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An authoritarian turn in Europe and European Studies?

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Abstract

This contribution contends that the European Union (EU) has taken an authoritarian turn in the past crisis decade, which needs to be systematically addressed in EU studies. Starting from an ideal-typical conception of scenarios for the EU's emergent political order, it argues that there has been a shift towards decisionist authority structures at both the domestic and the European level. On the one hand, the distinct European emergency politics that characterized the euro crisis have introduced traits of authoritarian rule in the EU's supranational governance. On the other hand, democratic backsliding and the rise of nationalist populism have prompted authoritarian and anti-European tendencies at the national level. The article claims that the developments are linked and mutually reinforcing – building a 'cycle of authoritarianism'. Given its dire consequences, EU studies need to reorient towards understanding the dynamic interplay of integration types and domestic politics and rethink questions of democratic legitimacy.

Keywords: Authoritarianism, crisis, emergency politics, European Union, legitimacy, populism

Introduction

While the European Union (EU) has undergone a profound transformation in terms of institutional structure and political process in the crisis years since 2010, much of the European studies literature has demonstrated a *plus ça change* attitude in its analysis of these developments. More often than not, contributions have concentrated on integration achievements during the crisis and highlighted the political opportunities created by it (e.g., Ioannou *et al.* 2015). This trend ties in with an optimistic inclination in European Studies which envisions the EU as an emerging democratic order whose path is set on progress (*cf.* Joerges and Kreuder-Sonnen 2017). Indeed, scholars treating the EU as a political system are primarily concerned with the legitimacy of the resulting order and point to democratic deficits. However, their underlying assumption is often that such deficits are only temporary byproducts of integration, rectified by parallel processes of societal

Europeanization and political constitutionalization. Not uncommonly, this leads to expectations of a positive normative dialectic: steps towards further integration entail normative deficits in the political order, which incite legitimacy demands that eventually lead to a closing of the authority–legitimacy gap (Follesdal and Hix 2006; Rauh and Zürn 2014; Rittberger 2005).

As I argue in this article, however, the cluster of crises which has afflicted the EU in the last years and the political reactions it has incited forcefully expose the contingency of this path. On the one hand, the distinct EU-level emergency politics which characterized the response to the euro crisis has instilled traits of authoritarianism in the EU's political order: extraordinary and often extra-legal measures furthering executive discretion of EU institutions have been adopted and justified as necessary to cope with the exceptional circumstances (White 2015). Far from remaining exceptional, however, many of the emergency policies have been institutionalized and normalized, embarking the European polity on a partially authoritarian course (e.g., Joerges 2014; Kreuder-Sonnen 2016).¹ On the other hand, Brexit has highlighted the power of disintegrative tendencies in the EU that coincide with a rise of nationalist populism. More broadly, all over Europe we witness the strengthening of populist parties and in some Eastern EU countries, there are even moments of 'democratic backsliding' by which the political institutions sustaining an existing democracy are debilitated from the top down (Kelemen 2017). In each instance, the political movement is decidedly anti-European. Hence, the European crises bring to the fore the 'dark side' of European politics. It is not only about further integration and concomitant constitutionalization. At least as much, it is about disintegration and the spectre of authoritarianism.

This article shows that it is necessary to systematically take into account these inverse developments of political integration and constitutionalization in order to better understand the problem dynamics in today's crisis-ridden EU. Most importantly, it argues that the rise of nationalist populism and the spread of EU-level emergency politics are linked and mutually reinforcing – building a 'cycle of authoritarianism': the complex and opaque forms of transnational emergency politics feed domestic populism, which builds on the critique of intangible élites. The anti-European discourse which thus emerges exacerbates the 'constraining dissensus' in European publics and renders constitutional reform for further integration less feasible. Confronted with new crises of functionality, decision-makers will thus be inclined to revert back to the rhetoric and measures of exceptionalism to circumvent the legal and democratic hurdles of treaty revisions. Unlike the 'virtuous cycle' of integration and constitutionalization, this cycle of authoritarianism is both self-reinforcing and eventually fatal. That is why it has to be on the agenda of European Studies.

The article is structured as follows. In the next section, I lay out four ideal-typical scenarios for the EU's future development as a polity that derive from the crossing of two dimensions, namely the integration level and the constitutional quality of political order. For each scenario, I discuss the extent to which empirical developments go in the respective direction. Observing an increasing relevance of European and domestic forms of authoritarianism, the following section elaborates on the cycle of authoritarianism which presumably reinforces the trend. Finally, I discuss the implications of these developments for the scholarly study of the European Union.

European future: four scenarios

To examine if and how the European crises should affect EU studies, we need to take a close look at the state of affairs of the EU's political order and understand the direction it is headed. To describe postnational polities, two questions seem particularly relevant (Hooghe and Marks 2015; Kreuder-Sonnen and Zangl 2015). First, is political authority internationally integrated through either pooling or delegation, or is it lying with sovereign member states and thus disintegrated? That is, is the legal order characterized by intergovernmental or supranational authority structures? Second, is political authority democratically constituted and legally constrained (the constitutionalist endpoint) or autocratically constituted and legally unconstrained (the authoritarian endpoint)? Crossing these two distinctions, I arrive at four ideal-typical scenarios for institutional equilibria that the EU may develop towards (see Table 1). Every ideal-type reflects normative stances on the 'right' direction of the EU's political order which may claim both reconstructive and prescriptive validity. In the following, I argue that there is an empirical shift from legal/democratic authority to decisionist forms of authority, domestic and European, which questions the *reconstructive* validity of constitutionalist approaches. To what extent their *prescriptive* validity also comes under strain depends on the extent to which their empirical assumptions are contradicted.

(1) A European Union that supranationalizes final authority in all relevant issue areas corresponds to the federalist *finalité* which has been a political idea since the birth of the European project. If such a federal Union is built on democracy and the rule of law, it may embody a political order of

Table 1: Ideal-typical conception of European political orders.

	Legal/democratic authority	Decisionist authority
Further integration	(1) Federal constitutionalism	(3) European authoritarianism
Disintegration	(2) Constitutionalist sovereigntism	(4) Nationalist authoritarianism

federal constitutionalism which comes close to the liberal constitutional systems of rule that Western democracies have established at the domestic level (Habermas 2001). For federal constitutionalists, supranationalism and democracy go hand in hand: ‘They tend to equate more (supranational) Europe with the promise of ... political progress by virtue of its anti-nationalism, premised on the assumption that a new territorial scale is necessary to instantiate democratic principles of representation and justice’ (Nicolaidis 2013: 353). A progressing constitutionalization of the EU, whereby the rise of supranational authority is incrementally matched with elements of parliamentary democracy and human rights protection at the European level, has been diagnosed with reference to the strengthening of the European Parliament (EP) and the European Court of Justice (ECJ) (e.g., Schimmelfennig and Rittberger 2006). However, it has always been controversial whether the amount of legal and democratic constraints on EU institutions was sufficient in light of the reach and intrusiveness of supranational authority (Follesdal and Hix 2006). In the crisis years since 2010, there were two major developments conflicting with the vision of federal constitutionalism. First, while we have seen a remarkable shift of powers to the supranational level in areas such as economic and financial policy, these came without concomitant constitutionalization, partly even undermining the constitutional elements in place (see below). And second, in some other areas such as migration and asylum policy, integration failed to materialize or even spilled back (Börzel and Risse 2018). Federal constitutionalism thus appears to forfeit some of its reconstructive validity. To the extent that the developments starting with the euro crisis call back into question the possibility of an integrated EU-level democracy, they also challenge a core prerequisite for the prescriptive validity of the federal constitutionalist project.

(2) In an EU marked by *constitutionalist sovereigntism*, integration would be turned back to the degree that every single member state has the final authority over all political questions affecting it, relegating European institutions to purely regulatory, collectively welfare-enhancing functions. The community would be made up of states in which political authority is democratically constituted and legally constrained according to their respective cultural contexts. Legal and political theorists have argued that this was the preferable political order as it would allow furthering regional co-operation without jeopardizing democracy (e.g., Scharpf 2009). For two arguably necessary conditions for a functioning democracy were missing at the European level: a common identity and a transnational public sphere (see especially Grimm 1995). At first glance, the disintegrative tendencies that erupted during the crises could be interpreted as supporting the democratic promise of constitutionalist

sovereignty. After all, the political justification usually is to empower the people by re-instating sovereignty. In fact, however, the integrative spillback goes along with such a strong weakening of constitutional democracy at the domestic level (see below) that it is now the European institutions which try to contain states' democratic backsliding (Sedelmeier 2017). In terms of reconstruction, this turns the notion of constitutional sovereignty upside down. What is more, if the different European 'demoi' are not democratically governed, a central precondition for the normative appeal of constitutionalist sovereignty as a European structuring principle is missing. This is not to say, however, that the sovereigntists' normative criticism of supranationalism and its prescriptive implications are invalidated (see also Joerges and Kreuder-Sonnen 2017). On the contrary, to the extent that authoritarian populism is in fact a consequence of undemocratic supranationalism, the remedy might still lie in somewhat lower integration levels and more pluralist forms of 'democracy' (Cheneval *et al.* 2015; Nicolaïdis 2013).

(3) In an EU that is ordered according to the principles of *European authoritarianism*, political authority would also be further integrated at the supranational level. In contrast to the scenario of federal constitutionalism, however, the constitution of authority would follow the path of autocratic self-empowerment and legally unconstrained exercise of authority. Authoritarianism (in the Hobbesian/Schmittian tradition) advocates basically unlimited executive discretion by way of autocratic decision-making and an arbitrary exercise of power (Kreuder-Sonnen and Zangl 2015). This basic grammar of decisionism is applicable to any political order, but authoritarianism beyond the nation-state structurally differs from the domestic original. First, given the lacking monopoly on the use of force at the EU level, the intrusiveness of European authoritarianism will be comparatively limited. Second, in spite of the supranationalization of political authority, member state power remains an important, often informal, influence over policy direction. Hence, the effects of European authoritarianism will be stratified according to power differentials among member states, opening incentives and opportunities for the most powerful actors to employ European decisionism for their purposes.

While hardly on the radar of EU studies and without outspoken normative advocates, elements of European authoritarianism have taken hold in recent years (Joerges 2014; Kreuder-Sonnen 2016; White forthcoming; Wilkinson 2013). Through the backdoor of emergency politics during the euro crisis, the EU's political order got interspersed with institutional sub-orders constituted in undemocratic processes undermining the existing legal authority structures and reigned by executive discretion beyond judicial review (see also Scicluna 2017). In particular, the institution of the bailout regime, the macroeconomic imbalance procedure (MIP) and the

assumption by the European Central Bank (ECB) of the role of a lender of last resort to sovereigns in the Eurozone represent traits of authoritarianism in the EU's economic system (Kreuder-Sonnen and Zangl 2015: 583–5). Orchestrated by the most powerful member states with Germany leading the way, all three emerged from executive-dominated and legally questionable processes which altered the constitutional authority structures to the detriment of representative bodies and the autonomy of the rule-addressees. Consider just one example: the bailout regime, embodied by the European Stability Mechanism (ESM) in particular, has been established outside the EU legal framework to circumvent the no-bailout clause and provide the institution with legally unregulated executive discretion. It could thus delegate authority to the so-called Troika to impose strict fiscal conditionalities on recipient states and thus to demand and monitor far-reaching reforms with enormous distributional effects. Not only were those states thus factually stripped off their fiscal sovereignty, the Troika operations also interfered with economic and social rights of individuals and entities in countries receiving ESM credits (Fischer-Lescano 2014). Since the ESM operates outside EU law, the Troika is not subject to judicial review by the ECJ.

Similarly, the MIP has given the Commission unprecedented discretion over corrective measures to be recommended to and implemented by member states; and the ECB, a democratically unaccountable non-majoritarian institution, has empowered itself to redistribute financial risk of member states in spite of the monetary financing prohibition and got involved with member states economic policies irrespective of their exclusive competence in this area (Beukers 2013). Moreover, these emergency measures were attended by an extremely deferent judiciary not only showing extraordinary reluctance to review individual rights complaints, but also signing off and thus stabilizing the extra-legal transformations of authority (Everson 2015).

(4) Finally, if political authority in the EU rested solely with member states whose regimes are autocratic and arbitrary, we would face the scenario of *nationalist authoritarianism*. In this type, light-weight intergovernmental co-operation might persist but the member states would claim their sovereignty to be inviolable. Based on exclusionary discourse and populist demarcation, domestic governments would foster social and civil rights chauvinism, undermining the foundations of liberal constitutionalism. While obviously far from being comprehensively realized, the scenario of nationalist authoritarianism has still gained an unprecedented amount of traction in the course of the consecutive European crises. In general, there has been a growing anti-European sentiment in different parts of European societies coupled with integration failure and even regress (e.g., over Schengen). Several especially Central and Eastern

European member states such as Hungary, Poland, Romania, Bulgaria or Slovenia even slid towards authoritarianism. By encroaching upon the rule of law and democratic values and by weakening constitutional systems of checks and balances, these countries' governments have transformed their regimes into 'nascent autocracies' (Kelemen 2017: 212). But also beyond the post-communist states, there has been a rise of parties and movements at the political fringes. In Southern Europe, left-wing populist parties have become powerful political contenders. In North-Western Europe, right-wing populism has grown, which is decidedly nationalist and offers authoritarian alternatives to the constitutional democratic establishment. While hardly any of these parties has come to power yet, the populist movement has become an influential political force.

In sum, on the spectrum of postnational political orders, the EU has shifted towards decisionist forms of authority, both domestic and international. In the following, I argue that European and nationalist authoritarianism are linked and mutually reinforcing, increasing the likelihood of further developments in this direction.

The cycle of authoritarianism

My supposition is that the structural conditions in today's EU will increasingly accentuate the authoritarian axis, because the implications of the one foster preconditions for the other. The presumable starting point for this 'cycle of authoritarianism' is an institutional development external to both, namely the impasse of constitutional reform reached at the European level. The growing 'constraining dissensus' in European publics (Hooghe and Marks 2009), as well as the complexity of interest constellations in the EU-27/28, make formal treaty revisions, particularly those implying more supranational competences, less and less feasible. In policy areas marked by self-reinforcing interdependence, this is especially problematic, because earlier integration steps will require later centralization to sustain the evolving system. Hence, non-adaptability is bound to lead to crises of functionality as internal or external conditions change (drift). Crises incite decision-makers to resort to the rhetoric and measures of emergency politics to circumvent the legal and democratic hurdles for treaty reform, thus proceeding with integration against the constraining dissensus at the cost of constitutionalism.

This is precisely what happened in the euro crisis: confronted with enormous pressures to fill the functional gap between a single supranational currency and economic policies that remained nation-state based, multiple veto points prevented the open and procedurally legitimate implementation of necessary supranational capacity-building (Börzel and Risse 2018). Legally,

this would have required constitutional reform, which was both disputed among states and presumed unlikely to find the approval of domestic constituencies. Instead, the European Council set up emergency credit facilities outside the European legal framework, delegated discretionary implementation and supervisory functions to the Commission, and foisted off the most delicate political decisions to the independent ECB, which is immune to democratic accountability (see above).

Such authoritarian traits in European governance, in turn, are likely to foster the rise of nationalist populism and the domestic authoritarian structures it implies. To be sure, the argument is not that authoritarian-leaning populism and democratic-backsliding can be exhaustively explained by the decisionist shifts in the European polity. Many exogenous and country-specific factors would have to be added for a comprehensive explanation (e.g., Mudde 2007). The argument is that European authoritarianism creates *incentives* for popular anti-system opposition and provides *political opportunities* for populist leaders, which meaningfully enhance the prospects of an anti-liberal, anti-European backlash.

First, as Mair (2007: 15) has highlighted, the EU's democratic deficit implies limitations for political opposition and access to contestation, inciting 'the mobilization of new – perhaps populist – opposition in principle.' European authoritarianism exacerbates this problem exponentially: EU emergency measures that are highly intrusive and side-line domestic democratic procedures quickly lead to the popular impression of disempowerment by distant and unaccountable technocrats. Coupled with the European emergency discourse continuously portraying political decisions as necessary and without alternative, dissatisfied voters develop both anti-EU sentiment and alienation from the domestic political mainstream that seems complicit in the dealings – driving them into the arms of nationalist populists (Matthijs 2017). This trend was obvious in those countries most directly affected by austerity measures in the European periphery (propelling left-wing populist movements), but it also affected 'donor' societies where a growing portion of voters was frustrated with financial transfers outside what they considered their political community (propelling right-wing populist movements). Not least, the Alternative for Germany (*AfD*) emerged in direct reaction to the euro rescue politics. As Hobolt and de Vries (2016: 510) demonstrate empirically, 'citizens who were personally negatively affected by the crisis and who disapproved of EU actions during the crisis were more likely to cast a ballot for a Eurosceptic party'.

Second, the complex configurations of postnational exceptionalism and the authoritarian structures it engenders represent perfect targets for populist denunciation. Since populism builds on the critique of self-referential élites, it feeds on opaque and hardly attributable political choices implemented by technocrats (Mudde and Rovira Kaltwasser 2012; White forthcoming). On the one hand, populist leaders can draw on the exceptionalist power of EU

institutions to shift blame to Brussels (or Frankfurt), because the delegation chain is interrupted or at least elusive for the general public. This allows them to downplay their own role in unpopular political decisions and fuel scepticism *vis-à-vis* Europe. On the other hand, the incomprehensibility of responsibilities and policy effects of European emergency measures opens the way for blaming Brussels for basically anything, irrespective of the degree to which one is affected by the policies. Eventually, as Schlipphak and Treib (2017: 354) note, populist leaders are even enabled to portray the EU and its political interventions as a threat to the national identity that only they are able to defend – thus bolstering their cause and position with a discrete national emergency discourse. This way, European authoritarianism may also have contributed, among other important factors, to the rise and perpetuation of nationalist authoritarianism in Eastern Europe.

Yet the consequences of European-level authoritarianism do not end with fuelling nationalist authoritarianism in response. By creating political opportunities for the exclusionary discourse of populism, it also strengthens popular Euroscepticism and thus the constraining dissensus inhibiting further integration on conventional paths. In line with the above reasoning, this will put the EU between a rock and a hard place as institutional drift slides it into further crises of functionality that require integrative solutions. Either the EU then goes back to integration by stealth or it has to bear the (prohibitive) costs of inaction. This builds the final link in the cycle of authoritarianism: discretionary supranational governance provokes a nationalist backlash which fosters precisely those preconditions that facilitated the emergence of exceptionalism at the EU level in the first place. European and domestic authoritarianism are thus mutually reinforcing.

In fact, the politicization data show that the euro crisis represents a critical moment in the development of a new cleavage over ‘transnationalism’, which ‘has at its core a political reaction against European integration and immigration’ (Hooghe and Marks 2018). The high level of politicization the EU has reached since the crisis onset in 2010 has been driven by the mobilization of Eurosceptic parties claiming to defend national communities against transnational shocks and ‘foreign’ (supranational) intervention (Grande and Kriesi 2015). It is thus not an affirmative but a repudiating form of polarization. As Börzel and Risse (2018: 19) put it, ‘what remained of the “permissive consensus” had been used up during the euro crisis’. As a result, the public attitude towards supranational solutions in the subsequent migration crisis was mostly hostile. Drawing on the authoritarian experience in the euro crisis, ‘Eurosceptic parties ... successfully mobilized exclusive nationalist identities and anti-immigrant sentiments against a Union in which detached élites took decisions defying national sovereignty and democracy’ (Börzel and Risse 2018: 19).

In the case of the migration crisis, the EU preferred the rock to the hard place and abstained from circumventing the constraining dissensus by way

of transnational emergency politics. This does not necessarily imply, however, that the cycle is interrupted. After all, the migration crisis is characterized by a different problem structure than the euro crisis, reducing the pressures for supranational capacity-building. While the latter was widely perceived as a problem of systemic risk threatening all members irrespective of their location, economic performance, or responsibility for the crisis, in the former, negative consequences were distributed highly unevenly, rendering inaction a viable option for at least some of the least affected members. But the next crisis will come and it may be again of systemic nature. This is when the EU would face the litmus test: my supposition is that when urgency meets inertia, the EU will take another step towards decisionist authority, repeating the cycle of authoritarianism from the top.

Conclusions: redirection of European Studies?

Under these structural conditions, European governance moves more and more away from the aspiration to be effective and democratic (see Scharpf 1999); it becomes a question of effective *or* democratic. Most disturbingly, European and nationalist authoritarianism are not only mutually reinforcing. Given that their underlying normative claims and visions are in direct opposition, the cycle's centrifugal forces must be suspected to increase exponentially as the growing size of the one end has an ever larger impact on the other. If not interrupted, the cycle of authoritarianism thus also risks collapsing the political order altogether. The expectation that a progressive European integration is either a democratic good in itself or will otherwise be democratically contained through the self-healing forces of politicization has not been vindicated. Hence, it is high time that the EU studies literature systematically addresses this neglected side of European politics and governance. The authoritarian turn that the EU and its member states have taken should be matched with a concomitant turn in research on the EU that is motivated by the goal to explain its occurrence and find ways to push it back.

Two immediate candidate literatures come to mind which could usefully redirect their attention. First, of course, integration theorists might want to consider extending their research focus beyond the yes or no of further integration and the drivers and actors behind this outcome. By orbiting around explanations for European integration, this strand of research has overlooked two aspects of the integration process which are decisive in the present context: (a) through what political processes (e.g., democratic, autocratic) and in which legal form (e.g., legal, extra-legal) does supranationalization take place? One integration step is not like another. Their variance is both in need of explanation and relevant for the second aspect; (b) what are the effects of Europeanized governance on domestic political orders? Different integration patterns might be starting points to explore the positive and

negative feedback effects of European integration on national democracy and political culture (see Matthijs 2017).

Second, political systems scholarship on the EU should produce a new wave of legitimacy research that grasps the entire range of possible authority structures in the EU. The ‘first wave’ of legitimacy research was mainly debating the question of whether the EU has any political power beyond pareto-optimising regulation which would require democratic legitimation at all. Indeed, those operating with a constitutionalist mindset understood the EU as a political order which could be more or less democratic; but they failed to see that also postnational political orders – just like domestic ones – may reflect not only constitutionalist principles to greater or lesser degrees, but also principles of authoritarianism. There is thus need for combined efforts of empirical and normative legitimacy research which takes these new dimensions into account (see also Schmidt forthcoming). While some of the recent empirical contributions already address important aspects of the legitimation and de-legitimation patterns with regard to ‘normal’ versus emergency politics, the mammoth task will lie with normative theorists to devise legitimacy standards for EU governance that balance the functional requirements of complex interdependence and the integration fatigue evinced by the constraining dissensus.

Note

1. While certainly cushioned in terms of reach and intrusiveness as compared to domestic authoritarian regimes, European-level authoritarianism follows the same ‘grammar’ of decisionist authority, institutionalizing more autocratic than democratic decision-making procedures and more arbitrary than legally constrained ways of exercising authority.

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