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Europe's governance in crises: politicisation and adaptation

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Preliminary remark

During the present paper is in the usual loop of publication, the corona epidemic has reached the states of the European Union with full force. Medical and economic crisis go hand in hand and it is currently unclear how deep both crises will be. There is - as in 2008-2013 - a profound dispute over fiscal policy in the Eurozone, the communitarisation of debts, and European solidarity. Following an EU summit on Corona financial aid in April 2020, different assessments are out there as to whether the fiscal decisions are appropriate and sufficiently far-reaching to cushion the crisis. The current situation confirms the basic thesis of the following paper, which was written before the crisis since spring 2020: The EU is both adaptable and fundamentally politicised and thus contingent in its integrative capacity.

Abstract

The paper's topic is the current state of the European mode of governance, in particular of the European Union. It tackles the question why the established EU Governance has been put to the test and became contingent. On the base of literature on EU Governance and Europeanisation and on the recent politicisation, the paper sheds light on the institutional traits of the current European mode of governance. It then turns to some long term developments, i.e. the enlargement 2004/2007, the Economic and Monetary Union, and the Dublin regime in migration policy. Against the backdrop of these decisions, the established mode of governance became rather susceptible to the risks deriving from recent crises and politicisation. The crises are the economic, financial and fiscal crisis between 2008 and 2013, the danger of territorial disintegration due to the withdrawal of Great Britain ("Brexit"), and the considerable conflicts in European migration policy. But, instead of being severely weakened if not dissolved by multiple crises and politicisation, the European mode of governance showed flexible adaptation. Regional coordination was intensified following the economic crisis. The main institutions of the EU (European Council, Council of the EU, European Commission, and European Parliament) still work on the base of a joint agenda. After the elections from May 2019 a more plural and flexible coordination is to be expected due to change of alliances in the European Parliament and the European Council. The paper adds to the debate on the current state of European Governance by emphasizing the concurrency and interaction between governance and politicisation instead of their sequential replacement. In addition, the paper contributes to the debate on comparative regionalism by highlighting the contingent interaction between governance and politicisation on the one hand and by drawing attention to the specific mechanisms of EU governance on the other hand.

Key words: European Governance, multiple crises, politicisation, comparative regionalism

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Introduction

The paper's topic is the current state of the European mode of governance, in particular of the European Union (EU). It tackles the question why the established EU Governance has been put into contingency. On the base of the literature on EU Governance and Europeanisation and the recent politicisation, the paper sheds light on the institutional traits of the current European governance regime. It has been put at disposal due to several crises to which the governance regime had adapted but the crises also result in sliding grounds for supranational coordination.

After a brief description of the history and traits of the EU regime of governance, the paper turns to some long term developments, i.e. the enlargement 2004/2007, the Economic and Monetary Union, and the Dublin regime in migration policy. Against the backdrop of these decisions, the established mode of governance became rather susceptible to the risks deriving from recent crises and politicisation. The crises are the economic, financial and fiscal crisis between 2008 and 2013, the danger of territorial disintegration due to the withdrawal of Great Britain ("Brexit"), and the considerable conflicts in European migration policy. But, instead of being severely weakened if not dissolved by multiple crises and politicisation, the European governance regime showed flexible adaptation. Regional coordination was intensified following the economic crisis. The main institutions of the EU (European Council, Council of the EU, European Commission [EC], and European Parliament [EP]) still work on the base of a joint agenda. After the elections from May 2019 and the inauguration of the new European Commission a more plural and flexible coordination is to be expected due to change of alliances in the EP and the European Council. The paper adds to the debate on the current state of European Governance by emphasizing the concurrency and interaction between governance and politicisation instead of their sequential replacement. In addition, the paper contributes to the debate on comparative regionalism, firstly, by highlighting the contingent interaction between a regional mode of governance and its politicisation and, secondly, by drawing attention to the specific mechanisms of EU governance.

The *governance* of the European Union (EU) is concerned with distributed political authorities and their horizontal and vertical interactions. The term governance (instead of government) thereby addresses the fact that the competences and capacities to make relevant decisions and exercise power are allocated to different political institutions, which then need to bargain, argue, compete, or collaborate with each other, or they activate a sense of community and belonging in order to arrive at joint decision-making.[2] The European mode of governance is a rather complex regime of horizontal and vertical coordinated interactions.[3] Against the backdrop of those theories, which are meant to explain the integration of the European Union, two approaches highlight (different) aspects of governance. Neofunctionalism emphasises the emergence of an 'ever closer Union' through the problem solving

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[2] Ian Bache and Matthew Flinders, eds., *Multi-level-Governance* (New York, Oxford: Oxford University Press, 2004).

[3] Markus Jachtenfuchs and Beate Kohler-Koch, "Governance and Institutional Development", in *European Integration Theory*, eds. Antje Wiener and Thomas Diez (Oxford, New York: Oxford University Press, 2004), pp. 97-115; Tanja A. Börzel, "Theorizing Regionalism: Cooperation, Integration, and Governance", in *The Oxford Handbook of Comparative Regionalism*, eds. Tanja A. Börzel and Thomas Risse (Oxford: Oxford University Press, 2016), pp. 41-63.

demands resulting from transnational coordination of the economy, technology, and mobility. In this perspective, EU governance results from technocratic coordination (within the European comitology).[4] Instead, the concept of "supranational governance"[5] focuses more on the operation of integration than on its emergence. It addresses the kind of complex interaction between different actors and modes of governing in close connecting with policy-making, i.e. making decisions on important issues (historically these are particularly from economic policies). From the point of view of neo-functionalism and supranationalism, EU governance is concerned with denser and more intensive but differently structured interaction between a multitude of actors. In addition to its descriptive quality (who negotiates with whom at which levels?), the term also includes a certain normativity, i.e. the basic assumption is that the actors involved are problem-solving-oriented and willing to compromise. In this view, decisions and goods at stake can be rationally negotiated and made commensurable. The fact that these normative prerequisites are characteristics of the concept of EU governance, but no longer sufficiently describe the political dynamics in the European Union, is a fundamental experience of the 2010s.

That is the reason why the current debate turned to *politicization* (against or within governance). In order to define this term, the editors of a special issue of West European Politics posit that "politicization can be empirically observed in (a) the growing salience of European governance, involving (b) a polarisation of opinion, and (c) an expansion of actors and audiences engaged in monitoring EU affairs."[6] A more fundamental concept of politicization comes from the debate on radical democracy in which the political is antagonistic to policy.[7] Politicization here is affiliated with fundamental rejection of the existing system of governance, its institutions, its interactions, and its elites. Thus, this more general concept of politicisation emphasizes the particular anti-supranational thrust against the EU which is fundamentally questioned. This basic rejection of the European governance regime goes along with emotions and affections against 'those in Brussels', hence, it is emotional politics. While a low voter turnout in the elections to the EP exhibit an inexistent support for the EU, the increasing electoral successes of eurosceptic and right-wing populist parties in the elections to the EP show that politicisation goes hand in hand with an affective rejection of the European governance model (see below). Instead of taking a path dependent chronological development of the European governance regime for granted, politicisation understands it as fundamentally changeable and contingent. In sum, the debate on politicization transports two meanings: politicisation *within* the EU governance regime and politicisation *against* it.

The politicisation against the EU at the ballot box has been issued by the approach of postfunctionalism[8], which main message can be summed up as follows:

Intensified political conflict in public media and party competition changes the quality of European integration because élites can no longer control it. Eurosceptic attitudes of citizens in national elec-

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[4] Ben Rosamond, *Theories of European Integration* (Basingstoke: Palgrave Macmillan, 2000), pp. 50-73; Philippe C. Schmitter, "Neo-Neofunctionalism", in *European Integration Theory*, eds. Antje Wiener and Thomas Diez (Oxford, New York: Oxford University Press, 2004), pp. 45-74.
[5] Ben Rosamond, *Theories of European Integration* (Basingstoke: Palgrave Macmillan, 2000), p. 126.
[6] Pieter de Wilde, Anna Leupold and Henning Schmidtke, "Introduction: The differentiated politicisation of European governance", *West European Politics* 39, no. 1 (2016), p. 4.
[7] Jacques Rancière, *Hatred of Democracy* (London, New York: Verso, 2006).
[8] Liesbet Hooghe and Gary Marks, "A Postfunctionalist Theory of European Integration: From Permissive Consensus to Constraining Dissensus", *British Journal of Political Science* 39, no. 1 (2009): 1-23.

tions and referenda on EU affairs limit the room of manoeuvre for national governments and European élites searching for functional solutions to Europe's pressing problems. The shift from élite-driven interest group politics to mass politics goes hand in hand with a growing salience of a new cleavage that is cultural rather than material and related to identities.[9]

Hence, politicisation has a twofold meaning for European governance: On the one hand conflicts on policies and polity might serve as integration through arguing, struggling, deliberating, and bargaining in a transnational sphere. Thereby, this sphere gains momentum as the important arena for problem solving and politics. On the other hand, politicisation and identity politics might result in disintegration in terms of abolishing pivotal institutions of the EU.

With regard to comparative regionalization, it is the interaction between governance and politicisation which is of main concern. Governance covers the horizontal level of the jurisdictions (to be) regionalized as well as the different form of interactions between state and non-state actors and the form of vertical integration. It is meant to stabilise the level of regional integration once it has been achieved.[10] Politicisation then lay ground for the readiness to transfer (or recall) competences and resources to the supranational level and fuel the regional institutions with content and policies. However, while regional governance once being established would step into the process of an 'automatic' extension of their competences, political systems endure and continue only on the ground of diffuse and specific political support.[11] The stock of permissive consensus or anti-regional political mobilization indicates the likelihood of regional cooperation to be set up, prolonged, deepened, reduced, or dismantled.

Governance and policy-making. The EU governance regime until the 2000s

For readers not familiar with the EU context, a brief sketch of EU's history and its institutional framework facilitates the access to changes in European governance. European integration in the present form of the EU cannot be understood without the consequences of the Second World War, i.e. the 36 million victims in Europe, the will to contain Germany's warlike power politics, the post-1945 bipolarity on the European continent and the changed political role of European Christian Democracy. This historical reference may now be seen as superfluous, but the particular situation has laid the foundations for today's governance regime. Territorial integration of a capitalist market area, transnational control of war-important industry by networks of experts, and a federal, decentralized organization of institutions that goes back to an anti-central-state attitude of the Catholic Christian Democracy are essential elements here, which subsequently resulted in a path dependent development. These traits of regional integration shaped its further way. First, the European Coal and Steel Community (ECSC) (1951) was

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[9] Tanja A. Börzel and Thomas Risse, "From the euro to the Schengen crises: European integration theories, politicization, and identity politics", *Journal of European Public Policy* 25, no. 1 (2018), p.86.

[10] Tanja A. Börzel a, "Theorizing Regionalism: Cooperation, Integration, and Governance", in *The Oxford Handbook of Comparative Regionalism*, eds. Tanja A. Börzel and Thomas Risse (Oxford: Oxford University Press, 2016): 54-56.

[11] David Easton, *A Systems Analysis of Political Life* (New York, London, Sydney: John Wiley & Sons, 1965).

launched, the Treaty of Rome (1958) established the European Economic Community (EEC) and the European Atomic Energy Community (EAEC). The European Single Market was created in the mid-1980s. The Maastricht Treaty (1992) created the EU with its pillars system[12], including the European Community which laid the ground for the EMU. The Maastricht Treaty has been amended by the treaties of Amsterdam (1997), Nice (2001) and Lisbon (2007, in force since 2009, see below). The most important institutions in the EU are listed in table 1.

Table 1 – Overview of the EU institutions

Institution and functions	Regional character
The European Commission (EC) is the executive branch of the European Union, responsible for proposing legislation, implementing decisions, upholding the EU treaties and managing the day-to-day business of the EU.	Supranational
The European Council is the EU institution that defines the general political direction and priorities of the European Union. It consists of the **heads of state or government of the member states**, together with its President and the President of the Commission.	Intergovernmental
The Council of the EU (the Council) is the institution representing the member states' governments. **National ministers from each EU country** meet to adopt laws and coordinate policies.	Intergovernmental
The European Parliament (EP) acts as a co-legislator, sharing with the Council the power to adopt and amend legislative proposals and to decide on the EU budget. It also supervises the work of the Commission and other EU bodies and cooperates with national parliaments of EU countries to get their input.	Supranational
The European Court of Justice (ECJ) is the supreme court of the European Union in matters of European Union law. It is tasked with interpreting EU law and ensuring its equal application across all EU member states.	Supranational
The European Central Bank (ECB) is the central bank for administering the EMU and its monetary policy within the Eurozone. The bank's capital stock is owned by all 28 central banks of each EU member state.	Supranational
The European Court of Auditors (ECA) is primarily dedicated to externally check if the budget of the European Union has been implemented correctly.	Supranational

Source: Own compilation according to the Article 13 of the Treaty on European Union and the websites of the institutions.

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[12] 1.) The European Communities pillar handled economic, social and environmental policies. It comprised the European Community (EC), the European Coal and Steel Community (ECSC, until its expiry in 2002), and the European Atomic Energy Community (EURATOM). 2.) The Common Foreign and Security Policy (CFSP) pillar took care of foreign policy and military matters. 3.) Police and Judicial Co-operation in Criminal Matters (PJCCM) brought together co-operation in the fight against crime. This pillar was originally named Justice and Home Affairs (JHA).

Adding to their function, the character of the institution as intergovernmental or supranational is also enumerated. However, it is important to keep in mind that this distinction is not as straightforward as it is supposed to be due to the nomination proceedings for the peak of the institutions in which the governments as well as the supranational institution play an important role.

As a result of the historical-institutional developments the governance regime consists of three distinct but interwoven dimensions: Firstly, on the horizontal level policy-making within the EU, most notably in economic and environmental policies, includes agenda setting (which is formally the prerogative of the EC), decision-making within the Council and the EP, which has increasingly been able to strengthen its role in co-decision procedures. The EC's role was to monitor and evaluate the implementation of European primary law and related legislative acts in the Member States. If one takes into account the different political and legal cultures in the member states, diverging interests and competitive conditions in the internal market as well as the ongoing debate about the distribution of competences within the EU, coordination at this level is already extremely complex. The governance mode of the hierarchy could be activated via the majority ratios in the Council, but this is (due to numerous prerequisites) so unlikely that negotiation (arguing and bargaining) was the predominant way of policy-making in the EU.

Secondly, on the horizontal level policy-making within the EU the different institutions interacted with non-state actors. Observers took this as a co-evolution of supranational institutions with associations and experts networks. Problem definition and knowledge production for regulation need to be outsourced by the EC and the EP due to its lack of own capacities for expertise. Gaining knowledge in the process of problem definition and for the negations was a crucial incentive to involve non-state actors in the European comitology. Vice versa non-state actors (for instance, organized business, consumers' NGOs, or unions) understood the demand by the EU institutions as an opportunity to conquer a new channel of influence and feed in their concerns (lobbying). This became all the more important as central regulations in economic, consumer and environmental policy were made at the European level. This co-evolution of supranational and non-state actors went along with a successful strategy of self-enforcement of the former. The EC has already taken on the role of a central authority by virtue of its institutional tasks under the Treaties. In addition to its proactive, initiative, and evaluative tasks, it had succeeded in setting up an important administrative apparatus and a knowledge production network organised by it. The process of strengthening the supranational executive also includes the establishment of independent agencies to which certain tasks, such as environmental issues, food safety or disease prevention and control, have been delegated, especially since the early 2000s.[13] The European Court of Justice played an increasingly central role, which it then elevated above the constitutional jurisdictions of the nation states in the final instance.[14] Since its direct election in 1979, the EP has also been steadily upgraded in the co-decision procedure. Central to this was the

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[13] Mark Thatcher, "The creation of European regulatory agencies and ist limits: A comparative analysis of European delegation", *Journal of European Public Policy*18, no. 6 (2011): 790-809.
[14] Susanne K. Schmidt, *The European Court of Justice and the Policy Process: The Shadow of Case Law* (Oxford: Oxford University Press, 2018).

effort to increase the legitimacy of the EU among its citizens through the electoral act (EU citizenship was introduced in 1993).

Thirdly, the governance regime of the EU has a vertical dimension. European multi-level governance has developed at the vertical level in two forms namely initially as a vertical interaction between the formal jurisdictions of the federal and decentralized organised member states.[15] Within the framework of Europeanisation, i.e. the transposition and adoption of EU legislative acts, sub-national authorities have been of considerable importance, depending on the competences of the member states. Europeanisation as a top-down multi-level governance has not necessarily brought about the adjustments desired by the EU. As sub-national authorities showed different readiness and capabilities to comply with EU regulation and repeatedly deviate from EU law, Europeanisation occurs as "intimate entanglement between the domestic and international levels of authority".[16] A second form of vertical interaction includes direct contacts between sub-national levels, the EC, but also the EP. Thus, in funding programmes, particularly within the framework of the European Structural Funds, which is aimed to promote structurally weak areas, there have been direct interactions between regions and the EU institutions. Conversely and bottom-up, city networks have tried to set their political agenda directly at the EU level.[17] Taking into account the different readiness of the member states or their sub-national jurisdictions to comply with EU regulation, then even in the vertical dimension there can be no talk of a clear and uniform hierarchy. Instead, competition between territorial authorities, institutional collaboration, and negotiation are far more formative for the EU's governance regime.

Parallel to the long term decisions and partly in response to them (see below), the EU experienced a reform process of its institutional framework in order adapt it to the rise in members states, the apparent dysfunctions in the Council, and the increase of capacities of some EU institutions, mainly the EP and the ECJ. The Treaty of Lisbon was signed by the EU member states on 13 December 2007 and entered into force on 1 December 2009. On the one hand it was meant to respond to the "issue of larger size with many small members"[18] by allowing an enlarged EU with 27 member states to work more effectively. On the other hand it took into account the changes that have since become established in the institutional framework of the EU. The *Treaty of Lisbon* introduced the role of a permanent President of the European Council (formerly rotating every six months) to be appointed by the Governments of the member states. And it created the role of the High Representative of the Union for Foreign Affairs and Security Policy being in duty to strengthen the EU's joint policy on the global stage. Of crucial concern was the introduction of a voting system using a double majority. Qualified

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[15] Gary Marks and Liesbeth Hooghe, "Contrasting Visions of Multi-level Governance", in *Multi-level-Governance*, eds. Ian Bache and Matthew Flinders (New York, Oxford: Oxford University Press, 2004), pp. 15-30; Paul Stephenson, "Twenty years of multi-level governance: Where does it come from? What is it? Where is it going?" *Journal of European Public Policy* 20, no. 6 (2013): 817-37.

[16] Kevin Featherstone and Claudio M. Radaelli, *The politics of Europeanization* (Oxford: Oxford University Press, 2003); Bernard Steunenberg and Mark Rhinhard, "The transposition of European law in EU member states: Between process and politics", *European Political Science Review* 2, no. 3 (2010): 495-520; Detlef Sack, "Europeanization Through Law, Compliance, and Party Differences: The ECJ's 'Rüffert' Judgment (C-346/06) and Amendments to Public Procurement Laws in German Federal States", *Journal of European Integration* 34, no. 3 (2012): 241-60.

[17] Hubert Heinelt and Stefan Niederhafner, "Cities and organized interest. Interest mediation in the EU multi-level system", *European Urban and Regional Studies* 15, no. 2 (2008): 173-87.

[18] Amy Verdun, "Decision-Making before and after Lisbon: The Impact of Changes in Decision-Making Rules", *West European Politics* 36, no. 6 (2013), p. 1130.

majority voting which is applied to most important decisions encompassed that a policy will be approved if it is supported by 55% of the Member States representing at least 65% of the EU population:

> The new system was put in place to ensure effective decision-making in the enlarged EU. Furthermore, the new rules were a response to concerns by large member states that with the growth in small member states […] In fact, they managed to get their way to some extent: the new rules enhanced the voting power of the large member states quite considerably.[19]

The established, but slightly adapted EU governance regime has been confirmed by strengthening the role of both the EP and the ECJ. The institutional position of latter (with regard to the constitutional courts of the member states) has been bolstered by including the Charter of Fundamental Rights in the reform process by which the ECJ from now could also rule on questions of fundamental rights at the highest instance. The EP was given the capacity to elect the President of the EC. Additionally, the co-decision procedure (introduced 1992 and successively expanded thereafter) in which the EP has a decisive and weighty vote became the main legislative procedure of the EU´s decision-making system. The Lisbon Treaty extended EP's legislative powers to more than 40 new fields and made it a lawmaker at the same level as the Council (table 2). In essence, the Lisbon treaty established a more horizontal and supranational coordination on more policies.

Table 2 – Areas of co-decision in the EU

Previous areas of co-decision	Additional areas according to due to the Lisbon Treaty
Environment	Agriculture and fisheries
Transport	Support for poorer regions
Internal market	Security and justice
Jobs and social policy	Commercial policy
Education	Cooperation with countries outside the EU
Public health	Implementing acts
Consumer protection	

Source: Lisbon Treaty, http://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon [20 December 2019]

Summing up, the EU governance regime until the 2000s, which was confirmed and enshrined in the Lisbon Treaties shows a complex pattern of different governing styles and an interwoven mix of interaction with a strengthening of the supranational institutions, a still prominent role of the member states, and some room to manoeuvre for sub-national authorities. Complex interaction enabled for policy-making, increasing integration with regard to the four freedoms (goods, services, capital, and persons) of a capitalist domestic market, and for a rather ambitious environmental policy. However,

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[19] Amy Verdun, "Decision-Making before and after Lisbon: The Impact of Changes in Decision-Making Rules", *West European Politics* 36, no. 6 (2013), p. 1132.

the EU governance regimes lacked transparency. It had been rather impossible for citizens to hold particular institutions accountable for particular policies and their impacts. Beyond an increase in consumer protection the EU governance regime's Achilles heel was the weak social and redistributive dimension of regional integration. Thus, the support for the governance regime was dependent on economic success. The lack of accountability paved the way for playing the blame game if policy measures produce undesirable results or appear insufficient to solve socio-economic problems. Balancing this sceptical view, one needs also take into account that the Lisbon reforms have also strengthened two central mechanisms of responsiveness and accountability of the EU governance, namely the choice between competitive parties to the EP and the extension of the ECJ's jurisprudence to individual fundamental rights.

Enlargement, the Euro, and migration - EU's governance regime since the late 1990s

Partly parallel to the developments of the EU's 'old' governance regime sketched out in the section before, three far-reaching political decisions increasingly called it into question. The *accession of the Central and Eastern European countries* in 2004/2007 marked the first decision which, due to the inherent structural imbalances, became a considerable challenge for the hitherto existing governance model.[20] The increase of member states from fifteen to 27[21] has challenged the hitherto existing decision-making processes and administrative routines. This is not only due to numbers. It is rather a matter of different historical, socio-economic, and politico-cultural traits: The strong need of these states to protect themselves against Russian influence and aggression was satisfied by their accession to NATO in the 1990s. Thus, the entry of these states to the EU was essentially based on two calculations, namely to derive economic benefits from access to the European internal market and to participate in the distribution of the EU funds in the areas of agriculture and regional development. The new members were socio-economic regions with a relatively low gross domestic product and comparatively low wage levels. This tightened competition between regional economies within the European single market. Some Central and Eastern European states contributed to this regional competition with low tax rates and little regulation of labour relations. The intensification of socio-economic competition, which went along with a considerable labour migration within the EU (from Poland and Romania, for instance), was accompanied by a specific nationalist political culture. The historical experience of the loss of political sovereignty after 1945 might explain this attitude. Against the backdrop of socio-economic as well as politico-cultural characteristics of the new member states, it did not come as a surprise that four of them (Czech Republic, Hungary, Poland, and Bulgaria) showed notable au-

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[20] Ulrich Sedelmeier, "Enlargement: From Rules for Accession to a Policy Towards Europe", in *Policy-Making in the European Union*, eds. Helen Wallace, Mark A. Pollack and Alasdair R. Young (Oxford, New York: Oxford University Press, 2010), pp. 401-29.
[21] Croatia entered the EU in 2013 as the 28th member state.

tocratizing tendencies during 2008-2018.[22] The low voter turnout in the central and east European states to the EP elections indicates the distance to the EU as a political union. It is largely seen as a free trade zone.

The *Economic and Monetary Union (EMU)* is the second decision, which posed challenges to EU governance.[23] It was not just a political decision to promote the integration of the European internal market (1992). This decision was also taken in response to important concerns in the British and French governments that Germany could become the dominant political player in Europe after the Unification 1990. The "Eurozone" (launch of the single currency in 2002) was characterised by significant economic disparities in labour costs and productivity in industry and services between the members of this club. The export and import quotas in trade and the re-financing possibilities of the states on the international financial market also differed considerably, to the detriment of a higher economic vulnerability of the Mediterranean Eurozone states to crises. A pivotal governance failure in the EMU was the lack of a redistributive stabilization mechanism, which would have allowed compensating costs of the structural imbalances. The legitimacy of the existing sanctions, which were intended to take effect in the event that member states failed to meet certain criteria of fiscal policy, was rendered unremitting in 2002/2003 by the fact that neither the German nor the French governments were prosecuted accordingly when the criteria were not met. Against the backdrop of different varieties of capitalisms within the EMU with a lack of an adequate governance regime, the expansion of lending was a crucial factor for the crisis: "Debt-fueled expenditure in the sheltered sectors of the southern countries rendered them susceptible to the crisis of confidence that erupted in 2010."[24]

The governance of migration and the *Common European Asylum System* is the third pivotal far reaching decision, which deserves attention. It is of central importance because, on the one hand, central promises and institutional regulations for the freedom of movement of goods, services, capital, and persons within (parts of) the European internal market are evident here and, on the other hand, regulations are necessary that react to external migration pressure (first from the former Yugoslavia and its successor states, then from the Near and Middle East and Africa). The Schengen Agreement covers the migration within the EU, as it proposed the abolition of internal border controls, a common visa policy, and thereby a regime of unrestricted movement of citizens in its jurisdiction. It was signed on 14. June 1985 by five states, then incorporated into the mainstream of EU law by the Amsterdam Treaty (1997), and was subsequently expanded to 26 states including four which are not members of the EU. Some states (e.g. Iceland, Norway, and Switzerland) are associated with this area without permanent border controls.

The more contested regulatory regime is the Dublin Regime. It was originally established by the Dublin Convention (1990) and entered into force in 1997 for the first twelve signatories, all of them EU members, including for instance Greece, Italy, and Spain, which are countries bordering the Mediterranean

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[22] V-DEM Institute, Democracy Facing Global Challenges. https://www.v-dem.net/media/filer_public/99/de/99dedd73-f8bc-484c-8b91-44ba601b6e6b/v-dem_democracy_report_2019.pdf [20 December 2019], p. 21

[23] Kenneth H. F. Dyson and Kevin Featherstone, The Road to Maastricht: Negotiating Economic and Monetary Union (Oxford: Oxford University Press, 2003).

[24] Peter A. Hall, "Varieties of capitalism in light of the euro crisis", *Journal of European Public Policy* 25, no. 1 (2018): 7-30.

sea and thus being directly exposed to external migratory pressure. Austria, Germany, the Netherland, and Sweden which are economically stronger than the above-mentioned states and thus have a high pull factor for immigration, have no external borders to the main emigration and refugee areas. The Dublin III Regulation (Regulation No. 604/2013) continues the main lines of the previous regulations. Its principal aim is to prevent an applicant from submitting applications for asylum in multiple member states by determining rapidly the jurisdiction, which is exclusively in charge to proceed the claims for asylum. Legally, refugees are not entitled to restart the process in another jurisdiction.[25] As this responsibility regularly lay with the state in which the asylum seeker first entered the EU and given the above mentioned different geographical exposures to migration, the effect of the European governance was straightforward: The costs of migration were passed on to the economically weak members. Hence, the Dublin regime resulted in an obvious winner-loser setting among the member states. Thereby, it is no surprise that demands for compensation entered the political agenda. In this context, it must be pointed out that right-wing populist parties were established in many countries since the 1990s. They led their election campaigns on the ground of anti-migration and used xenophobic stereotypes. Thus, immigration and its governance contributed to the change in the European party system and fostered an Anti-EU cleavage line.

Crises and politicization since the early-2000s

The crises with which the EU governance regime has been confronted since the early-2000s are the economic, financial and fiscal crisis between 2008 and 2013, the danger of territorial disintegration due to the withdrawal of Great Britain, one of the net contributors to the EU budget ("Brexit"), and the considerable conflicts in European migration policy.

In connection with the global financial crisis, which began in 2007 with the subprime crisis of the US financial sector, the EMU countries were also affected in different ways by the global economic and financial crisis (*Eurozone crisis*). This multi-year debt crisis affected several Eurozone members (Greece, Portugal, Ireland, Spain and Cyprus), which were unable to repay or refinance their government debt or to bail out over-indebted banks under their national supervision without the assistance of third parties like other Eurozone countries, the ECB, or the International Monetary Fund (IMF). The starting situations were quite different. Until 2010, Germany had to cope with an economic sales crisis and the consolidation of individual banks. The response was a short-term Keynesian investment programme that enabled the German government to switch to fiscal austerity (fiscal pact, see below) a short time later. The Spanish government was able to maintain a solid budget until the beginning of the crisis. The rescue measures for the distressed Spanish banks then brought the government into dependence on international donor organisations. In Spain, the crisis meant that at times (2012/13) over 50 % of young people (>25 years) were unemployed. This high unemployment rate still is a formative experience in the Spanish society and, thereby, is decisive for the decreasing legitimacy of Eu-

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[25] Christina Boswell and Andrew Geddes, *Migration and Mobility in the European Union* (Basingstoke: Palgrave Macmillan, 2011), pp. 51-75

ropean governance in the Mediterranean states. Greece, to address a third example, is the country that had the most experience of how the structural adjustment measures of the ECB, the EC and the IMF impact on economic, administrative, social and health policy, not only because of the structural inequalities of the EMU and lack of competence within EMU to address economic decline with independent devaluation of the currency. Its economic sector (shipping and tourisms) was quite vulnerable to the crisis while the budget showed an extraordinary long term, structural deficit. While the crisis has been met by EU institutions with an adaptation of its governance regime (see below), the Eurozone crisis triggered a new line of conflict in the EU, now between the Mediterranean countries and the Nordic member states, which economic and fiscal policy had been labelled as "Merkelism". By using the name of the then incumbent German chancellor, the policy of fiscal austerity was denounced as illegitimate power politics.

Along with the issue of immigration, the crisis in the Eurozone affected electoral behaviour: On the one hand, governments in power during the crisis lost voter support, regardless of their responsibility for the crisis and the results of structural adjustment measures. Thus parties (and governments) in the Mediterranean countries have learned that the EU governance regime must pay off for them within a legislative period. This classically promotes political patronage. On the other hand, it is predominantly right-wing populist parties that have emerged in the party system, which, in addition to xenophobic and racist orientations and a fundamental criticism of the elites, have also been hostile to the EU.[26] In 2018, the new Italian government was formed by the right-wing League in coalition with the anti-establishment movement Five Stars, i.e. an alliance against the 'old' parties and the EU, came to power in the fourth largest EU member state. However, it tells a lot about the contingency at stake in the recent years that since September 2019 (without new elections) the Italian government is now led by a centre-left coalition.

The next crisis within the EU is the *European migrant crisis* in the years 2015/16. It is firstly defined by the sudden rise of refugees and asylum seekers (figure 1). Four states (Germany, Hungary, Sweden and Austria) received around two-thirds of the EU's asylum applications in 2015, with Hungary, Sweden and Austria being the top recipients of asylum applications per capita.

During the 2015 European refugee and migrant crisis, Hungary became overburdened by asylum applications. The disastrous humanitarian situation for civil war refugees from the Near and Middle East in Greece and Hungary in late summer and autumn 2015 resulted in the decisions of the German government (as the previous beneficiary of the Dublin regulation) as well as of the Czech and Swedish governments agreeing to receive refugees and process the respective applications administratively.

In order to understand this situation as a crisis, looking at the actual figures does not really help. Annual migration did not exceed 1.5 million people in 2015 or 2016, i.e. above 0.3% of the EU population (511 million, 2017) in a prosperous world region. Perceiving this immigration as a crisis is due to the suddenness of the increase, the media coverage and awareness, the (different) attitudes of the populations, and the fact that the administration in the host countries initially did not have the capacity to

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[26] Enrique Hernández and Hanspeter Kriesi, "The electoral consequences of the financial and economic crisis in Europe", *European Journal of Political Research* 55, no. 2 (2016): 203-24.

take care of the people and process the applications.[27] In Germany, for instance, these administrative capacities had been diminished as a result of the Dublin regulation, which, thus, have had a reverse effect on administrative capacities.

Figure 1 – Influx of Asylum Seekers to the European Union (2010-2018; annual rate)
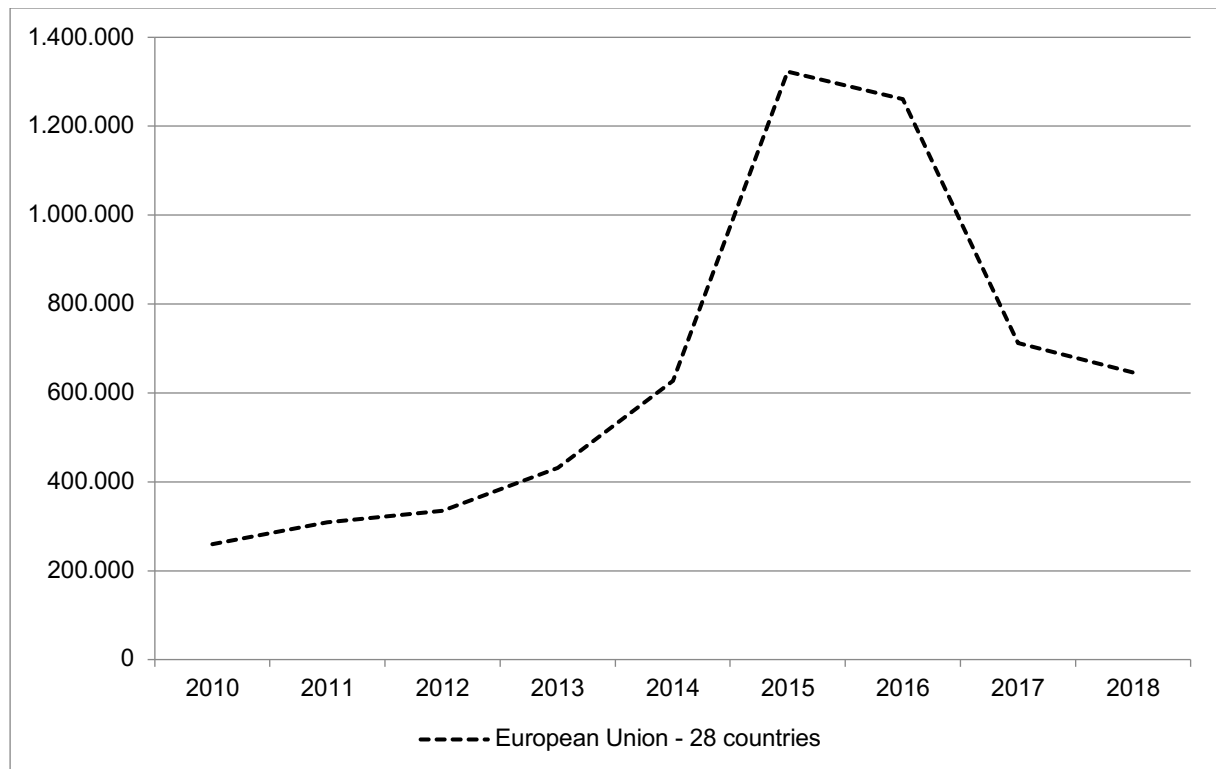
Source: Eurostat 2019, dataset: migr_asyappctza ("Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data rounded") [20 December 2019]

Much more decisive for the following development is the fact that the established governance of migration had been put at the disposal by a decision that was formally covered by the law, but outside the hitherto existent routines and practices by far. The legal continuation of the Dublin regime was confirmed by the ECJ in July 2017. But against the backdrop of the previous unequal distribution of burdens and the fact that some important governments are now (partly in coalitions) made up of right-wing populist parties, there is until now no agreed migration governance.[28] Dysfunctional politicization is eminent in this area and endures.

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[27] Jörg Bogumil und Jonas Hafner, „Kommunen in der Migrations- und Integrationspolitik. Herausforderungen, Verwaltungsvollzug und Handlungsempfehlungen", in *Neue Koalitionen – alte Probleme: Lokale Entscheidungsprozesse im Wandel,* eds. Björn Egner and Detlef Sack (Wiesbaden: Springer, 2020): 127-152.
[28] Florian Trauner, "Asylum policy: The EU's 'crises' and the looming policy regime failure", *Journal of European Integration*38, no. 3 (2016): 311-25.

Within the 2010s, the EU has been confronted with several conflicts, which had secessionist character and which carries the danger of geographical dismantling.[29] The *Brexit*, i.e. the withdrawal of the United Kingdom (UK) from the EU, is the key challenge to its territorial integrity of the EU. Following a referendum held on 23 June 2016 in which 51.9 percent of the voters supported leaving the EU, the Government invoked Article 50 of the Treaty on the European Union, therewith starting a two-year process, which was aimed to result in the UK's exit on 29 March 2019, a deadline which has since then been extended repeatedly. The landslide victory of the British conservatives at the elections in December 2019 ended a period of a 'hung' parliament and made it more likely that the Brexit will happen in 2020. The mobilisation within "Leave" campaign showed that, seen across the entire country, eurosceptic, anti-neoliberal/protectionist, xenophobic, and populist motives can become a mélange that appeals to different social milieus and lead to an anti-EU majority. In fact, the regional support for the EU membership differs notably, with clear majorities in Northern Ireland, Scotland, and London in favour for remaining within the EU.[30] To be clear about the dimension of the Brexit; the UK represents nearly 13% of the EU population (511 mio. 2017) and is one of the net contributors to the EU budget.

Summing up, the three crises went along with fundamental politicisation of the hitherto existent EU governance regime. Firstly, supranational coordination in economic, fiscal and migration policy was massively questioned, as it was associated with considerable socially relevant problems and dysfunctions in important member states. Secondly, the party systems in the region have changed massively. The established centre-right and centre-left parties lost their position of forming governments or leading coalitions. In France (2017) and Italy (2018), these parties were no longer able to participate in government formation. Instead, right-wing populist and eurosceptic parties were repeatedly able to take strategic positions in majority formation. Thirdly, territorial disintegration through "Brexit" was now on the political agenda as a feasible option.

Adaptive governance within the crises

Currently, politicisation is evident but it didn't bring governance to an end. Indeed, the aftermath of the Eurozone crisis saw more and deeper integration although challenged by the rise of identity politics.[31] During the economic crisis, the governance of the EMU has been reformed. This is the most prominent example of the further integration and adaptation to a pivotal crisis. However, it also shows a

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[29] A referendum on Scottish independence from the United Kingdom took place in September 2014. 55.3% of the citizens voted against independence. Thus, the constitutional conflict between Great Britain and Scotland was decided for the time being in favour of the territorial unity of the kingdom. The dispute over Catalonia's independence is still topical. The Catalan independence referendum of 2017 was declared illegal on 7 September 2017, suspended by the Constitutional Court of Spain and accompanied by the prosecution of the regional initiators by the central government. However, both initiatives for independence did not strive for an exit from the EU.

[30] Simon Bulmer and Lucia Quaglia, "The politics and economics of Brexit", *Journal of European Public Policy*25, no. 8 (2018), pp. 1089-1092; Frank Schimmelfennig, "Brexit: Differentiated disintegration in the European Union", *Journal of European Public Policy*25, no. 8 (2018): 1154-73.

[31] Tanja A. Börzel, "From EU Governance of Crisis to Crisis of EU Governance: Regulatory Failure, Redistributive Conflict and Eurosceptic Publics", *Journal of Common Market Studies* 54, no. S1 (2016): 8-31; Tanja A. Börzel and Thomas Risse, "From the euro to the Schengen crises: European integration theories, politicization, and identity politics", *Journal of European Public Policy* 25, no. 1 (2018): 83-108.

slide towards an intergovernmental re-adjustment of governance after the economic crisis. In September 2012, the *European Stability Mechanism* (ESM)[32] has been established as an intergovernmental organization on the base of an own treaty signed by all 19 members of the EMU. Its main purpose is to provide instant access to financial assistance programmes for Member States of the Eurozone in financial difficulty, with a maximum lending capacity of €700 billion. In future, all new bailouts for any Eurozone member will now be covered by ESM's financial assistance and will be conditionalised to structural adjustment programmes, a practice which the IMF implemented mainly in the 1980s and 1990s in developing countries. In 2018, ESM and EC launched a Memorandum of Understanding, which stipulates their working relations.[33] Thus, the new agency coordinates their actions with the governments as well as the EC as the executive of the EU while the EP is outside the door. Therewith, a certain style of governing during the economic crisis has been institutionally entrenched: Bail out countries (Greece in particular) was subject to a certain hierarchical model of structural adjustment (including tax administration and statistical capacity building, and cuts in social, pension and health benefits).

The Treaty on Stability, Coordination and Governance in the EMU, mainly referred to as *Fiscal Compact* is also an international treaty. It has been signed on 2 March 2012 by all members of the EU, except the Czech Republic and the United Kingdom and was meant to implement a more rigid fiscal regime within the Eurozone than the previous Stability and Growth Pact. The main elements of the Treaty were the stipulation of austere fiscal policy, which were to be incorporated into national law, preferably in the constitutions of the contracting authorities.[34] The national budget has to be in balance or surplus, under the treaty's definition. An automatic correction mechanism has to be established to correct potential significant deviations. A national independent monitoring institution should be mandated to provide fiscal surveillance. The treaty defines a balanced budget as not exceeding 3.0% of the Gross Domestic Product (GDP), and a structural deficit not exceeding a country-specific Medium-Term budgetary Objectives (MTO) which at most can be set to 0.5% of GDP for states with a debt-to-growth exceeding 60% – or at most 1.0% of GDP for states with debt levels within the 60%-limit. If the budget or estimated fiscal account for any ratifying state is found to be noncompliant with the deficit or debt criteria, the state is obliged to rectify the issue. If a state is in breach at the time of the treaty's entry into force, the correction will be deemed to be sufficient if it delivers sufficiently large annual improvements to remain on a country specific predefined "adjustment path" towards the limits at a mid-term horizon.

Despite being an international treaty outside the EU legal framework, all treaty provisions function as an extension to existing EU regulations, utilising the same reporting instruments and organisational structures already created within EU in the three areas: Budget discipline enforced by Stability and

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[32] It replaces two earlier temporary EU funding programmes: the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM).
[33] https://www.esm.europa.eu/about-us [20 December 2019]
[34] Sandrino Smeets and Derek Beach, "Political and instrumental leadership in major EU reforms: The role and influence of the EU institutions in setting-up the Fiscal Compact", *Journal of European Public Policy* 27, no. 1 (2019): 63-81.

Growth Pact, coordination of economic policies, and Governance within the EMU. The treaty states that the signatories shall attempt to incorporate the Fiscal Compact into the EU's legal framework.[35]

Again, looking at the negotiations and treaty provisions the intergovernmental institutions (European Council) and the supranational authority (EC) were interacting in terms of making the decisions, providing substantial expertise, delivering legal skills, and monitoring the readiness of the contracting authorities to comply with the provisions of the treaty.[36]

In the tradition of the previous Open Method of Coordination[37], the *European Semester* for Economic Policy Coordination was launched in 2011 as part of the Europe 2020 Strategy. The main objective is to ensure sound public finances (avoiding excessive government debt), prevent excessive macroeconomic imbalances in the EU, support structural reforms and create employment. It is meant to coordinate fiscal and economic policy. Each year, the EC undertakes a detailed analysis of each country's plans for budget, macroeconomic and structural reforms each year. This monitoring results in country-specific recommendations for the next 12-18 months. The EC's proposals are endorsed and formally adopted by the Council and need to be implemented by the national governments.[38] The European Semester needs to be understood as a "co-ordination device […] being dependent on the generation of self-commitment to EU-level guidelines and to implementation among the most senior decision-makers at the national and EU levels."[39] Monitoring and assessments of the member states' policies diffuse into the general policy-making within the EU in which fiscal and economic concerns are given higher priority than social and labour market concerns.[40]

As response to the Eurozone crisis, a transfer of competences from the member states to the EU also took place in the Banking Union 2012, which main task is to secure the stability of the financial sector in the EMU. It consists of two main initiatives, the Single Supervisory Mechanism and Single Resolution Mechanism.

European Stability Mechanism, Fiscal Compact, European Semester, and Banking Union provide intriguing examples for a particular adaptation of governance in the aftermath of the economic crisis, i.e. a more executive-administrative mode of governing, which goes along with weakening the coordination with the EP. This change has also been a major concern in the member states. In the context of immediate crisis management policy, national parliaments were forced to vote quickly and without adequate information on large sums and far-reaching cuts in social, labour market and health policy. They were lacking actual political influence.

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[35] https://www.consilium.europa.eu/media/20399/st00tscg26_en12.pdf, [20 December 2019].

[36] Sandrino Smeets and Derek Beach, "Political and instrumental leadership in major EU reforms: The role and influence of the EU institutions in setting-up the Fiscal Compact", *Journal of European Public Policy*27, no. 1 (2019): 63-81.

[37] OMC is a voluntary deliberative coordination, which includes the choice of experts from national governments for best practices and the fixation of benchmarks.

[38] https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester_en, [20 December 2019].

[39] Adina Maricut and Uwe Puetter, "Deciding on the European Semester: The European Council, the Council and the enduring asymmetry between economic and social policy issues", *Journal of European Public Policy*25, no. 2 (2018), p. 194.

[40] Amy Verdun and Jonathan Zeitlin, "Introduction: The European Semester as a new architecture of EU socioeconomic governance in theory and practice", *Journal of European Public Policy*25, no. 2 (2018): 137-48.

However, policy-making still shows examples in which the EP played an important role. One example of the complex coordination on the horizontal level (between EC, the Council of the EU, the EP, and the ECJ) and the multi-level governance within the Member States is the decision-making on the directives on public procurement which originally was a regulation in the frame of the European Community (Directive 71/305/EC; 2004/18/EC; 2014/24/EU). Different to tax policy (see below), media awareness is low and scientific research rather scarce on public procurement policy. The original purpose of the Directive 71/305/EC, which was mainly aimed at fostering competition, was contested in the late 1990s and early 2000s. Some leftist-governed member states, the EP, and some Western European major cities were increasingly interested in using public tendering to implement sustainable policies while protecting local wage and tariff levels. The political pressure had led to an opening of the Directive 2004/18/EC to other social and sustainable criteria. The directive now allows the jurisdictions to formulate their own regulations. The content of this directive has finally been defined in the so-called trilogue, in which three representatives each of the EP, the EC and the Council of the EU compromised about the Directive. The EP, however, had a decisive position in the decision-making process.[41]

Another example of current legislation after the crisis can be found in the corporate tax policy. Reacting to media scandals on tax fraud and evasion of Transnational Corporations the legislative provisions in the field of tax transparency increased from 2013 onwards, thereby displaying a "shift from legislation eliminating tax obstacles and double taxation to an anti-abuse legislation that deals explicitly with aggressive tax planning and tax avoidance".[42] In addition, soft law including the strive for good governance and relations with third countries has been set up. "[T]he range of political measures that have been introduced at EU-level [during the 2010s] to address the issues of tax evasion and tax avoidance stands in sharp contrast with the traditional lethargy of the EU in matters of taxation." [43] The policy-making and its pace in the sensitive area of tax policy, was clearly determined by the EC initiative, which was supported by the EP.

Both examples of recent economic policy-making appear slightly different to the governance change in the area of the EMU. The EP is (at least in some policy areas) still in. And the EC has the outstanding position and capacity to opt between the executive-intergovernmental mode of governing (EC with European Council and Council of the EU) or the deliberative-parliamentary mode of governing (EC with EP). In the aftermath of the economic crisis, the EU's mode of governance displays a flexible adaptation in which *the EC remains the key player*.

Another example for successful adaptive governance is the reaction of the EU to the invocation of Article 50 of the Treaty on European Union by the British government. The negotiations following the Brexit referendum displayed the capacity of the EC, EP, and Council to agree on a common line and a

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[41] Detlef Sack and EK Sarter, "Strategic use and social taming: Opening up the doctrine of market competition in public procurement" in *Handbook of European Policies,* eds. Hubert Heinelt and Sybille Münch (Cheltenham; Northampton: Edward Elgar, 2018): 371-387.; Detlef Sack and Eva Katharina Sarter, "Collective bargaining, minimum wages and public procurement in Germany: Regulatory adjustments to the neoliberal drift of a coordinated market economy", *Journal of Industrial Relations*60, no. 5 (2018): 669-90.

[42] Aanor Roland, "Multiple streams, leaked opportunities and entrepreneurship in the EU agenda against tax avoidance", *European Policy Analysis*9 (2019), p. 7

[43] Aanor Roland, "Multiple streams, leaked opportunities and entrepreneurship in the EU agenda against tax avoidance", *European Policy Analysis*9 (2019), p. 3

joint position, although the preferences of the member state's governments differ notably in their willingness to integrate to the EU. In the crisis situation, however, it was possible to 'keep the shop together'. The agreement between the EU institutions and the then incumbent May government stipulates the legal and financial liabilities, defines and provides the personal scope of citizens, family members, workers, and host states.[44]

While some observers assumed that the successful Brexit campaign would eradiate far beyond Great Britain as other right-wing populist movements also might felt encouraged to advocate their countries' exit from the EU. The opposite was the case, as the costs of the Brexit were high for the political parties in Britain due to the turbulences after the decision to leave the EU. In addition, it is not clear what the economic consequences of Brexit will be over the next five years.

These turbulences are ambivalent from the point of view of the EU institutions. They have no interest in the economic uncertainty that prevails at the moment. At the same time, however, the eurosceptics' manifestly unprofessional activities, their lack of feasible policy alternatives, and the political turmoil are likely to delegitimise further other anti-EU exit initiatives. In essence, the Brexit is a good story for the existing EU governance regime.

EP elections 2019 and a new agenda

The EU governance regime and its adaptation is dependent on support on the voters' market. The different crises mentioned above intervened in a longer lasting development of the European party systems, which is separated in a West and East European part. While the latter experienced change due to the (alleged) problems with corruption of parties, the former faced turbulences because of changing social composition of citizenship and the effects of the economic crisis. In almost all European party systems, eurosceptic and racist parties have been anchored across the board, some of which

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[44] Article 11 deals with continuity of residence and Article 12 discusses non-discrimination (i.e., it would be prohibited to discriminate on grounds of nationality). Article 13 guarantees that UK nationals and Union citizens, family members that are UK nationals or Union citizens and family members that are neither of those two shall maintain the right to reside in the host State. The host State may not limit or condition the persons for obtaining, retaining or losing residence rights. Persons with valid documentation would not require entry and exit visas or equal formalities and would be permitted to leave or enter the host state without complications (Art. 14). Beyond the residence of the citizens, which was of particular concern in public awareness and for the EP the agreement defines the custom procedures of goods moving from the customs territory of the UK to the customs territory of the Union and vice versa (Art. 47). The processes that start before the end of the transition period "shall be treated as an intra-Union movement regarding importation and exportation licencing requirements in Union law". The agreement also addresses the ending of temporary storage or customs procedures (Art. 49). Of pivotal concern for the debate in UK is the Northern Ireland Protocol, also called the Irish Backstop that aims to prevent a 'hard border'. Given the history of civil war in Northern Ireland (which had been pacified by the Good Friday Agreement 1998), the Irish government insists on an open border between Ireland and Northern Ireland, which could then, however, become an uncontrollable customs border at a future external border to a non-EU state (UK) (https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf, [20 December 2019).

take strategic positions in the formation of majorities, for example in Denmark, Italy, and Hungary.[45] This includes majoritarian and illiberal slides in important member states.[46]

The recent elections to the EP (May 2019) have now shown a notable change of the current majority ratios and the support for the EU governance regime: The Grand Coalition of the EPP (centre-right) and SD (centre-left) has dominated the EP and the majority building in this institution for ages (since 1979). After the elections 2019, majority building is likely to be changed due to the reshuffling in the EP. A four-factions alliance of EPP, SD, New Europe(Liberals), and the Greens is the only coalition, which is pro-European and in favour of the EU governance regime having been established over decades and adapted in the aftermath of the crises. These four political factions currently account for about 69% of the MEPs.

The future President of the EC, who was only just elected by the EP in July 2019, addressed the four political groups alliance in her speech and subsequent media communication, insofar as she took on the core concerns of the respective political groups. However, she accentuated another option by making concessions in constitutional procedures. This was explicitly addressed to members of the Polish conservative ruling party (PiS). If the EC goes down this road, then a stronger orientation of governance towards the transfer of competences back to the member states would be conceivable. But that depends greatly on whether the first four groups can agree on a common policy programme. The disputes over the EC's presidency have also shown another coalition option, namely that of the conservatively right-wing populist Visegrád[47] states of Central and Eastern Europe and some Mediterranean states that reject supranational governance not only in migration policy, but also advocate the transfer of competences back to the national level. After some conflicts with the EP over the staffing of the EC, it took office on 1 December 2019. On its agenda are 'old' problems, in particular migration governance and the different constitutional standards in some member states. However, it is very clear that the EC has set itself a new agenda. In addition to a stronger geopolitical orientation, which is based on an equally distinct relationship with the USA, Russia, China and the African states, a new Green Deal is on the agenda. In practice, the dilemmas between digitalisation and climate change are evident, for instance when it comes to energy production and consumption. The critical point at the moment, however, is whether this frame of the EC's New Green Deal will succeed in setting new policy priorities in such a way as to herald a new adaptation of governance.

Summing up, the political situation after the elections to the EP in May 2019 is historically open. Politicisation resulted in a new contingency of the EU governance regime. Until further notice, governance showed flexible adaption. Regional coordination was intensified following some crises but reaches the limits of political deadlock in migration policies.

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[45] Hanspeter Kriesi and T.S. Pappas, *European populism in the shadow of the great recession* (Colchester: ECPR Press, 2016).
[46] V-DEM Institute, Democracy Facing Global Challenges. https://www.v-dem.net/media/filer_public/99/de/99dedd73-f8bc-484c-8b91-44ba601b6e6b/v-dem_democracy_report_2019.pdf [20 December 2019], pp. 21-23.
[47] The Visegrád states include the Czech Republic, Hungary, Poland and Slovakia.

Conclusions

The paper's topic is the current state of the European mode of governance, in particular of the EU. It tackles the question why the established EU Governance has been put into contingency. The paper sheds light on the institutional traits of the current European mode of governance, which were challenged by some long term developments (enlargement 2004/2007, launch of the EMU, Dublin regime). Looking at these far-reaching decisions has prepared why the established mode of governance was rather susceptible to the risks deriving from recent crisis and politicisation. The crises are the economic, financial and fiscal crisis between 2008 and 2013, the danger of territorial disintegration due to the withdrawal of Great Britain ("Brexit"), and the considerable conflicts on immigration. The article finally looked at the political situation after the elections to the EP in May 2019. However, instead of being severely weakened if not abolished by crisis and politicisation, the European mode of governance showed flexible adaption. Regional coordination was intensified following the economic crisis. The main institutions of the EU continue to work with a joint agenda (Brexit, migration, reform of the EMU, Europes' role in the world). After the elections from May 2019 a more plural and flexible coordination started due to change of alliances in the EP (from Grand Coalition to a Four-Party Alliance of EPP, SD, New Europe(Liberals), and the Greens) on the one hand and the launch of a recent coalition between conservative-eurosceptic Visegrád states and Italy in the Council.

The paper adds to the current state of European governance by emphasizing the concurrency and interaction between governance and politicisation instead of their sequential replacement. It also states that crises and politicisation brought back in a sense of history and contingency to European governance, which has been stopped being a matter of course. The paper contributes to the debate on comparative regionalism by highlighting the contingent interaction between a regional mode of governance and its politicisation. The tension and interaction between both serves for flexible adaption to external changes and turbulences on the one hand and internal loss of diffuse support on the other hand. However, methodologically it is difficult to determine the threshold at which the interaction results in the inevitable dismantling of regional integration.

Adaptation depends mainly on the capacities of two mechanisms in European governance. Similar to the Chines mode of governance, the EU needs to cope with the tensions between centralized decision-making and authority on the one hand and effective, i.e. problem solving administration in the localities on the other hand. In this regard, Zhou Xueguang stated that three response mechanisms are in place for Chinese governance. These are 1.) a loose-coupling between centralized policy-making and local implementation, 2.) political education, and 3.) political mobilization and campaigns.[48]

Referring to these response mechanisms, which secure adaption and stability of governance, the EU shows (as every large political system) also a loose-coupling within the multi-level framework (supranational, national, regional, and local level). The whole strand of Europeanisation research deals with the question if, when, and how member states and subnational authorities comply with EU regulation.

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[48] Zhou Xueguang 2019 in *China: An International Journal (CIJ),* Special Issue on "Civilisation and Governance: The Western and non-Western Worlds", to be published in 2020.

EU and Chinese governance show notable similarities of flexible adaptation in multi-level-systems. Differences occur with regard to the other response mechanisms: Citizens' education is on the agenda of the EU. However, the depth and breadth of political socialization differs markedly from the Chinese practice, which can rely on the organizational spread of the CCP as well as on a comprehensive use of social media. Such an organizational penetration of everyday life by a party and interactive media is not evident in the EU. This also sets certain limits to the orchestration of political campaigns. These are possible within the institutional framework of EU governance, one example being the political mobilisation within the framework of the European Citizens' Initiative. Also, widespread media campaigns on certain topics, such as Brexit, migration, or climate change, are quite common. The existing competition from governments of the member states, political parties, and the competing media limits the standardisation of political socialisation and the orchestration of political campaigns.

Two other mechanisms appear to be more relevant, i.e. the public elections to the EP and the legal proceedings before the European Court of Justice. Despite all the criticism that can rightly be addressed to the EP elections, their contribution to the stability and adaptability of governance in the EU lies in the fact that the political majorities can be changed according to the socio-economic and political-cultural conflicts and drifts in problem definition. Thereby, the proportional electoral system and differentiated landscape of political parties promote a consensus-democratic style of governance, which is adverse to ruptures. The adjudication of the ECJ is the other important response mechanism. Based on case law, the ECJ is sensitive to the individual and collective demands deriving from the changes in the European economy and society. Insofar, EU governance is characterised not only by consensus-oriented negotiations between a broad range of parties, but also by an authoritative rule of law. This does not only take the four economic freedoms of the internal market as its legal yardstick, but also, since 2009, the Charter of Fundamental Rights of the European Union. All three response mechanisms (Europeanisation, a consensus-oriented parliament, and rule of law) are far from being perfect and they are ripe with social selectivities. However, its interaction contributes to the flexibility and adaption of the European governance being challenged by the politicisation against the European Union.

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