Political contestation and domestic politics in EU financial regulation

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1. Introduction and puzzle

The Euro crisis revealed the incompleteness of the Economic and Monetary Union's (EMU) governance framework, prompting the promotion of multiple reform packages and proposals. This induced conflict between EU member states on the design of these reforms. Whereas contemporary literature has put member states' positions at centre stage (Degner/Leuffen 2019a; Schoeller 2018), the research gap on how and why European member *governments* advocate the adopted positions in reconstructing the EMU is still broad (Van Loon 2020). This chapter[1] builds on and contributes to this nascent literature by echoing that Euro crisis management has not resulted in the European Union (EU) being confronted with a democratic deficit at the national level, but has led to a strengthening of democratic citizenship and responsiveness at the level of domestic preference formation. In line with Valelly (2011), democratic citizenship is viewed as »membership in a political democracy«, with the nation-state as the »unit of analysis« and the role of government viewed as an »accountable representative performed by elected (...) officials« within the supranational order of the EU. With democracy's key component being »the continued responsiveness of the government to the preferences of the people« (Dahl 1971: 1), this chapter deals with mapping political contestation *within* one member state, Germany. It focuses specifically on domestic preference formation, where democratic citizenship is sought to have shaped the

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government's position during negotiations of the European financial transaction tax (FTT) proposal. Democratic citizenship is viewed as encompassing a broad range of domestic stakeholders affected instantly by the crisis: sectoral interest associations, trade unions, voters and NGOs. It provides an answer to the research question: which of these domestic actors were more prevalent in shaping the German government's preference formation during the European FTT debate?

A comprehensive account of the German government's responsiveness is provided by applying the societal approach to governmental preference formation (Schirm 2011, 2013, 2018, 2020). This has been considerably conducive in directing attention to the role of two explanatory variables, domestic interests and ideas, in shaping the divergent positions of governments in the global financial and Euro crises. This study illustrates their role played in shaping the government's position, since cost-benefit analyses from sectoral interest associations and trade unions, and expectations from voters and NGOs towards tightening financial market regulation were of significance. Assuming that the German government's position reflects these societal dynamics, this contribution aims to account for (1) when these mattered, (2) how they interacted and (3) which of these prevailed in shaping the German government's FTT position.

The chapter's next section provides an overview of the post-crisis literature, reading a certain dissent between a decrease versus an increase in democratic citizenship and governments' responsiveness during EU reform negotiations in general, and the FTT in specific. This is followed by introducing the societal approach to governmental preference formation. A discussion of its development of domestic politics theories' core variants subsequently presents innovative elements and a formulation of core hypotheses. The proposed reform of the FTT Directive is briefly presented, leading to an in-depth case study of domestic preference formation, analysing the societal dynamics, interests and ideas to which the German government is assumed to be responsive. The chapter ends with a summary of the empirical results.

2. European financial governance, democratic citizenship and governments' responsiveness

Contemporary post-crisis European financial governance literature deliberates reform initiatives to typically fall short of democratic legitimacy. Views that crisis management solutions were criteria of output rather than input legitimacy (Kreuder-Sonnen 2016) are prominent. This imbalance is derived from the Euro crisis, which generated a situation involving a substantive urgency, uncertainty of a threat and subsequently unknown consequences of decision-making (Boin et al. 2005). Having to act promptly and decisively, a specific »hour of the executive« (Lodge/Wegrich 2012: 1) and a subsequent democratic deficit seemed to be the result. Kreuder-Sonnen (2018: 962) states:

> »crises typically do imply a broader than usual menu of feasible policy options (…) as a critical threat to a referent community opens the way for policymakers to employ extraordinary means to cope with the situation, because the sense of crisis induces public deference to claims of political necessity.«

The new European financial governance setting and dynamics regarding the relations between the national and supranational levels, and their reverberations for legitimacy and accountability in the EU, are echoed in recent literature. It is argued that post-crisis European financial governance has gained a stronger supranational character in empowering EU institutions, e.g. the European Commission, in the implementation and application of governance rules (Bauer/Becker 2014). Schmidt (2015) argues that these institutions' failure to achieve results during the Euro crisis, without much public input in reforms, has deteriorated democratic legitimacy. Conversely, the new intergovernmentalism literature argues that crisis management has inclined the Commission to partly depart from the Community method, empowering »*de novo* bodies« instead (Bickerton et al. 2015: 705). Although intergovernmental coordination within the European Council framework became more prominent during and after the crisis, Smeets and Beach (2019: 2) argue that its »informal and isolated character« marginalised member governments' control and »created *more* instead of less dependence on EU institutions.« These studies primarily encompass the increase of the EU's long-standing democratic deficit problem. Other literature illustrates the crisis' affirmative impact on explicit aspects of democracy. According to Kriesi (2018), the citizens' dissatisfaction with their countries' economic performance during the crisis led to the strengthening of democratic principles on the national level. The national economies' discontent nevertheless led to bailouts having an impact on citizens' support of democratic values (Cordero/Simón 2016). In sum, while some research illustrates crisis reactions having negatively affected European financial governance's democratic accountability, other academic discourse views crisis-induced actions on the national levels as indicators for an improvement of democratic principles.

This chapter aligns with the latter strand of literature, challenging the assertion that »when failure hits as in the Euro crisis, [...] all sources of legitimacy suddenly, simultaneously collapse« (Weiler 2012: 837). In fact, the Euro crisis may genuinely have enhanced the legitimacy of governments' position taking, particularly during the first phase of European integration, governmental preference formation (Degner/Leuffen 2019b). Pursuing the line of reasoning that the urgent, uncertain threatening crisis situation advanced political contestation, a so-called politicisation (De Wilde et al. 2016), it created a particular environment of democratic citizenship in flux. This mirrors a process leading away »from permissive consensus towards constraining dissensus«, while spilling »beyond interest group bargaining into the public sphere« (Hooghe/Marks 2009: 5). Considering that governments' responsiveness relates to decision-makers prioritising different domestic actors with wide-ranging issues, especially during a time of crisis, which actors' demands did they respond to and why?

Involving salient issues and unknown consequences, citizens were well-informed during these hard times, having concerns about their respective governments' positions in EU reform negotiations. When political contestation is intense, governments are expected to have a greater impulse to follow public opinion (Hobolt/Klemmensen 2008: 310). According to Culpepper (2012), the change from quiet to noisy politics induces (1) an increase of governments' responsiveness to citizens' demands, which simultaneously leads to (2) a decrease of interest groups' ability to shape a government's position. Hooghe and Marks (2009: 18) equally argue that »mass politics trump interest group politics when both come into play«. This contradicts traditional political economy literature, underlining the impact of interest group politics in domestic preference formation (Grossman/Helpman 1994). Additionally, it contrasts with liberal intergovernmentalism (Moravcsik 1993): domestically well-organised and well-endowed interest groups enjoy privileged institutional access to office-seeking/retaining governments, serving as conveyers in defending their demands. With established information channels and large expertise of the issue concerned, governments tend to be biased towards domestic interest groups. Kalaitzake (2017) and Kastner (2017) emphasise that financial interest associations secured their preferences by delaying and watering down the FTT proposal in most EU member states. These actors are considered more important in shaping governments' positions than national electorates. Sanders and Toka (2013: 22) argue the following:

> »[i]n sum, in determining their own stances towards the EU, political elites appear to place more weight on the views of the economically rich and powerful [interest groups] than they do on the views of their own constituents.«

Summing up, literature underlines the importance of both domestic sectoral associations and citizens' opinions as the crisis instantly affected both actor types, generating political contestation over revamping the EMU framework. Governments under scrutiny of a broad range of domestic stakeholders had strong incentives to align their positions according to these actors' demands. Thus, the puzzle of which domestic actors ultimately shaped the German government's FTT position and why is of importance.

3. The societal approach to governmental preference formation

In analysing which domestic actors encompassing democratic citizenship, interest associations, trade unions, voters and NGOs, were more prevalent in shaping the German government's preference formation during the FTT debate, the societal approach to governmental preference formation is employed. This rests on domestic politics and liberal theories of IR and concentrates on endogenous domestic variables such as interest groups (Milner 1997; Moravcsik 1997) and ideas (Goldstein/Keohane 1993). Similar to these approaches, the assumption is that, in democratic political systems, office-seeking/retaining governments are likely to be responsive to domestic interest and ideas, prior to inter-state and international negotiations (Schirm 2013: 690). Contrary to these, instead of scholars' traditional employment of one or two variables exclusively, the imperative innovative elements of the societal approach are its inclusion of both variables, as well as its subsequent conceptualisation of hypotheses on the conditions for their prevalence vis-à-vis each other in shaping governments' positions. By addressing the question of when either interests or ideas matter in shaping governments' positions, it is a novel »complementary approach« (Schirm 2020: 5). In line with this, domestic interests are material considerations of German sectoral interest associations, whose short-term cost-benefit calculations tend to alter instantly in response to the proposed FTT due to subsequent potential changed market conditions. Domestic ideas are collective value-based expectations of German voters about the apt government's role in steering the economy. Rooted in the past, ideas cannot alter instantly in response to changed market conditions.

Two aspects are of relevance: (1) by refraining from a comparative analysis of divergent governments' FTT positions (Van Loon 2020), this study (2) contributes to research by analysing a broader range of stakeholders potentially affected by FTT introduction. The societal approach's relevant domestic actors sectoral interest associations are complemented by trade unions as sources for domestic interests, and voters are complemented by NGOs as domestic idea sources (Van Loon 2018). In an additional embracement of the societal approach, it is important to explain that the two explanatory variables can (1) concur and reinforce each other, or (2) differ and collide, and equally, (3) compete while shaping governments' positions (Schirm 2013: 690). This mutual complying or competing between and amongst the variables leads to a significant advancement of the to-date cogent aspect neglected by scholars applying domestic politics theories: to inquire into the circumstances for the prevalence of either interests or ideas. While the distinctive variable definitions serve the purpose of analysing when each prevails and why in shaping the German government's FTT position, three core hypotheses of the societal approach (Schirm 2020: 9) sum up the expectations on government's responsiveness during domestic preference formation. The first expects interest groups and trade unions to prevail in shaping the German government's FTT position: if tightening EU financial regulation directly affects specific German economic sectors and implies potential cost-benefit calculations, then domestic interests are more likely to prevail in shaping the government's position, because vocal lobbying efforts dominate preference formation. The second hypothesis outlines voters' and NGOs' predomination in the government's preference formation: if tightening EU financial regulation involves fundamental and salient long-term societal expectations on an apt government's role in steering the economy, then domestic ideas are more likely to prevail in shaping the government's position. These two hypotheses indicate that the explanatory variables can compete. In combination with the reinforcement/competing aspect, a third hypothesis accounts for their interplay: if tightening EU financial regulation raises both potential cost-benefit calculations for specific economic sectors and fundamental and salient long-term societal expectations on the apt government's role in steering the economy, the variables compete or reinforce each other in shaping the government's FTT position.

4. Operationalisation

In testing German government's responsiveness towards domestic interests or ideas, or both, the empirical analysis applies a qualitative case study that relies on a document analysis tracing relevant interest and ideational-related indicators of the government's preference formation during the 2011-2013 FTT debate. This encompasses the time period of the proposed FTT Directive and the subsequent introduction of the enhanced cooperation mechanism. Document analysis is viewed as an adequate approach to a systematic in-depth investigation of a small-n study of German government's preference formation. As a key EU member state, Germany is chosen due to the substantive important role it played in accelerating the proposed FTT reform through the enhanced cooperation mechanism (Van Loon 2020).

The analysis examines whether the government's FTT position, expressed in statements of responsible elected politicians (finance minister and head of government), correlated with either (1) interest-related indicators articulated by sectoral interest associations' and trade union's demands in the form of position papers and representatives' statements, or to (2) ideational-related indicators such as voters' and NGOs' attitudes as indicated by public opinion polls and positions papers, or if in fact, (3) a correlation occurred between interest and ideational-related indicators. Concerning public opinion surveys, societal attitudes from the Eurobarometer are highlighted as well as two dyads of value-based ideas from the World Values Survey (WVS) on the role of the government in steering the economy: trust in government's regulation versus trust in market forces as well as individual responsibility versus collective solidarity (Schirm 2011: 50). Specialised media reports are applied to underline empirical evidence.

5. The proposed European FTT

After the failure of the 2010 G20 Toronto Summit in reaching agreement on globally coordinated action to tax the financial sector, the President of the Commission, José Barroso, proposed a Directive in September 2011 to create a harmonised broad-based FTT in response to the global financial and Euro crises. To serve as an example of potential global implementation, the FTT was to be installed by member states. This tax was »to make the financial sector pay its fair share [and] to reduce competitive distortions in the single market, discourage risky trading activities and complement regulatory measures aimed at avoiding future crises« (European Commission 2011). Many member states contested the FTT mainly due to the risks of hindering growth and financial sector relocation. Once reaching the required unanimity to pass the proposal proved difficult, the most reluctant governments such as Sweden, the Netherlands and the UK were bypassed primarily by Germany, in requesting the Commission to introduce the enhanced cooperation mechanism (Van Loon 2020). This would permit those favourable FTT member states to participate in implementing the tax. The mechanism was supported by 11 EU member states[2] representing more than 90 % of Eurozone GDP and was approved by the European Parliament in December 2012 and the Council of the EU in January 2013.

Whereas earlier statements suggested FTT introduction by January 2014, the plan to have a legal basis was delayed until the end of 2014 with plans of implementation by 2016. Support has been waning since, with Estonia formally pulling out in 2016, Belgium blocking negotiations in 2017 (Barbière 2017), the Italian government revoking its wish to participate, and the UK's Brexit vote. FTT introduction still lingers in uncertainty. Statements of support mainly come from Germany, which is regularly putting the FTT on the ECOFIN agenda to advance the issue and renew the political commitment of the remaining member states.

6. Domestic interests

German sectoral interest associations voiced distinct opposition to tightening financial regulation in form of the FTT. In a joint position paper, eight associations stated their doubts whether the tax could fulfill its objectives. Assuming it would negatively impact the financial sector as well as the economy as a whole, the general fear was that it would (1) have negative effects on companies and employees, (2) burden the economy, in particular in terms of credit supply, and (3) turn financial operations into poorly regulated markets – with consequences for market stability – if it were not introduced globally, or at least EU-wide (DIHK et al. 2011: 2). In the period to the Commission's

2 Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia and Spain.

proposal for the FTT under enhanced cooperation, Germany's interest associations, the BDI, the BDB and the DIHK shared concerns over its negative impact on Germany's real economy and private actors. The potential migration of financial institutions, banks and investment funds, to jurisdictions not taxing transactions were main concerns, followed by the predicament of German enterprises borrowing money and expectations of stagnating growth and employment. Goals of the FTT in making the financial sector contribute to the cost of economic recovery but also the precautionary measure of potential future costs of crisis-ridden developments in the financial sector, and creating disincentives for speculative trading, were viewed critically. In a 2011 public hearing of the German parliament's finance committee, the ZK, the German banking industry association, rejected these objectives and feared negative effects on the economy by stating that »[e]ven the EU Commission expects the gross domestic product to suffer a loss of 1.76 percent with an EU-wide tax of 0.1 percent on equities (0.01 percent on derivatives)« (Deutscher Bundestag 2011). The FTT would not only affect financial institutions, but all purchasers of financial products including small savers. The BDI, the German industry association, additionally believed that the FTT would affect »those bearing the cost of the EU estimated tax revenue of 57 billion euro (…) will be citizens and the real economy« (Deutscher Bundestag 2011). A study commissioned by Germany's equities institute estimated the burden on private households and companies to amount between 5.0 and 7.3 billion Euro annually (DAI 2013: 5). The BVI, the investment fund association, stated that »mainly long-term and retirement savings« would suffer (Deutscher Bundestag 2011). This was reflected by the BDB, the association of German banks, stating that particularly the German ›Mittelstand‹, the export industry as well as the citizens would suffer significantly: »(t)he stupid one is the small investor in Germany, who cannot move abroad« (Bankenverband 2013).

On the contrary, the DGB, the trade union confederation, welcomed the Directive and advocated a broad-based FTT. Since the global financial and Euro crises had resulted in rising unemployment, it was wary of the social and political consequences with citizens having lost trust in the markets (DGB 20011a: 3). Its position was that although it was »financial market players that were chiefly responsible for the biggest financial and economic crisis of the past 80 years [yet] solely the taxpayers and workers (…) have borne the chief burden of overcoming the crisis« (DGB 2013: 9). The misguided strategies of the banks and growing inequality had triggered financial speculation, resulting in the primary problem of a lack of control over market actors, thus implying the necessity of stronger governmental intervention. In February 2011, it called for political stability, economic prosperity and social security:

> »[f]inancial markets must not only be monitored, but also effectively regulated. (...) Those who cause the crisis must be asked to pay. That is why we need a financial transaction tax (...). Furthermore, all financial market products must be audited for their economic benefit (...). The same regulatory rules must apply for all financial market players« (DGB 2011a: 7).

Claus Matecki, DGB board member, stated the urgency of FTT implementation on the national level: »if the desired introduction of the tax on an international or European level does not seem feasible in the short term, Germany (...) must send a clear signal to the other EU member states« (DGB 2011b). The DGB proposed a »Marshall Plan for economic stimulus, investment and development« and suggested the FTT to generate revenue which would benefit employees, the environment, countries and the real economy (DGB 2013: 10).

7. Domestic ideas

To illustrate the increased issue salience, the importance German citizens attached to the FTT reform proposal and its subsequent politicisation, media analyses from Kastner (2017) and Degner and Leuffen (2019b) confirm that public attention increased instantly, particularly during the years 2011 to 2013. Additionally, findings from the 2011 and 2012 Eurobarometer show that 79 % and 80 % of German respondents were in favour of »the introduction of a tax on financial transactions«. They were equally in favour of the principle of a tax on financial transactions, either on the global level or, failing that, on EU level initially (both 79 %) (Eurobarometer 2011, 15; 2012, T147). Concerning the question of an apt government's role in steering the economy and trust in government's regulation versus trust in market forces, as indicated by data from the 2013 WVS, 65.8 % of the respondents supported the statement »governments should take more responsibility« versus 33.8 % agreeing with »people should take more responsibility« (WVS 2013: V98). The indicators related to individual responsibility versus collective solidarity reveal that 76 % agreed that incomes should be made more equal as opposed to 22.7 % of the respondents who believed that large income divides are required (WVS 2013: V96). Beyond this, the fact that governments should tax the rich and subsidise the poor is considered an essential part of democracy by 68,9 % of the respondents (WVS 2013: V131).

The debate on the broad-based FTT was subject of a vocal campaign by German NGOs favouring it. Under the slogan »Steuer gegen Armut« (tax against poverty), tax campaigns focused mainly on the argument of tax justice and the attraction of potential revenue. The FTT could (1) serve to burden the costs of combatting the financial crisis primarily by the financial industry, not by the taxpayer, and furthermore, (2) the tax's progressive effect, primarily affecting high-income earners, would potentially reduce increasing inequalities in income distribution, thus serving as development aid in combatting national and international poverty. Referred to as a ›Robin Hood Tax‹ (Van Loon forthcoming), 32 signatories sparked this campaign by issuing an open letter to the newly elected German government. This emphasised the FTT advantages: (1) it decelerates and regulates financial transactions on financial markets, (2) it includes all speculation-relevant financial transactions, (3) short-term transactions are made less profitable, whereas medium and long-term investments face a low tax rate between 0.1 and 0.01 %, and (4) revenues are used for the implementation of the Millennium Development Goals (MDGs) and for development measures, the fight against poverty, and climate and environment protection (Alt 2011). Successful in gathering widespread public support, the campaign achieved a considerably broad membership in the first half of 2011 with trade unions (including the DGB) joining religious, development and environmental organisations in campaigning for the tightening of financial regulation. When prospects for a global and EU-wide transaction tax faded, strong support for the FTT via the enhanced cooperation mechanism commenced (Wahl 2014: 6). Campaign demands were issued in the form of a petition signed by 66,000 supporters within four weeks (Alt 2011). The German campaign leader, Peter Wahl, stated that »for civil society the process is a great success« due to the »Steuer gegen Armut« campaign, having established informal and formal permanent contacts with decision-makers and having mobilised public opinion by (1) organising public events to which decision-makers were invited, (2) organising formal petitions and collecting signatures, (3) writing letters, thereby (4) creating transparency and accountability of lobbying activities using traditional print media and the internet (Wahl 2014: 14-15).

8. The german government's FTT position

The German government supported a broad-based FTT and when consensus on this was reached in 2010 (Tagesschau 2013), Germany was the main driver behind requesting the Commission to implement the enhanced cooperation mechanism (Bundesregierung 2014). In November 2011 Germany's finance minister, Wolfgang Schäuble, dismissed opposing arguments:

> »The objections made by some who claim it would mean a substantial drop in employment and in the economy generally seem to rest on exaggerated (…) projections and, more important, ignore the potential of such a tax to stabilize currency markets in a way to boost rather than damage the real economy« (Winnet et al. 2011).

By summing up the aims of the tax, Schäuble listed the following arguments: (1) the financial sector needs to contribute to the crisis' costs, (2) substantial tax revenue would be raised, and (3) financial markets' actions would be limited. The FTT's rationale was »not only a question of the economy and the budget but of democratic legitimacy«, and potentially raising 2 billion Euro a year for Germany, Schäuble stated »I'd prefer to have it in my budget but it's better to have it for climate change or development aid than to have nothing« (The Guardian 2011).

Without unanimous agreement, the German government accelerated the process by applying for FTT introduction through enhanced cooperation. At an ECOFIN meeting, Schäuble announced Germany's advancement with a smaller group of states (FAZ 2012) stating that even without this mechanism, it would »endeavour to achieve taxation in as many member states as possible within the framework of intergovernmental cooperation« (Bundesregierung 2012: 2). The German Chancellor Angela Merkel underlined the government's strong commitment, particularly after having gained support from the SPD and the Greens (Handelsblatt 2012):

> »We support the introduction of a financial transaction tax, because the people in our countries still have the impression (…) that the financial sector must make an appropriate contribution to managing the costs of the financial crisis, and the financial transaction tax will be levied precisely for this purpose« (Bundesregierung 2014).

In 2013, the FTT was included in the programme of the German grand coalition. By particularly stressing »[n]o financial market, no financial product, no financial market player without supervision«, focus was on a broad-based FTT within the EU framework of enhanced cooperation. This was to be implemented swiftly to strengthen the financial sector's participation in contributing to the costs of the crisis by including all financial instruments: equities, bonds, investment shares, foreign exchange transactions and derivative contracts. By designing the tax, the government stated the importance to assess the tax's impact on »pension instruments, small investors and the real economy (…) while at the same time reducing unwanted forms of financial transactions« (Koalitionsvertrag 2013: 46).

9. Conclusion

Through application of the societal approach to governmental preference formation, this chapter examined which domestic actors, forming democratic citizenship as defined above, were more prevalent in shaping the German government's FTT position. By analysing a broad range of stakeholders potentially affected by FTT introduction, sectoral interest associations, trade unions, voters and NGOs, this study illustrates that the government clearly followed dominant domestic ideas. With the financial sector viewed as responsible for causing the crisis and the FTT's objective for making them contribute to its costs, sectoral interest associations had lost privileged weight in shaping the German preference formation despite potential high cost-benefit calculations and vocal lobbying against the FTT. Additionally, the increased issue salience of financial regulation reform severely reduced government's representatives to respond to sectoral interest associations' demands, resulting in these actors' inability to shape the position of the government.

This simultaneously created an opportunity for other domestic actors to gain access to decision-makers, resulting in the government's responsiveness to pro-reform demands from NGOs. The German FTT campaign established good access opportunities and its intensive campaigning, including the support of most German voters and the trade unions' alignment of their concerns, led to the government's endorsement of the FTT. Whereas both domestic interests and ideas were thus directly affected by a tightening of financial regulation, the former (sectoral interests associations and trade unions) competed, while the latter (voters and NGOs) reinforced each other in shaping the favourable government's position.

The urgent, threatening crisis situation resulted in a particular environment of democratic citizenship in flux, from rejecting the sectoral interest associations' political contestation to public sphere's advancement in favouring the FTT, leading to a genuine enhancement of democratic legitimacy of the German government's FTT's position taking.

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