Integrity and Efficiency in the EU: The Case against the European economic constitution

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Abstract: The European Constitutional Treaty (ECT) was presented by its drafters as an explicit constitution for the European Union (EU 25). A possible explanation for its rejection by the French and Dutch citizens in the course of spring 2005 is that it did not sufficiently amend the implicit constitution of the EU 25, the European Union Treaty (EUT), which was truly the object of voters’ aversion. Assuming this to be true, there should be a thorough debate on the relevance and viability of the de facto current constitution of the European Union. In this paper, we engage in this debate by identifying what is essentially wrong with the economic provisions of the EUT, which we designate as the “European economic constitution.” Using a constitutional political economy approach, we first attempt to demonstrate that both what we define as the “principle of integrity” and the “principle of efficiency” of collective action appear to be violated by the European economic constitution. This occurs, respectively, because its provisions are not neutral, nor revisable, and because they do not sufficiently allow for the possibility of cooperative collective decision (leading to convergence in welfare) in a more than ever numerous and heterogeneous EU. Our essential argument in this respect regards the implications of the structurally different economic performances and incentives of small and large countries under the European economic constitution. Finally, since the present European trade-off between “integrity” and “efficiency” appears sub-optimal, we present two original ways of achieving potentially better ones in the EU, through a “Great compromise” or “Economic constitution(s),” expressing a preference for the latter.
While the European Union (EU) has long been the most developed model of regional integration, it was severely shaken by the recent economic crisis, causing increasing doubts about the integration process. The lack of a timely and coherent response to the euro crisis called into question the integrity of the eurozone, whose structural and institutional fault lines have been revealed by the financial crisis. These doubts coincide with dramatic changes in the global economic order involving the relative decline of the EU and United States and the rise of Asia. Nevertheless, in the EU case, the Cassandras are nearly always proven wrong. The EU has an excellent record of recovering from crises and moving ahead even stronger than before due to firm political will. AGAINST the European Union. 1. make fudge, not war. War is Europe's default setting. Millennia of conflict peaked with the bloodletting that gripped the continent over the first half of the 20th Century. Since then, nobody has died in fighting between countries in the European Union. The EU is the world's best example of former enemies working together to solve their problems through discussion and compromise. The prospect of EU membership helped ensure peaceful transition across eastern Europe – except where nationalism took hold in the Balkans. Despite recent problems, the European Union is a huge economic success story. The creation of a single market uniting over 500 million people has forged the world's biggest trading zone. With many European States gaining their independence or reshaping their contours, new constitutions will be drawn up. Recent advances in the economic analysis of law can help to make this difficult task more feasible. This essay starts by giving an introduction into the economic analysis of constitutional law. An additional complication not encountered generally arises in the economic analysis of constitutional issues because the constitution itself determines the scope and structure of those legal issues that are normally subject to economic analysis. Although a constitution, as compared to other legal documents, is more immutable, constitutions are also subject to substantial change.