Jonathan White
Revisionism as a logic of institutional change

Article (Accepted version)
(Refereed)

Revisionism as a Logic of Institutional Change

Jonathan White (LSE)
European Law Journal

How does a treaty-based organisation account for its shifts in policy and procedure? With the European Union's history in focus, the paper observes a pattern of evolution by which departures from existing practice are justified as moves to better honour commitments already held. This logic of change-as-fidelity *has long been the usual way of doing transnational politics in post-War Europe. The concept of* revisionism, *borrowed from the study of innovation in purposive organisations more generally, elucidates its place in the early European Community. The paper goes on to examine how recent more developments, especially visible in the Euro crisis, challenge this logic of change and threaten to displace it. It concludes by discussing what this implies for the political nature of the EU, and whether the revival of the revisionist method is plausible or desirable.*

The European Union is an expression of the fundamental transformation of European states since the Second World War. It is the sum of numerous far-reaching changes in the way decisions are made and the kinds of policy they give rise to. Yet the transformative character of European integration is considerably less visible in the design and justification of particular steps. If one looks at how innovations and reorientations have tended to be pursued, more often one sees the accent on continuity. One of the recurring features of Europe's political transformation for much of the Union's history has been the construal of change not as significant departure, but as a way to better honour commitments already held.

Change in the name of *fidelity*: this, I suggest, has long been a central self-image of the EU as an evolving association. As the first sections of the paper argue, the practices involved in honouring the principle of fidelity are well captured with the concept of 'revisionism', a distinct mode of political change typically associated with purposive organisations. The centrality of revisionism to the EU corresponds to how the latter was long seen as just such an organisation, defined by the pursuit of shared ends. Further, the privileged place given to law in building the EU, and the detachment of much of its decision-making from direct forms of popular influence, have reinforced the propensity to pursue change in the name of fidelity.

Tendencies arising in later phases of the EU's development have increasingly challenged this self-image. In the convulsions of the Euro crisis, the principle of fidelity came under severe strain. More visibly than usual, measures were taken that resisted construal as mere refinements of the means by which existing commitments are honoured. One saw the establishment of new institutions and policies not credibly traceable to commitments already held. Lip-service was still paid to the logic of fidelity, but in an increasingly convoluted fashion; moreover, it sat awkwardly with the logic of emergency

by which so many of these innovations were propelled. Claims to fidelity were widely substituted with assertions of necessity and the necessity of executive discretion.

There is a respectable argument that what the EU needs today is to rehabilitate the logic of fidelity. I offer some remarks in the final section concerning how a renewed such logic might look, one that restored Europe's shared institutions to an orientation more compatible with the purposes that previously informed them. But I also note the shortcomings attached to this method, in an institutional context such as the EU especially. As the conclusion suggests, one should favour a restoration of the revisionist method only if it can be made compatible with the open contestation of the commitments to which the polity is directed.

Change as Fidelity: on the Self-Image of European Integration

As a treaty-based initiative, the EU has long granted a certain prestige to prior agreement. Since its origins in the Treaties of Paris and Rome, its development has been pursued with a keen concern to show how steps taken in the present are consistent with steps taken in the past − how they are *faithful* to foregoing initiatives. The rationale for new steps of transnational integration has frequently had to do with honouring existing commitments.[1] If ever there was a radical departure, it seemed to lie sometime in the past, current initiatives being the extension of something already underway.

Even the briefest glance at EU decision-making confirms the prominence of this conception. The Commission's tendency to claim for itself the role of 'guardian of the treaties' is perhaps the clearest expression of how the past becomes the basis for self-definition. For much of its history the Commission has defined its distinctive role as to propose new legislation that builds on the goals articulated in the community's founding agreements. *Completion* has been a keyword in its lexicon: notably as regards the making of the common market, its proposals have habitually been cast as measures to bring an existing process to fruition, rounding out the provisions of the treaties so that member-states may live by the commitments embedded in them.[2] The elaboration of prior agreements was the very essence of the 'Community Method' of which the Commission was traditionally at the helm. The Commission's moments of friction with other

---

[1] Often the EU's founding treaties are the reference-point, but I understand the principle of fidelity more widely to involve any appeal to past agreement.
[2] For a notable example see the June 1985 Commission White Paper on 'Completing the Internal Market': http://europa.eu/documents/comm/white_papers/pdf/com1985_0310_f_en.pdf

institutions have tended to occur when its claims to fidelity have been judged to be tenuous.[3]

A similar tendency has been apparent in the reasoning and decisions of the Court of Justice (CJEU). Treaty law naturally looms large as an authoritative source. Like courts generally, whether in the common law or code tradition, there is a backward-looking aspect to its activities, centred on respect for established commitments. The Court's preferred mode of conduct has been to present contentious innovations that seemingly challenge national prerogatives as moves to better serve commitments already acquired with the adoption of the treaties. Even moves that today are typically seen as transformative – including introducing the principles of the supremacy and direct effect of EU law – were cast in their time as extensions of prior agreements.[4] The familiar image of 'integration through law'[5] expresses, amongst other things, the prestige conventionally ascribed to the politico-legal inheritance.

The insistence on fidelity in decision-making has a good claim to be the central 'self-image' of European integration, by which I mean a logic that expresses how the polity is supposed to work and evolve. It has a public character, evoked as it is in public discourse and in the political practices intended to be consistent with this discourse, but one must assume it is not merely an outward projection, an effort to gain legitimacy in the eyes of the onlooker. It is equally to be understood as an account by actors for actors themselves, and one that has shaped their practices.[6] Certainly, Community politics has always featured changes that resist rationalisation in this way. Some later treaties – notably Maastricht – include elements proclaimed as new departures (e.g. in security policy), while the language of constitutionalism prevalent in the early 2000s was likewise a language of new beginnings. The logic of fidelity has never been to the exclusion of the forward-looking temporal horizon, but it has – I suggest – been the dominant frame.

Perhaps in the earliest years of the Community, when the substance of cooperation was quite limited and concrete, it was possible for fidelity to mean little more than the implementation of agreed treaty provisions. Yet what is notable for much of the Community's history is how the past has been invoked to promote innovation and

---

[3] See e.g. the 'triple deal' of 1965, in which the Commission promoted innovations in the financing of the Community (the development of Community 'own resources') and in its institutional division of powers (the strengthening of the Parliament to monitor the Community budget) as changes needed to better honour the commitment in the Rome Treaty to building a common market for agriculture. The dubiousness of the Commission's claims to fidelity was one factor contributing to the subsequent Empty Chair Crisis. Cf. Ludlow 2006, chaps. 2 and 3.

[4] See notably the ECJ's decision in *Van Gend en Loos*, 5th February 1963, which introduced the notion of personal rights in European law as an elaboration of Art. 12 of the Treaty of Rome.

[5] Cf. Weiler, Joerges.

[6] Cf. Barker 2001.

creativity, not to resist or disclaim these. Were the treaties nothing but mere contracts, articulating commitments to be obeyed to the letter, one would expect subsequent appeals to them to have the character of a chronicle, merely reporting on tasks fulfilled. But the treaties have rarely been seen this way (perhaps no agreement can be), being viewed instead as necessarily incomplete and in need of subsequent elaboration. Instead of invoking past agreements only to show how they constrain the present, actors more commonly appealed to them so as to account for change. Contrary to a conservative orientation, the logic of fidelity came to entail the embrace of innovation and the celebration of continual evolution. We are not dealing here with an 'originalism' that aims to reproduce to the letter the intentions of a founding generation.[7] It is change rather than stasis that has been to the fore, yet change in the name of fidelity.

Consider the justifications advanced for intergovernmental as well as supranational initiatives. The purpose of IGO decisions is typically understood as to rework the Union's priorities so that it may adapt to changing circumstances. To take just one example, the Single European Act (1986) saw an existing commitment − completion of the common market − interpreted as demanding a significant procedural innovation: decision-making by majority rather than unanimity in the Council. The unanimity principle was said to have outlived its utility: a major shift in procedure was rationalised as instrumentally important for realising an existing goal.[8] Fidelity demanded a significant change. A similar logic is evident in the judicial activism of the CJEU, especially in the latter decades of the twentieth century. As has been widely observed, its judges have generally sought to interpret the EU's founding treaties so as to maximise the potential for a self-standing European legal order.[9] In the name of fidelity to a certain idea of the market and the conditions required for economic competition, they have undertaken transformative changes in the EU's policy regimes and institutional structures.

Indeed, one may state more generally that as the density of EU provisions increased over time, so honouring the principle of fidelity came increasingly to mean not simply enacting and extending existing commitments but reworking and redefining these, bringing

---

[7] On 'originalism' in the US, see Strauss 2010.

[8] Cf. the EUR-LEX website, where something like the official EU view is presented: 'The chief objective of the SEA was to add new momentum to the process of the European construction so as to complete the internal market. However, this goal was difficult to achieve on the basis of the existing treaties, notably because of the decision-making process at the Council, which imposed unanimity for the harmonisation of legislation. This is why the Inter-Governmental Conference which culminated in the SEA had a dual mandate. It was necessary to conclude, on the one hand, a Treaty relating to common foreign and security policy and, on the other hand, an act amending the EEC Treaty, notably at the level of: the decision-making procedure within the Council; the Commission's powers; the European Parliament's powers; the extension of the Communities' responsibilities.'
http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1430467388649&uri=URISERV:xy0027.

[9] See e.g. Davies and Rasmussen 2014.

some to the fore and de-emphasising others. The Community's legal-political past came to be approached with increasing selectivity, such that the organisation evolved in ways unforeseen at the point of its founding. Political creativity was exercised, even as innovation continued largely to be accounted for on the grounds that it served commitments already held – that it was responsive to existing goals, properly understood.

I suggest this mode of practice can be usefully explained with the concept of *revisionism*.

The Logic of Revisionism

In politics, *revisionism* is typically a term of denunciation.[10] In the context of political movements since the late nineteenth century, the term has been used to suggest the dubious legitimacy of concerted efforts to reshape an ideological tradition and the organisation(s) associated with it. Eduard Bernstein is perhaps the most famous to stand accused of this practice.[11] Some of the reasons for which revisionism has attracted criticism will be apparent by the end of this essay. Yet independently of the pejorative connotation, the concept describes a certain kind of strategy of political innovation.[12] We may briefly sketch it as follows.

The revisionist is someone who fervently proclaims their attachment to what they describe as the core of existing commitments, yet who advocates the importance of relaxing or reinterpreting certain other commitments so as better to honour this core. It is a stance of loyalty, albeit of a nuanced kind. The reputation of the past is in good hands with the revisionist: predecessors and their intentions may be described in exalted terms. Yet the revisionist sees the status quo, be it an institutional arrangement or a prevailing set of ideas, as inadequate under changed conditions. She sees it as ill-equipped to honour the spirit of the commitments that originally informed it: hence the desire to see significant reform. What the revisionist opposes is stasis on the one hand, whether as the result of blind institutional inertia or the active efforts of conservatives and defenders of orthodoxy, and radical rupture with existing forms on the other.

How does the revisionist achieve the necessary balancing act of advocating change while insisting on fidelity? As the history of many a movement suggests, the structure of

---

[10] I leave aside the use of the term in historiography, where its meaning is somewhat different but also tends to denote a suspect activity.
[11] For an overview, see Berman 2006.
[12] The following account draws inspiration from the impressive study of revisionism provided in Jones 2005.

revisionism typically centres on the promotion of a distinction between the contextually valid and the generally valid. The revisionist identifies some commitments as having been appropriate under previous conditions but as no longer fitting due to changed circumstances. She seeks to separate these from other commitments whose validity is said to be enduring. This is broadly the approach taken by Bernstein himself, in his effort to separate the Marxist tradition into the principles of 'pure science' and 'applied science', so as to carve out the latter as the sphere in which alterations might legitimately be pursued.[13] It has also been the approach taken by revisionist factions in political parties. Here, the distinction between the contextual and the general has found expression as the distinction between means and ends. Revisionists have sought to draw a line between those commitments said to articulate *ends*, to which fidelity should be shown because they are context-independent value commitments, and other commitments said to relate merely to the *means* by which ends are sought, and which can legitimately be discarded when a change in circumstances means they are no longer suitable as such.[14] The means-ends distinction is generally the construct of the revisionist: it is not a case of sifting between two already-delineated kinds of commitment, but of actively redefining some commitments as pertaining merely to means and of re-articulating ends at a more abstract level than before.

The revisionist mode of reasoning has some natural institutional settings. It can be expected to feature prominently in a context where shared purposes are understood to be *constitutive* of the community. Political movements and parties are archetypical in this sense. In such contexts, if innovation is to occur without it fracturing the community then its protagonists must avoid putting in doubt the shared purposes that form the basis of their association. Indeed, they must actively profess loyalty to these shared purposes, or else their desire to innovate may be mistaken for a form of subversion. What the revisionist method promises is the pursuit of change without this challenging the community's foundation. Because shared commitments are affirmed, and the sphere of reinterpretation localised on the means most appropriate to realising them, the fundamental point of the association is left undisturbed. More than this: because revisionism involves rearticulating

---

[13] Bernstein 1899 / 1993, pp.9ff., p.28.

[14] On the adoption of this strategy by factions of the British Labour Party at various points in its history, see Jones 2005. Clause IV of Labour's 1918 constitution committed the party to seeking 'the common ownership of the means of production, distribution and exchange'. The revisionist efforts led by Gaitskell (1959-60) and later Blair (1994-5) advanced a means-ends distinction to chalenge this: public ownership was reinterpreted as the contextually-appropriate means to advance the underlying goals of equality and social welfare, which now needed to be pursued by market means. On similar patterns of revisionism in the German SPD, see Lösche and Walter 1992, 110ff.; Potthoff and Miller 2002, 208ff.

those commitments afresh, albeit in modified form, the unity of the community is actively reaffirmed in the course of its evolution.

On account of the kinds of treaty on which it is founded, the European community has long been regarded as a purposive organisation.[15] Somewhat like a movement or party in this respect, shared commitments have been said to be constitutive of it.[16] Without doubt, precisely what those commitments are is open to construal. As we shall see, they can be interpreted more narrowly in terms of the functional tasks of market integration, or more expansively in terms of the collective goals of peace and prosperity. What constitutes the means and what constitutes the ends, what stands as the goals which are historically-contextual and the ones which are general, is a matter of ambiguity. There is textual foundation for a variety of readings. But one way or another, the long-standing notion that the EU is defined by the shared purposes of its members makes it a natural site for the revisionist method.[17] Ascribing constitutive significance to shared ends encourages the formulation of innovation in terms of fidelity to existing commitments, so that the Union's evolution does not put in question what is said to be its very basis. The logic of fidelity both responds to and reaffirms the purposive character of the polity. And when there are strong reasons to present change in the name of fidelity, the likely outcome is recourse to the revisionist method.

This broad disposition of the EU to the revisionist tendency has arguably been accentuated by the historical influence of Ordoliberalism.[18] As a theory of society and the economy, Ordoliberalism has always attached special significance to a form of fidelity. The role envisaged for political agency in this body of thought is, one might say, quintessentially revisionist: to engage in an ongoing process of adapting and updating the rules governing the market economy so as to honour the principles associated with the 'economic constitution'. The Ordoliberal tradition is often presented as deeply attached to the law, not least due to the self-understanding of key figures such as Böhm. Perhaps however the more accurate characterisation, given the far-reaching discretion Ordoliberal policy has periodically entailed, is the following: that it is a tradition that grounds the legitimacy of innovation in the authority of the past, i.e. in the authority of a prior 'constitutional' decision to pursue a market economy.[19] A polity shaped in its formative

---

[15] See e.g. Ipsen 1972 on 'zweckverbaende funktionaler Integration'.
[16] On analogies between parties and nations: Smith 1997, pp.489-503.
[17] By contrast, a political unit defined by a diversity of political ends such as the democratic *state* is less conducive to revisionism. It may be present where a constitutional text spells out certain shared commitments to be adhered to, but change-as-rupture is likely to be at least as visible.
[18] For one account of its significance for (early) European integration: Gerber 1994.
[19] I have explored this argument at greater length in White 2017.

years by Ordoliberal thinking is one in which ideas of change-as-fidelity were always likely to be prominent.[20]

Seen from within, the logic of revisionism entails a constrained and measured form of change. It should not provoke major opposition, since the difficult questions are said to be already settled and the revisionist does not propose to reopen them. The scope for disagreement is restricted to the suitability of different means by which to achieve shared ends. It is consistent with limited public participation, since the key moments of controversy are held to be in the past. And a measure of legitimacy seems to be guaranteed, since nothing is decided which has not in large part already been validated. Those who might resist a particular set of innovations, either out of a desire to preserve the polity in its existing form or to develop it in a different direction, will have their work cut out. The potency of revisionism lies in the way it appeals to the *same* set of resources (concepts, authoritative texts, historical experiences, etc.) to advocate change that others might appeal to in order to resist it. To dismiss the revisionist as someone in error is thus a more demanding undertaking.[21]

The success of the revisionist mode is dependent of course on acceptance of the claim that it leaves the important existing commitments intact, neither significantly subtracting from them nor significantly adding to them. When this claim is difficult to sustain, or when the advocates of change have reason explicitly to repudiate it, the revisionist method reaches its limits.

Fidelity meets Emergency Politics

The Eurozone crisis that broke in 2010 posed a test of the revisionist mode. Would the principle of change-as-fidelity be applied, and applied convincingly, in the context of profound and rapid alterations to Europe's institutional structures and policy regimes? Or did the significance of the moment lie precisely in how it exposed the limits of this self-image of European integration?

---

[20] There is another story to be told here of the persistent separation of means and ends as characteristic of the *bureaucratic* method (see e.g. Graeber 2015, chap. 3). Given the traditionally bureaucratic features of the EU (and of transnational organisations more generally), the centrality of revisionism to its activities is again intuitive.

[21] Observations of a similar kind have been made about the potency of *heresy*, whose structure is analogous to revisionism. Cf. Kurtz 1983.

The question is not simply that of the *legality* of the crisis response.[22] Legality is neither a necessary nor sufficient component of the revisionist claim. Measures which transgress existing rules can plausibly be given revisionist justification if those rules are deemed to be fatally flawed. Transgression may find its rationale exactly in the notion that those rules badly serve existing commitments. Likewise, not all actions consistent with the law are susceptible to a revisionist understanding. Initiatives which are correct in the procedures by which they are adopted can nevertheless have little to do with fidelity to existing commitments, either in the justifications they are given or in the outcomes they lead to.

The broad outlines of a revisionist defence of Europe's crisis response are certainly present in the political discourse of the period. For multiple new measures adopted, there is a strand of argument that treats them as efforts to better honour existing commitments. The significant innovations of policy and procedure associated for example with the 'Six-Pack' were announced as a means to ensure proper compliance with existing commitments to do with the Stability and Growth Pact in particular and the common currency in general. They were cast as a 'comprehensive reinforcement' of an agreement already in place.[23] The creative interventions of the ECB, notably Draghi's announcement of the OMT programme in September 2012, were likewise framed as moves enabling it to better honour its commitment to price stability – as adjustments in pursuit of its *mandate,* that is – and dependent for their success on other political actors adhering likewise to their commitments.[24] The concept of a mandate, we may note, is a rather clear expression of the idea of fidelity. Emphasising where possible the continuity of present-day decision-making with prior commitments can be understood as an effort to minimise its contentiousness. It is likely to be the preferred option of agents who doubt public acceptance of their authority for wholesale innovation.

But these claims to fidelity asked much of their addressees. The means-ends distinctions on which revisionism relies became ever more contorted in this period. Commitments that might conventionally have been regarded as essential to the purposes of European integration – the preservation for instance of national welfare states, or the maintenance of equality between member-states – had to be refashioned as contingent commitments to be jettisoned if they obstructed the higher goals of European unity and

---

[22] For an analysis of law and the Euro crisis: Tuori and Tuori 2014.

[23] See http://europa.eu/rapid/press-release_MEMO-11-898_en.htm.

[24] Cf. Mario Draghi, 'Introductory statement to the press conference', Frankfurt am Main, 6 September 2012 (https://www.ecb.europa.eu/press/pressconf/2012/html/is120906.en.html): 'The adherence of governments to their commitments and the fulfilment by the EFSF/ESM of their role are necessary conditions for our outright transactions to be conducted and to be effective.'

Eurozone functionality. Moreover, as is well known, several crisis measures were taken outside the framework of the EU, involving the establishment of new regimes based on international law.[25] This fact underlines just how acrobatic a revisionist defence of the crisis response would have to be. If the EU's own policies and processes of decision-making had to be side-stepped so as to reach agreement, then the means-end distinction was being configured such that it was the EU itself that became a means to be jettisoned in the name of an underlying goal (be this economic stability in general or a certain idea of how order should look). If there was still room for the logic of fidelity in this context, it was only by stretching it to such a degree as to rationalise an assault on the very institution it was conventionally applied to.

But it is not just that the revisionist tendency was taken to increasingly absurd lengths in this period. At least as prominent was a logic of public justification referring not to fidelity but *necessity*, including the necessity of transformative measures. The handling of the Euro crisis saw innovations of policy and procedure that departed from settled norms rationalised to mass publics as demands born of the urgency of the economic situation. Whether one looks at the statements of EU supranational and intergovernmental authorities on the importance of approving 'stabilisation' measures such as the EFSF and EFSM, or the statements of national governments trying to steer such measures past national parliaments and public opinion, or the interpretations of judicial authorities such as the CJEU's Advocate General on the OMT programme, such arguments from necessity permeate the institutional discourse of the period.[26] To the extent that an underlying goal was identified, it was of the most general kind: the survival of the Union, of its currency, of its economy, of its member-states, even of Europe itself. This kind of existence-related goal is quite different from the more defined goals one associates with a purposive organisation.

Furthermore, in an effort to demonstrate their capacity to take the decisive action the situation apparently demanded, policy-makers sometimes emphasised the very *exceptionality* of the initiatives they were taking.[27] They presented themselves, to market actors especially, as 'game-changers' rather than the faithful servants of existing commitments. When the willingness to do 'whatever it takes' to save the eurozone is

---

[25] Cf. Chiti and Teixeira 2013.
[26] See e.g. Chancellor Merkel as reported in *ZeitOnline*, 19th May 2010: http://www.zeit.de/politik/deutschland/2010-05/merkel-eu-regierungserklaerung. At the CJEU, see esp. Cruz Villalón's Opinion of 14th January 2015 (para 7) (http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62014CC0062) on 'extraordinary circumstances' leading to the 'possible disintegration of the eurozone'.
[27] White 2015a.

declared,[28] then the accent – talk of mandates notwithstanding – is on measures which are unprecedented, unconstrained, and indeed unspecifiable. The stress is on innovation of a discretionary kind, explicitly detached from reference-points located in the past.

In the twin emphasis on necessity on the one hand, open-ended discretion on the other, we see a significant departure from the logic of fidelity and the revisionist methods used to deliver it. A distinctive form of *emergency* politics was advanced instead,[29] marked by an indifference, sometimes implied and sometimes professed, to the hold of yesterday's commitments. In its purest form, we might call it a politics of *in*-fidelity.

While a detailed account of the factors propelling this political mode in the EU setting is something for another occasion, part of the explanation would seem to lie in decision-makers' desire to address the concerns of two increasingly important constituencies.[30] The accent on necessity may be read as an effort to convince mass publics to accept policy shifts that are radical and far-reaching, and that can be traced only with considerable difficulty back to the fulfilment of prior commitments. It expresses the way change-as-fidelity reaches the limits of its plausibility in the crisis response.[31] The explanation meanwhile for an emphasis on discretion and undetermined action would seem to lie in the expected effect of such statements on market actors. The power of Draghi's message of 'whatever it takes' lies in significant part in its *absence* of references to substantive measures as these might be derived from prior commitments.[32] In an age of instant feedback loops of information, policy-makers must reckon with the fact that statements of policy intent are themselves liable to change the context in which they propose to intervene, raising the prospect of a mismatch between the measure intended and the evolving context. Maintaining a certain ambiguity of intention, and implying it is *not* to be read off from past practice, is one way of interrupting the tendency for policies to be immediately questioned by market actors.[33] Such statements, in their detachment from context, and their emphasis on personal judgement rather than fidelity, are a response of sorts to an increasingly demanding economic environment.

---

[28] See speech by Mario Draghi, President of the ECB at the Global Investment Conference in London, 26 July 2012: https://www.ecb.europa.eu/press/key/date/2012/html/sp120726.en.html

[29] White 2015b.

[30] Cf. Schmidt 2014.

[31] The austerity programme and its supporting institutional architecture of budgetary monitoring and asymmetric controls looks like an effort to save the euro currency at the expense of much else to do with the EU, including some of the principles of the common market itself. See e.g. Varoufakis 2016, esp. pp.180ff.

[32] Indeed, precisely what was meant by the phrase was seemingly unclear even to well-informed observers: see e.g. this discussion in the *Financial Times* following Draghi's announcement on the question of what he might have meant: http://www.ft.com/intl/cms/s/0/6ce6b2c2-d713-11e1-8e7d-00144feabdc0.html#axzz3ZveFVRf5

[33] On ambiguity in central banking, see Aglietta & Mojon 2015, esp. p.241.

It may further be suggested that the preceding polity-wide tendency to present change as a form of fidelity itself encouraged innovations that resist this framing to be cast as responses to necessity. Against that background self-image of how the EU works, accounting for more dramatic innovations would intuitively require that situations be cast as exceptional ones where the usual constraints on political discretion do not apply and where agents do what they must. The language of emergency is, one might say, a predictable consequence of agents being torn between an instinctive concern for fidelity and a felt need to take transformational steps.

In sum, while change-as-fidelity has long been the central self-image of European integration, the euro crisis made visible the reliance of EU actors at critical moments on the quite different logic of necessity. In this mode of innovation, the hold of existing commitments is explicitly denied, or rendered difficult to sustain by the extent and nature of the measures adopted. Initiatives are taken for which a revisionist defence is unforthcoming. The euro crisis is surely not unique in this regard: the logic of emergency has appeared before, but the conditions are increasingly conducive to it, and there is likely to be pressure for its further invocation as demands emanating from the economy grow ever stronger.[34] Unlike the self-image of fidelity, this alternative mode of politics does not cast the EU as a purposive organisation for which certain shared goals are constitutive. It implies a quite different understanding of the EU, as a polity that exists not for purposes that can be spelt out but because an uncertain climate somehow demands it.

Political Contestation in a Post-Crisis EU

The logic of fidelity encountered its limits in the measures adopted in the EU in the years following 2010. But has it been cast off for good? Can one expect its re-emergence as part of efforts to 'renormalise' the EU in a post-crisis era?

An emphasis on the authority of agreements made would seem a predictable component of efforts by Europe's institutions to draw a line under the exceptional actions of recent years. Politics in the emergency mode is a high-stakes and provocative way to rule. To the extent that the more powerful decision-makers apparently have an EU closer to their liking, moves to reassert the hold of shared commitments would seem likely, with ongoing adjustments to the status quo presented as the consolidation of a new rules-based framework. The importance more recently attached to living by the terms of the Fiscal

---

[34] On tendencies towards the 'economic state of emergency': Scheuerman 2000.

Compact, and adjusting domestic economies and institutions accordingly, can be seen as a move of this kind.

It is hard though to imagine change-as-fidelity reoccupying its previous position as the central self-image of the EU. This is not just, or even primarily, because a period of uncertainty awaits following more recent developments, notably the Brexit decision. Certainly, such exits may put the existence of the EU in question, and at the minimum they obstruct the establishment of a new equilibrium. But changes in the composition of an association do not necessarily weaken the hold of its founding commitments: in principle at least they can also make ideas of fidelity *easier* to adhere to, if they remove persistent objectors. Rather, what seems clear is that the pressures encouraging discretionary action and its valorisation by *any* collection of EU executives remain. The institutional, economic and epistemic incentives to pursue unconventional action persist. The ECB and CJEU's emphasis on the Bank's future need for 'broad discretion',[35] and the more low-key efforts of the Commission and Council to retain discretionary capacities in the administering of Eurozone rules,[36] are an acknowledgement of this. Without major changes in how the EU is structured, if the accent on fidelity reappears it will be on a partial and provisional basis, pending the next interruption.

But let us take for a moment a different perspective. Rather than as a settled discourse of established power, could the principle of fidelity not be sustained in a more critical guise? What of calls from the political margins for the EU institutions to embrace the principle *more consistently*? Undoubtedly there are many who regard the legacy of the euro crisis as a distortion of the EU's purposes. A critical revisionism – some signs of which exist – would be one aimed at redirecting the EU away from its recent incarnations for the sake of its earlier ideals.

Such a take on the contemporary EU can take many forms, but in line with the structural features discussed the forging of a means-ends distinction will be central. A modest revisionism would target specific aspects of EMU as it has been instituted in the last two decades – for instance, the ECB's commitment to low inflation. This, the revisionist might say, was but the conditional means to honour a more fundamental commitment: to establish the basic conditions of stability necessary for economic growth.

---

[35] See CJEU's decision on OMT of 16th June 2015, esp. paras 68 and 69. When specifying the restraints on the ECB in this respect, the Court cites criteria firmly anchored in the present, quite different from those of fidelity (69): 'where an EU institution enjoys broad discretion, a review of compliance with certain procedural guarantees is of fundamental importance. Those guarantees include the obligation for the ESCB to examine carefully and impartially all the relevant elements of the situation in question and to give an adequate statement of the reasons for its decisions.'

[36] Menéndez 2017.

In circumstances of weak demand it should be discarded in favour of policy-making better responsive to the deeper commitment at stake. More far-reaching revisionisms can equally be envisaged. The EC's founding commitments are typically said to focus on establishing the 'four freedoms' of the common market. Though generally considered constitutive of European integration, the revisionist may wonder whether these market-building measures were not rather the means than the end – the historically-appropriate method by which to seek more general goals of peace and prosperity in Europe. To privilege the market was arguably fitting in the post-War setting, when state economies were weak and international conflict an immediate threat, but this method no longer effectively serves these goals: indeed, today it may hinder their achievement by creating social divisions and economic volatility. Or perhaps the revisionist will highlight the term 'freedom', asking whether, under present conditions, the associated economic measures offer an adequate means to pursue liberty. In all such cases, the claim is that shifts in policy and / or procedure are needed if the authentic commitments underpinning the EU are to be properly served. One may note that some well-known EU scholars are already pioneering a means-ends distinction of this kind, with the suggestion that the liberal-economic commitments embedded in the Community's founding treaties were of merely instrumental value, designed to serve deeper goals.[37]

Intriguing as it may be to explore such further iterations of the EU, it is important to pause at this point. Is the logic of revisionism so desirable that one would want to see it rehabilitated? There are, I believe, some important problems with this way of rationalising institutional change. The problems are particularly apparent in the context of a large organisational structure. Though in some respects revisionism is the contrary of the emergency mode increasingly prominent in EU affairs, centred as it is on proclaimed fidelity to the past rather than discretion grounded in assertions of necessity, in one regard the two are quite similar: they both pose a challenge to political contestation.

The provocative assumption on which revisionism proceeds is that political innovation can be separated from a debate about competing ends. The sense of the means/ends distinction is, as noted, to cast ends as largely untouched by a shift in the secondary measures by which they are served. It rests on seeing revisions as changes around the margins of shared commitments. Yet what constitutes the means and the ends on any given question, and where the boundary between them lies, is rarely itself a matter of agreement. Rather than self-evident facts, these things must be established through a

---

[37] See Majone 2014, p.156: 'those elements of a liberal economic constitution that can be found in the treaties have only instrumental value – they do not express an ideological commitment; rather, they serve integrationist and other political objectives.'

contestable act of interpretation.[38] The revisionist method is prone to obscure this by suggesting any given innovation is an innovation in means only, de-contesting thereby as the domain of prior agreement what is necessarily at stake in the proposed innovation.[39]

A bit like the politics of emergency, revisionism risks underplaying the stakes of innovation and the disagreements that may legitimately surround this. While it need not deny the possibility of disagreement, too often it lends it a technical character by suggesting it concerns means only. Dissent is disarmed with the suggestion that it turns purely on an assessment of strategy. The result is an erosion of genuine debate. Revisionism may be something to avoid.

One need not discard the thought that, at some level of abstraction at least, the EU is founded on common commitments. Arguably this conviction may be a necessary condition of a political community's search for ethical orientation, in the spirit of 'constitutional patriotism'.[40] One of the problems of politics in the emergency mode is the implication that substantive shared commitments are irrelevant – that the only thing that matters is the community's survival and that all measures to this end are acceptable. This is a normatively hollow idea of association. But if common commitments are to be appealed to, one must reckon with the expectation they are contentious. Rather than de-contested as the assumed background of EU decision-making, they would need to be recognised as the proper focus of political dispute – to be consistently rethought in the present, not projected back into the community's past. Any enlightened application of the principle of fidelity – if we suppose there can be such a thing – would need to proceed on this basis.

Conclusion

From the incrementalism of supranational integration to the periodic restructurings wrought by intergovernmental negotiation, the development of the EU has long been cast as the reworking of agreements already made. Change-as-fidelity has been the leading principle of its evolution, due to the nature of its origins and its typical characterisation as an organisation constituted by shared goals. This logic of change as it has come to be practiced is well captured with the concept of revisionism. Familiar from other contexts

---

[38] To resume an example from earlier: there can be reasonable disagreement over whether unanimity voting was just a *means* by which to do EU business, one that could be sacrificed in the name of the efficiency of decision-making, or whether it was expressive of an *end*, i.e. the principle of the equality of member-states.
[39] This act of de-contestation can be understood as an ideological move: cf. Freeden 1996.
[40] Cf. Müller 2007.

though rarely examined, it hinges on the persistent redrawing of a distinction between means and ends, such that innovations that exceed or are in tension with existing commitments can be portrayed not as ruptures with the past but as actions significantly indebted to it. Applying the concept of revisionism to the EU allows one to see better the distinctiveness of some more recent developments, without sketching a nostalgic contrast with a rules-governed past.

In the politics of the euro crisis, the logic of change-as-fidelity was challenged. While change in the name of fidelity did not disappear, it was taken to increasingly outlandish extremes, and in some cases openly disavowed with reference to the demands of an emergency. Prior commitments and their preservation were then no longer the main issue in play: to insist on them seemed neither plausible nor wise. The emphasis fell rather on necessity and the importance that nothing be ruled out. This alternative way of posing the reasons for institutional change expresses a quite different conception of what the polity is, and affirms a disconnection between policy-making present and past.

Is there a way back? The structural conditions suggest the break with fidelity will be a persistent temptation. Yet one cannot exclude a reversion to the revisionist method, pursued by the more powerful decision-makers as a way to fine-tune the post-crisis order, or by dissidents from the margins as a way to defy that order and seek to reconnect the EU with what are said to be its founding ideas. The challenge for the latter would be to invoke ideas of fidelity without obscuring the reasonable disagreements to be had about the ends the EU might pursue.

References

Aglietta, Michel and Benoît Mojon (2015), 'Central Banking', in A. Berger, P. Molyneux and J. Wilson (eds), *Oxford Handbook of Banking* (Oxford: OUP).
Barker, Rodney (2001), *Legitimating Identities: The Self-Presentation of Rulers and Subjects* (Cambridge: CUP).
Berman, Sheri (2006), *The Primacy of Politics: Social Democracy and the Making of Europe's Twentieth Century* (Cambridge: CUP).
Bernstein, Eduard (1899 / 1993), *The Preconditions of Socialism*, ed. Henry Tudor (Cambridge: CUP).
Blyth, Mark (2013), *Austerity: The History of a Dangerous Idea* (Oxford: OUP).
Chiti, Edoardo and Pedro Gustavo Teixeira (2013), 'The Constitutional Implications of the European Responses to the Financial and Public Debt Crisis', *Common Market Law Review* 50, pp.683–708.
Crouch, Colin (2011), *The Strange Non-Death of Neoliberalism* (Cambridge: Polity).
Davies, Bill and Morten Rasmussen (2014), 'From International Law to European *Rechtsgemeinschaft*: Towards a New History of European Law, 1950-1979', in Johnny Laursen (ed.) *Institutions and Dynamics of the European Community, 1973-83* (Baden-Baden: Nomos).
Freeden, Michael (1996), *Ideologies and Political Theory* (Oxford: OUP).
Gerber, D.J. (1994), 'Constitutionalizing the Economy: German Neo-Liberalism, Competition Law and the "New" Europe', *The American Journal of Comparative Law* 42 (1), pp.25–84.
Graeber, David (2015), *The Utopia of Rules* (London: Melville House).
Ipsen, Hans-Peter (1972), *Europäisches Gemeinschaftsrech* (Tübingen).
Jones, Tudor (2005), *Remaking the Labour Party: From Gaitskell to Blair* (London: Routledge).

Kohler-Koch, Beate and Berthold Rittberger (2006), 'Review Article: The 'Governance Turn' in EU Studies', *Journal of Common Market Studies* 44 (s1), pp.27–49.

Kurtz, Lester R. (1983), 'The Politics of Heresy,' *American Journal of Sociology* 88, pp.1090-91.

Lösche, Peter, and Franz Walter (1992), *Die SPD: Klassenpartei, Volkspartei, Quotenpartei: Zur Entwicklung der Sozialdemokratie von Weimar bis zur deutschen Vereinigung* (Darmstadt: Wissenschaftliche Buchgesellschaft).

Ludlow, N. Piers (2006), *The European Community and the Crises of the 1960s: Negotiating the Gaullist challenge* (London: Routledge).

Mair, Peter (2007) 'Political opposition and the European Union', *Government & Opposition* 41 (1), pp.1–17.

Majone, Giandomenico (2014), *Rethinking the Union of Europe Post-Crisis* (Cambridge: CUP).

Menéndez, Agustín (2017), 'The Crisis of Law and the European Crises: From the Social and Democratic Rechtsstaat to the Consolidating State of (Pseudo-)technocratic Governance', *Journal of Law and Society* 44 (1), pp.56-78.

Müller, Jan-Werner (2007), *Constitutional Patriotism* (Princeton: PUP).

Potthoff, Heinrich, and Susanne Miller (2002), *Kleine Geschichte der SPD 1848–2002* (Bonn: Dietz).

Ross, George (2011), 'European center-lefts and the mazes of European integration', in J. Cronin, G. Ross and J. Shoch (eds.) *What's left of the left: democrats and social democrats in challenging times* (Durham: Duke UP).

Scheuerman, William E. (2000), 'The Economic State of Emergency', *Cardozo Law Review* 21(5-6), pp.1869-1894.

Schmidt, Vivien (2014), 'Speaking to the Markets or to the People? A Discursive Institutionalist Analysis of the EU's Sovereign Debt Crisis', *British Journal of Politics and International Relations* 16, pp.188-209.

Smith, Rogers (1997), *Civic Ideals: Conflicting visions of citizenship in US history* (New Haven: Yale UP).

Strauss, David A. (2010), *The Living Constitution* (Oxford: OUP).

Thatcher, Mark and Vivien Schmidt (2013), *Resilient Liberalism in Europe's Political Economy* (Cambridge: CUP).

Tuori, Kaarlo and Klaus Tuori (2014), *The Eurozone Crisis: A Constitutional Analysis* (Cambridge: CUP).

Varoufakis, Yanis (2016), *And the Weak Suffer what they Must?* (New York: Nation Books).

White, Jonathan (2018), 'Between Rules and Discretion: Thoughts on Ordoliberalism', in Josef Hien and Christian Joerges (eds.) *Ordoliberalism as an Irritating German Idea* (Oslo: Arena Report Series 17/1).

White, Jonathan (2015a), 'Authority after Emergency Rule', *Modern Law Review* 78 (4), pp.585-610.

White, Jonathan (2015b), 'Emergency Europe', *Political Studies* 63 (2), pp.300-18.

White, Jonathan (2014), 'Politicizing Europe: The Challenge of Executive Discretion', in Sara Hobolt and Olaf Cramme (eds.), *Democratic Politics in a European Union under Stress* (Oxford: OUP).