THE CRISIS BEHIND THE EUROCRISIS

The Crisis behind the Eurocrisis encourages dialogue among scholars across the social sciences in an attempt to challenge the narrative that regarded the Eurocrisis as an exceptional event. It is suggested instead that the Eurocrisis, along with the subsequent crises the EU has come to face, was merely symptomatic of deeper systemic cracks. This book’s aim is to uncover that hidden systemic crisis: the ‘crisis behind the Eurocrisis’. Through this reading it emerges that what needs to be questioned is not only the allegedly purely economic character of the Eurocrisis, but, more fundamentally, its very classification as an ‘emergency’. Instead, the Eurocrisis needs to be regarded as expressive of a chronic, dysfunctional, but ‘normal’ condition of the EU. By following this line of analysis, this book illuminates not only the causes of contemporary turbulences in the European project, but perhaps the ‘true’ nature of the EU itself.

Eva Nanopoulos is a Lecturer in Law and academic coordinator for the BA/LLB in Law and Politics at Queen Mary University of London. Her research and teaching interests are in EU law, international law, human rights, constitutional law and critical legal theory. She is co-director of the Centre for Law and Society in a Global Context (QMUL) and currently completing a monograph entitled Juridification of Sanctions and the Politics of EU Law (Hart, forthcoming).

Fotis Vergis is Lecturer in Law at the University of Manchester School of Law, where he teaches EU law and labour law. His research interests include EU law and constitutional theory, labour law theory and collective labour law. During his PhD studies at the University of Cambridge he was awarded a Modern Law Review Scholarship for 2013–14 and 2014–15. He is a member of the Labour Law Research Network (LLRN), the Society of Legal Scholars (SLS) and the Industrial Law Society (ILS). He sits on the Editorial Board of the Greek Labour Law Review and the Scientific Committee of the ‘Moving Labour Collective’, a network of progressive labour law scholars. He is also a member of the Thessaloniki Bar, now as a non-practising barrister.
The Crisis behind the Eurocrisis

THE EUROCRISIS AS A MULTIDIMENSIONAL SYSTEMIC CRISIS OF THE EU

Edited by
EVA NANOPOULOS AND FOTIS VERGIS
You can’t be neutral on a moving train
Howard Zinn
## Contents

<table>
<thead>
<tr>
<th>Notes on Contributors</th>
<th>page x</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>xv</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>xvii</td>
</tr>
</tbody>
</table>

**Introduction: The Elephant in the Room: a Tale of Crisis**

Eva Nanopoulos and Fotis Vergis

1. **There Is No (Legal) Alternative: Codifying Economic Ideology into Law**
   Benjamin Farrand and Marco Rizzi

2. **The Roots of the European Crisis: a Historical Perspective**
   Charalampos Kouroundis

3. **The Authoritarian Neoliberalism of the EU: Legal Form and International Politico-Economic Sources**
   Magnus Ryner

**PART I  THE CRISIS AS A CRISIS OF THE EU’S IDENTITY**

4. **Authoritarian Liberalism: the Conjuncture behind the Crisis**
   Michael Wilkinson

5. **The End of Self-fulfilling Europe**
   Hent Kalmo

**PART II  THE CRISIS AS A CRISIS OF THE EU’S POLITICAL AND DEMOCRATIC LEGITIMACY**

© in this web service Cambridge University Press www.cambridge.org
The Inherently Undemocratic EU Democracy: Moving beyond the ‘Democratic Deficit’ Debate
Eva Nanopoulos and Fotis Vergis

Europe and Constituent Powers: Ruptures with the Neoliberal Consensus?
Maria Tzanakopoulou

‘Who’s Afraid of the European Demos?’: the Uneasy Relationship between the European Union and Referendums
Elia Alexiou

Can Public and Voluntary Acts of Consent Confer Legitimacy on the EU?
Ozlem Ulgen

PART III THE CRISIS AS A CRISIS OF THE EU’S ECONOMIC MODEL

The Fiscal Compact: a Paradoxical Fiscal Governance Machine
Vanessa Bilancetti

The Rise of Unaccountable Governance in the Eurozone
Gunnar Beck

Unification from Above, Its Contradictions and the Conjuncture Initiated by the Eurozone Crisis
Christakis Georgiou

PART IV THE CRISIS AS A CRISIS OF THE EU’S SOCIAL CHARACTER

A Tale of Two Documents: the Eclipse of the Social Democratic Constitution
Alan Bogg and KD Ewing

How to Analyse a Supranational Regime That Nationalises Social Conflict? The European Crisis, Labour Politics and Methodological Nationalism
Roland Erne

Which Refugee Crisis? On the Proxy of the Systemic Eurocrisis and Its Spatialities
Dimitris Dalakoglou
## Contents

**PART V  JOINING THE DOTS AND THE WAY FORWARD**

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Author(s)</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>The European Crisis of Economic Liberalism: Can the Law Help?</td>
<td>Michelle Everson</td>
<td>381</td>
</tr>
<tr>
<td>17</td>
<td>With Time to Prepare: Planning an Exit from the EMU</td>
<td>Costas Lapavitsas</td>
<td>403</td>
</tr>
<tr>
<td>18</td>
<td>Brexit and the Imperial Constitution of Europe</td>
<td>Alex Callinicos</td>
<td>419</td>
</tr>
<tr>
<td></td>
<td><strong>Conclusion</strong></td>
<td>Eva Nanopoulos and Fotis Vergis</td>
<td>430</td>
</tr>
</tbody>
</table>

**Index**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>442</td>
</tr>
</tbody>
</table>
Contributors

Elia Alexiou is a PhD candidate in international law (Université Panthéon-Assas Paris II) and a lecturer in EU law (Université Catholique de Lille). Her PhD thesis focuses on global constitutionalism and her teaching activities on constitutional, European and international law and human rights (Université Paris-Nanterre, Université Panthéon-Sorbonne Paris I). Elia has been a visiting scholar at Columbia Law School and has worked for the United Nations: first in the UN Secretariat at the New York Headquarters (Office of the Secretary General’s Envoy on Youth) and recently in the UNHCR Field mission in Greece.

Vanessa Bilancetti holds a PhD in politics from the University of Rome La Sapienza, and has been a visiting PhD and a teaching assistant at the University of Sheffield. Her research focuses on the New Economic Governance, intersecting critical international relations theory, critical European Studies and feminist political economy.

Alan Bogg is Professor of Labour Law at the University of Bristol Law School. Previously he was Professor of Labour Law in the University of Oxford and a fellow of Hertford College, Oxford. He has a broad teaching and research interests in the fields of labour, employment and work laws, which he explores from philosophical, doctrinal and comparative perspectives.

Alex Callinicos is Professor of European Studies (social theory and international political economy) at the Department of European & International Studies at King’s College London. He has published extensively on Marxism, social and political theory, political philosophy, political economy, and race and racism.

Gunnar Beck is Reader in EU law and Legal Theory at SOAS. He also practises as a barrister and a Rechtsanwalt, focusing on various aspects of EU law. He has published widely on EU law, as well as legal and political philosophy, including two books, *Fichte and Kant on Freedom, Rights and Law* and more recently, *The Legal Reasoning of the Court of Justice of the EU*. 
Notes on Contributors

Dimitris Dalakoglou is Professor and Chair of Social Anthropology at VU University Amsterdam. His research interests lie in the field of anthropology of infrastructures, mobility and urban public spaces and he has carried out an anthropological research of the Greek crisis since 2010. In 2012 he was awarded an ESRC-Future Research Leaders grant for the project ‘The City at a Time of Crisis: Transformations of Public Spaces in Athens’ (crisis-scape.net).

Roland Erne is Professor and Jean Monnet Chair of European Integration & Employment Relations at University College Dublin, where he teaches international and comparative industrial relations. His work centres on EU governance and the social and political implications of transnational movements of goods, capital, services and people. He has been recently awarded an ERC Consolidator grant for the project ‘Labour Politics & the EU’s New Economic Governance Regime’ at University College Dublin.

Michelle Everson is Professor of European Law in the School of Law, Birkbeck and Assistant Dean for Programme Development. Currently, she sits on the editorial boards of the European Law Journal, Law and Critique and the Journal for Socio-Legal Studies. Professor Everson has researched widely in the field of European law and has particular interests in the areas of European regulatory law, European administrative and constitutional law and European citizenship.

Keith Ewing is Professor of Public Law at the Dickson Pool School of Law, King’s College London and the President of the Institute of Employment Rights. He is one of the leading scholars in labour law and public law. His research focuses on labour law and constitutional reform, with special reference to the relationship between social rights and constitutional law.

Benjamin Farrand is Reader in Law and Emerging Technologies at Newcastle University, and coordinates the UACES Research Network ‘Communicating Europe’. His research focuses on the interaction between law and politics in European policy-making and technology regulation.

Christakis Georgiou earned his PhD in political science from the University of Montpellier and specialises in the political economy of European integration. He is currently a post-doctoral fellow of the Centre de compétences Dusan Sidjanski en études européennes hosted by the Global Studies Institute at the University of Geneva. His work focuses on the activism and influence of French and European corporate elites in the development of the integration process and are at the intersection of various disciplines: international and comparative political economy, economic sociology and economic history.
Hent Kalmo is a Marie Skłodowska-Curie Global Fellow at the University of Tartu and Harvard Law School. His research has focused mainly on constitutional argumentation. He has written extensively on the doctrine of proportionality, on the primacy of EU law and on the notion of sovereignty.

Charalampos Kouroundis is a postdoctoral researcher at the Aristotle University of Thessaloniki School of Law, Department of Public Law and Political Sciences. His doctoral thesis, 'Constitutional modernisation and the left: the “deep incision” of 1963 and its impact on the constitution of 1975', has recently been published as a monograph. He has published on Marxism, left strategy and the Eurocrisis. He is also a Member of the Thessaloniki Bar.

Costas Lapavitsas is Professor of Economics at the School of Oriental and African Studies, University of London. His research interests include the relationship of finance and development, the structure of financial systems, and the interaction between market and non-market relations in the financial system. He has written widely on economics and published two books addressing directly the Eurocrisis with Verso: Against the Troika: A Radical Anti-Capitalist Alternative to Eurozone Austerity and Crisis in the Eurozone. In January 2015, he was elected as a member of the Hellenic Parliament for SYRIZA and subsequently stood in the elections with Popular Unity.

Eva Nanopoulos is a Lecturer in Law at Queen Mary University London, having previously taught at King's College, Cambridge. She has teaching and research interests in EU law, international law, human rights and critical legal theory. She is currently completing a monograph entitled Juridification of Sanctions and the Politics of EU Law, to be published by Hart/Bloomsbury.

Marco Rizzi is Senior Lecturer at the University of Western Australia, UWA Law School. He was awarded his PhD by the European University Institute in Florence and was previously Senior Lecturer and Head of Department of Law at the University of Seychelles. His research focuses on transnational law, risk regulation, and the interaction between tort law and the public interest.

Magnus Ryner is Professor of International Political Economy and Head of Department at King's College London. His research interests lie in international, European and EU political economy. Magnus is also interested in philosophy of science and sociology of knowledge questions that relate to his empirical concerns. He has a longstanding interest in social democracy and trade unions as sociopolitical phenomena. He has published widely on European political economy and the Eurocrisis; his most recent relevant work is The European Union and Global Capitalism: Origins, Development, Crisis (Palgrave, 2017) (with Alan Cainingy).

Maria Tzanakopoulou is a Lecturer at Birkbeck, School of Law. Her doctoral thesis was recently published as a monograph entitled Reclaiming Constitutionalism: Democracy, Power and the State (Hart, 2008).
Notes on Contributors

Fotis Vergis is Lecturer in Law at the University of Manchester School of Law, where he teaches EU law and Labour law. His research interests include labour law theory and collective labour law, EU law and constitutional theory, while previously he also worked on various subjects of Greek civil and civil procedure law. He has practised in Greece, working predominantly on labour law and is a member of the Thessaloniki Bar, now as a non-practising barrister.

Ozlem Ulgen is Reader in International Law and Ethics at the School of Law, Birmingham City University, teaching EU law, public law, and corporate regulation. She is also a barrister awarded the Gray’s Inn Bedingfield Scholarship and Ann Ebsworth Award. Ozlem is an expert in EU law, public international law, international criminal law and international security and armed conflict law. Her current interests focus on two major research projects: the taxonomy of harm and culpability for robot weapons used in modern warfare; and the legitimacy and accountability of the EU’s supranational decision-making.

Michael Wilkinson is Associate Professor of Law at LSE, where he teaches EU law and jurisprudence. His research interests span European integration, constitutional theory and legal, political and social theory. His work has been published in leading journals, including the Modern Law Review, the Oxford Journal of Legal Studies and the European Law Journal. He has published two co-edited collections on constitutional theory, Constitutionalism beyond Liberalism (Cambridge University Press, 2017) and Questioning the Foundations of Public Law (Hart, 2018).
Preface

The origin of this volume can be traced to a quick exchange on a dark cloudy morning in 2013 between a young lecturer and an old PhD researcher at the Law Faculty of the University of Cambridge. The Eurocrisis was at its apex. In the entrance hall of the (now) David Williams Building, we were coming out of a workshop where the recent Pringle judgment had been discussed and criticised. We were not all that surprised that the ‘survival of the eurozone’ had apparently emerged as the primary objective of the EU that would cast aside any other consideration. But there was a feeling that the established discourses, the optimistic complacency of perpetual ‘further integration’, and the traditional tools by which EU law was always approached, had suddenly become obsolete. Dozens of similar, yet longer, conversations between us were born out of that brief exchange as the crisis kept unfolding. Being Greek meant we were attuned to developments back home over the months that followed; from the government shutting down the public broadcaster mid-air, to political upheaval and the adoption of successive emergency ‘multi Acts’ of Parliament that transformed the legal landscape towards a clear neoliberal trajectory, deepening precariousness, uncertainty and inequality, to the emergence of reactionary nationalistic forces that began to shape the public discourse. Our conversations continued, more concerned each time and more frustrated that the emergency narrative seemed to have won the day and academic scepticism was quick to be dismissed.

By autumn 2014 an idea had formed: since there was relatively little critical discussion about the causes of the crisis, the deeper and systemic nature of which was perhaps clearer to those associated with any of the countries that were in the eye of the storm than to those that had the luxury of distance, we would set up a forum to invite such discussion. Supported by some of our colleagues and friends who had recent relevant experience, and to whom we owe our thanks (Dr Alysia Blackham and Dr Amy Ludlow), we pitched the idea to the Centre of European Legal Studies (CELS) of the Cambridge Faculty of Law. With the generous help of the Centre, we were grateful that Prof. David Dyzenhaus and Prof. Emilios...
Preface

Christodoulidis agreed to participate in a small seminar to discuss the concept of crisis and its contemporary systemic manifestations by placing it within the context of modern constitutionalism and the legacies of the Enlightenment. That event would be the precursor to the conference on the Eurocrisis that led to the present volume.

As the conference was set up during 2015, a wave of dramatic developments unfolded: the election of the SYRIZA government, the risk of Grexit, the Greek referendum and capitulation of July 2015, and, eventually, right as we were about to welcome our speakers, the call for a UK vote on EU membership. Sponsored and supported by CELS as well as King’s College, Cambridge, the Eurocrisis conference was held in March 2016 in Cambridge Law Faculty; it was clear that the time was ripe for critical voices.

This volume is the result of the discussions triggered in that conference and to the friendships and collegial relationships that were forged during those days. Some of this volume’s contributors based their chapters on their conference presentations or built and expanded on the same themes. Others joined the project later, agreeing it was imperative to engage in more critical debate and situate the narrative of ‘crisis’ within a discourse as to the nature and condition of its systemic context.

We hope that this volume will be just one of numerous contributions to signify this shift in established discourse. A sincere discussion about the weaknesses of the current variation of the ‘European project’ can only help expose the true causes of its apparent ‘crises’, and perhaps facilitate the realisation that another Europe is indeed possible.

Eva Nanopoulos and Fotis Vergis
Acknowledgements

Work on this collection, from its initial conception until its eventual production, has been lengthy, strenuous and not without setbacks at times. During the long process to bring this volume to print both of us moved on from Cambridge to new endeavours. However, we remain grateful to Prof. Kenneth Armstrong and Prof. Catherine Barnard (former Directors of CELS, both professors of EU law at the University of Cambridge), for the unyielding support, guidance, advise and constructive criticism, and to Mrs Felicity Eves-Rey of CELS, without the help and hard work of whom the conference that led to this volume would have been impossible to organise. We are also grateful to those that presented papers or chaired sessions in the March 2016 conference on the Eurocrisis that are not featured in this collection (Prof. John Ryan, Prof. Brendan Simms, Dr Ewan McGaughey, Dr Javor Jancic, Jorge Correcher Mira, Dr Pieter van Cleynenbreugel, Elena Paris) and to all participants that contributed to the discussion. In addition, we wish to thank our colleagues with whom we shared insights and concerns all through the Eurocrisis: Prof. Simon Deakin, Dr Alicia Hinarejos, Dr Albertina Albors-Llorens, Dr Markus Gehring, Dr Niamh Dunne, Dr Samuel Dahan and Dr Rumiana Yotova.

We also wish to express our gratitude to all those who were directly involved with the development of the present collection, which would not have seen the day without their hard work, devotion, academic rigour and patience. This of course includes all the contributing authors of this volume, whether they were committed to the project since its inception or jumped on board at a later stage. Their commitment and the quality of their work is what defines the collection. Equally, however we owe thanks to the hard work of our editors at Cambridge University Press and every member of the its team that was engaged with the project at various points in time: Finola O’Sullivan, Elizabeth Spicer, Rebecca Roberts, Gemma Smith, Tahnee Wager, Marianne Nield, Becky Jackaman, Karthik Onukaimani, Martin Barr and Birgitte Necessary. We also want to thank Jack William Head who helped with the editorial work on some of the chapters in preparation of the full manuscript.

xvii
xviii Acknowledgements

Special thanks are due to Dimitris Naiplis (N_Grams). Dimitris is an Athens-based visual artist working on a wide variety of media and artistic techniques, including sketches, public interventions/installations and street art. His art has been presented in numerous group shows in Greece and cultural festivals around the world. We were delighted he agreed to provide his work, drawn on the eve of the July 2015 referendum, at the apex of the Greek crisis, for our cover.

Lastly, there is a special place in our hearts for those that tolerated our days of stress and sleep deprivation and endured missing holidays and weekends, while we were living, dreaming and breathing Eurocrisis. Eliza and Owen not only had to go through the Eurocrisis itself, but they also had to experience the equally severe effects of partners writing about it. They survived both. And for their patience, they don’t just have our utmost gratitude; they have our love.

Eva Nanopoulos and Fotis Vergis
(London – Manchester, 9 May 2018: Europe Day and Victory Day)