

The European Parliament and Economic Governance: Explaining a Case of Limited Influence

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Abstract

This paper studies the influence of the EP in the reform of the EU's economic governance. Descriptively, it aims to provide a systematic map of the negotiations of the Six and Two-pack legislation, focusing on the key controversies between the co-legislators, and comparing the position of the EP to the Commission's legislative proposals, the Council position and the final legislative output. The surprisingly limited influence of the EP – given its formal powers and the assessment made by most of the literature – is then assessed using rational choice and sociological institutionalist perspectives. While the more favourable BATNA of the Council could explain the outcome of the Two-pack, and a norm of responsibility triggered by the crisis could account for the limited impact of the EP on the Six-pack, the explanatory power of these arguments is limited. We therefore propose a new preliminary hypothesis based on a norm of responsibility linked to the very nature of the issues being negotiated. In policy areas close to 'core state powers', like budgetary surveillance, the EP could recognise that the member states still have a primary role and, despite the extension of codecision, act within the boundaries defined by them

Key words: bargaining power, codecision, economic governance, European Parliament, responsibility

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Introduction

The Treaty of Lisbon strengthened the role of the European Parliament (EP) in the Economic and Monetary Union (EMU). Art 121.6 states that the EP and the EU Council (hereafter: Council) 'acting [together] in accordance with the ordinary legislative procedure, may adopt detailed rules for the multilateral surveillance procedure'. With the outbreak of the economic and financial crisis, the EP made immediate use of its new powers. The reform of the Stability and Growth Pact (SGP) was negotiated under the ordinary legislative procedure (OLP) and, between September 2010 and February 2013, the EP and the Council established new rules for budgetary surveillance and macro-economic coordination. With the approval of the two legislative packages known as the Six-pack and the Two-pack, the EP had for the first time the opportunity to shape the rules of the EMU.

The literature has provided very different assessments on the role of the EP in the reform of the EMU. On the one hand, the EP had traditionally not shied away from using its powers as a co-legislator (Corbett et al. 2016) and, with its new legislative powers, it was widely expected to make a significant contribution. Several scholars observed that the EP's influence has been significant. Their assessment is based on different elements, such as the newly devised mechanisms of accountability under the rules of the so-called 'Economic Dialogue' (Fasone 2013; Rittberger 2014); the capacity of the EP to negotiate the Six-pack as a package (Héritier and Schoeller 2015) and the enhanced automaticity of the procedure to monitor national budgets (Laffan and Schlosser 2016). More broadly, even advocates of the 'new intergovernmental Union' recognize that the Six and the Two-pack strengthened the EU supranationalism institutions (Fabbrini 2013).

On the other hand, other observers have started to contest this view. For instance, the did not manage to push through its preferences for delegated acts in comitology (Héritier and Schoeller 2015); it has accepted the European Council 'red-lines' on Eurobonds and a Growth facility measure (Bressanelli and Chelotti 2016), and it has not really focused on economic issues because of its internal divisions (O'Keefe et al. 2016). As it is well-known, the formal powers of co-decision do not automatically translate into equal policy-making power (Costello and Thomson 2013). Part of the literature suggests that this could have been the case of the EMU reform.

This paper studies the *influence* of the EP in the Six-pack and the Two-pack. It has both descriptive and explanatory purposes. Descriptively, it aims to provide a systematic map of the negotiations focusing on the key controversies – i.e., important issues where the actors have different positions (Thomson 2011: 29). In order to capture our dependent variable, we compare the position of the

EP before starting the inter-institutional negotiations with the Council to the initial legislative proposals and the final legislative output.² Furthermore, we also present an account of the genesis of the two packages, which helps to capture the *quantum* of the EP influence.

We anticipate here that the influence of the EP has been modest at best. We explain this puzzling finding – both considering the formal role of the EP, and the assessment presented by a significant segment of the literature – in the second part of the paper. Relying on rational institutionalism and sociological institutionalism, we hypothesize that the overall marginal role of the EP could be explained by its unattractive fallback option or BATNA, giving the Council more bargaining power; or by its responsible behaviour in “testing times” (Laffan 2014) for the EU. We eventually endorse a sociological-institutionalist explanation, but argue that the crisis cannot fully explain the Parliament’s responsible behaviour. We suggest that responsibility can be connected to the specific features of the policy field (budgetary and macroeconomic surveillance), which is closely associated to “core state powers” (Genschel and Jachtenfuchs 2013).

In terms of evidence, the paper triangulates several sources: the drafted legislative texts at different stages of the negotiations, the declarations of relevant actors in parliamentary debates and to the press and, crucially, 32 original, non-attributable interviews with ‘key informants’ with an in-depth knowledge of the legislative packages. In order to compare and contrast the different narratives, and assess them against the documentary evidence, we carefully included in our sample both civil servants and politicians from all major political parties in the EP, administrators in the DG ECFIN (Commission), in the Directorate on Economic and Financial Affairs (Council), the Legal Services of the Council and the EP, and several financial advisors in the Permanent Representations, including two of the Presidencies responsible for negotiating the legislative packages.³

² To capture the position of the EP, we consider the text voted in the Parliament before negotiations with the Council start. In the Six-pack, this is the report voted by the ECON Committee; in the Two-pack, it is the amended commission proposal voted by the plenary. The EP seeks to present itself as a unitary actor in inter-institutional negotiations (O’Keeffe et al. 2016).

³ See the Appendix for the list of interviews. They were completed in three rounds (April 2015, July 2015 and June 2016), designed in semi-open format and tape-recorded.

I. The European Parliament's role in the EMU

Traditionally, the role of the EP in the EMU has been marginal. The EP was involved in the legislative process only through consultation. The Council and the Commission had also an obligation to report to the Parliament on all major decisions in the field of general economic policy. The Lisbon Treaty strengthened the position of the EP, particularly by 'upgrading' its involvement in law-making. The OLP became the decision-making rule for the 'multilateral surveillance procedure' (art. 121.6 TFEU) and to adopt specific measures for the Euro-area members (art. 136 TFEU). With the legislative empowerment of the EP, both practitioners and academics expected that the content of the EMU would change (Fabbrini 2016; in general Corbett et al. 2016). As the EP started to act as co-legislator in the field, the Chair of the Economic and Monetary Affairs (ECON) Committee noted:

"We have had codecision on financial services for many years and have always had battles. What is new here is that we have codecision in the area of budgetary surveillance. It was perhaps a bit of a shock for the Council to realise we have a role" (Bowles 2011).

With the outbreak of the eurocrisis in 2009, key reforms of the EU's economic governance were pursued through intergovernmental agreements outside the EU law framework (e.g. the European Stability Mechanism; the Fiscal Compact) with a very active involvement of the European Council (Fabbrini 2013; Puetter 2014). Yet, following Lisbon, crucial legislation to reform the SGP had to be approved under the OLP. This was the case of the legislative package known as Six-pack, which set new rules for macroeconomic and fiscal surveillance, and the Two-pack, which reinforced EU monitoring of national budgets for Euro-area countries only.

The EP was therefore granted the institutional power to 'bite' on economic governance. In an early study on the role of the EP in the adoption of the Six-pack and the Two-pack, Fasone (2014: 171-172) argues that the EP was able to strengthen its position "from the lack of any role [...] to a limited involvement" in the Six-pack, while its contribution to the Two-pack is regarded as "successful". Similarly, Dinan describes the outcome of the Six-pack as a "sweet victory" for the EP, in a difficult context dominated by intergovernmental actors (2012: 93). Laffan and Schlosser also note the

“crucial contribution” (2016: 240) made by the EP in both packages to the design of the new centralized monitoring process of national budgets.

The EP’s success was explained by its better bargaining position due to the length of the negotiations and the Council’s urgency to adopt legislation (Fasone 2014; Laffan and Schlosser 2016). Rittberger, who has explicitly theorized the causal mechanisms behind the empowerment of the EP in the EMU, also underscores the importance of time, arguing that the EP was able to use its longer time-horizon compared to most member states (2014: 1177). Both Rittberger (2014: 1177) and Héritier and Schoeller (2015: 17) also emphasize the importance of “arena-linkage”. Threatening to use its veto power in codecision-arenas, the EP was successful to discuss the six legislative files forming the Six-pack as a package, treating the two consultation dossiers as *de facto* codecision.

Yet, it has also been observed that the EP was not always successful (Héritier and Schoeller 2015: 13-14). In negotiating the rules for the implementation of the macroeconomic scoreboard (Six-pack), the EP was not able to push through its preference for delegated acts. This outcome was linked to the relative lack of urgency on the side of the Council, which did not allow the EP to use its delaying tactics. O’Keeffe et al. (2016) demonstrate that the EP chose to downplay issues of socio-economic nature where it was internally divided. In order to maximise its influence, it placed its attention selectively on institutional issues. Bressanelli and Chelotti (2016) show that the European Council’s active involvement in the reform of the EMU altered the decision-making process curtailing the power of the EU institutions, including the EP. More broadly, Dawson argues that in the EU ‘post-crisis’ economic governance the EP “rather than act as a co-legislature ... is seen as an institution to advise and be ‘consulted’ in decision-making” (2015: 988-989).

As the literature provides very different evaluations of the contribution of the EP to the reform of economic governance, and distinctively on the two legislative packages negotiated under the OLP, it is important to clearly articulate the key controversies in the Six-pack and the Two-pack, and map their development from the genesis of the proposals tabled by the European Commission, through the negotiation process, to their conclusions.

II. The influence of the European Parliament in the Six and the Two-pack

The Six-pack

The Six-pack consists of six legislative files: four of them deal with fiscal issues and reform of the SGP, while two regulations develop a system to detect and possibly sanction macro-economic imbalances in the member states.

The EP was fundamentally excluded from the preparation of the legislation. In early 2010, both the Commission and the member states presented proposals intended to reform the EMU's crisis resolution framework. In particular, under the impulse of the European Council, representatives of the member states (mostly ministers of finance) formed, together with the rotating Presidency, the European Central Bank and the Commission, a Task Force (TF) on economic governance. The Six-pack was the product of an intense cooperation/competition between the Commission and the TF (Bressanelli and Chelotti 2016: 517). Despite the occasional tensions, the two actors broadly converged over the policy response to the crisis: the content of the Commission's proposals (September 2010) and of the TF's report (October 2010) was highly similar. On the contrary, the EP was not part of the TF – which it forcefully criticized. In the same period, the EP adopted its own non-legislative report on the eurozone/EMU crisis which was, according to EP's insiders, essentially ignored by the other institutions (Interview Y).

The Six-pack was thus largely pre-cooked together by the Commission and the member states (Interview AD) and then submitted to the EP to be negotiated under OLP. When the ECON Committee scrutinized the proposals (April 2011), it proposed a number of important changes. It advocated a strategy for growth and the use of more flexible criteria in the deficit evaluation. It aimed to obtain, by the end of 2011, a report from the Commission accompanied by legislative proposals to establish a system of Eurosecurities. On macroeconomic imbalances the EP's goal was to have a more symmetrical treatment for states experiencing large current surpluses and deficits and a larger say over the composition of the macroeconomic scoreboard through delegated acts. It also aimed to reduce the discretion of the Council in the steps leading to potential sanctions, by using the reversed qualified majority voting (RQMV)⁴ in fifteen more cases beyond what was already envisioned by the Commission/TF.

⁴ With RQMV, the Council needs a qualified majority to block a decision by the Commission.

A close look at the final output (Table 1 in the Appendix) reveals that the EP's demands were either largely ignored or watered down – as also confirmed by insiders of both legislative chambers (Interviews I; W). The final agreement (September 2011) did not depart much from the original proposals of the Commission, as slightly modified by the Council. Initiatives designed to promote growth, and to include the quality of expenditure in the deficit assessment, were absent. On Eurosecurities, the Commission only committed to carry out further studies. In watering down the proposal on macroeconomic imbalances (Interview I), the Council refused to establish the scoreboard through delegated acts. On RQMV, only one of the fifteen cases was taken on board while some were rejected on legal grounds. One case remained open and postponed the approval of the entire Six-pack after the summer.⁵ More generally, RQMV was accepted because it was also sponsored by a number of powerful (Germany, most of all) states (Interview N). As an EP official put it, had it been proposed by the EP, “it would have had no chance at all of surviving” (Interview W).

What the EP obtained was the establishment of an Economic Dialogue between the EP, EU and national institutions – which was not foreseen in the Commission's proposals. However, the economic dialogue is “one of those soft things” that the Council can afford to give in (Interview I). It was a sort of compensation for the EP. As it could not “obviously focus on the substance” of the package, it “focussed on economic dialogue” (Interview A). In addition, the EP's most contentious demands were tempered. National ministers can be invited before the EP but are not obliged to come. In the words of a policy advisor in the EP, “[the EP] wasn't of course going to get that” obligation (Interview U).

The Two-pack

The two regulations known as the Two-pack only apply to Euro-area countries. The first regulation (the ‘Ferreira report’) strengthens budgetary surveillance and ensures the correction of excessive deficit; the second regulation (the ‘Gauzès report’) targets those member states which are facing serious financial difficulties.

The Commission initiated legislation (November 2011), while the national leaders were concluding the negotiations on the Fiscal Compact. The Commission's key objective was to bring the intergovernmental treaty under the EU framework. The empowerment of the Commission in budgetary surveillance had the support of powerful member states like Germany which, in a context

⁵ Art. 6 and 10, Regulation No 1175/2011. The final compromise indicates that the recommendation of the Commission will be considered adopted unless the Council rejects it, by *simple* majority.

where national financial resources were to be invested in financial stability mechanisms, “had to be given some further reinsurances in terms of tighter processes for controlling member state finances” (Interview F; also H). As in the case of the Six-pack, the Commission’s legislative proposals could draw inspirations on a text which was negotiated in parallel by the member states. It is thus not surprising that the positions of the Commission and the Council at the beginning of the negotiations were, once again, very similar (Interview P).

In the EP, instead, there were strong divisions, which led to the postponement of trilogue negotiations until a compromise position was reached in the plenary (June 2012). The plenary amended the Commission proposal in some radical ways (Table 2 in the Appendix). The Ferreira report urged the Commission to introduce new policy instruments, such as a European Redemption Fund to move towards the issuance of Eurobonds. It also proposed the creation of a European Debt Authority and, more generally, shifted the focus from budgetary policy to macroeconomic coordination. The key innovation of the Gauzès’s report was the special protection granted to defaulting states, according to which the Commission could place a state facing serious financial troubles under temporary legal protection. Throughout the package, the EP supported the expansion of the powers of the Commission introducing new instances of RQMV.

The final outcome (March 2013) was significantly different from the text that the EP plenary had voted. All the references to a Redemption Fund, the mutualization of debt and Eurobonds were removed. For the Council, the Redemption Fund was “a political non-starter” (Interview S), while the Commission considered it inadmissible on legal grounds. On Eurobonds, the Commission only agreed to set up a working group to study their feasibility, removing them once more from the legislative agenda (Interviews P, V). The ‘special protection clause’ was watered down in the recitals and removed from the text of legislation. As for RQMV, it remained in use in one case only. The EP managed again, instead, to enhance its role in the Economic Dialogue, whose significance was again dismissed by Council officials. As one of them recalled: the Economic Dialogue “came back in the Two-pack”, and it was “symbolically nice for the Parliament [to have it] but the substance did certainly not change” (Interview H).

In both the Six- and the Two-pack, the influence of the EP has been modest at best. The EP was not a player in the genesis of the proposals and, looking at the key controversies in the negotiations, it failed to leave its mark on a vast majority of them, compared to its position before the start of the inter-institutional negotiations.

III. Explaining the limited influence of the EP

A rational-institutionalist perspective

Despite the EP's powers under the OLP, the outcomes of the two packages do not appear to have reflected its legislative 'clout'. This section elaborates on existing approaches to EU policy-making to explain this apparent puzzle. Drawing on rational institutionalism, the very limited influence of the EP could be explained by its weaker bargaining power vis-à-vis the Council. According to this framework, actors seek to maximize their impact on policies, given the institutions and rules in place. The outcome of a negotiated agreement is a function of the actors' (relative) bargaining power.

Bargaining power can be understood in terms of availability of resources actors possess in case the negotiation breaks down or proves to be very costly – in other words, the most powerful actor is the one enjoying a more advantageous fallback option (Knight 1995, 108; Cooley and Spruyt 2007). This situation is often labelled in the literature as the 'Best Alternative to a Negotiated Agreement' (BATNA). It could represent either the *status quo ante* – i.e., the situation before the new agreement is passed – or a new situation which one of the parties has the resources to achieve – i.e., an alternative agreement operating under a different decision-making rule. A good BATNA increases the negotiating power of an actor, whereas limited or non-existent alternatives might lead an actor to accept unattractive demands. In this sense, the concept of BATNA is close to that of "reference point" (Thomson 2011, 43-44).

Two main components delineate the preference function of an actor (Moravcsik 1997: 523-524). First, negotiators consider the policy substance of the various provisions under discussion. They care about the content of their preferences. Second, the negotiating behaviour depends on the salience or the intensity of the actors' preference (Kim et al. 2005). When actors feel intensively about an issue, their sensitivity to failure grows, and the available BATNA becomes less attractive. Time pressure plays an important role. The negotiator with the most urgent need to decide and the inability to wait longer will be less successful: s/he is more likely to make concessions in order to reach a decision (Farrell and Héritier 2003).

Applying a liberal-intergovernmental framework to key inter-state negotiations in European integration, Moravcsik (1993: 504) argued that when uncertainty exists about the breakdown of

negotiations, concessions tend to come disproportionately from governments which intensively desire agreement.⁶ The importance of salience has been confirmed in large-n empirical studies of EU decision-making (Schneider et al. 2010): actors attaching high salience to an issue have less bargaining power in the negotiations, and are more willing to accommodate the requests of their counterpart(s).

Drawing on a rational-institutionalist approach we expect the failure of the EP to shape legislation to be driven by its poor or non-existent BATNA relative to the Council.

A sociological-institutionalist perspective

Sociological institutionalism interprets political action, policy-making included, in terms of rules of appropriate behaviour. Actors do not calculate the costs and benefits of any move, but they define their identities and interests in socially appropriate ways. They tend to follow the norms that are considered reasonable, proper or right in certain circumstances. Arguably, there are not many studies that use sociological institutionalism to analyse EU policy-making (Ripoll Servent 2013: 978). One convincing application has nonetheless shown that the EP has developed a responsible attitude toward the Council and the requirements of codecision. This responsible attitude has become a procedural meta-norm that determines what policy choices are viable for the EP and steers this actor towards accommodating legislative stances (Ripoll Servent and Trauner 2014).

Yet, what the EP's responsibility really means needs to be further unpacked. Responsibility has been applied to a wide range of situations. It is important to distinguish between them, because each use refers to different mechanisms and has different implications for how we understand EU policy-making. Analytically, at least three meanings of responsibility can be identified.⁷ First, responsibility denotes a change in the EP's *original preferences*. For instance, the EP securitized its initial negotiating positions when it acquired new codecision powers in asylum policy. If under consultation it had championed liberal views in contrast to a more security-oriented Council, the EP's disagreements with the Council became fewer and on less relevant items when the same issues

⁶ Where uncertainty does not exist, instead, actors with different preferences across issues may agree on a 'package deal', where concessions are exchanged through issue-linkages or side-payments (Moravcsik 1993: 505).

⁷ We cannot investigate here the exact functioning of this norm of responsibility. It could be internalised by the EP and triggered in a non-reflective manner; it could be consciously upheld by the EP in case of persuasion. Rational calculations are not absent in a mechanism of rhetorical entrapment (cf. Checkel 2007).

were negotiated under OLP. The EP learnt that “it could not get a fabulous position anymore, only the best possible outcome” (Ripoll Servent 2013: 981).

Second, responsibility is to be understood in relation to the “culture of codecision” that the EP and the Council jointly developed to make EU legislative processes work (Shackleton 2000). In codecision, *both* the Council and the EP have vested interests in producing political outputs and in avoiding stalemates or legislative failures. The culture of codecision is well visible *during the decision-making process*. The two co-legislators are well-disposed to find compromises, by, e.g., withdrawing or watering down amendments that the counterpart finds particularly difficult to approve. Being exposed to this context, the EP acquires “an increased feeling of shared responsibility for policy outcomes” (Ripoll Servent and Trauner 2014: 1152).

We argue that responsibility can be understood in a third way. Responsibility here is a fundamentally *unilateral* norm that shapes the appropriate behaviour (only) of the EP *during the decision-making process*. The Council largely continues to follow its preferences, while consensual behaviour is expected on the side of the EP only. The EP operates in an environment where national institutions are (still) strong. Not only is the national element well present in its internal organization and functioning (Kreppel 2002). Externally, the EP “must find its place in a political space defined by highly mobilized national constituencies in the Council and European Council, declining voter turnout in EP elections, and the growing mobilization of Eurosceptical publics” (Roederer-Rynning and Greenwood 2016: 6). All these aspects feed into the EP’s unilateral sense of legislative responsibility. In this scenario, even when having divergent positions, the EP is expected to accept the boundaries of action defined by the member states, leaving a limited mark on legislation.

Building on recent research, we expect the EP’s unilateral legislative norm of responsibility to emerge more likely when “testing times” (Laffan 2014) threaten the very existence of the Union. First, in exceptional circumstances, when the stakes are high and political decisions need to be adopted quickly, the EP may decide to behave responsibly for the good of the EU. Insisting on its requests could have negative consequences for the EU as a whole. Understanding that, the EP decides not to interfere with the political choices of other institutions. Second, crises can alter or suspend established legislative norms. When politics is governed by states of emergency (e.g. terrorist attacks, natural disasters), the actor that assumes the capacity to determine the rules is traditionally the executive. Governments are able to constantly side-line the legislature and the judiciary (Owen and Pellizzo 2010). The executive can act quickly and resolutely and also enjoys the

greatest authority to the eyes of the public (Matthews 2012). In the name of emergency, political “disagreement at high-stakes moments” is “made to seem irresponsible”; and policy changes are “presented as urgent and non-negotiable” (White 2015: 307).

We hypothesise that the EP might have found itself in a similar situation when negotiating the reform of economic governance. While participating in the formal processes of codecision, the EP would find itself highly constrained by choices made by other actors, mainly the Council. Significantly, this responsibility is not part of the shared (with the Council) codecision culture. It is a legislative norm that applies only to the EP.

IV. Empirical analysis

In order to assess the explanations based on BATNA and responsibility/crisis, we present an in-depth analysis of the causal arguments of each approach. As mentioned in the Introduction, we rely on a wide array of official documents, parliamentary debates, declarations to the press and (32) original interviews with officials of the institutions involved.

Rationalism

The bargaining power hypothesis can explain the negotiation of the two legislative packages only to a certain extent. While it offers a persuasive account of the Two-pack, it appears less convincing in the case of the Six-Pack.

The Six-Pack was negotiated as part of the EU’s response to the worsening of the European economic/financial crisis. There was a wide expectation – within EU institutions, national governments, public opinions, financial markets – that the rules of the EMU were to be changed. In these circumstances, neither the Council nor the EP had a distinctive bargaining advantage. In case of non-agreement, the Council would have continued to remain in control of the SGP, as it had been for the previous fifteen years. However, member states considered the SGP in effect at that time an important component of the Eurozone’s failures. They wanted to change the status quo. Significantly, rewriting the SGP was a highly salient issue for them (Interviews S, Y). The Six-pack featured prominently in the Conclusions of the European Council of December 2010, February and March 2011. The European Council even set up a Task-Force to present legislation for tighter budgetary control (Bressanelli and Chelotti 2016). Hungary made it the top priority of its Presidency. In addition, following the Deauville meeting between Angela Merkel and Nicolas Sarkozy (October

2010), the hardening of the fiscal rules in the Six-pack was the political guarantee that Germany wanted in order to establish the rescue mechanisms for financially stricken states (Interviews A, AD).

Threatening the EP to go back to the status quo was thus hardly a credible option for the member states. The Council could have played another card – ‘going intergovernmental’ rather than continuing with the OLP. As one interviewee put it: “if the EP blocked it, it was not the end of the world. Member states could ... have made a fiscal-compact for the Six-pack”. However, the threat was “never on the table” (Interview S) and concrete. One difficulty with this route was that the secondary law approach was chosen because it was faster than amending the treaty – i.e., the other real option for the member states in 2010-11 (Palmstorfer 2014).

On the other hand, compared to the status quo, the provisions of the Six-pack went into a direction supported by the EP. We should not exaggerate, however, the quantity and quality of the EP’s improvements. The Six-pack strengthened the need of tight budgetary discipline – whereas the general sentiment of the assembly was for a less austere agenda. The package did not enhance the powers of the EP either (Fasone 2014). In terms of intensity of the preference, while Europarliamentarians (MEPs) were in favour of changing the SGP, the issue was less salient for them. As mentioned above, the Six-pack was designed and produced by the member states and the Commission, while the EP had been excluded in the preparatory phase. MEPs did not commit to reform the EMU in front of the electorates, as the heads of state/government (‘Heads’) repeatedly did (Interview H), and could not be directly punished by the voters had the crisis further worsened. Given that MEPs had less pressure to conclude, their sensitivity to failure was lower.

With no acceptable or credible fallback option available to both co-legislators, and a higher salience for the Council, it is difficult to explain why the EP had very limited success in the Six-pack. The Council did not certainly have such a distinctively greater bargaining power to allow it to determine the vast majority of the provisions. The EP was aware of the weaknesses of the Council’s position: as EP administrators recall, the Council had a strong “sense of urgency”, “was under pressure” and needed “to deliver something quickly” (Interview M; also L). In addition, the Parliament could always count on its longer time horizon (Farrell and Héritier 2003). The EP was in a great position to profit from both the general urgency of the Council and the particular urgency of Hungary. The Six-pack was arguably the most important dossier managed by the Hungarians, which had all the incentives to conclude it under its Presidency (Interview O).

Significantly, in our research we did not find any evidence that the EP accepted a loss in the Six-pack in return for compensations, either through issue-linkages or side-payments.

The bargaining power hypothesis instead explains the Two-pack negotiations convincingly. When the Two-pack was proposed by the Commission towards the end of 2011, the Heads were negotiating the Fiscal Compact. The Two-pack largely ‘communitarised’ the provisions contained in the Fiscal Compact – legally, an international treaty outside the EU framework – for the Eurozone members. In this context, the member states had an excellent BATNA: if the negotiations collapsed, they could conveniently rely on the Fiscal Compact. Member states could also use the intergovernmental route, although interviewees sustain again that the “threat was never felt by the EP” (Interview C; also I). The salience of the Two-pack for the member states was generally low (Interview AD): if the European Council called for its rapid adoption in its Conclusions of December 2011, both the signature of the Fiscal Compact and the scaling down of the crisis in the second-half of 2012 made its adoption less urgent (Dinan 2014: 109). As a national representative summarised it, “the [Council’s] necessity for having the Two Pack was only relative because most of it was already in the Fiscal Compact” (Interview N). On the other hand, MEPs had a weak negotiating position. If the Two-pack was not the most salient item in the EP’s agenda, it was certainly more significant for them than for the Council. MEPs had a keen interest to see it approved as they did not want to leave those provisions within a non-EU framework (Interview N).

In sum, compared to the EP, the Council had a better BATNA and less interest in concluding the Two-pack. This well explains why the EP ultimately failed to shape the content of the Two-pack. The EP successfully managed to prolong the negotiations, relying on its longer time-horizon, but this had hardly any effect on the negotiation outcomes.⁸

Sociological institutionalism

Conversely, the responsibility/crisis hypothesis appears to explain persuasively the negotiations of the Six-pack, while it struggles with the results of the Two-pack.

The Six-pack was negotiated when the economic/budgetary crisis was extremely acute. A breakup of the Eurozone or the Union itself was seen a possible event in 2010-11. In September 2011, the then president of the European Commission, Jose’ Manuel Barroso, admitted that the EU had been

⁸ We were not able to trace relevant gains for the EP in other fields and/or negotiations related to the loss in the Two-pack. Unlike the case of Six-pack, this (non-)finding is consistent with the expectations of the bargaining power hypothesis.

facing “the greatest challenge our Union has known in all its history” (BBC 2011). It is in these situations that we expect responsibility as a unilateral norm for the EP to apply most strongly. The Polish finance minister Jacek Rostowski said that approving rapidly the Six-pack was a ‘litmus test’ for the EP and the functioning of the community method (EUobserver 2011a). The member states and the European Commission imposed “enormous pressure ... on rapporteurs, committee negotiators and trilogue negotiators” for a quick adoption of the Six-pack (Interview Y. Cf. Bressanelli and Chelotti 2016). The European People’s Party (EPP) was the main target: it received so “much pressure ... that before summer [2011]” they “signalled to us [i.e., ALDE] ‘It’s fine now. We really need it now. We should conclude’” (Interview P).

Both in the plenary debate (June 2011)⁹ and in their justifications of vote (September 2011),¹⁰ MEPs repeatedly stressed the need to be responsible. Guy Verhofstadt declared that the EP had “been responsible and delivered” (cited in O’Keeffe et al 2016: 228). These aspects were corroborated also by our interviews. The EP was “under pressure not to be seen as the actor that would block” the Six-pack (Interview F). It did not insist on demands that would put up a serious fight with the Council, de facto suspending the political battles it normally has in codecision (Interview L). MEPs “had of course no [other] choice. We were in crisis, we had to adopt it rapidly” (Interview AD; also A).

Responsibility also changed well-established negotiation practices of the EP. ECON adopted the reports on the SGP reform with slim (instead of usually large) majorities, and nonetheless open the trilogues with the Council afterwards (Interview D, Y). The EPP and Liberals argued that the “eurozone crisis left little time for such niceties” (EUobserver 2011b). In addition, the Six-pack was “negotiated in a dramatic path of speed” (Interview Y). An EP advisor recalled that after “the trilogues, we concluded in one week”. The normal “cooling period” after the approval was not respected. The reason is that “at that point [the Council] really wanted to have these tougher rules adopted” (Interview T).

If we analyse the reasons behind the EP’s responsibility, the two sub-specifications mentioned in the theoretical section (good of the EU; emergency politics) find plausible support. MEPs associated their vote in favour of the package to their “pride in Europe [which] brings with it a great taking on of responsibility”¹¹; or to the necessity “at a time of extraordinary crisis” to show “strong cohesion

⁹ *Debate in the EP*, 22.06.2011: e.g., J.P. Gauzès; S. Goulard; I. Méndez de Vigo.

¹⁰ *Explanations of vote*, 28.09.2011: e.g., A. Antoniozzi; G. Susta.

¹¹ S.P.F. Silvestris, *Explanations of Vote*, 28.09.2011.

within the European institutions”.¹² On the other hand, the EP recognised that, in emergency politics, the highest authority is that of the member states, as they are those who were under public scrutiny and the pressure of the markets. The Eurocrisis was an emergency. The Six-pack was a rescue measure designed to deal with it. As an EP administrator admits, you need doctors when you operate. And if “you imagine a doctor operating your heart, you have to go fast ... you cannot lose your time” with the various attendants present in the room. The doctors are the Heads, not the EP (Interview Y).

In sum, the Six-pack was negotiated in a moment of acute crisis, where we would expect the EP’s responsible behaviour to be at its strongest. This can explain why the EP contributed minimally to the content of the package, even when its bargaining position would predict greater influence.

Many of these elements were instead absent in the case of the Two-pack. In late 2011 and early 2012 the crisis was far from over, and in some Southern member countries it worsened. Yet, the situation progressively stabilized and the existential threat became much less dramatic. The EU had already shown that it was capable to set up mechanisms and rules to stabilise the euro. Most importantly, the prospect of a euro collapse was drastically reduced when Mario Draghi, the European Central Bank (ECB) President, announced that the ECB was “ready to do whatever it takes to preserve the euro” (July 2012). After the speech, bond yields in distressed European countries fell sharply (Krishnamurthy et al. 2014). The Two-pack was for a good part negotiated and then concluded when the ECB’s intervention largely de-escalated the risks (Laffan and Schlosser 2016). As several interviewees recall, “the real danger wasn’t necessarily there anymore” (Interview O; also H, N). Further proof of this lies in the limited involvement of the European Council: the Heads were actively engaged in the negotiations of the Fiscal Compact, but took a less visible stance in the Two-pack (Interviews AD; Z).

The lesser sense of urgency had two observable implications on the EP’s behaviour. Space for (less responsible) politics opened up. First, the EP waited to open trilogue negotiations until it secured a strong mandate from the plenary. Unlike the Six-pack, the political groups aimed to obtain a broad cross-party agreement which would represent not only “the outcome of a committee vote, but the position of the EP as a whole” (Interview W; also D). Second, the EP dragged the negotiations longer and pressed harder for its case. Seventeen months passed from the Commission proposal to the conclusion of the legislative process (November 2011/March 2013). The “weak” Presidency of

¹² S. Iacolino, *Explanations of Vote*, 28.09.2011.

Cyprus (second semester of 2012) offered an institutional window of opportunity for the EP, as the Cypriots were incapable to push for a conclusion (Interviews P, S). Indeed, the negotiations “got stuck and were not moving” (Interview Z). Yet, the different negotiation behaviour of the EP did not have any consequences in terms of outcome. As shown in section II, the final text was not too dissimilar from what the Council and the Commission wanted at the beginning of the process.

In sum, the responsibility/crisis cannot satisfactorily explain the outcomes of the Two-pack. The crisis largely receded, and in fact the EP pursued more assertive negotiation strategies. However, this did not translate into a substantive policy impact. We would have expected the EP to be able to extract several relevant concessions.

V. Responsibility and core state powers

The bargaining and responsibility/crisis hypotheses explain the limited influence of the EP in the Six-pack and Two-pack only to a certain extent. Here, we propose an alternative, exploratory explanation of the EP’s marginal role and then we offer some preliminary evidence. Using the sociological institutionalist notion of responsibility, we argue that responsibility as a unilateral norm for the EP might apply not only in single legislative files linked to exceptional events (e.g., Eurocrisis), but it might refer to more structural features of EU’s policy-making. The EP’s failure to shape the two EMU packages may have depended on the nature of the issues negotiated: the coordination of national budgets and macroeconomic surveillance. The contribution of the EP is usually less relevant in policies that impose costs on states (Costello and Thomson 2013; Shackleton 2000: 338-339). More generally, budgetary and macroeconomic policies are close to the core of state powers. Alongside coercive authority, monetary power and a nation-wide administrative capacity, they “are constitutive of states in ways that other policy functions of the state [e.g., consumer protection] are not” (Genschel and Jachtenfuchs 2013: 9).

As a result, the EP might find itself highly constrained in the EMU. The significant environmental challenges that the EP normally has to face – which arise from a growing mobilization of national electorates and complicate its full institutionalization as-a-legislature (Roederer-Rynning and Greenwood 2016: 6-7) – are greatly intensified in the EMU. Member states – the Council and the European Council – retain a prominent decision-making role (Fabbrini 2013; Puetter 2014). National leaders not only are “instinctively reluctant to see their own powers diminished”; they “cannot

easily ignore deeply entrenched conceptions of state sovereignty that resonate with nationally specific ideas about the exercise of power, freedom, and democracy” (Jabko 2013: 125).

In this context, when participating in the regulation of major aspects of the EMU (even under codecision), the EP might recognise that the primary responsibility to act resides in the member states. When the latter want to dictate policy, the EP understands that the informal rules of the OLP change and restrains from playing the traditional role of a full (and eventually tough) co-legislator (Bickerton et al. 2015: 712-713).

Preliminary evidence gathered by our research finds plausible support for this argument. Responsibility (see also section IV) was associated to the fact that both the Six-pack and the Two-pack are about the control of national budgets. The EMU is considered a “special chapter in EU integration” (Interview R). First, the Council is “still the master: sovereignty is of the member states here, not of the Union” (Interview S). The competence of the Union (art. 121 and art. 136) is limited to the coordination of national economic policies: member states retain power for anything that does not fall under this coordination.

Second, the main mechanisms of accountability of national budgetary policies, however dysfunctional the system might be, are still at the domestic level. The Four Presidents’ Report (December 2012) reminded the EP that “decisions, which implicate national budgets, ‘are at the heart of Member States’ parliamentary democracy’” (Rittberger 2014: 1178). Since the economic consequences of the Six-pack and Two-pack are experienced nationally, governments have to primarily justify their choices to domestic voters, groups and Parliaments (Interview I). On the other hand, “yes, parliamentarians are directly elected. But do you think any voter makes the link between MEPs and certain things that happen in their country because of a file voted by the EP?” MEPs are not “as responsible as ministers”, who have to respond to their national publics for each “euro that is going to Brussels” (Interview E). Third, the two legislative packages were negotiated in a context where member states set up in parallel rescue funds financed with national tax-payers’ money. This money “came not from the EP, not from the EU budget: the money came from national governments” (Interview Y).

Even under codecision, the EP might not be considered enjoying the same decision-making authority as the Council and the Eurogroup (Puetter 2014). A Council official reveals that in EMU

“I’m not used to seeing the EP as an institution [that co-legislates] ... The impression we have is ‘let’s not let these guys [i.e., MEPs] to mess up too much with these things. We have our checks and balances, we know why we ask things ... Our mood is like, ‘OK, we need to deal with them’... Usually there has been a tested rule like ‘let’s give them those minor issues so they have the impression they have been given something’. [On] the important things, let’s keep our stance until the end and then we’ll somehow solve it” (Interview R).

These considerations can alter how the OLP works. As an EP official puts it, “I think that we are a full co-legislator on regular co-decision files” like (say) transport; the situation appears different when the legislation concerns policies with a strong national imprint, especially if coming from the Heads (Interview Y).

There is some evidence that the authority of the member states constrained the EP in the Six-pack and Two-pack. Knowing that the Council “needed the package adopted” (Interview T), the EP was largely cooperative. It quickly “recognized the political importance for the member states and has not made a war out of it” (Interview S). Changing the underlying philosophy of the packages was not viable “for clear political reasons” (Interview F). The red-lines of the negotiations were set by the Council – with the EP showing “that it was willing to play the game” (Interview AE). Challenging them would have been irresponsible (Interview H). The final outcomes of the negotiations are in line with this reading. Consistently with a second-rate role in the EMU, the EP was unable to have its demands adopted (Interview A, D),¹³ while intervening in a policy sector closer to its cords – bringing more transparency to budgetary and macroeconomic surveillance (Interview E). As an EP insider recognises, for MEPs it was already quite something “to put up a nice negotiating face with the Council knowing that, at the end of the day, they would have to drop certain things” (Interview W).

Conclusions

This paper has analysed in detail the EP’s influence in two EMU legislative packages, the Six-pack and the Two-pack. It had two main aims. Descriptively, it has shown that, despite being negotiated under the OLP, the EP obtained very little in the process. When the EP advanced some (limited) demands, only some secondary points (i.e., Economic Dialogue) were taken on board. Significantly,

¹³ Cf. also the interviews and policy details of section II.

the content of the Six-pack was largely precooked by the member states and the Commission, confirmed by the Council and presented as a sort of *fait accompli* to the EP for the definite approval.

We then tried to explain the reasons behind the EP's failure to shape these policy processes. Drawing on existing literature on EU policy-making, we assessed two hypotheses: the rational-institutionalist mechanism of BATNA; and the sociological-institutionalist notion of legislative responsibility, linked to moments of acute crisis. While these two perspectives offer relevant insights on the two cases, they can explain our puzzle only to a certain extent. In particular, the BATNA offers a compelling account of the Two-pack, while the urgency and high intensity of the Council's preference should have granted the EP more and more substantive gains in the Six-pack. Responsibility/crisis applies well to the Six-pack, but the crisis considerably lessened in the Two-pack.

In the last part of the paper, we have suggested an alternative interpretation of these negotiations. Working around the concept of legislative responsibility, we have argued that in areas close to core state powers, issues of national sovereignty and the rise of state-based institutions might have relevant consequences for how the EU functions, even under the OLP (Bickerton et al. 2015). The Six-pack and the Two-pack regulate an area (budgetary and macroeconomic surveillance) that raises problems of sovereignty and that states consider primarily their domain. An informal norm of responsibility might have emerged, constraining the behaviour of the EP within the boundaries defined by the states. Significantly, responsibility should be understood not only as part of a culture of codecision but also as a norm defining the appropriate legislative behaviour of the EP alone. Preliminary evidence demonstrates the plausibility of this reconstruction.

These considerations can be connected to the broader debate on the legislative role and political nature of the EP. Future research could further investigate whether responsibility as an EP legislative norm is a more structural feature of EU policy-making. A fruitful line of enquiry would compare cases when codecision regulates key areas of policy domains most fundamentally associated with state sovereignty. In this vein, there is some evidence that analogous legislative dynamics indeed apply to immigration and asylum policy (Ripoll Servent 2013; Ripoll Servent and Trauner 2014). It has also been recently shown that the EP made very limited use of its (new) powers in the EU's annual budget procedure by failing to play an assertive role in negotiations (Bauer et al. 2015). At the same time, more conceptual efforts could be dedicated to identifying the causes and mechanisms behind the possible responsible behaviour of the EP. This research would generate valuable insights for a more

accurate analysis of the institutionalization of the EP as-a-legislature (Roederer-Rynning and Greenwood 2016).

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Appendix

List of Interviews

- A – 25.03.15. Financial expert, Ministry of Economics and Finance, Italy.
- C – 09.04.15. Senior Assistant to shadow rapporteur (G/EFA).
- D – 09.04.15. S&D Policy Advisor.
- E – 10-04-15. Financial Counsellor, Permanent Representation of Slovenia.
- F – 13.04.15. Director, Commission.
- G – 13.04.15. Head of Cabinet, Commission.
- H – 14.04.15. Senior Administrator, Council.
- I – 14.04.15. Senior Administrator, Council.
- L – 15.04.15. Head of Unit and Administrator, EP Research Service.
- M – 15.04.15. Administrator, ECON Committee, EP.
- N – 15.04.15. Financial Counsellor, Permanent Representation of the Netherlands.
- O – 15.04.15. Administrator, EP.
- P – 15.04.15. ALDE Policy Advisor.
- Q – 16.04.15. Administrators (joint interview), ECON Committee, EP.
- R – 16.04.15. Financial Counsellor. Permanent Representation of the Czech Republic.
- S – 16.04.15. Senior Administrators (joint interview), Council legal services.
- T – 16.04.15. G/EFA Policy Advisor.
- U – 16.04.15. ECR Policy Advisor.
- V – 30.05.15. Financial Counsellor, Permanent Representation of Cyprus.
- W – 15.07.15. Administrators (joint interview), EP legal services.
- Y – 16.07.15. Administrator, CRIS Committee, EP.
- Z – 16.07.15. Financial Counsellor, Permanent Representation of Ireland.
- AC – 17.07.15. Assistant to shadow rapporteur (ALDE).
- AD – 17.09.15. Top official, European Council.
- AE – 28.06.2016. Special Adviser, Commission.
- AF – 28.06.2016. Director, Commission.

TABLE 1. Key controversies in the Six-pack

	<i>Commission Proposal</i> (29.10.2010); <i>Council General</i> <i>Approach</i> (15.03.2011)*	<i>EP (ECON) Position</i> (19.04.2011)	<i>Final text</i> (28.09.2011)
Strategy for growth	No reference	Complementing SGP with a strategy for growth and jobs. References to poverty and social inclusion	No reference
Deficit criteria	No reference	Considering the quality of expenditure; and states' medium-term rate for potential growth	No reference
Democratic legitimacy	No reference	Economic dialogue; obligation for national politicians to be heard in the EP; obligation for the Council and Commission to explain their position	Economic dialogue; possibility for national politicians to be heard in the EP; Council and Commission: no need to explain position
Reverse Qualified Majority Voting	Yes (4 cases)	Yes (19 cases)	Yes (5 cases). Plus one compromise (simple majority)
Macroeconomic imbalances	Deficit and surplus to be treated differently Scoreboard: Commission in charge	Deficit and surplus to be treated symmetrically Scoreboard through delegated acts	Need for policy action is particularly pressing for states with deficits Scoreboard: EP and Council consulted
Eurobonds	No reference	A Commission's report, by the end of 2011, and possibly legislative proposals to establish Eurobonds	Promise to carry out further studies

*The texts of the Commission and the Council are extremely similar and have the same positions on the key controversies here identified. Minor disagreements concerned the distribution of fines and the cost of fully funded pension reforms.

TABLE 2. Key controversies in the Two-pack

	<i>Commission Proposal</i> (23.11.2011); <i>Council General</i> <i>Approach</i> (21.02.2012)*	<i>EP Plenary Position</i> (13.06.2012)	<i>Final Text</i> (13.03.2013)
European Redemption Fund	No reference	Redemption fund over a period of 25 years as a first step towards EU level bonds	No reference
Eurobonds	No reference	Road map towards Euro area common sovereign debt instruments. Report on a European Debt Authority	No reference (but high-profile Working Group)
Growth facility measure	No reference	Proposals for a Euro area sustainable growth measure	No reference
Macroeconomic coordination and growth	Focus on budgetary policies	References to the Union strategy for growth and jobs; reforms consistent with social rights	Focus on budgetary policies
Democratic deficit	No reference	Broader democratic goals: democratization of the EMU. Involvement of the EP. Economic Dialogue.	Specific instruments: involvement of the EP. Economic Dialogue.
Legal protection to defaulting states	No reference	Provision for the Commission to put a state temporarily under legal protection (in the text)	Much looser provision in the recitals only
Reverse Qualified Majority Voting	Council (QMV)	Commission (RQMV in Council within 10 days)	Council acting on a Commission proposal (except post-programme surveillance)

*The texts of the Commission and the Council are extremely similar and have the same positions on the key controversies here identified. Minor disagreements within the Council concerned the kind of recommendation to be issued for financially stricken states, and what role the Council should have in its adoption; and what countries should be required to submit their budgetary plans to the Commission/Eurogroup for monitoring purposes.