for those we are merely free to create. Institutions of the former, mandatory kind have to allow those they govern as much democratic control as is consistent with citizens' willingness to take decisions with a view to the common good. Institutions of the latter, optional kind have to secure the continuous approval of concurrent majorities in their member states. If the Economic and Monetary Union (EMU) is of the mandatory kind, we may call it a *monetary community*; if it is of the latter, optional kind, we may call it a *monetary association*. Whether EMU is mandatory or optional, i.e. whether it is a monetary community or a monetary association, depends on the degree of interdependence in the policy areas it regulates and the degree of basic solidarity, i.e. willingness to take decisions with a view to the common good, of Eurozone citizens. I do not attempt to answer conclusively the question whether the Eurozone is a monetary association or a monetary community; my aim is merely to provide a framework for further discussion.

## Keywords

## Introduction

We often hear that the Eurozone crisis has not been/is not merely economic, but also political. What does that mean, exactly? The economic aspect can be expressed in numbers: GDP growth, unemployment rates, interest rates, public debt, etc. The political aspect is more elusive and open to various interpretations. One is that the political crisis consists in the inability of political institutions to 'solve' the economic problems that arise from monetary integration. Another is that the crisis exposed and exacerbated a lack of legitimacy. Worries about the EU's legitimacy had been around long before the Eurozone crisis, usually framed in terms of an alleged *democratic deficit* (cf. Føllesdal and Hix 2006; For a sceptical views, see Moravcsik 2002; Majone 1998). But to those who share these worries, as well as for some previous sceptics, the events of the crisis have vindicated the existence of such a deficit and added to its gravity (cf. Majone 2014; Matthijs 2017).[1] If anything, the events around the 2015 Greek bailout referendum provide the most poignant vindication. The new anti-austerity government of Alexis Tsipras had initiated a national referendum on the terms of the bailout programme offered by the European Commission, the ECB, and the IMF (the 'troika'), successfully campaigning for rejection. But only a few days later, in a spectacular turnaround, the very same government accepted even harsher terms. The technocrats from Brussels (and Washington), or the creditors in Berlin, or both, seemed to have forced their will upon the Greek people in a flagrant violation of their right to democratic self-government.

Other criticisms also target the legitimacy of the emerging system of economic governance in the Economic and Monetary Union (EMU), but from an entirely different angle. They allege a creeping erosion of EMU's founding principles, most notably the no-bailout clause and the monetary financing prohibition and point out that these principles were vital in securing the agreement of key member states, most notably Germany. In its assessment of

legitimacy, this view emphasises the principle of member state delegation as a source of legitimate European authority, while complaints along the line of democratic deficit invoke the principle of democratic control.

Any assessment of the Eurozone's alleged legitimacy problem must start by considering these questions of principle: Which legitimacy criteria are appropriate for an institution like EMU? It is this question that I seek to make progress on.[2] I will not be able to give a definite answer, but I will indicate what our answer should depend on. In short, my thesis is that it should depend on whether the Eurozone is a *monetary community* or *a monetary association,* i.e. whether EMU is a mandatory enterprise to establish relations of equal respect and concern between Eurozone citizens or an optional scheme of cooperation for mutual advantage. If it is the latter, then it must secure the continuous approval of concurrent majorities in all member states. This will require that some substantive provisions are 'carved in stone' and put beyond the reach of decision-makers. If EMU is mandatory, however, we must allow as much democratic control as is consistent with citizens' willingness to take decisions with a view to the common good. This may require a more indirect form of democracy than is appropriate at the national level.

My argument proceeds as follows. In section one, I explain and defend an account of what legitimacy is about. I argue that attributing legitimacy to an institution means to acknowledge that we have strong content-independent reasons to support its ability to function. We have such content-independent reasons when an institution enables relations of equal respect and concern, so these values are the proper yardstick for legitimacy judgements. Section Two explores the institutional implications of this conception of legitimacy, particularly under unfavourable conditions where people tend to use their political power to promote their private or group-interest instead of the common good. I argue that, under such conditions, competences should be centralised only where conflicts between local polity units are prone to occur, and central decisions should be made by independent bodies within broad democratic mandates. In section Three, we consider the conditions under which local units may agree to cede more sovereignty than required. I argue that any valid agreement to cede sovereignty must operate under a continuous 'shadow of approval' of concurrent majorities within every member state. Section Four applies our previous findings to the Eurozone. Section Five concludes.

## Why legitimacy matters: equal respect and concern

Legitimacy denotes both a normative and a descriptive concept. The two are related: An institution is fully legitimate in the descriptive/de-facto sense when people do *in fact*, rightly or wrongly, regard it as normatively legitimate. My concern here is with the normative concept, unless indicated otherwise. When I say that some institution is (il-)legitimate, I do not make a claim as to whether people do in fact consider it legitimate, but a claim that they *should* consider it legitimate.

If we think about legitimacy as a normative concept, then legitimacy judgements must be able to provide reasons for action. What action? If an institution is legitimate, there is *a reason to support its ability to function, i.e. its ability to implement its rules and decisions, or at least a reason not to interfere with that ability.[3]* The most straightforward, but not the only way of supporting an institution's ability to function is to comply with its rules and decisions, provided that one is among the addressees. Not just any reason to support an institution has to do with legitimacy, though. I may support the state's ability to implement some law because I believe that law to be *just*, i.e. I believe that the law institutionalises a moral rule that is independently valid. What is distinctive about legitimacy-reasons is that they do not depend on any such judgement of a law's merits. If I have a legitimacy-reason to support the state's ability to impose some law X, then this reason obtains regardless of whether I deem it wise or foolish, just or unjust. In short, legitimacy-reasons are *content-independent* (Raz 1986, 35). The existence of content-independent reasons is quite puzzling. Yet, they appear to be quite powerful: Suppose the elected government faces an authoritarian challenge, and you believe that the challenger would implement better policies. Still, most will agree that the right thing to do is to support the elected government - because it is the *legitimate* government.[4]

Why do legitimacy-reasons have this power? They have it because legitimate institutions ensure that we treat each other with equal respect and concern, to borrow Ronald Dworkin's popular phrase (Dworkin 2011, 384) without committing to his interpretation of it. Suppose you and I are neighbours. On your property, but close to mine, stands an apple tree that regularly sends some of its apples across the fence. You think that you are the rightful owner of these apples and ask me to return them. But suppose I keep the apples for myself and there is nothing you can do about that (I have a big dog who would bite you, should you attempt to get the apples yourself). Suppose, further, that I don't keep them because I am convinced that they rightfully belong to me, but merely because I like apples, period. Clearly, I am acting wrongly. My decision ought to be based on a fair assessment of your demand, i.e. an assessment that gives your interest in obtaining the apples the same weight *prima facie* weight as my interest in retaining them. Such an assessment might well yield the same result: I might decide to keep the apples, because that is consistent with my general convictions about distributive justice. The crucial point is that the matter ought to be judged from an impartial point of view that shows *equal concern* for both of us. Instead, I have based my decision on a partial point of view, being concerned only with my own interests. I exploit my power to take what I want at your expense.

Now suppose there is an institution you can turn to, a self-styled justice of the peace (JP): a charismatic person with a small bunch of followers willing to enact her judgments. She hears the case, carefully weighing arguments for both positions, but decides against you. Still, this is an improvement, since it is the result of deliberation undertaken from an impartial point of view, with equal concern for both our interests. But is the procedure fully

satisfactory? Arguably not. Why is it for the self-styled JP to decide what justice demands? Suppose you, as well as the other neighbours, have long held well-considered views on general principles of ownership, principles that would entitle you to the apples. The self-styled JP does not share them, fair enough, but why does her judgement count for more than yours or that of the other neighbours? Absent conclusive evidence that her moral judgement is superior to yours, styling herself JP fails to *respect* your and your neighbours' (as well as my) *equal moral authority.*

Now suppose we and our neighbours incorporate into a political society. In an open and fair one person-one vote procedure we give ourselves laws and pick independent judges who apply the laws to individual cases. This system guarantees that conflicts between us are settled in a way that shows equal concern for everyone's interests, but also respects everyone's equal moral authority. This is why we have strong moral reasons to comply with its laws, and support its ability to impose them, whatever their content. Even our self-styled JP has reason to voluntarily surrender her power to the system despite it being very likely that the resulting judgments will, from her point of view, be less accurate than the ones she hands down. This remarkable conclusion holds because she will thus achieve something more valuable than accurate judgments on individual cases, to wit social relations governed by equal respect and concern. The moral value of such relations gives legitimacy-reasons their force. Whenever we ask about an institution's legitimacy, we should thus ask whether it enables relations of equal respect and concern.

Much more could be said about the considerations that underlie legitimacy-reasons, including a discussion of alternative views on the grounds of legitimacy.[5] But this contribution's focus is on more concrete issues, so I leave you with this sketch, which should be sufficient to understand the background of my proposal and give it some appeal.

## Legitimate institutions under unfavourable conditions

We have already given a partial answer to the question what institutions best enable relations of equal respect and concern and can thus count as legitimate. We found attractive a system of government where laws are passed in open and fair procedures based on the principle one person-one vote, in other words: a democratic system of government. In this section we focus on the question what pre-political conditions must hold for democracy to 'work', i.e. under what conditions democratic institutions can indeed establish relations of equal respect and concern, and what is to be done where these conditions are unfavourable.[6]

Let us return to the village from our thought experiment. We have so far treated matters as if there was no outside world, only a local community of neighbours. Now we widen the view. Suppose there is a second village that has also incorporated into a democratic political society. Both villages lie on the banks of a river, one sitting upstream of the other. The citizens of Upstream have decided to release their sewage into the river. Inevitably, this creates a conflict with the citizens of Downstream, who demand that Upstream install a filter, but Upstream refuses to install one unless Downstream pays for its construction.

This looks similar to the apple problem, so why not try a similar solution? Let the people of Upstream and Downstream merge their political societies into one, call it Onestream, so conflicts are settled in a way that maintains relations of equal respect and concern not only among fellow villagers, but also between Upstreamers and Downstreamers. But, alas, the following happens: The citizens of Upstream, which are twice as numerous as the Downstreamers, use their political power to push through their initial proposal: The Downstreamers have to pay for the filter. What is more, they appear unmoved by any argument put forward by the Downstreamers and make no attempt to defend their position to them. Much like the neighbour retaining the apples in our initial example, they (ab)use their power to advance their own interest. We have what is traditionally called the *tyranny of the majority:* A majority of citizens abuse their political power to promote their self- or group-interest instead of wielding it in impartial judgement showing equal concern for every citizen's interests. Using another traditional term, we may say that citizens fail to be moved by *the common good* or *the public interest.*

Let us say that, when citizens fail to be so moved, a polity suffers from low *basic solidarity.* Basic solidarity is simply the motivational force that compels people to base their decisions on what they think is in the public interest, and not on their private interests. We do not here consider the question what might be behind that force. It might be a collective identity, or a culture that rewards moral integrity with social esteem, or something else. We call this solidarity 'basic' to shed it from 'thicker' forms that include commitments to egalitarian economic policies. A political society living under a system of laissez-faire capitalism lacks thick solidarity, but not basic solidarity, if a majority of citizens sincerely believe that such an economic regime is in the public interest.

The weakness of basic solidarity undermines the legitimacy of Onestream's democratic institutions. Our case for democracy was predicated on the idea that citizens use their impartial judgement when they take political decisions. The neighbours had demanded from the self-styled JP that their moral judgements should count for as much as hers, and this was to be ensured by universal suffrage. They could not have demanded that the JP share her power so they can wield it to advance their private interests. What is more, the situation is now worse than before the Upstream-Downstream merger. When there were two independent polities, Upstreamers could force their interests upon Downstreamers only on the sewage-issue (by refusing to install a filter unless being paid). Now that they are in control of the merged polity, their power has grown immensely: They can pursue their interests on any issue that falls under the purview of the state. For instance, they can design a tax system that redistributes wealth upstream. Just to be clear: The very same tax system would be perfectly legitimate if it was the outcome of a political process guided by

citizens' search for the common good. It is the fact that Upstreamers did not consider the public, only their private or group-interest that renders it illegitimate. What is to be done, then? Consider four alternative solutions:

The first solution – let's call it the Westphalian solution – is to go back to the status quo ante, reinstating Upstream and Downstream as sovereign polities. These polities are 'islands' of equal respect and concern: these values mark the relations between fellow Upstreamers and the relations between fellow villagers, though not the relations between Upstreamers and Downstreamers. The latter is unfortunate, but it is a brute fact that we have to accept. It reflects the unfavourable conditions we encounter, i.e. the lack of basic solidarity.[7]

The second solution – call it JP – also reinstates Upstream and Downstream as sovereign polities, but a permanent commission of respected people of great integrity is charged with issuing rules for settling inter-polity conflicts like the sewage-question.

The third solution – call it Hypothetical Majority (HM) – also features the commission but insists that it should make rules not according to its own substantial judgements, but should instead ask: What rules would be endorsed by a majority of a  combined Upstream-Downstream electorate, were people to set aside their private interests and vote according to their views on the common good?

 The fourth solution – call it Mandate – again features the commission but insists that it should take decisions in line with general principles that are determined by the voters. The commission interprets these principles and translates them into concrete rules.

All solutions but the first try to mitigate the problem of inter-polity relations being dominated by the self-interest of the powerful. The Westphalian solution is a fallback position that makes sense only if we conclude that they all fail in this endeavour. Do they? The simplest alternative solution, JP, does not appear to be worse, and is potentially better, than the Westphalian one. Here we at least improve the probability that the inter-polity rules settling the conflict will be determined impartially and not on the basis of self-interest. What JP does not attempt, however, is to somehow salvage respect for everyone's equal moral authority. This is what solutions three and four seek to achieve: They're the most ambitious ones. We can thus regard JP as our new fallback-solution, should neither of the other two solutions improve upon it.

Let us see if they do. We begin with Hypothetical Majority (HM). This solution seems to allow us to circumvent the low-solidarity problem without sacrificing our aim to respect everyone's equal moral authority. We filter out people's selfishness, allowing the virtuous citoyens inside them to have their say.[8] But there is a problem with this approach: If its rationale were sound, then it would have quite implausible implications beyond the case at hand. It would lead us to abandon a democratic system that gives people real power whenever we can *simulate* with sufficient accuracy what *would* be decided if citizens were perfect citoyens, i.e. if they were always and only committed to the common good in their political decisions. For even under realistically favourable conditions, this will never be the case: Some, or even most decisions will be affected by self-interested voting behaviour *to some extent*. Citizen aren't saints; under favourable conditions, we can realistically expect most citizens to decide impartially most of the time, but not all citizens to decide impartially all the time. So, suppose we had a computer program that can predict, with impeccable accuracy, what would be decided by a citizenry of saints. Does that mean that the program should make the laws, instead of the people? I regard this as a rhetorical question. If some view on legitimacy has this implication, then it cannot be correct; showing it to have that implication can be used against it in a *reductio*. If I am right, then there must be something fundamentally deficient about hypothetical democracy. It is an interesting task to pin down the exact source of that deficiency but taking it on would lead us too far astray.[9]

If I am right, then HM does not improve upon JP because it is based on a misconception of the values underlying democracy. Simulated democracy is no substitute for democratic practice. We now turn to the last proposal – Mandate – to see if it can do better in salvaging some of the virtues of democracy in an unfavourable environment. I argue that it can. The basic idea is that decisions on general principles are less prone to be hijacked by the pursuit of self- or group-interest than decisions on concrete issues. Therefore, Mandate is a form of indirect democratic rule that works even where basic solidarity is weak.

Why should people be less prone to be moved by self-interest when they decide on general principles? For at least two reasons: First, such principles apply across a vast range of cases, so it is more difficult to know whether one principle or the other will work to one's advantage. This weakens the force of selfish reasons in the decision: People are simply not sure in which direction these reasons point. Impartial reasons are thus allowed to tip the scales, even if their motivational force is relatively weak. Second, any contradiction between the decision and one's long-held moral convictions will be more difficult to deny, since that contradiction will be plainer. Suppose you consider yourself an egalitarian. You will then find it harder to vote against the general principle 'state policy should promote equality' than to do vote against some particular law that seems to promote equality but also increase your tax bill. In the latter case, the contradiction is less obvious: There could be some egalitarian justification for voting against the tax bill. Even if you do not in fact make any effort to find such a justification and may even have a lingering sense that there is none, you are not forced to confront the fact that you are voting with your purse in the same unfiltered way as when you vote against the general principle. Decisions on general principles leave less room for self-delusion, so the disciplining force of feelings of guilt and shame is greater.

To sum up: Mandate can prevent democratic decision-making from descending into a tyranny of the majority by letting people decide not on concrete rules, but on abstract principles. Such decisions are less susceptible to being hijacked by self-interest, so we can trust people to take them impartially even when basic solidarity is weak. But there's a catch. Any mandate leaves the mandatee with some room for manoeuvre. As far as legitimacy is concerned,

this is not a problem as long as that room is purely 'technical': If the mandatee is free to choose the means of fulfilling the task she was given, and this choice doesn't involve any controversial moral judgements. In the case at hand this is unlikely though. Suppose our commission, charged with settling disputes like the sewage-issue, is instructed to apply the following general principle: 'Any external costs must be internalised'. Suppose, further, that installing only one filter would make the water perfectly drinkable but leave a slightly unpleasant taste that could be removed only by a second filter. Must Upstream pay for that second filter as well? No answer can be given without making controversial judgements on what is properly included in external costs. But on this controversial question only the commissioners' judgements count, citizens don't get as say. Democratic control is incomplete.

This incompleteness is the reason why under more favourable conditions we let citizens decide on concrete rules and not merely general principles (or ensure that they can pressure their representatives to revise decisions on concrete rules). General mandates are therefore a second-best solution we turn to only under unfavourable conditions. Still, we thus manage to salvage considerable democratic value vis-à-vis JP. Even if people do not get to take decisions on concrete rules, they get to impose a general direction on those decisions. A broad mandate leaves considerable room for manoeuvre, but that room is not infinite. There are crash barriers, so to speak. If our commission were to decide that Downstream has to pay for both filters it would clearly violate its mandate to make rules on the basis of the principle 'Any external costs must be internalised'.

Note that Mandate leaves Upstream and Downstream with a great deal of sovereignty on internal matters. We do not propose another version of the Onestream-merger, insisting only that the united polity's system of government must be based on broad mandates. Our commission is weaker than a central government. It only legislates in areas of inter-polity conflict. This way we can keep largely intact the domestic democratic systems of Upstream and Downstream that allow citizens a higher degree of democratic control over concrete laws and policies (they can do so because, let us assume, basic solidarity is strong *within* Upstream and Downstream). These domestic systems are superior in their respect for citizen's equal moral authority. We thus leave matters in local hands where serious inter-polity conflict is unlikely.

## Voluntary cooperation and the shadow of approval

We now have a legitimate set of institutions in place. Upstream and Downstream retain much of their sovereignty, except in areas prone to inter-polity conflict, where a commission decides according to basic principles determined by the voters. But suppose Upstreamers and Downstreamers wish to cede more sovereignty than legitimacy requires. Say they want to integrate their electricity-grids and produce power in a single plant to improve efficiency. That endeavour can only be successful if power over matters of electricity is centralised somehow. They sign a contract establishing some ground rules and a new agency that is put in charge of electricity matters in both villages. Can that contract be valid? If so, under what conditions?

Our view on legitimacy would appear seriously flawed if we gave a negative answer to the first question. Surely, voluntary cooperation between legitimate polities is itself legitimate if it's done right. So how is it done right? The most permissive stance would be this: As long as both polities freely agree to the terms after proper internal debate, *any* arrangement is legitimate. Upstream could agree, for instance, to let Downstream run the entire show: make all the rules, control the new agency, etc. This stance has a familiar corollary at the individual level: Some people, among them notable philosophers (cf. Vallentyne 2012, 160; Nozick 2013, 331), think that a sane adult has the moral power to surrender any right if she is well-informed, thought about it carefully, has reasonable alternatives, etc. (people disagree about the exact conditions), the most extreme case being voluntary slavery.

But there is also a crucial difference between the individual and the collective case, a difference that allows us to circumvent the tricky question whether all rights can be surrendered by consent. The membership of any sufficiently large polity is in constant flux. That is true even without migration: People die, children are born. Trivial as they are, these facts have an important implication. If we allowed Upstream and Downstream to cede sovereignty by contract, we would not only give citizens the power to surrender some of their own rights to self-government. We would also give them the power to surrender the rights of future citizens, since they will be born into a village that has ceded some sovereignty to the energy agency. While an unrestricted power to surrender one's own rights to self-government may be defensible, such an unrestricted power to surrender the rights of others clearly is not. Call this the problem of future citizens.

A simple solution for this problem would seem to be a right to exit: We may decree that Upstream and Downstream must retain the right to terminate the agreement and take back control over energy policy if the contract is to be valid. The problem is: Once the power grids have been fused and the new plant is up and running, exit may no longer be permissible. Why? We have said that an inter-polity commission must rule in areas prone to inter-polity conflict. The very fact that Upstream and Downstream share an integrated grid powered by a single plant is ample reason to expect such conflict. Their initially voluntary cooperation has dramatically increased interdependence in this area and has thus altered the relevant background conditions for the legitimate distribution of power between local and central authority.

How, then, might an irreversible transfer of sovereignty be justified? It may be justified if future citizens would support the decision. More precisely, it may be justified if we are confident that the motion would gain concurrent majorities in every polity that is party to the agreement, at any future time: In five years, in ten years, in

fifty years. This ensures that any past transfer of sovereignty, though at least partly irrevocable, remains quasi-voluntary because it operates under a *shadow of approval* by current citizens.

It will be objected that this proposal runs into the same problems as the hypothetical majority (HM) proposal discussed above. But it does not have the same troubling implication. What we found troubling about HM was that its underlying rationale would lead to the absurd conclusion that simulated democracy could be better than democratic practice even under reasonably favourable conditions. The present proposal has no such implication since it takes voters as they are instead of relying on some idealised, selfless version of them. We simply ask whether future voters, as they are, would approve of the present decision. This does not commit us to recommending that voters should never have real power to take decisions and that we should instead implement the decision that that we think a majority of voters will tacitly approve of. The best way to ascertain that they do indeed approve is simply to give them the power to decide. In the case of future citizens, we resort to speculation only because it is metaphysically impossible to give them real power to affect present decisions.

The shadow of approval has another attractive feature: It allows the cession of sovereignty over and above of what is inevitable in virtue of increased interdependence. Even where at least a partial right to exit could be granted, it need not be if the shadow of approval is in place. But why would future citizens approve of a deal with no exit options? Wouldn't they insist that their forebears put as many exit options as is compatible with increased interdependence? Not necessarily. They may be interested in securing the fruits of commitment. Some benefits of cooperation will only materialise if there is certainty that cooperation will continue in the future. Monetary unions are an excellent example: the anticipated gains from deeper economic integration will materialise fully only if market participants are confident that the common currency will still be around tomorrow. Otherwise, some transnational business ventures will be shunned as too risky since even a slight change in exchange rates would render them unprofitable. It can thus be attractive to 'throw away the keys' to increase market confidence.

One final clarification. When we ask whether future generations would approve of ceding sovereignty, we require only that they would do so *if they knew what we know now*. In other words: Their approval or disapproval cannot be based on whether or not certain risks materialised in the meantime. If we allowed that, few voluntary transfers of sovereignty would ever be permissible. For almost any such deal will involve risks that would lead later generations to disapprove *ex post* if they materialised. And since we have an entirely safe option (keeping our sovereignty), we could hardly justify taking those risks, as we would thereby risk creating illegitimate institutions.

Some will object that this merely shows that the shadow of approval defence doesn't actually work and that our move to avoid this conclusion is suspiciously *ad hoc*. We therefore offer a further, more positive justification: When we take decisions that affect future generations, we are acting like their agent. What instructions would the principal, i.e., future generations, give us, bearing in mind that we only have *ex ante* knowledge? They would instruct us to take risks where these are small compared to the expected benefits. They would not instruct us to avoid any risk whatsoever even if that means jeopardising the prospect of substantial benefits.

# Finally: back to EMU

We are now in a position to move our discussion back from the simple fictional world of Upstream and Downstream to our complex European reality. It is not our ambition, recall, to settle what legitimate EMU institutions would look like. Our aim is more modest: We want to provide a framework for thinking about legitimacy and EMU that can direct further 'downstream' investigation.

An assessment of EMU's legitimacy must, according to our framework, begin with the following question: Was the creation of EMU, that is, the member states' cession of sovereignty over monetary, economic, and fiscal policy to an inter- or supranational body, necessary to maintain legitimacy in these policy areas? Or was it optional, a scheme of cooperation for mutual advantage that would not have left a stain of illegitimacy had it not been created? If the former is true, i.e. EMU is morally mandatory, then let us say that the Eurozone is a *monetary community*. If not, i.e. it is optional, it is a *monetary association*.[10] Recalling our fictious story, we ask whether we are looking at a sewage-type case or an electricity-type case.

If the Eurozone is a monetary association, then we must make sure that it operates under a shadow of approval by each of its member states: It must be ensured that in none of the member states citizens would want to 'turn back the clock' and prevent their country from joining *if they knew now what their forebears knew then*. Normally, this will imply that their country could expect to benefit from membership economically in the long run and to not be hit by grave economic crises. Or, if grave crises could not be ruled out, they would at least insist on some kind of insurance mechanism that dampens the blow. Further considerations may be relevant, too, and they may differ across member states. For whether our test is passed depends not on whether *we* think that country X should/should not have joined but on what its people think. In accordance with their political priorities, some countries may care as well about the effects on income equality, others about low inflation, yet others about national identity, etc. etc.

If the Eurozone is a monetary community, then we must make sure that its common institutions are designed so as to give citizens as much democratic control as is consistent with the extent of basic solidarity between them. It is in this context that complaints about 'technocracy' and 'democratic deficit' potentially have bite, but not necessarily so. For the EMU's 'technocratic' structures may be largely appropriate if basic solidarity across member states is rather weak: In that case, technocratic rule within broad mandates may be more legitimate than more popular control

of concrete rules through a strong European Parliament, say – it would be roughly equivalent to what we called the mandate solution to the problem of low basic solidarity.

Whether the Eurozone is a monetary community or a monetary association in the above sense, i.e. whether its creation was mandatory or optional, depends on whether the policy areas it regulates would be prone to cause conflicts among the member states in its absence. Suppose all had retained full monetary sovereignty like the United Kingdom. Would this lead to conflicts over monetary policy, either openly, with outright currency wars at the extreme, or under the surface, with weaker economies grudgingly tracking the policies of the major central banks, especially the German Bundesbank? Or would there be harmony due to a happy alignment of interests or at least mutual indifference due to limited interdependence? If conflicts are unavoidable, then some kind of European monetary regime is required. Whether this means a single currency controlled by a single central bank is another question; maybe some looser mechanism of policy-coordination like the European Exchange Rate Mechanism (ERM) would do as well.[11] Similar questions can be asked about other elements of EMU like the Stability and Growth Pact (SGP), the Fiscal Compact, the Banking Union and the European Stability Mechanism (ESM): Is the European regime of fiscal and economic policy coordination necessary to regulate an area of potential conflict (at least *provided* a high degree of monetary integration) or not? If conflicts loom in all these areas, then EMU had to be set up and is thus a monetary community. If not, then it is a monetary association.[12]

To complicate the picture, however, consider a now familiar possibility: Suppose the Eurozone was a monetary association at its inception, i.e. its creation was not required by legitimacy. Over time, however, it might become mandatory as its very existence gradually increases interdependence.[13] As long as EMU remains optional, the shadow of approval clearly is our only relevant yardstick: Would today's citizens have taken the same decision if they had walked in their forbears' shoes? But when it becomes mandatory, due to a change in the circumstances of legitimacy, we may also ask: Are its institutions structured so as to allow as much democratic control as is consistent with the de-facto degree of basic solidarity across member states?

The rub lies in the fact that these two criteria may lead to incompatible demands. What if democratic EMU institutions take decisions not covered by the shadow of approval? In other words, what if some member states say, truthfully: 'Had we known that these new rules would be adopted, we would never have joined'? This is a tricky one, but I believe that the shadow of approval must take precedence here. For its purpose is still relevant: To ensure that a voluntary transfer of sovereignty can be justified to future generations. That this transfer will eventually create conditions that make it irreversible only adds to the necessity of securing approval. This does not mean that no democratic control can be allowed, but the room for manoeuvre of democratic institutions is circumscribed by the shadow of approval.

We must add an important caveat, however, once we consider the long-term effects of cooperation not only on interdependence, but on basic solidarity. If things go well, then we can hope that the effect is positive: Basic solidarity is strengthened through the intensification of contacts across borders and a growing sense of community inspired by a history of shared institutions that have successfully weathered the storms of crisis. This is good news. It makes possible the democratisation of shared institutions in the sense of replacing broad mandates with more democratic control over policy details. Eventually, it may even raise basic solidarity across borders to a similar level as solidarity within borders, putting the option of an outright merger into a single state back on the table. But even short of that, basic solidarity may in time pass a crucial threshold that acts as a game changer, rendering the shadow of approval obsolete. We said that the shadow of approval was necessary to protect future citizens' right to sovereignty. But that right to sovereignty is, in turn, based on a right to democratic control. Current citizens need to approve of the decision of their forbears to cede sovereignty *because of the loss in democratic control it brings with it for current citizens.* But this connection between loss of sovereignty and loss of democratic control is *contingent* and will weaken as basic solidarity across borders increases. Such an increase makes possible a democratisation not only of the institutions governing cooperation but also of those shared institutions that we called mandatory, i.e. those that have to be set up in conflict-prone policy areas. If the increase in basic solidarity and the democratisation it enables are substantial, then the loss of democratic control from ceding sovereignty is made up by a democratisation of shared institutions across the board.

To put it differently: voluntary cooperation can be a legitimacy investment that eventually pays off when it enables democratisation of international, in our case European, institutions across the board by fostering basic solidarity. Once the investment pays off, the earlier cession of sovereignty no longer needs to be justified to present citizens, for they do now have more democratic control than they would have, had sovereignty not been ceded: They would have to bear with international institutions with broad mandates consistent with the lower level of international basic solidarity. The emerging view is, then, that the shadow of approval is a *transitional* requirement: It must be in place only until the legitimacy investment pays off.[14]

This line of argument has an attractive consequence: The shadow of approval will not be around forever. Suppose we concluded that the Eurozone was indeed a monetary association, a voluntary cooperative project. Still, it would be odd if in 200 years, say, member states could still complain that they would not have joined 200+ years ago had they known that the rules would change in this or that way. Our view allows us to avoid that oddity, provided we think that the long-term trend in basic solidarity between EMU member states is indeed positive.[15]

# Conclusion: open questions

I have outlined an approach to questions of legitimacy in the Eurozone, but that approach can be applied fruitfully, I hope, to international institutions more generally as well as the vertical division of power within states. Our final verdict on legitimacy and EMU will depend on difficult empirical assessments concerning matters such as the degree of basic solidarity among Europeans, i.e. their willingness to put the common European good (whatever they think that is) first when exercising political power over fellow Europeans. Optimists have pointed to the rise in European identity (Risse 2014), but it's not quite clear whether that identity is (currently) both widespread and 'thick' enough for the common good, and not national or self-interest, to guide citizens' decisions on concrete issues of distributive salience.[16] We should also take a fresh look at the history of EMU, asking what 'the founders' knew, or could reasonably be expected to know, about the workings of monetary unions.[17] We must then attempt to assess whether these decisions would still find the approval of democratic majorities in the member states today and in the future or find a clever institutional design that ensures the fulfilment of this condition.[18] Provided, that is, we think that EMU started out as an optional project of cooperation for mutual advantage and wasn't a mandatory institutional fix in a conflict-laden policy field.

You might think that many of the empirical assessments required are impossible to make with any satisfying degree of certainty. That may well be true, but, alas, politics is rife with uncertainty. Decisions must be made on the Eurozone's future and if we find those decisions to depend on facts that are difficult to assess, we must make an educated guess.

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[1] Others say it's too early to make the call (cf. Kratochvíl and Sychra 2019).

[2] The issue has received little attention in political philosophy. Notable contributions are Viehoff 2018; Bellamy and Weale 2015. Contributions from political scientists include Scharpf 2013; Schmidt 2015, though it is not always clear whether they are concerned with a descriptive or a normative sense of legitimacy.

[3] This definition is partly based on Adams 2018.

[4] Someone might object that this is actually because supporting democracy will yield better outcomes in the long run. Authoritarian rule may be inherently unstable, eventually jeopardising essential goods like security as *de facto* legitimacy crumbles. I find myself unmoved by this objection. We can at least imagine a perfectly stable authoritarian regime and it still seems clear that we should defend democracy against the prospect of such a regime.

[5] For alternative conceptions see Sangiovanni 2019; Rawls 2005, chap. 4; Raz 1986, pt. 1; Pettit 2012, chap. 3.

[6] This question is often framed as the *demos*-question. I avoid this frame since it tempts us to think in dichotomies (demos or no demos), when we should really be thinking in continua ('more' or 'less' demos, if you will).

[7] Some defenders of the Westphalian solution are more optimistic: Phillip Pettit believes that fully sovereign democracies will treat each other with equal respect and concern, adhering to shared norms instead of using their power to pursue national interests (Pettit 2014, chap. 6; A similar optimism seems to underly Bellamy's "republican intergovernmentalism", though he does not discuss the matter. Cf. Bellamy and Weale 2015; Bellamy 2017; 2013) I do not share his optimism, which contrasts sharply with his pessimism that such norms are sufficient to sustain the requisite relations between individuals. (Pettit 2012, chap. 3)

[8] This approach is similar to John Rawls's, who tells us to look for "a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason. This is the liberal principle of legitimacy."(Rawls 2005, 137) Note, however, that Rawls's approach only applies to *constitutional essentials,* not *any* political decision. The proposal at hand is much more radical in its reliance on the perfectly reasonable *citoyen.*

[9] I suspect that the answer has something to do with the fact that the perfect citoyen in the simulation that is supposed to be me is not really me. They're no-one. A person stripped of all individual desires and goals is an empty shell, a faceless token. Their decisions in the hypothetical scenario therefore cannot count as *mine.*

[10] We could also use the terms 'economic and monetary association' and 'economic and monetary community', but they are quite cumbersome.

[11] For a sympathetic discussion of reintroducing the ERM see Höpner and Spielau 2018. For a proposal that combines a reformed ERM with a shrunk monetary union see Scharpf 2018.

[12] If some integration was necessary but EMU provides more than that, then it's complicated. I'm afraid this is one of many complexities that limited space does not allow me to explore

[13] This is not an implausible assumption as one of the stated objectives of EMU is to integrate the economies of member states.

[14] Seeing EMU as such an investment is one way to make sense of the slogan that 'the euro is not merely an economic, but a political project.'

[15] What of the opposite case: What if we must expect that our scheme of cooperation will erode basic solidarity over time? Then then shadow of approval will remain in place but will be more difficult to satisfy as their loss in sovereignty is complemented by a loss of democratic control over shared institutions that need to be redesigned to accommodate lower basic solidarity. A

[16] In the paper cited in the text, Risse cites a study finding that people with a European identity were *more likely* to support "economic governance with redistributive consequences" than people with exclusively national identity (p.1210). A recent study by Soetkin Verhaegen based on the European Parliament's 2014 post-election survey (EES 2014) yields similar results (Verhaegen

2018), but a more detailed look at her study should dampen our euphoria (Some of the following figures are taken from the survey itself and are not stated in the paper). Verhaegen finds that respondents with a stronger European identity were more likely to agree with the following statement: '*In times of crisis, it is desirable for (OUR COUNTRY) to give financial help to another EU Member State facing severe economic and financial difficulties.*' Yet only a minority (46%) of Eurozone respondents supported the statement. Part of the reason appears to be that those with a *strong* European identity are still a minority. While 65% of Eurozone respondents felt at least somewhat European, only 26% reported a strong European identity. These figures are not exactly evidence that a clear majority of Eurozone citizens is prepared to put particularistic interests aside to discharge their duties towards their fellow Europeans in need. We should also keep in mind that 'talk is cheap': Expressing support for financial aid in a survey is free; voting for it is not. Don't get me wrong: I also do not want to suggest that these numbers provide conclusive evidence that the degree of basic solidarity in the Eurozone is low. People may reject financial aid to other countries for all kinds of reasons that are perfectly consistent with basic solidarity: They may think it helps the banks but not the common people, or that countries are responsible for the mess they're in, etc. etc. I should also say that other surveys have reported much higher support for financial aid (cf. Gerhards et al. 2018), though it is partly due to the huge discrepancy in results between surveys that caution seems in order (For Spain, Gerhards et al. report close to 80% approval of bailouts, while the EES 2014 reports 43%.)

[17] There were, of course, warnings at the time that the Eurozone was not an optimum currency area and would run into problems, particularly if the monetary union wasn't complemented by a fiscal union (cf. Eichengreen 1991). But that alone does not give us the right to say: 'They should have seen it coming!' We need a more thorough assessment of public debates at the time: What was the dominant assessment? Was this assessment based on an open-minded debate or on self-delusion? I should say that may call for further research on these questions is tentative since I am not yet familiar with all the relevant literature.

[18] Unanimity may come to mind here. But unanimity is perfectly consistent with the absence of the shadow of approval. If a change of rules is accepted unanimously, this means that it is preferred to the *status quo ante*, but if that *status quo ante* was not under the shadow of approval the new rules need not be either. The underlying problem is that a chain of unanimous agreements does not guarantee the shadow of approval if the parties don't remain the same. This is precisely the problem we face due to constant population turnover.

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