

Credibility, Rules and Power in the European Union Institutions: a Transactional Analysis of the “Stability and Growth Pact”

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The credibility of the rules and the elements of power constitute fundamental keys in the analysis of the political institutions. This paper opens the “black box” of the European Union institutions and analyses the problem of credibility in the commitment of the Stability and Growth pact (SGP). This Pact (SGP) constituted a formal rule that tried to enforce budgetary discipline on the European States. Compliance with this contract could be ensured by the existence of “third party enforcement” or by the coincidence of the ex-ante and ex-post interests of the States (reputational capital). The fact is that states such as France or Germany failed to comply with the ruling and managed to avoid the application of sanctions. This article studies the transactions and the hierarchy of power that exists in the European institutions, and analyses the institutional framework included in the new European Constitution.

Key-words: institutions; European Union; Stability and Growth Pact; commitment; economic policy.

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INTRODUCTION

Political institutions of an economy establish a series of incentives which affect the performance of policy-making. Thus the relationship established between “institutions-political rules-incentives-transaction costs-political outcomes” becomes an object of study for the economics of institutions.

This paper develops a line of research from the new institutional economics approach that studies the making of the economic policy in the framework of the institutions of the European Union, and analyses, in particular, the case of the Stability and Growth Pact (SGP). In this way, the paper analyses how the basic institutional framework of the union has undermined the credibility of the commitment of the SPG and the application of budgetary discipline. This paper presents a relevant theme for institutional analysis and opens the way for the next analytical developments, also in the sense of McLean (2003).

The SGP constituted an agreement that established a system of recommendations and sanctions on the countries that do not comply with the demands of public deficit of less than 3%. However, the application of such sanctions passed by the council of ministers of the European Union (ECOFIN), formed by representatives of the various member states. Recent experience showed how the most powerful countries of the union had the ability to control the decision of the Council when it came to the application of sanctions. When those sanctions affected these more powerful states (France and Germany) they managed to frustrate their application. The institutional confusion had to await a resolution of the European Court of Justice for a more precise definition of the relations of power of the union between the European rules and institutions and national players.

This episode evidences the importance of the institutions and relations of power in political transactions, and permits a case study of the credibility of the rules. Specifically, compliance with the agreement of budgetary rigour adopted ex-ante, needs that the ex-post interests of the State coincide with that commitment. The situations of economic crisis and the electoral summons (holding of elections) specified a scenario that leads the policy-makers of certain countries with power (France and Germany) to be swayed by their ex-post interests of budgetary indiscipline and break their ex-ante commitments and their own reputations. The power of these States in the heart of the Council permitted them to verify their expectations that the mechanism of the application of sanctions would be ineffective. And in fact, when the most powerful European governments failed to comply with the rules, their power avoided the application of the corresponding sanctions. The organisational structure of the sanctioning organ, which implicitly incorporates agents with different levels of power (France and Germany the most decisive), became ineffective. In this sense, both the judge and the jury happened to fall into the same preferences.

The pact constituted a formal rule adequate for the countries of little power, but was unable to discipline the dominant countries in a path of European construction with increasing returns. The bindings to the mast of Ulysses' ship

were broken by the song of the sirens. But the conflict between the Commission and the Council was recently resolved by the European Court of Justice in favour of the thesis of the Commission.

This paper opens the “black box” of the European institutions, analysing the imperfections of their governance and the nature of the political transactions that are realised in the institutions of the European Union (ECOFIN, European Commission, ECB). These transactions imply high costs that reduce the efficiency of the institutional solution. Thus, this paper is situated on the level of “first order economising” of Williamson (2000).

This paper begins by presenting the institutional framework of the European institutions (epigraph 2). The following section develops the analysis of the case of the SGP and its experience of application. Epigraph 4 analyses the problem of application of the Pact of Stability from a transactional analysis. Epigraph 5 analyses the problem of reform of the plan and Epigraph 6 develops the new institutional formal framework of the European Union, incorporated to the European Constitution.

THE GOVERNANCE OF THE EUROPEAN UNION

The political rules of the union establish a network of decision that is genuine and original. The European Union has lacked a Constitution since its creation, and its institutional structure has been the fruit of the sequence of political rules and acts that have gradually configured the path. Also, in the difference of the organising formula habitual in the national States, in the EU there is no respective univocal correspondence between the division of powers of Montesquieu (legislative, executive, judicial) and the organising structure of the State (parliament, government, judicature).

The institutions of the EU reflect a situation of tension between different interests: on one hand, supranational power; on the other, the interests of each of the member States.

The structure of governance of the European Union incorporates five central organs via which European policy-making are formulated: the Commission,¹ the Council of the European Union,² the European Parliament,³ the Court of

¹ The Commission is the administrative organ of the Community. Its functions are the control and vigilance of compliance with the Treaties; the legislative initiative; the management and application of Community norms, and the negotiation of external agreements of the Union.

² The Council of Ministers is an organ formed by the representatives of the government of each of the member States. These members must have ministerial rank and power to commit the government which they represent. The Council does not always have identical composition, because the representatives of the different States change in function of the subject under discussion. The meetings of the economics and finance ministers are some of the most relevant, and are denominated ECOFIN. The principal function of the Council is regulatory, but the Treaty of the EU also grants executive and representational powers.

³ The Parliament is a chamber the members which are elected by direct universal suffrage. Its functions

Justice⁴ and the Court of Auditors.⁵ Joined to these, the European Council is the political organ which consists of periodic meetings of the heads of state and of the governments of the Union countries.

The European Commission is a mixed organization, half-way house between an administration and an executive power. The Commission is a technocratic organ relatively independent of the member states, responsible only collectively towards the European Parliament. Its ability for leadership depends on internal and external factors as a whole. For example, while in the time of Delors (1985-1994) it exercised a strong political leadership capacity, in the time of Santer (1995-1999) the Commission was unable to impose its political capacity on either the European members or on Parliament itself.

The Council of Ministers of the European Union represents the interests of the national States, but can reach agreements that reflect the common interest. The governance of the Council is like that of the territorial chamber in the style of the German Bundesrat. The formula for aggregating the interests of the member States is therefore relevant, and comes determined by the voting system. Majority rule becomes a mechanism that limits the number of vetoes and permits the widening of the “winset of the status quo” of the Council, while the requisite of unanimity impedes decision-making (Tsebelis, 1995). Majority rule was defined via a vote weighted according to population, requiring a qualified majority.

In the EU, two joint organs are the equivalent of a State’s national government: the Commission and the Council. But while the Commission is a collective organ that represents the interest of the EU as a supranational organ, the Council is an organ that represents the interests of the member States. The tensions between both organs are not unusual.

The path of European construction has experienced a continuous process of institutional reform. Each modification of the EU institutions becomes an act in the path of formation of a supranational entity. The increasing returns of the path configure a network of organisations and interests more and more difficult to reverse, according to North (1990). The Treaty of Amsterdam (1997) converted Parliament into a co-legislator joined to the Council, while the scope of the application of the qualified majority was scarcely widened. In the process of institutional reform, the Treaty of Nice (2001) amplified the application of the qualified majority voting system.

include being the political organ of control of the Commission, and exercises the consultative and regulatory functions. However, this Parliament has had very limited basic parliamentary functions, without power of initiative, subject to the Council of Ministers when it comes to legislation. Gradually the Parliament has been assuming competences. The procedure of cooperation instituted by the only Act and the procedure of “co-decision” of the Treaty of the EU permitted to the Parliament to approach the traditional model Parliament.

⁴ The European Court of Justice has its headquarters in Luxemburg and is the organ integrated by 15 judges named by the member States. Its function is to guarantee the fulfilment of the juridical community ordering by means of the interpretation and application of the rules.

⁵ This Court controls the spending and the accounts of the EU, while lacking sanctioning power.

Over this institutional framework of the Union has been developed European economic and monetary union, forming a system based on three elements: an independent central bank with exclusive competence in monetary policy within the euro zone, member State autonomy in national economic policy under the fulfilment of certain norms/requirements, and the recognition that economic policy is a common preoccupation that requires that the Council carries out tasks of coordination (Borrell, 2003).

THE GROWTH AND STABILITY PACT. AN ANALYSIS OF A CASE

Access to the European Monetary Union in 1999 demanded of the candidate countries that they comply with a series of conditions established in the Treaty of European Unity signed at Maastricht. These conditions meant a series of requirements on the level of debt, rates of interest, public deficit, inflation and rates of exchange.

The combination formed by common monetary policy in the hands of the Central European Bank and fiscal policy in the hands of each member State may imply strong imbalances. This would be the case in a situation in which the ECB responds to the risks posed by an excessive level of public debt with a restrictive monetary policy. To avoid these tensions, budgetary discipline of the member States appears as the mechanism of support to the policy of stability of the ECB.

In 1997 the European Council approved a pact, the objective of which was to impose budgetary discipline on the member States, assuming the German proposal formulated in 1995. The Stability and Growth Pact (SGP) is composed of a resolution of the council of Europe (Amsterdam, June 17th of 1997), and by two Regulations of the Council of the European Union of July 7th of 1997 that constitute the two pillars of the SGP and juridically link the member States: A) Strengthening multilateral surveillance of budgetary positions (Council Regulation 1466/97); B) Excessive deficit procedure (Council Regulation 1467/97).

The member States belonging to the euro zone were obliged to present stability programmes and to obtain in the medium term a budgetary situation near balance or in surplus. In particular, they were subject to agreed sanctions for not acting in an effective manner against excessive deficits and they assume as a maximum threshold a 3% deficit. To the Commission the corresponding task is to draw up a report when the risk exists of excessive deficit or when the real or foreseen public deficit exceeds the value of reference of 3% of GDP. According to the SGP, the Council must apply the elements of the Stability Pact rapidly and with rigour, including the application of the prescribed sanctions.

Council Regulation n^o 1466/97 establishes that the euro zone States will have to present a stability programme annually to the Council and the Commission that analyses the budgetary situation of the country for the current year and three following years. The Council will issue a report on the stability programmes, taking into account the recommendations of the Commission and the Economic

and Financial Committee. Where there are budgetary deviations, the Council will formulate a recommendation for the State in question.

In a similar way, the member States who are not of the euro zone will have to present a programme of convergence.

Council Regulation n° 1467/97 develops the procedural application for excessive deficit. Being based on the report of the Commission, if there exists excessive deficit the Council will direct recommendations to the member State by which it should take measures intended to put an end to this situation within a predetermined period. These recommendations will establish clear time-limits for effective measures to be taken within a term of four months and the excess deficit to be corrected during the year following the appearance of the deficit, unless exceptional circumstances obtain.⁶

If the State does not adopt these measures, the Council will draw up a warning to the State, and later will impose sanctions. The sanctions consist of a deposit, without interest, which will be converted to a fine if the country continues to show excessive deficit during a period of two years. The sanctions have two parts; A) A fixed part: 0,2% of the GDP of the sanctioned State; B) A variable part: an additional 0,1% for each point by which the deficit of the sanctioned State exceeds 3% of its GDP. The sum of the two parts in any case cannot exceed 0.5% of GDP.

The procedure on the excess deficit will be held in suspense when the member State in question has really adopted, by means of formal government decision, measures adequate to respond to a recommendation or warning.

Thus, the 3% becomes the inflexible deficit limit for the various countries.

Deficit (% of GDP)	2000	2001	2002	2003
Germany	1,3	-2,8	-3,5	-3,9
Austria	-1,5	0,2	-0,2	-1,1
Belgium	0,2	0,5	0,1	0,2
Spain	-0,9	-0,4	0,0	0,3
Finland	7,1	5,2	4,3	2,3
France	-1,4	-1,5	-3,2	-4,1
Greece	-2,0	-1,4	-1,4	-1,7
Ireland	4,4	1,1	-0,2	0,2
Italy	-0,6	-2,6	-2,3	-2,4
Luxembourg	6,3	6,3	2,7	-0,1

⁶ Only in exceptional circumstances can a deficit be permitted above this threshold. A public deficit above the value of reference of 3% is considered exceptional when it is the consequence of a non-habitual event outside the control of the member State being dealt with (which has a great effect on the financial position of the public administration) or when it is the consequence of a grave economic recession (an annual fall in GDP of at least 2%).

Luxembourg	6,3	6,3	2,7	-0,1
Netherlands	2,2	0,0	-1,9	-3,0
Portugal	-2,8	-4,4	-2,7	-2,8
Euro-Zone (12 members)	0,2	-1,6	-2,3	-2,7
Denmark	2,6	3,1	1,7	1,5
United Kingdom	3,8	0,7	-1,6	-3,2
Sweden	5,1	2,8	0,0	0,7
EU (15 members)	1,0	-1,0	-2,0	-2,6

Source: Eurostat. Due to ongoing discussions with the statistical authorities in Greece, notably on the surplus of social security funds, the notified figures for deficit are to be considered as provisional and could be revised.

However, during the last few years a series of countries have had problems in adjusting their accounts. Portugal's public deficit exceeded 3% in 2001, those of Germany and France in 2002 and Germany, France and Greece in 2003. The SGP mechanisms were applied normally in the case of Portugal, on which a procedure for excessive deficit was applied. But the situation changed when Germany and France deviated.

The recommendations of the Commission consisted in invigilating the public accounts of France and Germany, and in demanding that the countries lower their excess deficits by particular percentages, so that by the end of 2005 the deficit would be less than 3%. On november 25th 2003, ECOFIN (the Economic Council of Financial Affairs) suspended the sanctions procedures against France and Germany. Spain, Austria, Holland and Finland voted against this suspension, but lacked a vote by which to win the vote.

With this precedent, in may 2004 ECOFIN also decided not to apply the warning or early alert that the Commission recommended for Italy, giving it a breathing space of two months. It was opposed by Spain, Austria, Holland and Sweden.

However, in june of 2004 ECOFIN decided to open proceedings against Holland as its public deficit exceeded the level of 3% in 2003.

RULES OF THE POLITICAL GAME, COMMITMENT AND CREDIBILITY

The SGP rule that establishes as a maximum a deficit of 3% appears as a rule on a constitutional level that solves the trade-off between resoluteness-decisiveness via a limit of discretion (Cox and McCubbins, 1999). However, the rigidity of this rule conflicts with the necessities that policy-making must confront throughout time. Thus, the application of SGP is found to have evident difficulties when combining fiscal discipline with economic growth.

ECOFIN's decision of november 2003 respected neither the spirit nor the

letter of the EU Treaty, nor of the Stability Pact. Its illegality came about given that the Council rejected the application of sanctionary measures and because it left in suspense the excessive deficit procedure, despite that the Council accepted the evaluations of the Commission on the French and German deficits.

The SGP rule of budgetary discipline turned the EU executive into a sanctioning court that had to punish non-compliance with the rule via sanctions and even fines. However, this function of “third-party enforcement” of the European executive was not adequately developed due to the play of national interests of the member States. Thus, this “third-party enforcement” did not apply the sanctions on the more powerful countries of the EU. Understanding of this experience demands the opening of the “black box” of the EU institutions, to clarify the relations of existing power.

The Council of Economic and Financial Affairs (ECOFIN) represents the interests of the different States, and incorporates among them France and Germany. The ECOFIN decision is adopted by qualified majority, and the countries can make transactions with others that support certain measures. The richest countries with an historic tradition of major power have a greater capacity to influence, and a wider combination of political options with which to realise transactions. France and Germany managed to impose their preferences on the ECOFIN voting and suspended the application of sanctions. Judge and jury happened to have the same preferences. The decision of the Council undid the task of budgetary vigilance. But the Commission resorted to the European Courts of Justice, due to its “non-majoritarian governance” in the sense of Majone (2001). The conflict between Commission and Council had to be resolved by the EU Court of Justice. This Court controls the legality of the regulatory and executive acts that emanate from the European Union institutions, and decided in favour of the Commission.⁷ Thus the Court delimits competence, specifies rights of ownership of the different European organs and reinforces the role of the Commission as defender of the general interest of the EU. ECOFIN must submit to the Union rules, so that the European executive recovers its function of sanctioner to punish non-fulfilment of the SGP.

The EU Court imposed the rule of law over the will of the member States, confirming the weight of the “government of the judges” in the EU (Wincott, 1995). The ex-ante interests of the member States were broken ex-post, and the judicial decision generated an institutional solution that restored credibility of the rule of the SGP.

One of the important transaction costs that could be diminished by adequate institutional design of the mechanisms of governance is precisely that of credibility, associated with the temporal consistency of policy. In credible political commitments in a motivational sense there exists no divergence between the ex-

⁷ The tribunal indicated that the Council can modify or reject the Commission’s recommendations, but cannot suspend the procedure for excessive deficit. This option is only possible when the State has complied with the recommendations prescribed by the Council.

ante and ex-post incentives, so that the political player assumes a commitment and wishes to continue respecting it afterwards, by which high transactional costs are not generated. Among the reasons that permit the policy-maker to achieve this credibility we have to indicate the possibility, noted among others by North and Weingast (1989) or Dixit (1996), of the one who has accumulated a reputational capital due to the precedent of responsible behaviour, so that, conforming to models of repeated games, he has no interest in damaging his reputation of clean play. So then, the “long arm of the future” encourages the fulfilment.

But the conditions for the cooperative solution in repeated games are infrequent, by which on many occasions this capacity for commitment is not sufficient and there exists a risk that the political decision-maker opts for an opportunist non-fulfilment ex-post. Specifically, the countries with a high reputation for rigour in policy-making, such as France and Germany, had been those which did not trust in the discipline of other countries that were incorporated into the euro zone, and proposed a rule that would oblige a low level of public deficit. In this way, the SGP looked for imperative credibility that is reached via the fixing of the rules that impede the public powers to violate their commitments with a character ex-post. This reminds one of the spirits of Ulysses, tied to his ship to ensure that he would not be attracted overboard by the sirens’ singing.

Arguing along the same lines, North (1993) has indicated that the institutional framework must provide the credible commitments necessary to reach a low level of transaction costs. The political institutions that restrict ex-post opportunism improve fulfilment and facilitate contracting, creating an environment of security that, in widening the temporal horizon and reducing the measure of subjective discount, favours investment and development; in this way, the ability to commitment tends to expand the combination of opportunities. In the words of Shepsle (1991), the hypothesis would be that discretion is the enemy of optimisation and commitment is its ally, while there is a trade-off between commitment and flexibility.⁸ However, credibility in the rules is faced with the problem of “enforcement” of the contract in the political markets (Caballero, 2002; Acemoglu, 2002).

This problem permitted France and Germany, which had boosted the SGP ex-ante, to break it ex-post, and not fulfil the fiscal discipline. They acted in this way because they observed that their fiscal laxity did not damage the reputation of their economic policies and that the economic markets did not punish them.

A possible solution to the problem of temporary inconsistency could be sought via the establishment of non-majority institutions in the Majone (2001) sense.⁹ Thus, constitutional restrictions gain relevance because they establish

⁸ In spite of this, a good part of this literature is far from idealising the ruled economic policy, indicating the presence of a trade-off between advantages of commitment and of flexibility in the political response to changing circumstances (Shepsle, 1991; Dixit, 1996).

⁹ Alt (2002) constitutes an interesting work on credibility, transparency and institutions.

political delegations in certain area and restrict the discretionary power of the government. Its objective is to obtain credibility of commitment in the long term via the delegation to an agent with different temporary preferences or with a structure of incentives different from that of the principal. This is the case, for example, of the delegation to the Central Banks of the monetary policy, or the ceding of powers to supranational powers such as the European Commission.

However, the application of SGP does not correspond exclusively to the Commission. It corresponded jointly to the Commission and the Council, and this represented national interests. So, the European government did not act as “third-party enforcement” of the SGP, and had to resort to another level of application of rules for a definition of the European institutions that was more detailed (the European Court of Justice).

In conclusion, the SGP did not constitute any “self-enforcing” institutions, and some member States had incentives to deviate from equilibrium.

The economic thinking of the SGP considers that the fixing of rules is necessary to obtain an optimum result from public policies. In this sense, it gathers the tradition of monetarism, of the theory of constitutional political economy (Buchanan and Brennan, 1981) and of the theory of temporary inconsistency (Kydland and Prescott, 1977). The relevant novelty is that we situate at the centre of that argument the necessity to save transaction costs. However, we must indicate that there is a series of arguments that doubt the virtue of the rigidity of the rules, such as the very credibility of the rules or the limits that a little flexibility implies. Indeed, the debate on the SGP is now centred on its possible reform.

THE CHANGE OF RULES: THE REFORM OF THE SGP

In different countries of the EU there exists the perception that the SGP in its present make-up does not respond to national interests. The problems of countries such as Germany, France, Italy, Great Britain, Holland and Greece are an example of how the national policy-makers put other national interests above the fulfilment of SGP.¹⁰ The panorama is completed with the budgetary problems of six of the new members of the EU, who have a deficit above 3% (Cyprus, the Czech Republic, Hungary, Malta, Poland and Slovakia). In any case, the SGP does not permit the application of sanctions on those countries that do not belong to the euro zone.

The economic markets did not punish non-fulfilling countries of the pact such as France or Germany. The economic agents assumed the fact that in a period of economic recession the public deficit would exceed 3% without there being a grave problem.

¹⁰ The Commission announced in april 2004 the opening of two procedures for excessive deficit against Holland and The United Kingdom, one of early warning against Italy and another on Greece. Only the public accounts of Denmark, Spain, Finland and Sweden showed positive results.

Past experience left open the possibility of reform of the pact. In this perspective distinct attitudes are defended.

A) From a point of view that stands for increasing the level of flexibility according to the economic cycle, some proposals defend that the level of public debt must be the objective of the fiscal policy. Those who state that budgetary adjustment must be established according to the moment of the economic cycle maintain that during recessions an increase of indebtedness would be permitted, while in expansive phases the weight of the debt on the GDP would be reduced. This flexibility becomes incompatible with the limit of the deficit of 3%, and the SGP should identify levels of public debt as its objective.

B) The European Commission maintains the convenience of the limit of 3% of public deficit, though it assumes possible adjustments in other elements of SGP. The Commission defends the present limits of the deficit (3%) and the debt (60%), but proposes a combination of reforms that permit slight budgetary imbalances in countries which maintain their public debt under control if the public spending increases to improve productivity. In this line, the Commission also seeks that pro-cyclic policies are not favoured.

In this sense, the Commission plans that the reform of SGP could hinge on the four following points: 1) The public debt will be most relevant at the time of valuing the budgetary situation. 2) The pact must seek mechanisms that permit, in expansive phases, avoidance of those policies which imply inadequate tax reductions or spending increases. 3) In excessive deficit situations, different objectives and diverse temporary limits are fixed to reach budgetary equilibrium. 4) A long period of stagnation, besides a recession of more than 2%, will also be considered as an exceptional circumstance.

In parallel, the reform also looks to General Orientation of Economic Policy being more effective at the time of coordinating economic policies of the member States. In this sense, the Commission also proposes a system of warnings, alerts and recommendations.

INSTITUTIONS AND GOVERNANCE IN THE EUROPEAN CONSTITUTION

The economic governance of Europe requires an institutional framework that resolves the problems of European policy-making. The European Constitution of June 2004 appears as a key rule for the definition of the European institutions of the future. The constitution must be ratified by each of the member States to come into force in 2007.

The institutional approach which we adopt here does not establish a radical separation between rules and political acts, such as would support an analysis as such of the Constitutional Political Economy. The emphasis in the transactional and evolutionary perspective implies that the constitutions are incomplete contracts which do not determine everything (Dixit, 1996). Indeed, the European

constitution has come into being at a moment of amplification and with high levels of uncertainty that impede great precision in the constitutional text, such that the future political game will be what defines the evolutionary path of European construction.¹¹

The Constitution incorporates the European Charter of fundamental rights, develops a major integration in the scope of justice, security and defence, and fuels the supranational policies.

The new system of governance defined in the Constitution creates a figure of a stable president for the Union and that of the European minister of foreign affairs, and modifies the structure of other European organs such as the Commission, Parliament and the Council.

The Commission will have as many Commissioners as there are member countries (one commissioner per country), while from 2014 onward the number of commissioners will be two thirds with respect to the number of member countries. The European Parliament will also experience a change in its composition, changing to have 750 deputies.

The subject which implied major difficulties of agreement in the constitutional text was the voting system of the Council, which has to substitute for the system established in the Treaty of Nice (2000). The European constitution finally established a system of voting that requires a double majority in the Council: majority of States and majority of population. This qualified majority requires 55% of the members of the Council and 65% of the population of the Union. However, the qualified majority is also obtained if the negative votes are less than four members of the Council.¹²

The formula of governance of the Constitution increases the number of areas in which the decisions are approved by the qualified majority, and unanimity in the Council is not necessary. Nevertheless, the general norm is that the qualified majority must be supported by the European Parliament that is profiled as a second legislative chamber.¹³

The Conference of the Representatives of the Governments of the member States held in Brussels (June 17-18, 2004) supported the Stability and Growth Pact, and sustained in its Declaration that a rules-based system is the best guarantee for commitments to be enforced. In this declaration it is also held that when the Council, at the proposal of the Commission, assumes that there exists an excessive deficit, it will adopt without undue delay recommendations to the member State so that this

¹¹ In this sense, the institutional approach is closely bound to the passage of time and to the history (Caballero, 2004).

¹² This element limits the powers of the four biggest countries of the EU: Germany, France, the United Kingdom and Italy. However, when the Council does not act on a proposal of the Commission or of the Foreign Minister of the EU, the qualified majority requires 72% of the members of the Council and 65% of the population. In the areas of justice and security, foreign policy and others, a greater majority will be required.

¹³ Unanimity is maintained in different areas such as fiscal, foreign and social policy, and family law.

should put an end to the excessive deficit within a determined period. These recommendations will be based on the recommendations of the Commission. In this way, the Constitution formulates a policy declaration which supports the SGP.

CONCLUSIONS

This paper studies the problem of the credibility of commitment and of the rule for the case of Stability and Growth Pact. This exercise of analysis requires study of the institutional framework of the EU in order to comprehend how this affects policy-making, in particular for the case of fiscal discipline.

On one hand, the object of analysis of this paper results in interest in the study of relations between institutions, political rules and political outcomes. The European experience of recent years becomes a promising analytical laboratory from which to be able to extract lessons for political economy. On the other hand, the theoretical development of transaction cost politics and the new institutional economics can help to open the black box of European institutions and to analyse the making of the institutions and European economic policy from a new theoretical approach.

This paper opens a field of research that assumes the approach of the New Institutional Economics and as its object of study the institutional design of the EU. The principal arguments of this paper may be developed in the following way: 1) Ex-ante commitments carry a risk of opportunistic ex-post non-compliance. 2) The establishment of rules can facilitate the credibility of the commitment due to an imperative mandate, tying Ulysses to the ship's mast to avoid being carried away by the sirens' singing. 3) The countries of the euro zone are committed to maintaining fiscal discipline which does not permit a deficit above 3%. 4) The Stability and Growth Pact constitutes a rule that tried to guarantee this imperative commitment by means of the vigilance and sanction for non-compliance. 5) The application of the political rules depends on the structure of the institutional framework, also in the case of the EU. 6) The institutional framework of the European Union proves to be genuine and reflects the tensions between supranational interests and the interests of the member States. 7) The application of SGP corresponded to the government of the EU, dividing the functions between the Commission and the Council of Ministers (ECOFIN). 8) The Council represents the interests of the member States of the EU. 9) When the sanctions for excessive fiscal deficit affected the powerful countries of the EU, these obtained the Council's suspension of the application of sanctions. 10) The preferences of the sanctioned were imposed on the structure of the sanctioning organ, impeding the function of third-party enforcement. 11) The Commission as "non-majority institution", and defending the fulfilment of the Treaties, resorted to the European Court of Justice for the application of the regime of sanctions. 12) This Court re-established the value of the rule and disallowed the intervention of the Council acting in the service of the noncompliant countries. 13) However, the economic markets did not punish the fiscal indiscipline, and understood the budgetary difficulties due to the phase of the

economic cycle. 14) This generates a debate and reflection on the possible convenience of a reform of the rigid rule of the SGP. 15) The proposal of reform tries to incorporate the fiscal objective but according to the juncture of the economic cycle, and there are even proposals that plan to substitute the objective of deficit for one of debt. 16) The European Constitution modifies the structure of governance for policy-making in the EU, and determines the institutional structure of the EU of the future.

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