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# A republican fiscal constitution for the EMU

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## ABSTRACT

The democratic management of macroeconomic externalities between Members of the Economic and Monetary Union requires abandoning the legal entrenchment of fiscal rules as well as their technocratic administration. The fiscal constitution of the EMU can instead become an instrument that guarantees European citizens' and peoples' reciprocal non-domination. This republican goal can be attained once a core set of fiscal principles are agreed upon and later interpreted in a political way by the Council and the European Commission. To be non-dominating the interpretations of these executive bodies on the management of macroeconomic externalities must be subject to a 'dual contestatory system'. Citizens should not only control, through their national parliaments, what their own governments decide, but also what a collective of governments decide at the EU level. This requires stepping up of the contestatory powers of the European Parliament. Finally, this kind of democratic control should be epistemically supported and facilitated by a network of national Independent Fiscal Institutions who should allow citizens and parliaments to monitor what executives decide both at the national and at the EU level.

**KEYWORDS** democracy; monetary union; fiscal rules; domination; macroeconomic externalities

## Introduction

When the first Conte government began converting the Five Star Movement and Lega's manifestos into expenditure items for the 2019 budget law, it quickly became obvious that Italy's macroeconomic policy would attract the attention of the European Commission. Despite pledging in Brussels to reduce the nominal deficit from 1.6% to 0.8% of GDP, the government updated the Economic and Financial Document in October 2018 by going in the opposite direction, revealing an increase in the deficit to 2.4% of GDP. After 3 months of closed-door negotiations, one letter from 11 heads of state and 306 basis

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points of increased spread between the Italian BTP and the German Bund, Giuseppe Conte ultimately backtracked. On December 28 an amended budget was sent to both chambers and voted without full parliamentary discussion.

While Italy might have been prevented from increasing its dangerously high public debt, this latest and perhaps more conspicuous clash between a Member State and an EU institution can hardly be seen as a victory for the EMU. The already shaky legitimacy of the fiscal rules was – at least on the Italian side – either questioned or, worse, directly undermined. This was not simply the result of the two governing parties' populist rhetoric, but, more generally, the consequence of a decision-making process that has not managed to foster any significant public dialogue between the different polities of the Eurozone. In this sense, the Italian case is only the latest reminder that, when it comes to EMU budgetary surveillance, numbers and technical parameters seem to matter more than public justification, as the main political dialogue remains either behind closed doors, while the only public one is squeezed into the simplistic as much as divisive pro- versus anti-Europe framework.

From a macroeconomic perspective, things are not much more encouraging either. The current system has been accused of being dangerously procyclical and overly complicated (European Fiscal Board, 2020; but also; Blanchard et al., 2021), so that prominent macroeconomists have joined the plea for a reform of the rules (among others, see Dullien et al., 2020; Darvas et al. 2018).

The concern in this paper is with democratic congruence rather than with economic optimality or clarity. The argument highlights how the EMU's macroeconomic constitution, by relying too much on what can be called 'the logic of consent and delegation', has empowered intergovernmental institutions at the expense of representative ones, namely Parliaments. Moreover, the mandates and powers given to EU institutions to enforce fiscal discipline leave large authorisation gaps that are in need of democratic justification.

In order to make the functioning of the EMU and its unavoidable interference in national decisions compatible with individual and collective freedom understood in a *republican* sense, the EMU macroeconomic constitution should adopt instead a 'logic of political control'. This would enable the demoi that participate in the EMU to exercise a form of 'joint and equal control over the conditions that allow their reciprocal non-domination' (Ronzoni, 2017, p. 219) while avoiding the constitutional entrenchment of specific fiscal preferences. What is needed is a political process that allows European demoi to see each other's macroeconomic preferences as reasonable, yet necessarily different, interpretations of how to manage national economies under conditions of deep interdependence.

Concretely, I submit that such joint democratic control would require a move from the current rules-based fiscal framework to a political process of macroeconomic coordination where the Commission and the national governments publicly defend their interpretation of a core set of fiscal principles. Simultaneously, the abandonment of most fiscal rules should be accompanied by the empowerment of representative institutions and their power of political contestation. The European Parliament (EP) should be able to scrutinise and contest the European Commission's analysis of the MS fiscal plans, and therefore allow national citizens to better control what their executives decide at the EU level. Finally, this contestation and politicisation should be epistemically supported by a network of national Independent Fiscal Institutions.

This conclusion builds upon a critical analysis of the key positions and objections of one federalist and two democratic – a legal and an intergovernmental – readings of the EU. This analysis reveals a tension between, on the one hand, the entrenchment of binding rules that are meant to guarantee non-domination between demoi and, on the other hand, allowing each of them to exercise democratic discretion over its fiscal choices. Solutions to this tension can be found by combining insights from these different approaches in a comprehensive reform that touches on both the constitutional and the policy-making level. Taking on board some of the normative concerns of federalists (Schlosser, 2019), the argument suggests that the direct election of MEPs, as representatives of the national demoi, is an appropriate republican check – at the policy-making level – against the current intergovernmentalist bias. Siding instead with the more intergovernmental position of Bellamy and Weale (2015), the analysis adds that, at the constitutional level, the current entrenchment of fiscal preferences unduly restricts the space of democratic contestation to the benefit of technocratic decision-making. The upshot of this is not so much a full embrace of the logic of 'political constitutionalism' (Bellamy, 2007), but a proposal to let national and supranational executive institutions politically own and publicly defend their macroeconomic decisions. This increased space for political discretion and, therefore, capacity for arbitrary interference should then be constrained by parliamentary powers, rather than technical rules.

The first section introduces the problem of democratic externalities in the EMU and how it has been tackled so far. [Section 2](#) summarises how a federalist and two democratic positions would conceptualise and solve this same issue. [Section 3](#), articulated over three sub-sections, tries to offer a synthesis of the positions presented and suggests a new interpretation of what it means, institutionally, for the demoi to exercise a form of joint, equal and, therefore, non-arbitrary form of control over the terms under which macroeconomic externalities are governed.

### ***Consent and control in the EMUs macroeconomic constitution***

While monetary policies have been centralised in the EMU, the power to spend, tax and emit public debt – generally seen as the hallmark of sovereign power – is for the most part kept at the level of the Member States<sup>1</sup>. However, the fact that monetary and fiscal policies are in principle both suitable and interdependent instruments to manage aggregate demand (and, indirectly, fiscal sustainability) creates a problem. Without some form of coordination, the autonomous spending decisions of the individual governments would risk having perverse effects at the aggregate level. Moreover, national fiscal discretion in a monetary union implies that over indebted governments can run into financial problems that can easily spill over to other members and/or force wealthier ones to come to their rescue. In short, sharing a currency exposes a country to the risk that its neighbours will choose policies which impose severe macroeconomic externalities on its economy (Beetsma & Giuliodori, 2010).

Successive EMU reforms have been aimed at solving what, according to this logic, is the root problem, namely: national fiscal activism. Indeed, on the economic leg of the EMU, rules have been established to limit governments' fiscal activism. The Stability and Growth Pact was meant to reduce the capacity of governments to use discretionary spending to manage aggregate demand. In particular, it prescribes that budget deficits must not exceed 3% of GDP and that gross public debt remains below 60% of GDP. If it is higher, then the pact specifies that the ratio should decrease by at least one twentieth from the gap to the 60% target every year. Following the financial crisis, European leaders furthermore agreed to three important pieces of legislation: the 'Six Pack', 'Two Pack' and the Fiscal Compact. While the first two are part of EU secondary legislation, the third one is an intergovernmental treaty that binds countries to a norm of balanced budget and public debt reduction. Despite low levels of compliance with some of its provisions, the Fiscal Compact modifies the domestic institutional structure that governs fiscal policy-making, specifically primary legislation, with the aim of pre-empting certain fiscal choices and committing future governments to a path of debt reduction.

Taken together, these rules and procedures form what can be called a multi-level macroeconomic constitution, in the sense that rights, responsibilities and decision-making processes are codified in a system of laws that is in practice very hard to change and that ultimately conditions 'who gets what and when' when it comes to fiscal coordination. In particular, this system of governance assigns responsibility for internalising the externalities that arise from fiscal policies to national governments that produce them, since the rules put an upper limit to

the deficit and public debt levels and make borrowing above that amount more (politically) costly. The principle of a balanced budget over the medium term thus acts as a sort of allocation of borrowing rights under the supervision of a central authority, namely the European Commission, which is meant to scrutinise individual countries' fiscal choices, leaving to the Council the task of politically endorsing its judgments and potential sanctions.

Crucially, this constitution – and especially the pieces of legislation ratified between 2011 and 2015 – is not the outcome of a long process of identity building between the peoples of Europe. Rather, it represents the best compromise that national executives could reach between, on the one hand, saving the euro in the middle of a financial crisis and, on the other hand, ensuring that this effort would not jeopardise fiscal discipline and fiscal responsibility (Schlosser, 2019, ch 3; Crum & Merlo, 2020; Merlo, 2023b). Overall, the recourse to a combination of rules and technocratic institutions to manage democratic externalities in the EMU has adopted what can be called 'the logic of consent and delegation'. This means that future conflicts between states on macroeconomic affairs have been settled by letting national executives draft a stringent set of rules that constrain national fiscal policy. While the hardwiring of fiscal discipline in the fabric of the monetary union can be seen as an attempt to shield countries' sovereignty from the choices made by other polities, and therefore as a way of affirming the nexus between fiscal liability and fiscal control, little attention has been given to the ability of citizens to control the process of monitoring itself.

The present argument builds on the idea that one of the key functions of a constitution is to ensure that public authority can be controlled by those who are subject to it. Ideally, this should happen through institutions and procedures that manifestly recognise the political equality of those who are part of the constitutional project. In short, constitutions – economic as well as multi-level ones – should create relationships that uphold the value of non-domination. Its antithesis, namely domination (Pettit, 1997, 80), happens when individuals do not have a say in the terms of the social relationship they are part of, as they lack meaningful control over the choices they can make because another agent, or a plurality of agents, has the ability to arbitrarily interfere in their lives (Lovett, 2010). From this normative vantage point, macroeconomic policies can appear as a source of domination, to the extent that citizens do not have a suitable degree of control over the way they are set. Through taxation and spending governments modify the opportunities and choices citizens face as consumers and as workers; they are – to use Berlin's (1969) famous metaphor – the door-keepers that may choose which doors are open and which ones remain closed (Pettit, 2012, p. 66). For it to be undominating, the capacity of elected representatives to 'form and act

on a will or preference as to how precisely you should be restricted' (Pettit, 2012, p. 165) must be constrained and steered by citizens through democratic institutions.

Unfortunately, the EMU 'logic of consent and delegation' sustains a supranational fiscal framework in which the avenues for democratic control are purposefully limited. As a result, the problem of unchecked authority remains unsolved. Conceptually, this is not particularly surprising. Indeed, republican scholars like Pettit would be quick to remind that consent is not *per se* a sufficient guarantee against domination. Indeed, there can be consent without meaningful control, as well as control without consent (Pettit, 2012, Chapter 4). The latter corresponds, for instance, to the case of citizens as part of their national democracy: they are born under a specific state and political arrangement to which they did not consent, but they can still be said to control it, provided the right democratic institutions are in place. Conversely, it is possible to agree to arrangements over which one lacks control. The most extreme example of this being the consent to a slave contract.

In practice, the logic of consent and delegation has exposed at least two dimensions and forms of domination. First, there is an *internal* dimension of domination to the extent that the current EMU macroeconomic constitution changes the way in which citizens and parliaments are able to control their own executives and therefore be subject to public authority. An example of this is the dominant role that executive actors play in the coordination of fiscal policies. Indeed, in this governance framework national representative fora 'find themselves at the losing end of a considerably "reinforced two-level game"' (Crum and Merlo, 2020, quoting Crum, 2018), in which the timeline of the European Semester limits their capacity to contest government's budgetary decisions. Political decisions by a collective of governments (like the EU Council of Ministers) risk becoming a form of alien power, removed from parliamentary scrutiny and democratic contestation.

Second, one can observe an *external* dimension of domination, in the sense that countries have to bear the consequences of decisions reached in Brussels with very little room for discussion. In fact, while the logic of consent and delegation managed to considerably limit the use of discretion when judging the appropriateness of macroeconomic policies, seemingly administrative decisions need to be taken by the Commission each year in its assessment of national budgetary plans (Schmidt, 2020). The need to interpret rules and make context-sensitive judgments on Member States' spending opens up questions regarding the sources of legitimacy that are meant to justify these decisions. If the set of reasons which support the decisions of the Directorate-General for Economic and Financial Affairs cannot be purely technically specified, then any political discretion should be backed up by democratic channels that are currently lacking at this level.

These two levels of domination are a direct result of the decision to hard-wire a specific definition of fiscal responsibility into the EMU economic constitution and (consequently) to avoid establishing democratic procedures and political discussions to manage macroeconomic externalities. Admittedly, this kind of impersonal 'rule by rules' (Schmidt, 2020) seemed like the least problematic solution for a policy area that is considered the hallmark of sovereign power. However, the unavoidable need for discretion and judgement in implementing a system of rules ended up empowering the European Commission and the Council at the expense of representative institutions. To conclude, if it is becoming harder to claim that states' past agreement to this institutional structure is, on its own, a strong enough 'legitimation device' for the kind of structure of power it currently sustains, it is still unclear which vision of democratic control and what kind of macroeconomic constitution could close these authorisation gaps. The next section presents three solutions to this problem.

### ***Under whose control? Three positions on democracy in the EMU***

Who are the agents to whom control of the EMU framework is owed? What kind of institutional arrangements are necessary to bring about this form of control?

A natural starting point is to argue that the unit of moral concern is, ultimately, individuals and that therefore any institution with authority over them should be subject to their direct democratic control. After all, the goal of the republican institutional programme is to allow individuals to shape their normative environment so that they become a 'voice worth hearing and an ear worth addressing' (Pettit, 2002, p. 350). In turn, if the current macroeconomic constitution lacks strong enough channels of accountability besides the national ones, then the easiest strategy is to correct the current bias towards executive intergovernmentalism by reorganising European democracy along federal lines (Schlosser, 2019, p. 233).

Underpinning this model is of course the idea that a non-dominating economic constitution should empower European citizens as equal and direct co-authors of the system of rules that governs them. In other terms, political equality among European citizens can only be attained by making them equal controllers of the same structure of authority. Incidentally, this normative stance is in line with what few scholars (for instance Enderlein & Haas, 2015) have been advocating for some time from a utilitarian perspective, namely: the creation of a European Finance Minister in charge of fiscal coordination and the empowerment of the EP as the forum representing European citizens to whom supranational executives should be accountable. The scaling up of European democracy would guarantee that the enforcement of rules by the supranational agencies in charge would



be matched by appropriate channels of contestation as well as electoral incentives.

However, this functional uploading of sovereignty has been criticised as lacking the precondition for its success, namely the existence of a demos capable of discussing and instantiating the kind of republican popular control which guarantees that, in drafting common rules, no citizen or social group has more power than another one.

Republican theorists argue that the best we can do in the face of citizens' partial interests and their advancement of conflicting but reasonable views of justice, is to devise an impartial system that expresses their political equality (Bellamy, 2019). This process of scaling up democracy and taking away competences from the national level would compromise the capacity of citizens to be equal controller of the same system – a capacity that stems, among other things, from sharing similar economic structures which creates cross-cutting cleavages that can be resolved by appealing to shared values.

In the case of fiscal and monetary policies, the relevant economic structures and relations would be, for instance, the political process of wage bargaining and its position of (dis)empowerment vis-à-vis the monetary authorities and the government (Scharpf, 2016). Unlike a federal system, democracy at the level of the Member States succeeds in the task of fairly coordinating these economic relations thanks also to the existence of a shared public culture, which 'provides a source of agreement on the kind of issues that can be raised and the values that can be appealed to, making it less likely interlocutors will view each other's points as mere personal opinions and interests' (Bellamy, 2019, p. 79).

In contrast to the federalist solution, a variety of demoicratic models suggests that the EU should not try to supplant national democracy, but rather to enhance its qualities in the face of international interdependence (Nicolaidis, 2012, 2013; Bellamy, 2013; Cheneval et al., 2015, among others). Demoicrats argue that the inherently political nature of the different demoi that composes the EU makes them the proper unit of moral concern, since their capacity to operationalize different views of justice is ultimately the expression of the autonomy of the citizens that compose them. The goal of the EMU should thus be to guarantee the 'joint and reciprocal freedom' (Ronzoni, 2017, p. 218) of the peoples of Europe, by devising institutions that allow them to govern 'together but not as one' (Nicolaidis, 2013, p. 351).

Resisting the federalist temptation to ascribe political equality to EU citizens, rather than European peoples, does not imply that the problem of externalities is simply tolerated. On the contrary, demoicrats insist that the purpose of the EU is precisely to allow these externalities to be managed in a non-dominating way. The different demoi should recognise that they have reciprocal obligations to one another in virtue of the potential risks and interferences that they can impose on one another.

A key question is how these reciprocal obligations can be operationalised in practice.

For the purpose of the argument presented here, it is useful to construct two distinct positions in the democratic framework that can be labelled as the 'democratic-legal' position and the 'democratic-intergovernmental' one<sup>2</sup>. The first view places more emphasis on the need to restrict the capacity for mutual domination among the different demoi through legal means, while the 'intergovernmental' one highlights the normative loss incurred when trying to achieve this goal by insulating monetary and at least a sizable part of fiscal choices from the domestic democratic process (Ronconi, 2017, p. 224).

The 'democratic-legal' view suggests that, even though EMU polities should be open to one another so as to formulate common positions and find common solutions, a more demanding notion of reciprocal accountability and responsibility should be employed in the case of macroeconomic management. This seems to be called for, since the mutual opening up of each other's public spheres leaves open the possibility that the demoi (or the executives in office) will still find it more profitable, even upon careful reflection, to disregard the interests of their neighbours. For instance, governments may still find it advantageous to stimulate domestic demand rather than reduce public debt in a period of economic expansion or to avoid correcting macroeconomic imbalances that make it harder for other countries to keep their price-level stable. Since this capacity to choose according to one's interests regardless of the preferences of others raises again the spectre of domination, the only solution seems to be to devise institutional mechanisms that truly entrench mutual responsibilities by changing the internal policy-making processes of national democracies. This is arguably in line with the institutional innovations and international treaties signed during the sovereign debt crisis. The Stability and Growth pact, but also the Fiscal Compact, can be seen as contracts between demoi that testify their commitment to avoid imposing risks on one another by letting public debt accumulate too quickly. By minimising through law the capacity of each and every demoi to arbitrarily interfere with the stability of the single currency (thus forcing other demoi to intervene), the mutual non-domination of all can be secured.

While endorsing binding rules does not preclude the possibility of criticising their technocratic application, it does raise the question of how extensive and detailed the formulation of these reciprocal commitments should be. Indeed, the 'democratic-intergovernmental' position sees the agreement with the international treaties that entrench, for instance, a norm of balanced-budget as unduly restricting the sphere of agency of Member States (Bellamy & Weale, 2015). From this perspective, the treaties that make up the 'economic constitution' of the EMU cannot and should not be endorsed by the domestic polities, since they constitutionalise a specific neoliberal view of

monetary arrangements that violates the principle of state neutrality and thereby privileges the (neoliberal) views of some at the expense of others (for instance, on the methodological bias of the SGP see Heimberger & Kapeller, 2017). Moreover, the empowerment of judicial and technical bodies that accompanies the treatise restricts the set of policies that majoritarian institutions can choose from so that the decision-making process 'fail(s) to recognise the equal legal and political status of citizens' (Bellamy & Weale, 2015, p. 224). The entrenchment of mutual obligations is thus incompatible with the capacity of each demos to express its own view of justice and thereby respect the democratic right of its citizens to meaningfully choose how to arrange their state's fiscal and monetary arrangements.

From the 'intergovernmental' perspective, parliamentary representation at the national level supported by a party system is the only mechanisms to fairly represent and adjudicate between the conflicting but reasonable views of citizens. Accordingly, at the EU level, the executives of each national demos – gathered in an intergovernmental setting like the Council of Ministers – should be the main decision-makers in the management of macroeconomic externalities, since they can be the sole representatives of their peoples' interests. The value of democratic inputs clearly turns on the 'chain of legitimacy' (Patberg, 2016, pp. 625–626) that links governments to the national parliaments and parliaments to individual citizens. In this picture, it is thus domestic parliaments that have been losing out as a result of EMU integration (Crum, 2018; Jančić, 2016) and it is primarily their role that needs to be redesigned. National parliaments should be able to better scrutinise EU legislation, as well as the decisions agreed upon by their governments, so that executives can be said to fully act on the authority of the domestic polity.

We are now in a position to map and summarise the conceptual space offered by the two democratic positions and the federalist one. The federalist solution seeks to extend political equality at the level of individual European citizens, so as to minimise, through the EP or a European Finance Minister, the external dimension of domination. Democratic-intergovernmentalism is concerned instead with the reduced space for democratic action engineered by the EMU's founding treaties and the risk of internal domination that they pose for national democracies. On the contrary, the democratic-legal position attaches more weight to the risk that macroeconomic externalities will not be internalised and therefore tries to minimise stronger demos' capacity for arbitrary interference through the constitutional and legal limitations of fiscal preferences.

### ***Institutional solutions for the joint and equal control***

Can one navigate the conceptual space offered by these three positions, so as to move, in a republican spirit, from the logic of consent to the logic of

democratic control? This section argues that this is a conceptually achievable task and one that can be implemented by engineering change both at the level of the economic constitution of the EMU and at the policy-making level. In particular, instead of having strong constitutional *rules*, this section argues for constitutional *principles* that are open for interpretation so that – at the policy-making level – the demoi will have to discuss and defend their own proposals regarding which macroeconomic externalities should be internalised and which ones should not. The idea is that only a democratic, and therefore, inherently political process can fairly determine which country or group of countries should modify their macroeconomic strategies.

This section makes three steps that logically hang together. First, it argues against the constitutional and legal entrenchments of substantive fiscal preferences in the form of fiscal rules. Instead, it proposes the introduction of a set of fiscal *principles* that EMU governments should agree to and add to their own constitution. Second, it highlights that only a ‘dual contestatory system’ that involves both the European and the national level can give content and legitimacy to the subsequent interpretation of how these principles will shape national macroeconomic policies. Third, the last section supports the empowerment of ‘orchestrator-type’ Independent Fiscal Institutions as the best way to meet the epistemic demands of this reformed EMU.

### ***From rules to principles***

As a first step, the economic constitution of the EMU, meaning the set of procedures, duties and rights that shape EMU macroeconomic policies, should be revised so that it specifies a set of general principles and procedures that should be respected in the conduct of national fiscal policy and in the process of macroeconomic coordination, rather than entrenching a substantive view on the management of macroeconomic externalities through numerical rules and technocratic discretion. While rules – like the famous 3% deficit to GDP ratio – contain a substantive interpretation of what good macroeconomic policy is, principles – like the goal of leaving *enough* fiscal space today in case there is a crisis tomorrow – require interpretation, discussion and a political judgement. Unlike numerical rules, macroeconomic principles do not necessarily have to specify *ex ante* which country should internalise the macroeconomic externalities so that different allocations of responsibilities and burdens of adjustments can, in principle, be accepted.

To see how the first element of this proposal builds on the three positions identified above, it is useful to start from what sets it apart, on a constitutional level, from the ‘intergovernmental-democratic’ view. Notice first that the latter solution suggests that the economic constitution of the EMU should follow the model of ‘political constitutionalism’ (Bellamy, 2007), according to which even a New-Keynesian – rather than a neoliberal – setup of fiscal and

monetary policies would not be acceptable, since this too would violate the idea of state neutrality (Bellamy & Weale, 2015). From the democratic-intergovernmental perspective, it is doubtful whether *any* binding commitment between demoi could ever be constitutionalised in the first place, given that it would risk entrenching some non-neutral views of what 'responsible' fiscal and monetary policies look like. The argument advanced here is instead that constitutional constraints may be devised in such a way as to protect citizens' equal influence in the democratic process, rather than as a way of privileging specific views. The main constitutional concern here is not that, without constitutional rules, simple majoritarian decision-making would produce bad results – as argued by Hayek (1979) in the case of deficit financing and inflation–, but (the procedural concern) that majoritarianism could undermine the capacity of citizens to be equal controllers of the same public institutions.

This is especially true in a multi-level governance system. When it comes to the governance of fiscal policies in the EMU, the majorities in question are not just the domestic ones, meaning the parties in the national government, but also the intergovernmental ones that are formed in the Council. Indeed, in the case of macroeconomic coordination, a majority of demoi, represented by their respective governments, can systematically fail to address the cross-border effects of their fiscal stance, making it harder for others to recover from a recession (as indeed seems to be the case, see Bartsch et al., 2020). Over time, the influence of some of the EU peoples over the process of macroeconomic coordination would be *de facto* eroded, together with their claim to be equal controllers of the same system of rules.

This risk of external domination comes on top of and exacerbates the existing risks of internal domination at the domestic level, where executive politicians and the Treasury are at the top of the fiscal policy-making process, which allows them to exploit their informational advantage relative to parliamentarians to sell the narrative most favourable to their case. For instance, they may use optimistic growth projections to make it seem like the debt-financed investments they propose significantly contribute to (and are 'repaid' by) future GDP growth (Merlo & Fasone, 2021). Hence, constitutional principles and well-specified procedures are needed to facilitate both the contestation of what each national government decides at home as well as the effective scrutiny of what groups of governments choose at the inter-governmental level.

The idea of constitutionalising a set of principles that should bind the way in which different demoi decide their fiscal policies is at odds with the political constitutionalism of the intergovernmental-democratic position. According to Bellamy (2007), citizens, through elections, domestic discussions and the division of powers, should be able to control both the procedures of decision-making and its substance, while the

supranational constitutional principles advocated here would necessarily restrict the first and, to some extent, the second (more on this below). Devising a system that is under the *continuous* equal control of all is essential, Bellamy argues, because some will not agree with the eventual collective outcomes and will thus have to have the certainty that their views have been taken into consideration. The idea here is that majoritarian institutions, rather than judges and constitutions, are the best means to guarantee the reciprocal non-domination of those that live under the same state.

However, there is a fundamental difference in the case of economic constitutions that are meant to bind different *demoi* to those that bind individual ones. At the national level, it may be correct that a balance of powers, pluralistic party systems and elections are the best tools to give *citizens* control over the terms of their reciprocal claim to non-domination when deciding on their economic policies. Yet, this does not easily transpose to the level of the different *demoi*, if they are represented – as the democratic-intergovernmental position suggests – by their own executives. Indeed, absent institutional safeguards, there would be no constraints on the will of a majority of the governments to restrict the influence of other Member States over fiscal policy-making. At the intergovernmental level, strong majoritarian mechanisms are not supported (and constrained) by the same domestic institutions Bellamy (2007) advocates (Glencross, 2016; Hillebrandt & Novak, 2016). Above all, the lack of parliamentary contestation of the choices executives take as a collective in the Eurogroup supports the conclusion that the directions they impose on the EMU cannot be seen as meaningfully under the control of those subject to them.

The problem is that when it comes to the regulation of macroeconomic externalities, some form of interference with the choices of the different *demoi* is inevitable. For instance, if German labour market reform places a deflationary bias on the Eurozone that reduces the capacity of other countries to effectively reform their labour markets, then a process of economic coordination should either make it more costly for Germany to pass its preferred policy or incentivise other countries to adjust their economic structures. In either case, the domestic preferences of some countries are influenced and constrained by the decisions reached at the intergovernmental level. Yet, under the intergovernmental model such interferences cannot be seen as under the control of the *demoi* subject to them. In other terms, how can the kind of legitimacy (i.e. towards its own citizens) that each and every government in the intergovernmental arena enjoys be used to justify the imposition of restrictions on the democratic choices of other states?

To insure the *demoi* against these risks, the EMU should be equipped with a principles-based constitution. Ultimately, an economic constitution, which

is aimed at preventing elected executives and their demoi from undermining the equal influence of citizens in their own country (i.e. the internal dimension of domination) and in other ones as well (i.e. the external domination) should enshrine the commitment of the member states to respect each others' economic choices. Hence, it might adhere to the following principles, which mainly draw on article 126 TFEU:

- (1) National executives should manifestly consider the interferences that their macroeconomic policies have on the EMU as a whole and avoid those policies that impose disproportionate costs on other Members to reach their domestic economic objectives.
- (2) National executives' fiscal policies should not result in an excessive accumulation of public debt that threatens the stability of the single currency.
- (3) Executives' discretion in interpreting what these principles imply, must be subject to parliamentary scrutiny and contestation at both the domestic and the supranational level.

Notably, rather than containing numerical rules, these principles are general enough so as not to place certain views beyond the reach of the different demoi. By countering the tendency to specify ex-ante the content and scope of fiscal rules, the idea is also that these principles form a set of credible commitments that EMU demoi can follow in the conduct of their macroeconomic policies.

The first two principles amount to credible commitments, because they leave ample room for national executives to choose the fiscal policy strategy they prefer. However, if these minimal principles were the only reform step, the system would still lack an institutional guarantee that executive actors would meaningfully consider either the externalities they produce on other EMU members as well as the costs they impose on their own democratic publics. Moreover, the problem of intergovernmental majorities would still remain unaddressed. This is where the idea of a 'dual contestatory system comes in'.

### ***From consent to control: the role of parliamentary contestation***

A 'dual contestatory' system at the policy-making level guarantees that the way in which executive bodies interpret the revised principles of the EMU's economic constitution is subject to parliamentary scrutiny both at the domestic and at the supranational level. Ultimately, the goal is to move from the logic of consent and technocratic delegation by guaranteeing that citizens have a form of efficacious control over the interpretation of the fiscal principles advanced by the EU and national executives.

To see how parliamentary powers are necessary from a republican perspective to constrain executives and make public authority non-dominating, one needs to consider the key function legislatures fulfil in channeling different forms of democratic control. For Pettit (2012, Ch. 4) such control is the result of the interplay between the influence of citizens and a certain direction<sup>3</sup>. This influence can take the form of active, authorial participation, where citizens elect representatives who align with their views on how public power should be used. Additionally, citizens have ongoing access to the democratic process through mechanisms that allow for contestation, enabling them to understand why certain decisions are made and preventing power-holders from breaking their promises. This form of control, as described by Pettit (2006), is not exercised directly by citizens, but rather exists as a virtual disposition to modify government actions if they deviate too much from the preferences of the citizens. This indirect form of control can be observed when the government is motivated by public opinion or fears public backlash. Opposition parties also serve as a constraint on political power, as they can question and scrutinize the actions of the executive, leading to further contestation among citizens and social groups. These forms of popular control aim to pre-empt government actions by ensuring their contestation and justification in appropriate forums, and by anticipating the political consequences associated with them. The goal of this process is to increase transparency and prevent domination by powerful actors and interest groups. By requiring the government to explain their decisions in public forums, it becomes more difficult for them to hide the influence of outside forces. The contestation process should ultimately lead to laws and policies that are seen as contributing to a reasonable conception of social justice, free from the influence of hidden interest groups or foreign entities.

How can this form of control be applied to the governance of fiscal externalities between EMU Member States? In this reform proposal, the role of parliaments is essential since numerical rules on debt and deficit, pre-empting any political discussion between countries, would be abandoned. Indeed, this 'republican' EMU governance framework would not rely on the Commission's administration of fiscal rules to pass judgments on the probity of Member States' governments fiscal plans, but rather on the democratic interpretation of what the fiscal principles imply for the conduct of each Member State's fiscal policy.

Under these conditions, reinforcing the demoï's control over their own government cannot be enough to guarantee that the decisions reached at the EU level will be seen as being sufficiently controlled by those who are subject to them. Demoï's 'virtual' control should also be extended to the EU level. This means borrowing from the federalist framework the idea of direct representation in the EP, but to adapt it, as demoicrats suggest, to the reality of the EMU. What is needed is the representation of the different demoï,



rather than of an EU demos, at the supranational level (cf. Lord, 2017). The direct election of representatives of the demoi in the EP is to act as a political constraint on both the intergovernmental decisions of the Council, and the fiscal surveillance of the Commission. In other terms, when publicly formulating an interpretation of what the principles of the economic constitution of the EMU imply for the conduct of macroeconomic policies, the governments that sit at the Council must know that what they propose will have to be defended and explained in a public forum, rather than simply communicated to the respective polity as a done deal.

In practice, the Council of Ministers, with the support of the Commission, would first have to reach a consensus on the attribution of responsibilities for the internalisation of macroeconomic externalities. Then, at a second stage, this interpretation would be discussed and voted on in the EP, who would have the power to block the decisions reached by the Council and order it to reconsider its position (cf. Crum, 2018). In extreme circumstances, national executives should be called to appear before the EP.

This 'dual contestatory system' relies on the coordination of the work of MPs and MEPs across countries. National parties will not only contest in domestic parliaments the actions of their own government but also the decisions of governments in other countries through their membership in the EP families. For this latter form of parliamentary constraint to take place, the representatives of the different demoi must be aware of each other's role in the creation or reduction in fiscal externalities and formulate shared interpretations and narratives of what the most appropriate fiscal stance is given the economic conditions (cf. Kinski & Crum, 2020; Savage & Weale, 2009).

Another important consequence is that, under this framework, national parties will be forced to consider the support that they enjoy at the EU level, rather than only their capacity to win national contests. At the same time, opposition parties will gain leverage against the government, as they will have a chance to contest what their government has done at the supranational level and construct transnational majorities that can force it to reconsider its stance.

To conclude and connect this second reform step with the previous one, it is important to highlight that the position advanced here lies somewhere in between the two demoicratic positions. Unlike the 'demoicratic-intergovernmental' solution, it relies on the common agreement on a few general principles that are used to frame the continuous political discussion between the demoi and their representatives. At the same time, the position is different from the 'demoicratic-legal' one, since what gives demoi the guarantee that macroeconomic externalities will be managed in a non-dominating way is not a legal architecture of binding rules, but a political process that involves the executives and parliaments at both the national and the EU level.

### *The epistemic demands of democratic control*

Eventually, the success of these reform steps pivots around the political interpretation of fiscal principles. For this reason, it is essential to guarantee that national and European parties can formulate judgments on the desirability and sustainability of executives' macroeconomic strategies. This follows the idea that abandoning the logic of consent and technocratic delegation requires the introduction of a truly political system of macroeconomic management through parliamentary scrutiny and contestation. The challenges to create this system are considerable though.

Unfortunately, when it comes to complex policy areas like macroeconomic stabilisation and fiscal policies, the task of contesting power and of unearthing the decisions made by executives is particularly hard, since Treasuries enjoy considerable epistemic advantages. For one, they produce costings of different proposed policies as well as their future impacts on economic growth (Wehner, 2010). Moreover, having access to information on revenues and tax collection suggests that it is possible for executives to shape and condition the polity's perception of problems and future challenges. In short, if executives have the possibility of arbitrarily deciding how to manage macroeconomic policies, they are effectively playing the role of doorkeepers in Berlin's metaphor.

This suggests that additional parliamentary checks are needed if the principles of the economic constitution of the EMU are to guide macroeconomic management. Because the quality and efficacy of public contestation depend on the availability and reliability of independent information, one republican strategy to ensure that governing parties feel under public scrutiny and know that they will have to give an account of their future decisions would be the empowerment of (independent) Fiscal Councils (Merlo, 2023a). These independent agencies are meant to support national parliaments and the EP in pushing the governments' plans into the open, thus allowing the public to scrutinise them. In turn, they can only fulfil this function if they are functionally independent from both the national Treasuries and the European Commission and if their members are elected for terms longer than the legislature and according to procedures that aim at promoting expertise. Ideally, they would serve as 'orchestrators' of fiscal policies, rather than, as they are currently seen, as 'agents' of the government or enforcers of fiscal discipline.

Moreover, in a democratic spirit, independent Fiscal Councils can make the national process of collective will-formation on fiscal policies more porous to the developments in neighbouring countries, in the sense that they can disseminate information and analysis on the fiscal stance of other states and of their stability plans. This additional democratic function suggests that a permanent network of fiscal agencies should be established so that information can be shared between countries. These independent agencies would thus emerge as a tool for citizens and parliamentary forces to not only

scrutinise the national government but also provide the necessary basis for common discussion at the EU level.

In conclusion, the proposed framework would borrow from the democratic tradition the idea that the demoi and their citizens are ultimately the unit of moral concern. At the same time, sharing a currency and being part of a highly integrated economic area means that the demoi can impose macroeconomic externalities on each other, which, over time, risks eroding their capacity to *de facto* control as equal partners the management of the EMU. The possibility of this lack of control and the external dimension of domination this may give rise to justify the existence of a set of constitutional standards and principles that guide the management of macroeconomic externalities. In turn, how these principles are interpreted and how they are respected by the executives in charge needs to be checked by both national parliaments and the European one. The existence of constitutionalised fiscal principles is not enough though. The guarantee that intergovernmental majorities will not dominate weaker members (external domination) and that national executives will not avoid domestic scrutiny by hiding behind decisions reached in Brussels (internal domination) comes instead from a reinforced and coordinated power of contestation by European parliaments.

## Conclusion

It is intuitively easy to see how public decisions that benefit us (either materially or in some other dimension) may promote our freedom and ability to fulfil our life plans, but it is probably harder to make the same case when a government policy constrains us. Yet republican theory suggests that citizens' non-dominated status is safeguarded, even when public authority negatively impacts them, provided they see this interference as somewhat like bad luck and not, more worryingly, as the result of an alien will (Pettit, 2020, Ch. 4). This happens when the process of decision-making has given every citizen an equal level of influence in the decision and subjected governments to sufficient constraints.

This argument suggests that these desiderata can be fulfilled in the context of influencing national fiscal policies and that therefore EMU citizens' status as free agents can be upheld, if changes are made at both the policy-making and the constitutional level of the EU macroeconomic constitution. In other terms, this reform proposal does not simply aim at giving EMU citizens and demoi more control so that public decisions will conform to their preferences, but also at allowing them to see the constraints public authorities place on them as non-arbitrary and dominating.

To see how this republican system may work in practice and to compare it to the current system, consider again the clash between the Italian government and the European Commission in 2018. First, the

need for public discussion on the interpretation of what the constitutional principles imply for the national conduct of fiscal policy would have made it more likely for contrasting positions to be identified sooner, thus preventing the Italian government from strategically renegeing on its commitment just 3 weeks after agreeing with the Commission's recommendations (Fabbrini and Zgaga, 2019). Indeed, this republican proposal suggests that, since the EP can veto the initial interpretation of the macroeconomic principles produced by the Commission and the Council, it becomes advantageous for national governing parties that have a different position to that of the Council to look for support in the EP. This process would have increased the possibility for compromises to be reached before national governments decided, like the Conte Government did in 2019, to opt for an open confrontation with EU institutions.

Relatedly, and second, once executives have to politically own an interpretation of the fiscal principles and have to defend them in a public forum, the process of fiscal coordination stops being seen as a bilateral negotiation between the Commission and the national bureaucracies that ultimately prevents any form of parliamentary contestation. For instance, the 'Italian case' was ultimately closed after a long closed-door discussion that dragged on until 30 December 2018 thus leaving little room for any parliamentary discussion of the substantial budgetary cuts the Conte government had to accept. The current reform proposal suggests instead that budgetary coordination can be seen under the control of those subject to them if executives' decisions are discussed in both the national and the EU level representative fora. This means that the budgetary changes each national government should perform to comply with the interpretation of the fiscal principles should be negotiated with the Commission and the Council as a first step, but then also confirmed by the EP and the National Parliament.

Third, because, under this reform proposal, public discussion should be supported by the analysis of Independent Fiscal Councils, the ability of the government to use its technical expertise to sell the political narrative they prefer would be severely curtailed. The optimistic growth forecasts produced by the Italian Government for 2019 would have been harder to produce and adopt, had the Ufficio Parlamentare di Bilancio (the Italian Fiscal Council) played a bigger role in the fiscal policy-making process. Moreover, the dialogue and coordination of the different Fiscal Councils would have allowed other demoi to also take a position on the macroeconomic policies of their neighbours.

Returning to the republican desiderata, this institutional framework cannot guarantee that citizens and demoi will have their preferred macroeconomic policy passed at all times, nor that governments will always follow prudent policies, but it can make sure that the authority of EU and national

institutions is exercised through processes that allow them to see even those policies they do not favour as not being dictated by hidden interests or arbitrary technocrats.

From this perspective, the changes proposed above may not obviously come at the expense of macroeconomic optimality. For one, the open discussion and confrontation between different ways of allocating responsibility for the internalisation of fiscal externalities would make it harder for governments in the Council to avoid policing one another as it is often the case under the current system (ref). For instance, a Franco-German alliance against deficit reduction would have to be defended both in the EP and in the national parliaments, thus reducing the avenues for these wealthier countries to exert pressure on smaller economies. More generally though, minimising the internal dimension of domination, which results from the unchecked discretion of executives at the EU level, means having different voices at the decision-making table, which prevents group-think. In short, to the extent that trade-off between democratic congruence and macroeconomic optimality is more pronounced when fiscal authorities are allowed more discretion, then this republican proposal would not fare significantly worse than the current system.

To conclude, while Member States' agreement on the so-called Recovery Fund seems to have changed the character of EMU economic policies from the distribution of budget constraints to the distribution of actual funds, the key idea of this argument, namely that it matters *how* these decisions are reached, is still relevant. If we want to prevent macroeconomic externalities – whether they are the result of economic policies financed by the Recovery Fund or simply decided by the national governments – from being administered in ways that are not under the equal control of EMU's *demos*, then we need to first reform the economic constitution of the Monetary Union by abandoning the legal entrenchment of specific fiscal preferences. On top of this, citizens in each country should have access to a 'dual' contestatory system that questions the executives' interpretation of the principles shaping the EMU economic constitution.

## Notes

1. The Recovery and Resilience Facility has recently changed this picture, as some of the money that MS receive is financed through common borrowing.
2. The two positions draw from Nicolaidis (2013, 2019) as well as Bellamy (2019) and Bellamy and Weale (2015), but it would be improper to attribute them to these authors entirely, since their positions are more nuanced and elaborate.
3. This interpretation of Pettit's democratic influence also appears in Merlo (2023a)

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No potential conflict of interest was reported by the author.

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