Chapter 3 is dedicated to the exercise of EU competence in practice. The first part provides a depiction of the internal procedures for the conclusion of an International Investment Agreement (IIA) by the EU. The second and more important part of Chapter 3 discusses the content of EU IIAs, identifying and analyzing their substantive provisions with regard to each aspect of foreign investment. It concentrates on the innovations that existing and future EU IIAs have brought and intend to bring to international investment law in comparison to Bilateral Investment Treaties concluded by Member States and other countries, highlighting the differences and novelties of EU IIAs in terms of their content.

Conclusions
Angelos Dimopoulos
in EU Foreign Investment Law

The most pertinent findings of this book are drawn together with a view to providing some final observations on the role of the EU as an international actor in the field of international law and regulation of foreign investment. Based on the developments of primary EU law and international investment law, this chapter provides forward-looking projections for building a comprehensive EU foreign investment policy in the future. Moreover, it discusses whether a comprehensive EU foreign investment policy would serve better the regulatory interests of the
EU, Member States and third countries as capital importing and capital exporting countries and finally foreign investors.

Conclusion
Kathleen Gutman

in The Constitutional Foundations of European Contract Law: A Comparative Analysis

Published in print: 2014 Published Online: March 2015
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Item type: chapter

The Conclusion summarizes the central findings of this book (through a three-part framework) and the implications for the future path of the debate about European contract law. In particular, it highlights that, in the present author’s view, the Union has sufficient competence to adopt a European contract law instrument, optional or otherwise, to achieve its internal market competences under Articles 114 and/or 352 TFEU depending on the instrument concerned. It demonstrates the importance of examining the constitutionality of European contract law in toto, since it is the linkages between and within the existence and exercise of Union competence that loom large in this setting. Although Articles 115, 169, and 81 TFEU may not play a direct role in serving as a legal basis for a European contract law instrument, their indirect role in drawing further attention to Article 114 TFEU and to a lesser extent Article 352 TFEU are discussed.

From Fiscal Constraints to Fiscal Capacity
Federico Fabbrini

in Economic Governance in Europe: Comparative Paradoxes and Constitutional Challenges

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Item type: chapter

Chapter 4 makes the case in favor of a fiscal capacity, and argues that the creation of a counter-cyclical fiscal tool at the supranational level to address asymmetry shocks in the EMU could be a way to revert the trend of centralization. The chapter discusses three challenges that raising a fiscal capacity will face and the options available to overcome them. First, in order to succeed, a fiscal capacity must avoid falling prey to the logic of interstate transfers, and rather be based on EU own resources.
Second, if the EU is to raise new money, it must address the fact that unanimity is needed to introduce tax legislation. Third, if the EU or the Eurozone moves in the direction of introducing supranational taxation, the question of “no taxation without representation” must be dealt with.

From Legislative Sidelining to Legislative Involvement
Federico Fabbrini

in Economic Governance in Europe: Comparative Paradoxes and Constitutional Challenges

Chapter 5 makes the case in favor of greater legislative involvement in EMU, and argues that making the “Community method” central to the governance of EMU affairs could be a way to reduce the trend of judicialization. The chapter discusses the challenges that restoring the EU legislative process faces and the options available for dealing with them. First, greater legislative involvement in EMU can be assured only if convincing constitutional arguments can be advanced to constrain the states from acting outside EU law, and simultaneously to empower the EU institutions to legislate in EMU. Second, a greater role by the European Parliament in EMU governance requires a re-thinking of the mechanisms through which its members are elected. Third, the working of the Council must be critically reconsidered, since the fragmentation and the imbalances between its various compositions hampers its ability to act as the upper EU legislative house.

From Executive Federalism to Executive Government
Federico Fabbrini

in Economic Governance in Europe: Comparative Paradoxes and Constitutional Challenges

Chapter 6 makes the case for a new executive government for the EU or the Eurozone, and argues that strengthening the executive power of the President of the European Council (or the President of the Euro Summit in the Eurozone) could be a way to reverse the trend of domination. The chapter discusses the challenges of reforming the EU executive
power. First, a reformed presidency must be designed to match the representative deficit afflicting the EU. Second, the presidency should be popularly elected, and appropriate institutional mechanisms ought to be crafted to account for the profound asymmetries in population between the member states. Third, incentives should be conceived to gather the unanimous state support necessary to implement such a constitutional reform in the treaties, thus exploiting the window of opportunity offered by the obligation to domesticate the Fiscal Compact within EU law by 2018.

Conclusion
Federico Fabbrini

in Economic Governance in Europe: Comparative Paradoxes and Constitutional Challenges

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Item type: chapter

The final chapter summarizes the key themes of the book, reviewing the main paradoxical developments identified in part I of the book, and the proposals for legal and institutional reform advanced in Part II of the book to address them. The chapter connects the arguments advanced in the previous chapters of the book, claiming that the European constitutional architecture of economic governance should develop in new directions: raising a fiscal capacity, restoring the centrality of the legislative process, and reforming the EU executive power. By using the recent example of the breath-taking negotiations for the adoption of a third bailout agreement for Greece, the chapter underlines once again the unsustainability of the EU institutional settlement and calls for steps toward a “more perfect” Economic and Monetary Union.