

## Sacred Euro: Sovereign Debt(s) and EU's Bare Credit in the Corona Crisis

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### **Introduction: money, nomisma and nomos**

Far from being a neutral medium of exchange, money affects the daily practice of our economic dealings while being intrinsically connected to the whole of legal, social and political interactions of the community to which we belong. In this light money enjoys its own 'morality', where voluntary customary usage ('moral' from the Latin *mos*, 'manner, custom') is backed by the subsistence of a normative order, a *nomos*: the former and the latter being collectively practiced, shared and endorsed in a certain social group. Hence, sovereign power (the beholder of the law) can hardly posit the use of 'fiat money' by decree when mechanisms of inflation, recession or even depression are in action. Here 'positive money' (money imposed by the state) contrasts 'monetary *nomos*' and, then, it is soon replaced by alternative 'natural money' that can better work as store of value (for instance, commodities such as precious metals, gold or silver), unit of account and means of exchange (the rise of cryptocurrencies, e.g. bitcoins, represents the most recent example in this direction). It is indeed the criterion of public trust that fosters the morality of positive money by its convergence with natural money: the public *gives* political credit to the sovereign to the extent to which through its *nomisma* (currency as 'monetary *nomos*') people can trust *receiving* economic credit in the reciprocity of their economic dealings by using something that represents (as store of value, unit of account and means of exchange) their shared/mutual needs in/for participating in the same community. A conceptual equivalence with the well-known jurisprudential couple 'positive law'/'natural law' (that kind of sovereign law whose legitimacy derives from providing 'what is right', to wit, 'rights') can be easily drawn from the previous reflection, a point on which I will come back later.

Aristotle, in his *Nicomachean Ethics*, underlines the deep intersection between 'monetary practice' and 'normative/social order' (what I have just described through an elision as 'monetary *nomos*') by noting the etymological correspondence in Greek language between 'currency' (*nomisma*) and 'law' (*nomos*), both related to the need for the subsistence in any community of a 'standard' for exchanges and social relations established by common agreement.

There must... be one standard by which all commodities are measured... money has become by convention a sort of representative of common need (demand); and this is why it has the name 'money' [*nomisma*, customary currency] – since it exists not by nature [*physis*] but by

‘law’ [*nomos*, ‘custom, usage, law as natural/social order’, distinct from *lex posita* or *ius positum*] (NE, Book V, 1133a 29-30).

Moving from these preliminary considerations the present paper aims to shed some light over the Corona crisis by applying a law-as-culture paradigm to interpret the impact of the emergency on the EU as a polity whose ‘positive money’ (the Euro) seems unable to function as ‘natural money’: that is to say, *a polity lacking in monetary nomos*.

In particular this contribution argues that the current pandemic is revealing the contradictory nature of the Euro as a kind of *sacred money* (*nummus sacer*, where the etymology of the Latin *nummus*, ‘coin’, relates to the Greek *nomisma*) that may be borrowed by Member States via sovereign debt(s), but whose credit is not backed by the EU polity as a whole.

Besides drawing from the ‘state of exception’ in the scholarship by Giorgio Agamben (to which the title of this paper expressly refers by paraphrasing *Homo Sacer: Sovereign Power and Bare Life*), valuable hints for the analysis will be found in George Simmel and Marcel Mauss. More precisely, moving from the chronicle of the outcome of the EU Coronavirus relief deal, agreed on by the Eurogroup on Thursday 9<sup>th</sup> April 2020, the paper will advance a critique to the bailout system embedded in the ESM loans model (instead of the issuance of eurobonds to face the crisis) as a signal of the political failure of the EU to act (better re-act) as a polity holding a *nomos* grounded on the monetary ‘morals’ of its *nomisma*. By highlighting the failure of the European *nomos/nomisma*, the ‘bare credit’ of the EU will be related to an inescapable resurgence of nationalism and the sovereign power in the Member States. To conclude, final suggestions will be advanced for more ambitious actions to be taken by the EU to save its polity from the Corona crisis as a global emergency that can actually determine the end of its project of an “ever closer union”.

### **The EU’s Coronavirus relief deal: a failure to get credit, a sentence to death**

“Europe suffered a historic defeat on Thursday night” (*The Guardian*, Saturday 11<sup>th</sup> April 2020).

The first line of the article by Yanis Varoufakis, former finance minister of Greece, gives voice to the hope, ambition and regret coming from the EU Member States devastated by the impact of Covid-19 crisis. A shattered hope in a more supportive EU; a broken ambition for an “ever closer union among the peoples of Europe” (founding Treaty of Rome, 1957); a regret about the dramatic lack of “awareness of a common destiny” (Solemn Declaration on EU, 1983) that not only has the pandemic made clearer for European peoples, but for the humanity as a whole. The EU’s Coronavirus relief deal, Varoufakis argues, “[b]esides constituting an epic dereliction of duty, ... dealt a decisive blow to the foundations of the European union – much to the delight of Europe’s critics and enemies”.

Amid the general lockdown still affecting continental Europe, with the real economy of goods and services hibernated by the lack of consumption and production, previsions of fall in GDPs and the highest rates of unemployment since WWII, the capacity of circulation of money which ‘by convention’ represents (and satisfies) common needs and demand (Aristotle) becomes

crucial not only to protect the economic, but also the legal, social and political values of community *Life* (see final section).

But if the lockdown “do[es] not care what currency we use” (as Varoufakis remarks) and politics like the US, Japan and the UK have already increased their public expenditures to counterbalance the falls in private incomes, the 19 countries of the eurozone (sadly, the number ‘19’ recalls the label of Covid-19 virus) are hampered in their need for a massive boost in public debt by their arrangement of sharing a “(European) central bank that... has no common treasure to lean against and... is banned from backing directly the 19 treasuries that must borrow in euros to fight the crisis” (quoted from Varoufakis’s article). Accordingly, a conundrum is faced by weakest and most indebted Euro countries, such as Italy, Spain and Greece: to issue new sovereign debt(s) to finance their economies, and try to save their peoples from the depression of the Covid-19 crisis, but with the likely fate not be able to repay their debt(s). Sovereign debt(s) that will push these States into further austerity, depression or even default. Hence, what was presented as a triumphant agreement about an impressive sum of €500bn to rescue Europe masked, in fact, the enchanting voices of Sirens luring EU States by the promise of salvation just to shipwreck their boats on the rocky coasts of the myth of the Eurozone financial stability. In the middle of the Coronavirus perfect storm, the extension of “credit lines to countries such as Italy, via Europe’s bailout fund (the European stability mechanism, ESM), to the tune of 2% of a recipient country’s national income... [plus] more loans, of about €100bn, to the social security systems” (Varoufakis notes) had the (cruel) effect of reviving the spectre of financial disintegration for weaker EU Member States. But, above all, it sounded to some ears as a death sentence by the Eurogroup to the greatest creation of international politics of the last century in Europe: the European Union itself.

The failure of an appropriate politics about *giving* credit to EU States (despite a plurality of mechanisms being certainly advanced: from the ESM to the role of the EIB, the European Investment Bank; from the SURE, Support to mitigate Unemployment Risks in an Emergency, to the promise of a Recovery Fund) has sentenced, implicitly, the factual EU incapability to *receive* credit by its peoples. In summary, the end of an “even closer union”, whose *nomos*, that is to say the validity culture of its own normativity, has been indirectly (while incompletely) conveyed in the last 20 years by its *nomisma*, the Euro.

In a condition where “debt-sharing is banned by the treaties that created the Eurozone, at the insistence of the northern European countries running a trade surplus with the rest”, the Eurozone itself, as Varoufakis argues, “will remain an iron cage of austerity for most and a source of economic stagnation for everyone”. Accordingly, the demand for money (*nomisma*) through the issuance of so-called eurobonds (common debt instruments that allows long-term risk to shrink by transferring a portion of it from weaker to stronger Member States via risk-sharing) was killed by the EU *nomos* in a two-faced Janus’s failure to *get* credit (giving ‘economic credit’ to Member States so to receive ‘political credit’ from EU citizens). The inherent paradox of a *nomos* sentencing to death its own *nomisma* (and vice-versa) – hence, the self-defeat of the EU monetary *nomos* – requires at this point further interpretation to shed light over the destiny for the EU if no radical change is undertaken to make it fully “aware of its common destiny”.

### **Homo sacer, sacred Euro**

When examined more carefully, the metaphor of the ‘sentence to death’ released by the Eurogroup’s Coronavirus relief deal of 9<sup>th</sup> April looks less adequate than intended: in actual facts no trial procedure was held; nor judgement was enacted; no formal intention was addressed by the Eurogroup to declare the end of the Euro (the *nomisma* of Europe’s economic order) and EU law (the *nomos* of Europe’s legal, social and political order). More correctly, one should ascribe these consequences to the two sides of the same coin: the failure of the EU polity and its currency (its monetary *nomos*) derived from breaking the ‘oath’ of its origin as grounded on the pursuit of “an ever closer union among the peoples of Europe” (Treaty of Rome, 1957).

Significantly, an ancient figure, that of the *homo sacer* in Roman law, may offer valuable hints to interpret the destiny of the EU in the Corona crisis. Literally “sacred man”, in antiquity the meaning of *homo sacer* was actually closer to the idea of “accursed man”: being the oath essentially an act of conditional self-cursing by invoking one or more deities, the oath-breaker condemned himself to punishment without any emitted sentence. It was the act of oath-breaking itself to imply his *sacertas*, his status of outlaw deprived of civic rights. Self-responsible for the breaking of the *pax deorum* (the fundamental harmony between humans and gods in Roman ancient religion), the *homo sacer* was banned from the *civitas*, put outside the law (better, beyond it): hence, not only could he be killed by anybody without the killer being regarded as a murdered, but he neither could be sacrificed according to religious rituals (having lost the protection of the gods, he did not belong to human society anymore, nor he could be consecrated to a deity). In summary, the action of the *homo sacer* jeopardised the *pax deorum*, the harmony between men and gods, to the extent that the survival of the entire community of Rome was put in danger: his status of outlaw immediately related to his *sacertas*.

As well-known this obscure figure of ancient Roman law constitutes the starting point of the main work by Italian philosopher Giorgio Agamben *Homo Sacer: Sovereign Power and Bare Life* (1998). In posing fundamental questions about the nature of law and power in general, Agamben highlights the intrinsic paradox of the man ‘under the spell’ of the law by being *excluded* from it while being *included* in it at the same time (the *homo sacer* was within the juridical order only by being outside it, to wit, by its capacity to be killed by anybody) – the exact mirror of the ‘spell’ of the power for the sovereign, who stands *within* the law by being *outside* the law (through his political force to suspend law in a state of emergency). It is by qualifying human political life (in form of *bios*, hence the concepts of biopower and biopolitics in Agamben) that law operates via a simultaneous inclusion and exclusion of ‘bare life’ (the Greek *zoe*): by actively constructing the lives of political beings (citizens), while positing cases ‘beyond the law’ (the *homo sacer* and the sovereign) to re-affirm the nature of its ultimate power. Sovereignty, in the end, incorporates citizens in the *bios* of the political body by an original exclusion of the ‘bare life’, as much it embodies the power of the sovereign to suspend the law in the state of emergency (a concept expanded by Agamben in his *State of Exception*, 2005).

It does not come as a surprise that the interpretive strength of Agamben’s *homo sacer* contextualised in the emergency of the Corona crisis can shed light on the contradictory nature

(as well as the foreseeable destiny) of the Euro when a parallelism is drawn from the category of law (*nomos*) to that of money (*nomisma*). Betraying its own *raison d'être* (the pursuit of “an ever closer union among the peoples of Europe”), the EU has posited its *nomisma* ‘outlaw’ (beyond its own *nomos*) by allowing the Euro to be borrowed by Member States via sovereign debt(s), but without being expendable through the (economic, political, but also moral) credit of a unified polity as a whole. The myth of the EU shared sovereignty, dignified in hundreds of academic articles and books, has revealed itself as the enchanting singing of Sirens, since deprived of a mechanism of shared risk grounded on the monetary *nomos* of an (inexistent) unified EU sovereign debt (logical prerequisite for the issuance of eurobonds in the form of ‘coronabonds’, so to face the ongoing crisis).

The substantial impact of the paradoxical *nomos* of the EU (allowing the Member States to deny the value of its own *nomisma*) can be deemed equivalent to a condition of *sacertas* where financial markets (i.e. the collective ‘anybody’ of capitalism deprived of immediate responsibility for ‘killing’ economic actors by bankruptcy) can attack the finances of weaker EU Member States, while more stable EU Members may protect (or even reinforce) their economies.

If the criticism about the economic implications of risk premium among financial instruments of EU Member States (e.g. the spread between 10-year Italian bond and the benchmark of 10-year German *Bund*) has often been raised in the persistence of the validity the EU *nomos*, the emergency of the Corona crisis may actually bring about the end of the *pax deorum*, i.e. the harmony between the ‘gods’ of the EU polity and the ‘men’ of EU citizens, rendering the Euro a kind of “sacred, accursed money”. A *nummus sacer* that the global financial markets can kill (by killing the economies of weaker EU Member States borrowing in Euro via their own sovereign debts) while not being *expendable* (‘the expendables’ of the EU budget as precise mirror of the ‘one that can be sacrificed’) according to the shared rules of the EU budgetary policies (the ‘rituals’ at law).

The *sacertas* of the Euro in the Covid-19 emergency, in the end, reveals the radical contradictions of the EU *nomos*, whose ‘positive money/law’, while being ‘ruled’ by the sovereignty of founding treaties and an operating European Central Bank, is undermined by some sort of ‘natural money/law’ still ‘ruled’ as store of value at the level of Member States’ sovereignty (with stronger States maintaining an advantage over weaker States, and even reinforcing it in the crisis). Locating itself beyond the categories of positive/natural *nomisma*, the ‘accursed destiny’ of the Euro as *sacred money* may find its death in the demolition of the EU polity and the new rise of nationalisms unless urgent action is taken. In the end what the Covid-19 emergency discloses is how the EU ‘life’ still suffers from a *bare credit* (a sort of financial *zoe*) dependent, in terms of the political inexistence of the EU/euro as a comprehensive *nomos/nomisma*, from the primacy of Member States’ *sovereign debts* (i.e. the *bios* of their own political/economic powers, witnessed by the spread in risk premiums, where stronger States are fated to overrule the economies of weaker States).

## Life, Gift and the future of the EU

In an essay originally published in 1976 under the title ‘Geld oder Leben: Eine metaphorologische Studie zur Konsistenz der Philosophie Georg Simmel’ (and later translated into English by Robert Savage: ‘Money or Life: metaphors of Georg Simmel’s philosophy’, in *Theory, Culture & Society*, 2012, pp. 249-262), the influential post-war German cultural theorist Hans Blumenberg highlights how money stands as Simmel’s ‘proto-metaphor’ for *Life* in the latter’s nascent *Lebensphilosophie*. Accordingly, as noted by Savage, precisely like money, in Simmel *Life* itself “turns out to be pure circulation, sociation, and interactivity, an endless cycle of extensions and intensifications of value emerging through processes of social exchange” (p. 249). So, in Blumenberg’s interpretation “the two key concepts in Simmel’s intellectual development – first *value*, then *life* – ... [are] mediated by the theme of money [through the publication of his famous *Philosophie des Geldes*, 1900], which was meant originally to provide access to the concept of value and ended up forcing a path to the concept of life” (*ibidem*). In a period where collective *Life* is put at stake by a global pandemic and shadows of death may obscure the legitimacy of the sovereign power (as claimed in the noteworthy book entitled *Necro-Politics* by Achille Mbembe, 2019), looking for the re-emergence (or even resurrection) of *Life* “through processes of social exchange”, circulation, sociation and interactivity, requires to re-think (better, to re-affirm) the role of money in shaping the normative order of a community and how money exercises a fundamental function in keeping this order.

The impasse by the Eurogroup decision of Thursday 9<sup>th</sup> April in taking more ambitious choices for the future of the EU polity by conceiving the Euro as core metaphor of the political *Life* of the EU may cause a destiny of *sacertus* that is inherently connected to the oath-breaking of its pursuit of “an ever closer union among the peoples of Europe”. Left *within* the realm of ‘positive money’ (as the official EU currency dependent from the ‘positive laws’ of Members States’ treaties) only by *excluding* its nature of ‘natural money’ (since the implications of excessive sovereign debts for weaker Member States will imply a reality of recession contrary to the function of any monetary *nomos*), the Eurozone, as the place of *sacred money*, will suffer from intrinsic instability due to the attacks by speculators (the silent killers of capitalism) in the global financial market. Precisely, the metaphor of the life of the *homo sacer* equals the *Life* of the Euro as *nummus sacer*: money not *expendable* by the EU polity, whose collective *bare credit* is specular to the individuality of Member States’ *sovereign debts*.

While the discussion of the best strategy by the EU to cope with the Corona crisis, a pandemic bringing mass death and economic catastrophe, is still ongoing (but the “EU’s response to the pandemic has been depressingly slow, hesitant, stingy and unsupportive”: Javier Cercas, *The Guardian*, 15<sup>th</sup> April 2020), it does not seem inappropriate to make a reference to another masterpiece of economic anthropology, namely Marcel Mauss’s *Essai sur le Don* (1900).

The intrinsic logic of *The Gift* as ‘form and reason for exchange’ can possibly illuminate the difficult choices that the European Council (to be held on 23<sup>rd</sup> April 2020) will have to take about the future of the Eurozone by discussing the recovery plan proposed by the Eurogroup. As the collective body of the heads of state and government of the member states that defines

## The Corona Crisis in Light of the Law-as-Culture Paradigm

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the EU's overall political direction and priorities, the European Council will face the dramatic responsibility to keep the EU jailed in nationalistic *sovereign debts* (so to confirm the sovereign power, the 'positive laws' of the States) or to finally transform its *bare credit* into the qualified *Life* (in terms of 'natural law' and political *bios*) of an "ever closer union among the peoples of Europe", so to meet either a destiny of *sacertas* or resurrection.

In this direction, the correspondence between *giving* (economic) credit and *receive* (political) credit suggests that braver actions are necessary for the survival of the EU *nomos* by means of its *nomisma*. And to this aim, the exchange of gifts (i.e. the acceptance of mechanisms of shared risk connected with the shared sovereignty of which the EU is entitled), with the obligation to reciprocate (Ch. 1 of Mauss's *Essai*) beyond the strict rules of financial capitalism (on which the logic of the *sovereign debt* is grounded), may be the only possibility for the extension of the *Life* of the EU system (Ch. 2) beyond the current necro-politics of the Corona crisis.

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