

## Index

ad hoc assistance, 143 conferral, 29, 137, 208 ad hoc measures, 86 erosion of Member States agreements sovereignty, 245 applicable law, and, 98 EU institutions, and, 157-62 amendment to Art. 136 TFEU European Union, and, 147 significance, 145-50 Member State competences, 244 annual budgetary processes, 191 Pringle, and, 175, 178 assistance regulation, and, 144 formal blessing of, 114-16 constitutional law availability of credit, 69, 72 conception, 6 discourse, 6 bail-in, 100 hidden social theory, 42 banking union, 252-5 relations, 7 beginning of crisis, 71, 72 constitutionalisation, 3-5, 8, 10, 13 crisis management, of, 149 budget autonomy national, 192 dimensions, 4 national constitutions, and, 194-204 economic, 13, 39 budgetary commitments, 178 macroeconomic, 36, 40 Bundesbank model, 29, 45, 50 microceconomic, 234 constitutions collateral policy, 86, 101, 102, 162, 164, characteristics of European, 4 168, 226 crisis resolution mechanism, lack of, 128 collateral policy changes, 86 levels of implications, 119 Committee of Governors, 95, 96, 123, 124, microeconomic, 13-18 159, 197, 218 national sub-structures, 194 common EU principles, 87 relations of, 7-9 comprehensive reform of EU, 251, 266 significant changes, 119 conditionality types, 4 unified entities, as, 3 congruence, 157 EFSM assistance, 143 consumption boom, 75 ESM assistance, 97 convergence criteria, 28, 33, 34, 39, 45, financial assistance, 92, 115, 131, 155, 89, 192 159, 216, 231, 245 coordinating coordination, 113-16 financial stability, 241 crisis regulatory mechanisms intention of, 156 regulatory lacuna, 129 preventive role, 134 crisis resolution mechanism programme, 104 availability, 143 range, 97 damage caused by, 262 stability support, 153 lack of, 128 strict, see strict conditionality macroeconomic constitution, and, 182

279



daht	Early 25 01 02 04 07 00 05 144
debt	Ecofin, 35, 81, 83, 84, 87, 90, 95, 144,
countries, 62-6	188, 193
external imbalance, 68	Economic and Monetary Union
Great Moderation, 69–71	assumptions, displacing, 77
integrated markets, and, 75	crisis management, 55
role of, 62-6	debt, 75
debt break, 176	establishment, 26
debt mutualisation, 188	expectations, 34
delegation	financial instability and macroeconomic
reach of, 170	development, 55-6
Delors Report, 21-7, 50,	market discipline, 50
51, 54	prior, 54
democracy, 205-6	questions when joining, 47
attachment to rule of law, 241	economic constitution
basic idea, 207	approaches, 42
budgetary process, and, 213	assumptions, 77, 182
community as creation of law, 242	assumptions of Maastricht
community based on rule of law,	macroeconomic, 41–57
as, 241-7	basic safeguards, 32
conferral, and, 208	changes, 61
constitutional mutation, and, 210	changing perspective, 194–204
controls, 219	competition law, 15, 16
cross-boundary consequences, 207	concept, 13
de-politicisation, 211	courts' role, 39
distance, 220	development, 36
division of competences, 207-9	development of term, 13
federalist structures, and, 213	dialogue, 185
human rights, 240	ECJ interpretation of micro, 38
institutional structures, and, 205	expectations, 182
intergovernmentalism, and, 213	experimentalism, 41
judicial control, 245	financial stability as a new overriding
Member State-level, 209	objective, 183-4
narrowing the reach of national legitim-	financial stability present, 184
ation, 209–16	fiscal competences, 195
perspectives, and, 208	flexibilisation, 235
positive consequences of crisis, 216	focus, 18
principle of, 206	formal links, 36
principle of conferral, 245-6	free movement, 16
role of expert bodies, 221-31	fundamental principles, 181
traditions, 241	juridification, 39
two-level legitimation, 220	law, 243
two-level process of legitimation, 218	layers, 27
doctrinal issues, 8	legitimacy, 187
levels of discussion, 119	Maastricht legacy, 181-3
matters of principle, 119	macro, 27-35
doctrine of pre-emption, 150	marketisation, 235
constitutionality, and, 178	Member States' fiscal responsibility, 187
EU principles, and, 152	mistaken economic premises, 182
exclusive competence, 151	national law, and, 195
focus on legal binding, 153	original, 19
principle of sincere cooperation, and,	policy competences in Rome
154, 155	Treaty, 18–21
principle of supremacy, and, 154, 155	politics, and, 205
shared competence, 152	principle of conferral, 29
US distinctions, 151	principle of neutrality, 38
US focus on legislative acts, 153	principle of unity, 28, 193
draft budgets, 170	principles, 34



public finances, 51 relations, 36	143, 145, 146, 147, 148, 156, 172 214, 217, 251, 258, 276
rule of law, 244	European Court of Justice
social policy, and, 234	development into constitutional
two layers in comparison, 35-41	court, 17
unity of the union, 192-4	role of, 17
economic coordination	European Financial Stabilisation
expanding, 111-13	Mechanism, 91–2, 136–45
economic particularities of	establishing, 91, 115, 155
countries, 78-84	method of establishment, 217
economic partnership programme, 112	regulating, 97
economic policy	use, no longer, 95
adjusting, 182	European Financial Stability Facility,
coordination, 188–92	92–3, 115
meaning, 31	contribution, 92
sovereignty, 188–92	establishing, 90, 99, 216
emergency measures, 85	expansion, 93
general economic governance, and, 116	Framework Agreement, and, 98
emerging markets, 66-8	use, current, 95
impact on, 72	European integration
enhanced cooperation, principle of, 158,	constitutionality, and, 129
175, 179	democracy, 206
decision-making, and, 158	direction, 264
EU institutions, 157	future, 210
conferral of new tasks on, 157-62	history, 13
framework of governance, 109	landmarks, 21
intergovernmental stability mech-	legal project, as, 242
anisms, and, 158	liberalist orientation, 38
Eucken, Walter, 14, 18, 227	objective, 26
Eurogroup, 84, 90, 93, 95, 96, 99, 108, 123,	European Parliament, 213-16
132, 193, 217, 219, 251, 264, 275	European Stability Mechanism
European Central Bank	reactions, 93-7
action in crises, 162–8	European System of Central Banks
additional involvement, 167	position, 28
changes, 101	European Systemic Risk Board, 88
collateral policy changes, 102	Eurosystem, 11, 86, 163, 167, 184
collateral policy relaxation, 164	excessive deficit procedure, 33
constitutional position, 226	strict observance, and, 106
constitutional problems, 161	excessive imbalances procedure, 111
debt restructuring, 104 direct pressure of European Central	expert bodies, 223 reliance on, 40
Policy, 102	experts
doctrinal scrutiny, 162	accountability, 223
expert role, as, 225–8	central banks, 222
exposure to European financial	Commission, 230–1
market, 167	courts of law, 222
initial reactions to crisis, 164	criticisms, 229
interventions, 85, 101-4	European Central Bank, 225-8
legal position, 162	objectivity, 229
operational framework, 163, 164	politicians, 225
policy action, 11	stakeholders, 224
position, 28	
position of creditor, as, 165	federalist structures, 213, 217
reactions to crisis, see reactions	financial assistance, 136-45
verbal interventions, 101	beyond control, 141-3
European Council, 23, 27, 33, 57, 90, 94,	canalisation, 172
102, 110, 114, 120, 130, 132, 133,	competence provision, as, 137



financial assistance (cont.)	global production patterns, 67
conditionality, 143	government and bank links, 76
confusion, 148	Greece, 78
connections, 138	rescue measures, 89-90
constitutionality, 122	
crisis resolution, and, 155	Habermas, Jurgen, 222
emergency, type of, 138	hidden social theory, 11
future, 92	human rights, 206, 240, 242
granting, 91, 94, 141	
intergovernmental, 115	independence, 222
intergovernmentalism, 217	enhancing, 29
interpretation, 138	European Central Bank, 185, 227, 253
legislative history, 138	expert bodies, 224, 225, 227
new tasks, 161	formal, 262
precautionary, 96	members of Commission, 230
preconditions, 142	practice, 225
regulation, as, 136	price stability, 223
responses, and, 105	Independence
scope, 91	European Central Bank, 186, 194, 200
seeking, 91	indirect effects of amendments, 147 inflation, 43–5
self-causation, and, 142	· ·
strict conditionality, see strict	institutional provisions, 98 institutional structures, 179
conditionality	
financial stability, 131–4, 139	intergovernmental agreements, 172–5 intergovernmentalism, 168, 218
definition, 129	arrangements, 136
second-order telos, 149	stability funds, 171
Union as a whole, 139	interpretation
Finland, 195–9	literal, 120
Fiscal Compact, 109, 110, 178 fiscal discipline	no-bailout clause, 121, 124
tightening, 105–11	procedures, 170
fiscal policy, 102	strict conditionality, 238
adjusting, 182	teleological, 120
constraints, 52	investment boom, 75
coordination, 188–92	Ireland, 78
de-politicisation, 212	Italy, 79
excessive deficit procedure, 51	
market discipline, 50	judicial accountability, 223, 247
meaning, 31	justification of measures, 131
monetary policy, and, 48	
national adjustment mechanism, 49	labour mobility, 235
redistribution, 50	legal community
responsibility, 212	role of law and courts, 17
sovereignty, 188-92	legal status of Member States, 99
stability, 60	legality, principle of, 246-7
Treaty provisions, 49	legitimation, 190, 200, 201, 202, 209–11,
fiscal responsibility of Member States, 187	218, 219, 223, 224, 261, 262
fiscal sovereignty, 9, 32, 49, 181, 183,	Lehman Brothers' collapse, 86
188, 189	liquidity-creating measures, 103
fixed exchange rates, 24	Manatainht animainh a 200 25
force of crisis, 77	Maastricht Treety F. 7, 10, 13, 15, 16, 28
forced sale of assets, 72	Maastricht Treaty, 5, 7, 10, 13, 15, 16, 28,
C P 1 1 1 =0 000	31, 32, 35, 36, 40, 42, 43, 47, 49, 50 64, 69, 138, 162, 173, 181, 192, 193
German Bundesbank, 59, 223	64, 69, 138, 162, 173, 181, 192, 193 194, 199, 201, 227, 236
Germany, 199–204	MacCormick, Neil, 4
global economy	Maduro, Miguel Poiares, 7, 220, 261
trends, 61	Majone, Giandomenico, 264
global economy, secular trends in, 61	majorie, Giandomenico, 201



market economy	Stability and Convergence
competition, and, 13, 164,	Programmes, 114
234, 243	mutual integration
fundamental rights for, 9, 18	need for, 113
liberalism, and, 38, 224	
safeguards, 17	national responsibility, 30
securing, 28	fiscal, 32
society, and, 227	institutions, 75
Member States' fiscal liability, 139	union, and, 32
monetary policy	new bodies, 217
asymmetry, 52	new intergovernmentalism, 216-21
binding constrictions, 25	no-bailout clause, 120–36
compromising objectives, 186	academic consensus, 127
conceptions, 43	alternative arguments, 135
consistency, 29	bridge between teleological and literal
decision-making powers, 25	interpretation, 126
disproportionate burden, 24	constitutionality, 120–2
EU competence, 181	crisis management, 130
European Central Bank, 163	criteria for compatibility, 130
Europeanisation, 28, 212	criticisms of literal interpretation, 126
Europeanised, 65	direct assumption of commitments, 127
exchange rates, 23	extension, 123
exchange-rate criterion, 46	financial assistance, and, 139
financial institutions, 57	financial stability, and, 130
institutional provisions, 29	importance, 76
institutional structure, and, 26	institutional scope, 121
liquidity support, and, 164	moral hazard, 32, 127
Maastricht principles, shaking of, 184–7	national liability, 127
Maastricht Treaty, and, 28	objectives of, and, 127
meaning, 30	ratione materiae, 121
national sovereignty, and, 31 non-political field, 43	ratione personae, 122
objectives, 19, 30, 183	solidarity, 135 substantive reach, 124–5
one-size-fits-all, 182	substantive scope, 121
prerequisites, 37	non-recoverable losses, 71
prevalence, 33	non recoverable losses, 7 r
public finances criteria, 46	optimal currency area, as, 53-4
reacting, 247	optimal currency area, in, 48
shift in economics, and, 45	opt-outs, 192
significance, 42	ordoliberal thinking, 13
single market, and, 23, 24	central-bank independence, 29
special status, 29	common currency, and, 28
stability, and, 183	economic constitution, 14
Treaty framework, 51	price stability, 18, 185
uniform nominal interest rates, 52	setbacks, 15
union, 21, 22	Treaty construction, 16
monitoring, scope of, 190	Outright Market Transactions (OMT), 226
moral hazard, 32, 48, 49, 51, 54, 57, 75,	Outright Monetary Transactions (OMT),
100, 127, 130, 131, 133, 141, 142,	104, 165
143, 149, 165, 167, 186, 189, 253	
multilateral surveillance procedure, 11,	political constitution
32, 33, 108, 111	backdrop to rise, 26
budgetary targets, and, 105	pacemaker role, 26
competence basis, 169	Werner Report, 22
complementary protocol, and, 33	political integration, 256
financial assistance, and, 155	Portugal, 79
fines, and, 169	pre-emptive effect of EU legislation, 150–7
Member States, and, 32	price competiveness, loss of, 68



price stability, 18, 32, 183	European Central Bank, and, 101
proposals for future, 252	Eurozone crisis, and, 61
critique of, 261-3	excessive deficit procedure, 128
democracy, and, 256-63	institutional recapitalisation, 96
integration, 264	intergovernmental management, 219
mutualisation, 259	policy, and, 106, 166
optimal currency, 254	resolving, 139
realising the economic union, 252-6	stability mechanisms, and, 97
short-term, 258	temporary alleviation, 104
suggestions, 257	terminology, 62
supervision, 253	sovereignty, 188-90
transfer of competences, 261	Spain, 79
purchase of government bonds, 103, 166	specific Eurozone regime
	constitutional basis, 168-71
reactions to crisis, 85-9	stability
regulation	banking, 58
competence, 171	concepts, 57-60
continuous monitoring, 33	conditions, 75
coordination and convergence, 112	definitions, 57
economic partnership programme, 112	economic, 58
financial-stability issues, of, 30	Economic and Monetary Union, 43
legal vs substantive, 39	economic policy, 60
market forces, and, 25	euro area as a whole, of, 57
micro and macro economics, 39	exchange-rate, 59
monitoring, 111	financial, 58
rescue packages, 85, 89–101	fiscal policy, 48, 60
Rome, Treaty of, 4	importance of concept, 57
rule of law, 243	macroeconomic concepts, 37
Corrigmy Coul Enjodnich 4	microeconomic concepts, 37
Savigny, Carl Friedrich, 4	monetary, 46, 59
Scharpf, Fritz, 18, 210, 211, 220, 262, 264	price, 59–60 Stability and Crowth Pact, 27, 107, 152
secondary legislation, 144, 168 secular trends, 61-71	Stability and Growth Pact, 27, 107, 153, 161, 191, 270
Securities Markets Programme (SMP), 101,	budgetary policy obligations, 108
165, 226	Contracting Parties, 110
termination, 104	convergence criteria of, 89
shared competence, 177	corrective arm of, 35, 116
short-term economics, 71–8	definition of, 132
sincere cooperation, principle of, 177	definition of fiscal policy, and, 32
six-pack legislative package, 106-8	European economic
social constitution, 231-41	constitution, 181
development, 236	fiscal planning, 191
discretionary de-stabiliser, as, 235	fiscal prudence, 77
fields, 232	Greece, 102
fiscal policy, and, 232	launch, 105
focus on economic constitution,	Maastricht Treaty, and, 52, 60
and, 234	monetary policy, and, 183
fundamental imbalance, 233	monitoring mechanism, 128
labour market reforms, 240	monitoring procedures, and, 182
national litigation, 240	multilateral surveillance procedure,
prioritisation, 238	107, 190
spending, 236	obligations of, 78
subordination of, 231	preventative and corrective arm of,
social rights, 237	106, 107
sovereign debt crisis, 89	preventative mechanisms of, 55
economic theory, 55	procedural emphasis, 190
emergency rescue measures, 11	provisions, and, 33



INDEX 285

regulations of, 116 sanctions of, 211 Treaties, and, 188 treaty provisions, and, 49 weaknesses, 105 stability mechanisms, 89-101, 218 consequences, 100 traits of, 97 stress tests, 88 strict conditionality bailout, 187 constitutionalisation of, 133, 238 country-specific guidance, and, 155 crisis management, 149 effect, giving, 211 European Stability Mechanism, 188 financial stability, and, 134, 143 governance, and, 262 harmonising assistance, 149 judicial restraint, and, 240 mechanisms, and, 99 moral hazards, and, 131 role, 130

sovereignty, and, 189, 245 stability support, 97 treaty requirement, 94 supervision, 54, 219 sustainability, 77

terminology of crisis, 62 timeline of crisis, 80–4 transparency, 205–6 accountability, and, 219, 227 fragmentation, 219 Treaty of Rome, 5, 15, 35, 89, 232 economic constitution of, 18–21 Treaty on Stability, Coordination and Governance, 109, 171–80 two-level teleology, 129 presupposition, 131 two-speed Europe, 263–6

unemployment, 239 unwritten emergency powers, 135

Werner Report, 21-7