

# Greece: a constitutionalist's two (euro)cents.

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Greece is obviously at the forefront of many EU scholars' minds over the past number of weeks. There has been an avalanche of commentary and analysis on the Greek bailout negotiations both from those with intimate knowledge of the situation and familiarity with Greek politics, the EMU and sovereign debt crises as well speculation from the sidelines from those of us more ignorant of these matters. Therefore as someone whose credibility in the debate (such as it is) is limited to the expertise of the constitutional lawyer with a good familiarity of EU law generally, I have limited my two (euro)cents on the topic to a number of (mostly factual) propositions related to the crisis for what they are worth. Most I think are obvious and (hopefully) few are contentious but I think that they are worth (re)stating in the context of the war of words and recrimination from all sides present in the debate in recent days.

- Greece went bust. The fallout from this was never going to be pretty. There were going to be losers, including losers in Greek society, whatever happened.
- Debt relief in some shape or form has been part of Troika negotiations at least since 2012. This includes, significantly from the viewpoint of commentary in some media, debt relief on money owed to private investors who took a significant 'haircut' on their investments in 2012 as well as other means of extending Greece's loans and lowering interest rates to lighten the debt burden. I will not comment as to whether debt relief should have been more prominent in negotiations now or before or whether private investors should/could have lost more on their investment other than to say that at least some private creditors should be counted amongst the losers of the crisis.
- Losers generally complain and protest – it doesn't mean that they have been dealt with unjustly. I will not comment on whether the actual losers in the Greek crisis were the 'right' losers and/or whether they have been treated unfairly.
- There is a strong case for a moral duty for all involved to mitigate the effects of Greece's bankruptcy on the most vulnerable in Greek society. I will not comment on whether this was actually achieved or could have been achieved more effectively.
- Greece is a first world country. Even within the Eurozone there are poorer countries and more vulnerable people than Greece/Greeks, not to mention globally.
- The Eurozone is not a (federal) state.
- No country (or at least no pre-1995 accession country) was forced to join the eurozone. Even if we accept the argument that eurozone membership benefits one or one group of member states more than others – and is not entirely clear that it does – each EU Member state has to take responsibility for bringing its country into the eurozone.
- There are 19 democracies in the Eurozone. It is arguable that this is perhaps too many. As the Eurozone negotiations revealed, what was possible in negotiating Greece's latest package was contingent upon whether eurozone representatives had/could gain the support of national MPs in national governments and/or national public opinion. This arguably made the bailout negotiations much more complex and acrimonious than they might otherwise have been.
- It is a truism that the eurozone was badly designed; although this may not have become so apparent so quickly had the global financial crisis not happened when it did. What this debacle has taught us is that *the euro cannot live on rules alone*. We have known this for some time ever since eurozone states including Germany(!) started to breach the rules of the Stability and Growth Pact. Therefore further and deeper reforms to Eurozone governance are necessary and should be inevitable beyond drafting and attempting to enforce new fiscal disciplinary rules. There are many possible reforms, here are three:

- Establish a new permanent mechanism to off-set the inability of individual eurozone economies to deal with major shocks due to their loss of monetary and fiscal sovereignty through some sort of fiscal transfer fund or otherwise. The ESM operates too much like an international organisation like the IMF, involving conditionality and MoUs. This model is unsuited to the more integrated condition of Eurozone states.
- Establish independent EU financing through EU taxation to finance this fund.
- Make the eurozone accountable to one democracy rather than 19 – i.e. the European Parliament so that EU taxpayers, as represented through the European Parliament, rather than national taxpayers, represented in national parliaments, shoulder the burden of bailouts (but only where absolutely necessary).

These proposals will require a(n) (even) greater sense of solidarity between Eurozone states than has been displayed since the eurocrisis began. However, it will need to be found, and quickly, if the euro is to survive.

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