ENFORCING THE EUROPEAN SEMESTER: THE POLITICS OF ASYMMETRIC INFORMATION IN THE EXCESSIVE DEFICIT AND MACROECONOMIC IMBALANCE PROCEDURES

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The European Semester is an information-driven surveillance system that relies upon budgetary and economic statistics collected from member states and analyzed by the European Commission. This is true for both the Excessive Deficit Procedure and the Macroeconomic Imbalance Procedure. This paper employs Principal-Agency theory to analyze the politics of asymmetric information and how this is addressed in the EDP and MIP. This paper explores how the statistical requirements of Six Pack have been enforced by the Commission and ECOFIN to strengthen the EDP, even as the statistical integrity of the MIP has received less protection. The paper focuses on the case of the Spanish Valencia’s misrepresentation of statistics that provoked the first financial sanction in the history of the Economic and Monetary Union, as well as efforts by the Commission to strengthen the reliability of MIP statistics and expand the number of MIP headline indicators.

1. INTRODUCTION

The European Semester was created in the wake of the Greek and euro crises to strengthen and deepen the fiscal and economic coordination of the European Union (EU). At the center of the Semester is an information-driven surveillance system that relies upon fiscal and economic data collected from the member states and analyzed by the European Commission (Commission). This is true for both the Semester’s Excessive Deficit Procedure (EDP) and Macroeconomic Imbalance Procedure (MIP). The EDP relies on deficit and debt statistics to determine member state compliance and the application of sanctions. The MIP relies on eleven headline and
twenty-eight auxiliary statistical indicators as part of the EU's economic alert mechanism to determine whether to activate In-Depth Reviews and the application of sanctions (Essi and Stiglbauer 2011; Moschella 2014). As stated in the Six Pack, "The availability of fiscal data is crucial to the proper functioning of the budgetary surveillance framework of the Union," and “Reliable statistical data is the basis for the surveillance of macroeconomic imbalances” (Council Directive 2011/85/EU; Council Regulation 1174/2011). Both procedures function in the context of asymmetrical information relationships where supranational organizations must obtain statistical information generated by the member states that may ultimately serve as the basis for sanctioning them through the EDP and the Excessive Imbalance Procedure (EIP).

Despite the significance of the Semester’s asymmetric information for EU economic governance, with few exceptions, little scholarly attention has been paid to how the rules governing the Semester’s procedures for administering these data affect the political relations between EU institutions and the member states (Gandrud and Hallerberg 2016; Mabbett and Schelke 2014; Savage 2005; Schelkle 2009). This paper addresses this deficiency in the literature by analyzing through a Principal-Agency (PA) framework the politics of asymmetric information in the Semester’s EDP and MIP. As a result of the Greek and euro crises, member states agreed to long-standing Commission proposals to change the surveillance process from one characterized by a fire-alarm to a police patrol system of monitoring. The layering of new rules and administrative practices dramatically strengthened surveillance in the form of the Semester (Chang 2013a; Verdun 2015). In the context of the Semester’s extensive information requirements, this paper first explores how the Commission and the Economic and Financial Affairs Council (ECOFIN) required member state compliance with the statistical provisions of
the Semester to strengthen the EDP. For the first time in the history of the Economic and Monetary Union (EMU), a member state has been subjected to the ultimate sanction: a financial penalty. This fine was imposed not for the violation of the EDPs deficit and debt requirements, but for the failure to provide accurate statistical information to the Commission. This paper then examines similar initiatives by the Commission to strengthen the accuracy of its MIP statistics and to expand the number of MIP headline indicators, both of which have been resisted by the member states. Because of these decisions by principals and agents, the EDP resembles an enhanced police patrol monitoring system while MIP resembles the less rigorous fire alarm approach to surveillance.

2. THE DYNAMICS OF PRINCIPAL-AGENCY THEORY AND ASYMMETRIC INFORMATION

This study employs a PA framework to analyze the surveillance relationships between and among member states and EU institutions, especially the Commission. In PA theory, principals delegate authority, administrative responsibility, and tasks to agents because of their organizational capacities and technical competencies. Tensions exist because agents often have their own agendas, organizational imperatives, and turf issues that may conflict with those of their principals. Efforts by agents at seeking autonomy and hierarchical control contribute to agency loss in the forms of shirking and slippage. Agents benefit throughout these relationships from the advantage of privileged information regarding their own preferences, capabilities, and efforts at implementing delegated tasks. This asymmetrical information limits principals from
fully understanding and evaluating the activities of their agents (Kiewiet and McCubbins 1991; Miller 2005; Moe 1985).

Principals attempt to address this information asymmetry and control this detrimental behavior through monitoring and sanctioning. Classic PA theory expresses a clear preference for the type of monitoring system that principals should employ to control their agents. The strongest expression of this preference is found in the difference between “police patrol” and “fire alarm” monitoring (McCubbins and Schwartz 1984). PA theorists reasoned that decentralized fire alarm systems result in fewer transactions costs for principals and are more politically effective than centralized police patrol systems. Where police patrol systems require extensive and burdensome direct oversight of these agencies, fire alarm systems rely upon constituents and vested interests to complain, or sound the alarm, about dysfunctional, unresponsive agencies. PA relationships may be cooperative, but they are generally contested, dynamic, and even adversarial. These relations vary in terms of whether the principal(s) or the agent(s) exercise greater leverage and influence at a given point in the life of a public policy. Even this description is somewhat stylized, as practical and applied PA relationships run both horizontally and vertically, with roles between the two often reversed. PA relationships exist within, between, and among the institutions that constitute principals and agents. Not all principals exercise the same authority and power as other principals, and not all agents exercise the same authority and power as other agents.

All of these dynamics are present in the EU. The task delegated by member state principals acting through ECOFIN to various supranational agents in the case of European budgetary and
economic surveillance is to monitor the behavior of the principals themselves (Chang 2013a; Hodson 2009; Gren, Howarth, and Quaglia 2015; Schuknecht 2004). These principals not only exercise significant authority over the agents, they approve the rules the agents are responsible for enforcing, and they ultimately determine whether they themselves should be sanctioned. In a reversal from the classic model, these principals own and may hide and distort the information needed by the agents to carry out their tasks, thus creating the situation where the asymmetric information relationship favors the principals, not the agents (Pollack 1997; Schelkle 2005). Thus, in the EU’s surveillance procedure there are not only multiple principals and multiple agents, but these principals and agents take on multiple roles that often reverse the standard PA relationship. Such is the case when the Commission acts as a principal by initiating the rules governing the surveillance procedures it is responsible for administering as an agent, which must be approved by the member state principals that must also comply with these rules.

As anticipated by PA theory, the creation and enforcement of these rules reflect the dynamic and contested ebb and flow of power relationships existing between multiple principals and supranational agents. Most recently, the member states through the European Council have reasserted their authority over EU economic governance as a result of the euro crisis (Bickerton et al 2014; Hodson 2013; Puetter 2012; Schimmelfennig 2015). The euro crisis has also witnessed the rise of the European Parliament (EP) as an additional principal in the surveillance process (Dinan 2014; Rittberger 2014). This intergovernmentalist turn occurred even as ECOFIN approved the Commission’s “entrepreneurial” initiatives for enhanced fiscal and economic surveillance over the member states (Bauer and Becker 2014a, 2014b; Chang 2013b; Dehousse 2015; Ellinas and Suleiman 2011; Savage and Verdun 2015).
The EU’s PA surveillance relationships are both vertical, among and between member states and supranational agencies, and horizontal, among and between supranational agencies. The EU’s PA relationships are further complicated by the structure of member state governments, especially those that are extensively federated. The Treaty on European Union (TEU) applies to “general government,” the aggregated levels of government within a member state, not simply the national government. So, for example, in the case of Spain, there are 17 Autonomous Communities (AC), 50 provinces within those communities, and seven of those ACs are considered to be both an AC and a province. Madrid is one of these consolidated communities while the AC of Valencia contains three provinces. There are some 5,000 units of government and publicly funded agencies that report budgetary information that eventually constitute Spain’s aggregate deficit and debt figures.

Prior to the euro crisis, the principals preferred a monitoring procedure analogous to the fire alarm system. Through the TEU’s Article 104(2), its Protocol on the Excessive Deficit Procedure, and Council Regulation 3605/93, the member states delegated to supranational agencies the responsibility for EMU fiscal surveillance. Yet, they limited the Commission’s authority to employ all of the monitoring tools available to conduct a penetrating surveillance of the member states’ fiscal actions. First, for example, the TEU’s Article 126 limited the Commission’s surveillance only “to identifying gross errors” in the budgetary statistics submitted by the member states in their biannual reports to the Commission. Second, the TEU did not call upon the European Court of Auditors, the one EU institution familiar with analyzing member state budgets, to deploy its auditors to review these budgets. Third, Eurostat, the
Commission’s statistical agency responsible for certifying the biannual reports, was greatly restrained in making country visits and precluded from conducting audits of budgetary accounts. To a great extent, the surveillance process relied upon the fire alarms of external sources, including the media and private rating services such as Moody’s, to identify egregious member state budgetary activity (Savage 2006).

Finally, sanctions play a critical role in PA theory. While the process of collecting information may produce disciplinary effects through the systematic use of surveillance techniques, the compliance of agents ultimately depends upon the application of meaningful sanctions. In the history of the EMU, prior to the Spanish case described in this study, no member state has been subjected to a financial penalty, despite massive noncompliance with the EU’s deficit and debt requirements. Member states have instead been sanctioned by a host of soft sanctions, which principally take the form of endless reports, recommendations, and guidelines drafted by the Commission calling for compliance. The softness of these recommendations is exemplified by the Commission’s Broad Economic Policy Guidelines issued during the EMU convergence process. This fire-alarm styled arrangement changed in reaction to the economic crises that soon gripped Europe.

3. THE SIX PACK: CONTROLLING INFORMATION EVASION AFTER THE GREEK AND EURO CRISES

The Greek and euro crises served as critical junctures in the evolution of the surveillance process, as previously reluctant member states increasingly strengthened the EU’s supranational
institutions’ centralized police patrol capabilities. The Greek statistical crises of 2004 and 2009, during which Greece submitted false deficit statistics that gained it entry into the EMU and that contributed to the euro crisis, resulted in numerous rules that highlighted the importance of transparent and credible statistics (Savage and Verdun, 2015). As a senior official in Employment Commissioner Marianne Thyssen’s office, to whom Eurostat now reports, noted, “Greece made countries very determined on making sure the data were correct, and gave Eurostat invasive powers it never would have got otherwise, and that was obvious.” After multiple requests, ECOFIN finally granted Eurostat auditing powers through Council Regulations 479/2009 and 679/2010. Of the five regulations and one directive that constitute the Six Pack, one regulation and the directive focus on the problem of asymmetric information. Council Regulation 1173/2011 outlines the policing of member states engaged in the “misrepresentation, whether intentional or due to serious negligence” of government fiscal data. The regulation establishes the basis for detecting, investigating, and financially sanctioning duplicitous member state behavior. The Commission is empowered to conduct surveys for “detecting and exposing” statistical manipulations, and for conducting “any investigations necessary” of member states if there are indications of statistical manipulation, whether the manipulation is intentional or created through negligence. Furthermore, the regulation authorizes the Commission to recommend that the egregious member state that “intentionally or by serious negligence misrepresents deficit and debt data” be fined for this violation in a manner that “shall be effective, dissuasive and proportional to the nature, seriousness and duration of the misrepresentation.” While the total amount of the fine shall not exceeding .2 percent of the member state’s GDP, the reference amount for the penalty shall be equal to 5 percent of the misrepresentation of either the member state’s deficit or debt covered by the notification period
of the EDP. The Six Pack’s provisions soon came into play when the Commission sought sanctions against Spain for the misrepresentation of its EDP statistics. Parenthetically, the Two Pack’s Regulation 473/2013 reasserts that Eurostat shall assess the quality of member state statistical data for the surveillance process.

4. THE POLITICS OF ASYMMETRIC INFORMATION IN THE EDP: THE CASE OF VALENCIA

The Valencia case is the first of three analyzed here that exemplify how the politics of asymmetric information play a critical role in EU economic governance. In reaction to Greece and the euro crises, the EU reinforced the Semester in a centralized police patrol-like manner, to the extent that both principals and agents agreed for the first time in EMU history to impose financial penalties against a member state for misrepresenting its data for the EDP’s surveillance procedure.

4.1. The Institutional Framework of Spanish EDP Reporting

To appreciate the Valencia case, it is first necessary to understand that the EU’s challenge of managing asymmetrical information begins with the TEU’s requirement that member states report on a biannual basis, in March and October, their fiscal and economic data to Eurostat. These data must be submitted in a manner consistent with the European System of National Accounts, the EU’s accounting system that harmonizes member state deficit and debt figures. The collection and analysis of these budgetary and financial data reflect a long chain of interlaced institutional PA relationships within the EU, first emanating from member state
approved treaties and secondary rules, through supranational agencies, to the member state national governments, to regional and local government and public units, all of which must be managed effectively to overcome the presence of asymmetric information in the Semester surveillance process.

In the case of Spain, the provision of budgetary information to the EU begins with Spanish law (Ministerial Order ORDEN HAC/2283/2003) that requires the National Audit Office (IGAE), which is a unit in the national Ministry of Finance (MOF), to collect budgetary data from the 17 ACs. Each AC through its regional ministry of finance is responsible for producing a set of government financial public accounts that incorporate accrual accounting. Each regional MOF contains a regional audit office charged with that task. Spanish law delegates to the IGAE the power to audit central government and social security accounts, but delegates the auditing of regional accounts to these regional auditing offices. This unit in the AC of Valencia is the Government Audit Office (IGGV), which, in turn, gathers data from the various government and publicly funded units in the region, such as the regional Ministry of Health (HPGV). There also exists a National Court of Auditors and regional courts of auditors (SCCV) that are responsible for examining and ensuring the credibility of the data generated by the national and regional ministries of finance’ audit offices--the IGGV in the case of Valencia. The IGGV submits its data four times a year to the IGAE through the Standardized Questionnaire. The IGAE then translates these public accounts figures into the ESA national accounts framework. These data are then submitted to Spain’s National Statistical Institute (INE), which reviews and submits the data biannually to Eurostat. Finally, EU Council Regulation 2011/85/EU, Spain’s General Public Accounting Plan, and that of Valencia, require that these public accounts figures include
expenditure data that reflect accrual accounting principles, where expenditures are counted in the year they are formally obligated. Nonetheless, these formal rules and procedures were not sufficient to prevent severe irregularities from emerging in the Spanish statistics reported to Eurostat.

### 4.2. “Severe Irregularities” in Spanish Statistics

In May 2012, Spain’s INE informed Eurostat that the 2011 deficit figure of 8.5 percent of GDP it submitted in the March 2012 biannual report needed to be increased by .4 percent, due to unreported expenditures in the ACs of Madrid and Valencia. Eurostat later reflected this revision in the October 2012 biannual report, which helped raise Spain’s 2011 deficit to 9.4 percent of GDP. Eurostat then in June 2012, as authorized by Regulations 479/2009 and 679/2010, and Commission Delegated Decision 2012/678/EU, initiated a series of on-site “methodological” visits to investigate the revisions. Madrid’s accounts were inaccurate, but these errors were unintentionally entered. In the case of Valencia, however, Eurostat reviewed the HPGV’s statistics and discovered extensive, long-term, and intentional misreporting and underreporting of health related expenditures of €1.893 billion incurred from 2007 to 2011.

Eurostat’s visits identified a host of “severe irregularities” that contributed to the breakdown of the PA system that Spain established to meet its EDP reporting requirements (European Commission 2015a). The IGGV ignored recommendations from both the SCCV and the HPGV and failed to record expenditures in their proper accounts for five years, during which time none of these obligations were paid. The IGGV then sent its falsified data to INE, which reported inaccurate expenditure and deficit figures to Eurostat. Oversight national and regional
accounting rules and institutions were either ignored, uniformed, or powerless to control Valencia’s behavior. Eurostat found that the IGAE had no formal agreement or contact with the regional SCCV, and that it lacked the authority to amend regional data or to verify the reliability of the IGGV’s data. Reflecting on the inherent challenge created by the surveillance process, a Directorate-General for Economic and Financial Affairs (DG ECFIN) official noted that “when it comes to budgetary statistics, the national statistical institutes (NSI) are in the position of gathering asymmetric information vis-à-vis the government. So a government determined to cheat, could at least for a time, get away with it.”

Valencia’s motivation for hiding its expenditures was rooted in the TEU’s requirement that a member state’s deficit and debt figures are based on a general government calculation. This produced adversarial PA relations over asymmetric information within the member states, as central governments changed their laws and attempted to restrain their subunits’ spending and deficits. Spain enacted an internal stability pact, stylized after the Stability and Growth Pact, in 2001, followed in 2012 by the Organic Law on Budgetary Stability and Financial Sustainability and the addition of Article 135.1 to Spain’s constitution to comply with the Treaty on the Functioning of the European Union. Valencia’s statistical manipulations represent an attempt to evade these restrictions (Almendral 2013a, 2013b).

The Spanish government discovered the IGGV’s misreporting in 2012. That year, the government created a Special Payment Mechanism (SPM) to assume the collected commercial payments in arrears to suppliers for of all of Spain’s ACs and municipal governments. In exchange for relieving them of these payments, the ministries of finance of these governments
were required to disclose their fiscal deficiencies by submitting invoices of their unpaid bills to the central Ministry of Finance. As the IGGV was a unit in Valencia’s regional MOF, the ministry was aware of these unpaid expenditures and included them in the AC’s invoices sent to the central MOF for funding through the SPM. Consequently, in order to benefit from the central government’s payment of its outstanding obligations, the AC of Valencia was required to reveal its long-term, unpaid expenditures. As the SPM process progressed and Valencia’s errors became known to the MOF, the MOF informed the INE that Spain’s budgetary figures that were incorporated into its EDP reports to Eurostat were inaccurate. The INE then notified Eurostat that the 2011 deficit needed to be revised upwards.

The discovery of these statistical discrepancies led the Commission in July 2014 to authorize Eurostat’s formal investigation of Spain’s deficits and debt figures. The Six Pack’s Directive 2011/85/EU outlined these new investigatory procedures, including its right to interview “any person directly or indirectly involved in compiling deficit and debt data, who agrees to be interviewed,” at any level of government. Subsequently, a highly detailed report drafted by Eurostat submitted by the Commission to ECOFIN declared that the IGGV actively engaged in the misrepresentation of Valencia’s expenditures (European Commission 2015).

4.3. Spain’s Response and ECOFIN’s Financial Sanction of Valencia

Employing the procedures outlined in Council Regulation 1173/2011, Spain defended itself against the Commission’s investigation and reports by filing an action on September 14, 2014 with the General Court of the European Court of Justice and by submitting its own rejoinder report to ECOFIN (Curia 2014; European Commission 2015b). Spain argued that Eurostat never
questioned the data the INE submitted for the March EDP, and that Spain and its INE should receive credit for immediately alerting Eurostat to these statistical discrepancies. The data reflected neither grave negligence nor intent on the part of the Spanish government. More importantly, under the terms of Decision 2012/678, Eurostat lacked the authority to review data prior to December 2011. Eurostat’s “covert” investigation constituted an act of “retroactivity,” by examining data dating to 1998, far beyond the period covered in the 2012 EDP reports. This meant that the legitimate investigation was necessarily limited in scope and that penalties could only be imposed for the INE’s 2011 data. Furthermore, member states often revised their data, so Spain should not be punished for what “is standard practice in the majority of countries.” Finally, Spain’s notification to Eurostat came in sufficient time to avoid any compromise to the EDP process; there was no “detrimental effect at all,” none that would affect the Commission’s surveillance ability “to identify gross errors,” as called for the TEU. Of the €1.893 billion in missing expenditures identified by Eurostat covering the period 2007-2012, only €900 million could be attributed to 2011, the year in question, or just .08 percent of that year’s GDP.

On July 13, 2015, ECOFIN acted on the Commission’s reports and issued Council Decision 2015/1289 that imposed a fine of €94.65 million on Spain for Valencia’s “serious negligence” leading to the “manipulation of deficit data.” ECOFIN then, on Eurostat’s recommendation, began “taking into account” three extenuating circumstances that reduced the fine: first, the discovered expenditures did not materially alter Spain’s deficit for the EDP; second, the official deficit figure reported in the March biannual report was promptly corrected in the October report; and third, the manipulation of statistics represented the act of one entity, not Spain’s entire government. For these reasons, ECOFIN reduced the fine to €18.93 million.
4.4. The General Court’s Ruling and Spain’s Reaction

On September 3, 2015, the General Court ruled in favor of the Commission (InfoCuria 2015). The Court agreed with the Commission’s claim that the Commission conducted the investigation in a manner consistent with Regulation 1173/2011. Spain could only challenge ECOFIN’s decision and the fine, not the legality of the investigation. Regarding the fine, the Court ruled that ECOFIN applied the penalty in a manner consistent with TEU Article 261, such that it could “annul, reduce or increase the fine so imposed.” The Court rejected Spain’s assertion that the penalty should be set aside because this was “the first decision of the Commission to initiate an investigation on the manipulation of statistics by a Member State” under the Six Pack, and that Spain suffered unusual publicity that damaged its standing in international financial markets. The Court found this claim to lack any standing as it applied to the legal matter at hand. Instead, the Court dismissed Spain’s claim and ordered it to pay the fine set by ECOFIN.

Finally, the Commission’s investigation, ECOFIN’s decision, and the Court’s ruling produced political controversy within Spain, and generated accusations between the central government and Valencia. Amid charges of mismanagement and corruption, the People’s Party that governed Valencia suffered severe losses during the May 2015 elections. On September 11, 2015, following the General Court’s ruling, MOF ordered Valencia to pay the fine that had been imposed on the central government within two months. If it did not comply, MOF would deduct those funds from the budgetary transfers sent to Valencia as part of Spain’s regional financing.
5. MEMBER STATE PUSHBACK: THE POLITICS OF ASYMMETRIC INFORMATION IN THE MIP

The euro crisis and the Valencia case led to a reinforced EDP, but would the member state principals also permit the Commission to administer a similar police patrol-like system to ensure the integrity of information submitted for the MIP? This section of the paper examines two initiatives by the Commission: first, to ensure the statistical accuracy through additional regulations that enhanced Eurostat’s authority over MIP statistics, and, second, to expand the number of headline indicators that would broaden the political use of MIP information in the surveillance procedure.

5.1. Eurostat’s Proposed Regulations for “Quality” MIP Statistics

In 2011, ECOFIN declared that the MIP “must rely upon sound official statistics for inclusion in the scoreboard” (ECOFIN, 2011). Encouraged by this declaration, Eurostat proposed legislation to regulate MIP statistics. Echoing Regulation 1173/2011, the draft regulation, COM(2013)342, granted Eurostat the authority over MIP statistics that it possessed for the EDP. The regulation empowered Eurostat to receive and assess the quality of the data provided by the member states, conduct mission and investigatory visits, express reservations on the quality of these data to the member state and ECOFIN’s Economic Policy Committee, provide the data used for the MIP, amend the data, and, acting through the Commission, recommend fines against a member state not exceeding .05 percent of its GDP for the intentional or seriously negligent manipulation of statistics. DG ECFIN, the other provider of MIP data within the Commission, hesitated in ceding to Eurostat approval authority over the Real Effective Exchange Rate indicator and the
Unit Labor Cost Performance auxiliary indicator statistics it compiles for the MIP. Nevertheless, Algirdas Šemeta, then Eurostat’s Commissioner, successfully championed the proposal within the Commission, arguing that reliable statistics supported DG ECFIN’s own surveillance duties. A DG ECFIN official conceded, “It is difficult to take the position ‘I am against good statistics.’”

Despite the Commission’s approval, the proposal drew opposition from the European Central Bank (ECB). EU bureaucratic politics intervened as the ECB also produces MIP statistics, and, like ECFIN, viewed the proposed regulation as infringing on its administrative autonomy (Hartlapp, Metz, and Rauh 2013). There are two major statistical data systems in Europe, the European Statistical System (ESS), which Eurostat administers, and the European System of Central Banks (ESCB), which the ECB administers under the authority of Regulation 2533/98. This regulation empowers the ECB to oversee the statistics generated by the various member state National Central Banks (NCB) and private financial institutions. Thus, the working relationships are more frequent and the institutional loyalties stronger between Eurostat and the NSIs on the one hand, and the ECB and the NCBs on the other. The TEU and all subsequent statistics required for the EMU convergence process and the EDP rely upon the ESS. The MIP also relies heavily on the ESS, but the Net International Investment headline indicator and the Net External Debt auxiliary indicator rely on ESCB data.

After gaining approval from within the Commission, the regulation advanced to the European Parliament and ECOFIN for their consideration on June 6, 2013. In its “Opinion” to the EP, the ECB declared that the Commission’s proposal threatened its independence in governing ESCB
statistics (European Central Bank 2013). The ECB charged the proposal “seems to establish parallel quality assessments,” while calling instead for preserving “the already existing quality assurance arrangements of the ESS and the ESCB,” which “should also be applied to the statistical data for the MIP.” Noting that the responsibility for generating MIP statistics are “shared,” the ECB recommended that the coordination for the “close cooperation” between the two systems should take place in the Committee on Monetary, Financial, and Balance of Payments Statistics (CMFB). The one institution where Europe’s statistical units, Eurostat, the NSIs, NCBs, and the ECB come together is in the CMFB. Created in 1991 by Regulation 91/115/EEC, the CMFB is the premier body for setting policy on statistical requirements and methodologies. A memorandum of understanding (MOU), the ECB suggested, could be created in the CMFB to clarify the “practical operational arrangements” between the two systems in the production of MIP statistics.

The EP Committee on Economic and Monetary Affairs’ amendments to the proposal echoed the ECB’s concerns, as well as those of many member states. Adopted by the EP during the first reading of the legislation on March 11, 2014, the amendments directed that the “the institutional separation of the [ESCB] and the independence of [NCBs] should be respected,” added the ECB to the ESS Group of Directors of Macroeconomic Statistics, called for “close cooperation” between the ESCB and the ESS, recommended that the “practical operational arrangements” be set by an MOU, and required NSI consultation with the NCBs in the production of member state MIP data. The amendments reflected member state interests by calling for the Commission’s “closer and more timely involvement” of the national parliaments and the EP in MIP statistical surveillance, with NSIs potentially called to participate in EP committee hearings. Eurostat
would be required to provide the EP with provisional reports on investigatory missions, and final findings would be sent to the EP as well as ECOFIN. Significantly, the process for fining member states was extended and made more difficult to impose. The fine would consist of an interest-bearing deposit not exceeding .05 percent of GDP in the preceding year, and it would be “a last resort,” and, in an important revision, require that the offending member state be proved to be one that “has acted intentionally to misrepresent the MIP relevant data.” Furthermore, this misbehavior must be one that “as a consequence has impacted on the ability of the Commission to make a true and fair assessment” (European Parliament 2014)

5.2. Current Status of the Proposal

Given the EP and the ECB’s reactions, the Commission is reluctant to press the regulation forward with either the EP or ECOFIN. For its part, ECOFIN has “taken note” of the regulation and it “welcomes” the “close cooperation” of the ESS and the ESCB, yet has not formally read the proposal (Council of the European Union 2013). Eurostat responded by entering into individual MOUs with ECFIN and the ECB, while creating a CMFB task force on statistical quality involving the member state NSIs and NCBs. These agreements and task force reports essentially call for cooperation and sharing in the development of MIP data, but they effectively reified ECFIN and the ECB’s institutional roles in overseeing their separate data employed in the MIP.

5.3. The Commission’s MIP Social Indicators Proposal

The member states objected to expanding Eurostat’s authority over MIP statistics, but would they also object to expanding the scope of the MIP’s indicators, which also enhanced the
Commission’s capacity to use information to monitor the member states? Council Regulation 1176/2011 empowers the Commission to assess the scoreboard indicators’ “appropriateness,” and “modify them where necessary.” Acting on this authority, in a relatively non-controversial act supported by ECOFIN and the EP, the Commission added an eleventh Financial Sector headline indicator to the original ten (European Commission 2012). Then in May 2015, the Commission proposed to ECOFIN and the EP that three MIP auxiliary “social” indicators be designated as headline indicators (European Commission 2015c). The proposal reflects extended discussions within the EU that greater attention should to be paid to the member states’ social dimension to assess the “consequences” of the austerity measures imposed on many member states (Crespy and Menz 2015; Zeitlin and Vanhercke 2014). The EP repeatedly expressed these concerns during the designation hearings for President Junker and several of his commissioners to-be. The Commission responded in 2013 by recommending that nine auxiliary MIP indicators be added for that purpose, with the promotion of the “Employment Activity Rate,” “Long-term Unemployment,” and “Youth Unemployment,” auxiliary indicators to headline indictors to focus “increased attention to the specific aspects of the social sphere” (European Commission 2013).

On June 8, 2015, the member states acting through ECOFIN’s Economic Policy Committee rejected the Commission’s proposal (Economic Policy Committee 2015). The committee noted that the indicators in question were reflective in nature and did not serve the MIP’s purpose of serving as an early warning device to help prevent economic imbalances. Realigning the indicators would undermine the “effectiveness of the MIP,” and run counter to ECOFIN’s desire that “the use of social indicators…should remain limited to allowing for a broader understanding
of social developments.” Thus, “upgrading these indicators…does not seem consistent with the purposes of the MIP.”

Though ECOFIN framed its formal response to the proposal in terms of policy considerations, its reaction is heavily influenced by the proposal’s PA asymmetric information implications. Increasing the number of headlines indicators means expanding the use of information by which the member states could be evaluated by the Commission, and possibly be subjected to an EIP and ultimately financial penalties. This additional information gained from the member states increases their vulnerability to the Commission’s surveillance procedures. To assure the member states this would not occur, the proposal states, “The expansion of the set of scoreboard indicators will not have legal implications nor change the focus of the MIP.” These social indicators would be seen as “contextual” headline indicators, thus creating a new category of indicators. Nevertheless, both finance and social ministers oppose the proposal. In 2015, the Council’s Social Questions Working Party “took note” of the Commission’s proposal, but it “underlines the need to carefully preserve the nature” of the MIP (Social Questions Working Party 2015). As an official on Commissioner Thyssen’s staff observed: “Member states are also very upset, because they don’t want to have another reasons why you could open an imbalance procedure against them…that, in theory, could also lead to fines because you have too high employment…Not only do the economic ministers don’t like it, but also the employment ministers don’t like it.”4 “They don’t want more indicators,” added a DG ECFIN official, “It’s related to the fact that when you have these indicators, if you are under surveillance, you don’t want them because it becomes very intrusive. You start getting recommendations, you start getting reports on your country, and they don’t want this intrusiveness in some areas….What
they don’t want is to take the risk to be fined for social issues.”

The member states want to avoid being penalized. They wanted “predictability” in how the indicators would be interpreted, they wanted to know exactly at what point that crossing an indicator’s threshold would trigger an EIP. “The problem with the MIP,” observed another DG ECFIN official deeply involved in the process, “is that the member states are not happy that the Commission is using such discretion without numbers to ensure the predictability. The words they use are ‘transparent’ and ‘predictable.'”

The Commission values “flexibility” in interpreting the scoreboard indicators, while the member states seek predictability in their indicators (Hodson 2014).

5.4. Current Status of the Proposal

The Commission reclassified the social indicators when it issued the new scoreboard of indicators in November 2015, despite the member states’ opposition. (European Commission 2015d). “We are doing it! Because it is our choice,” declared Commissioner Thyssen’s official. “What we put in the alert mechanism report and how we use it is a Commission prerogative according to the MIP regulations. We’ve consulted the member states, we’ve consulted the Parliament. The Parliament is in favor of this, by the way, which helps.”

Regulation 1176/2011 requires only that the Council and the EP be consulted when the indictors are “modified,” not their permission. The Council responded in June 2015, the Commission awaits the EP’s response, which given previous action will likely be positive.

6. DISCUSSION AND CONCLUSION

Each of the three cases presented here illustrates the challenges of managing the PA aspects of asymmetric fiscal, economic, and social information in the EU. This study argues that
historically, the member states preferred a looser fiscal EMU surveillance regime, akin to the PA notion of fire alarm. Having some surveillance system in place suggested their credible commitment to controlling the negative spillover effects of noncompliant behavior, with relatively limited intrusion on member state budgetary autonomy. The Greek crisis and its association with the debt crisis altered the member states’ willingness to adopt Commission recommendations to create an enhanced police patrol type of surveillance procedure for the SGP and EDP, one that tackled the asymmetric information advantages favoring the member state principals. Council regulations created in 2009 strengthening the Commission’s authority to visit member states and scrutinize member state fiscal statistics were soon greatly augmented by the Six Pack. This legislation promotes deeper Europeanization and enhances the authority of supranational agencies in confronting the member states (Featherstone and Radaelli 2003; Knill 2001). The Six Pack granted the Commission the right to conduct investigations of member state administrative practices as they applied to fiscal statistics, the right to review the fiscal data and transactions of all levels of government within a member state, and the right to sanction member states with financial penalties. As a DG Secretariat-General official observed, “If you look at it from a sovereignty perspective, we’re interfering with what you could consider to be national governance. Here comes a supranational authority and does not address the central state, which is the main interlocutor with the EU, but can interfere directly with regional authorities.” A DG ECFIN official involved with the case stated, “We have established a precedent...The extent of potential cases is huge.” In addition, in March 2015, ECOFIN amended Regulation 223/2009 to enhance the independence and professionalism of the member state statistical institutes that work closely with Eurostat in developing the European Statistical System (ESS) that governs EU statistics. This legislation promotes Europeanization, offers the Commission the opportunity to
scrutinize the statistical activities of the member states, and helps build networks and epistemic communities among European statisticians. In the Valencia case, it was Spain’s INE that alerted Eurostat to the discrepancies in that country’s statistics.

Even as the Valencia case represents the assertiveness of supranational agencies, the politics of MIP asymmetric information reflect the intergovernmental authority of member state and EP principals to restrict the Commission’s surveillance powers. The MIP presented the Commission with two recent opportunities for expanding their prerogatives in managing and interpreting the asymmetric information it obtained from the member states. Eurostat attempted to expand its authority over the quality of the MIP’s statistics, while the Commission attempted to reclassify the MIP’s social indicators as headline indicators. The Valencia case appears to have influenced the member states’ response to the MIP proposals. Although the EDP and the MIP are separate procedures and Valencia was fined on the narrow matter of statistics, the precedent has been set.

The Commission is willing to propose fines against the member states for violating the Semester. In response, the member state principals refused to grant to their agents the full authority needed to ensure the quality of MIP statistics that they gave the EDP statistics. The EP opposed Eurostat’s proposal because it was not going to support the same level of investigations or the possibility of financial sanctions for the MIP that were imposed for the EDP. When the EP considered the proposal said a Eurostat official, “they have it in their minds that the same sanctions will be applied in the MIP.”10 The Council, meanwhile, rejected the promotion of social indicators because they potentially exposed the member states’ economic and social policies to Commission programmatic intervention and fines. Where the member states prefer fewer indicators and predictability in the interpretation, the Commission prefers an expanded
number of indicators and flexibility in their interpretation. Yet, caught in its own rules, the Council is unable to prohibit the introduction of these new highline indicators because it delegated to the Commission the authority to introduce new indicators through Regulation 1176/2011. In this way, the politics of asymmetric information reflect the current status of the shifting power relationships between the member states and EU institutions as a result of the euro crisis.

RESEARCH NOTE

In addition to analyzing the legislative treatment and administration of information, this study’s findings rely upon interviews conducted during the fall of 2015 with 16 senior Commission officials, including staff in the Secretariat-General, DG ECFIN, DG Eurostat, and the Cabinet of the Commissioner for Employment, Social Affairs, Skills and Labor Mobility. Follow-up interviews were conducted as needed. Interviewees requested and were assured anonymity to encourage candor in their remarks, especially in response to questions regarding such sensitive topics as the relationships between and among member states and EU institutions. Below are citations for interviews quoted in the text.

1. Interview with official in Commissioner Thyssen’s office, 16 October 2015.
2. Interview with DG ECFIN official, 15 October 2015.
3. Interview with DG ECFIN official, 15 October 2015.
4. Interview with official in Commissioner Thyssen’s office, 16 October 2015.
5. Interview with DG ECFIN official, 30 October 2015.
7. Interview with official in Commissioner Thyssen’s office, 16 October 2015.
8. Interview with DG Secretariat-General official, 23 September 2015.
9. Interview with DG ECFIN official, 15 October 2015.
10. Interview with DG Eurostat official, 2 October 2015.

REFERENCES


