Centrum für Europäische Politik

COMPLETING ECONOMIC AND MONETARY UNION 4: POLITICAL UNION

cep**PolicyBrief** No. 2015-23

KEY ISSUES

Objective of the Measures: The five Presidents want to create a Political Union. The Commission has submitted initial proposals for its implementation.

Affected parties: All citizens and companies.

Pro: Greater involvement of the the national parliaments in the adoption of the national Reform and Stability Programmes may facilitate their implementation in the respective Member States.

Contra: (1) The desired ex-ante coordination of the eurozone on "all positions" relating to IMF matters is in breach of EU law.

(2) Coordinating all the positions of the eurozone countries within the IMF organs harbours the risk that the positions will lack any clear assertions due to diverging interests.

(3) Creating a "Treasury" must not result in the German Bundestag losing its "control over fundamental budgetary decisions".

CONTENT

Title

Report of 22 June 2015 **Completing Europe's Economic and Monetary Union**, submitted by Jean-Claude Juncker, President of the European Commission in close cooperation with Donald Tusk, President of the European Council; Jeroen Dijsselbloem, President of the Eurogroup; Mario Draghi, President of the European Central Bank and Martin Schulz, President of the European Parliament;
Communication COM(2015) 600 of 21 October 2015: **Steps towards Completing Economic and Monetary Union;**
Communication COM(2015) 602 of 21 October 2015: A roadmap for moving towards a more consistent **external representation of the euro area in international fora;**
Proposal COM(2015) 603 of 21 October 2015 for a Council **Decision** laying down measures in view of progressively establishing unified **representation of the euro area in the International Monetary Fund**

Brief Summary

- **Context and Objective**
  - In the Five Presidents' Report of June 2015, the Presidents propose the creation of four Unions:
    - an Economic Union (cep**PolicyBrief**),
    - a Financial Union (cep**PolicyBrief**),
    - a Fiscal Union (cep**PolicyBrief**) and
    - a Political Union (this cep**PolicyBrief**),
  - The objective is to strengthen "economic policy coordination, convergence and solidarity" in the eurozone (p. 2 Five Presidents' Report).
  - The four Unions will be achieved in two stages (p. 5 Five Presidents' Report):
    - Measures under Stage 1 will be completed by 30 June 2017.
    - Measures under Stage 2 will be completed by 2025 at the latest. Some of these measures require "changes" to the current "EU legal framework".
  - The Commission submitted the following documents in October 2015 aimed at setting out the details of Political Union:
    - a Communication on all four Unions [COM(2015) 600], which also deals with the creation of the Political Union,
    - the Communication "A roadmap for moving towards a more consistent external representation of the euro area in international fora" [COM(2015) 602] and
    - the Proposal for a Council Decision "laying down measures in view of progressively establishing unified representation of the euro area in the International Monetary Fund" [COM(2015) 603].
  - The following analysis deals with the proposals contained in the Five Presidents' Report regarding Political Union and the accompanying Commission proposals. Political Union includes in particular [p. 17 et seq. Five Presidents' Report]
    - unified external representation of the eurozone in the IMF (starting in Stage 1, planned conclusion in Stage 2) which the Commission has set out in more concrete terms in the Communication COM(2015) 602 and the Proposal for a Council Decision COM(2015) 603,

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- strengthening of parliamentary oversight as part of the European Semester (Stage 1), which the Commission sets out in more concrete terms in the Communication COM(2015) 600, and
- the establishment of a "Treasury" (Stage 2) for which there is as yet no concrete description.

► **Unified external representation of the eurozone in the IMF: Areas of difficulty**

– The eurozone countries need to speak "with one voice" in international fora and particularly in the IMF. The eurozone currently lacks its own representatives in the IMF as well as common positions. [p. 5 COM(2015) 602]
– The Commission therefore proposes:
  - By 2025, the Commission wants to achieve:
    - a "unified representation" for the eurozone within the IMF organs – whilst the individual eurozone countries remain members of the IMF,
    - coordinated common positions of the eurozone on all IMF matters, e.g. on financial aid programmes and their assessment as well as on economic and fiscal policy.
  - As a long-term goal after 2025, the aim is for the eurozone to achieve full membership of the IMF [Art. 2 COM(2015) 603]; this is not currently possible as membership of the IMF is only open to countries (Art. 2 IMF Articles of Agreement).
– The proposed Decision contains – with respect to the exercise of competences specific to the eurozone [Recital 1 COM(2015) 603] – concrete provisions for "unified representation" and common positions by 2025 as well as for the transitional arrangements necessary in this regard, but not for full membership.

► **"Unified representation" of the eurozone within the IMF organs**

– By 2025, the Commission wants to establish a "unified representation" of the eurozone within all IMF organs [Art. 3 COM(2015) 603]:
  - in the Board of Governors, by the President of the Eurogroup,
  - in the International Monetary and Financial Committee (IMFC), by the President of the Eurogroup and
  - in the Executive Board, by the Executive Director of a constituency composed only of eurozone countries.
    - The Executive Board consists of 24 Executive Directors representing all 188 members of the IMF. Major economies have their own seat. In the case of the eurozone countries, this applies to Germany and France. Smaller economies are grouped together into constituencies - consisting of up to 24 countries. The remaining 17 eurozone countries are currently distributed over six different constituencies together with other – including non-European – members of the IMF.
    - In order to achieve a "unified representation" in the Executive Board, one or more constituencies will be established to which only eurozone countries belong [Art. 8 (3) COM(2015) 603]. Germany and France, who until now have had their own seat in the Executive Board, could in future open up their constituencies to other eurozone countries [p. 8 COM(2015) 602].
– As a transitional arrangement until a "unified representation" has been achieved [Art. 6, 7 COM(2015) 603]
  - the eurozone will be represented in the IMFC by the President of the Eurogroup, the Commission and the European Central Bank (ECB),
  - an observer office will be set up for the eurozone in the Executive Board and
  - the eurozone will be represented in the Executive Board by a representative of the eurozone who is already a member of the Board.

► **Common positions of the eurozone on all IMF matters**

– By 2025, the Commission wants "all positions" to be taken by the eurozone within IMF organs to be coordinated in advance in bodies such as the Eurogroup [Art. 4 COM(2015) 603].
– As a transitional arrangement until this aim has been achieved, common positions on all matters "of relevance" to the eurozone will be coordinated in advance in bodies such as the Eurogroup [Art. 9 COM(2015) 603].

► **Strengthening of parliamentary control in the European Semester**

Parliamentary control during the European Semester will be strengthened [p. 14 COM(2015) 600].
– The European Parliament will engage with the Commission in a plenary debate on the Annual Growth Survey - before and after its adoption by the Commission.
– The Commission will present its Country-Specific Recommendations to the European Parliament in a plenary debate.
– The "interaction" between national parliaments and the EU Commissioners on the Country-Specific Recommendations and within the annual national budgetary procedure will be "more efficient".
– National Parliaments will be "closely" involved in the adoption of National Reform and Stability Programmes developed by national governments.

► **Creating a "Treasury" for the eurozone**

The five Presidents propose a "Treasury" for the eurozone. It will provide a "place" where "some" decisions on revenue and/or expenditure can be made collectively (p. 18 Five Presidents' Report).

Policy Context

The Five Presidents' Report builds on the 2012 "Four Presidents' Report" (which did not yet include the EP President) on Economic and Monetary Union (see cep**PolicyBrief**) and on the Commission Communication on "A blueprint for a deep and genuine economic and monetary union [COM(2012) 777]. The Euro Summit of 24 October 2014 called on the Presidents to prepare "next steps on better economic governance" in the eurozone. In mid-2016, the Commission wants to set up an expert group to examine the "legal, economic and political preconditions" for the measures in Stage 2. In spring 2017, the Commission will submit a White Paper, prepared by the Presidents of the other EU institutions. The White Paper will assess the progress made in Stage 1 and outline the next steps – particularly the legal measures of Stage 2.

ASSESSMENT

Economic Impact Assessment

Combining the eurozone countries into their own constituencies could make the implementation of common positions easier or more difficult. On the one hand, such constituencies would no longer have to take account of the positions of non-eurozone countries. On the other hand, the current distribution of eurozone countries provides the opportunity to channel common positions into six constituencies. Which effect prevails depends on the individual case.

It seems highly unlikely that the other IMF members will agree to separate eurozone constituencies being established whilst keeping the existing voting allocation for the individual countries because, in this case, the eurozone countries would gain 22.6% of the votes with which they could use to block all material decisions - these require 85% approval. Third countries, that already consider the eurozone to be overrepresented in the IMF, will therefore only agree to the establishment of eurozone constituencies under the condition that the overall voting power of the eurozone falls below 15%.

The Commission's **call for all the positions of the eurozone countries** taken in the IMF organs **to be coordinated in advance in the Eurogroup**, is misguided because, particularly where the positions of the eurozone countries are very diverse, it **harbours the risk that the coordinated positions will lack any clear assertions due to diverging interests.** In addition, many IMF decisions, such as an application for balance of payments support by a third country, are of no relevance to the eurozone. A common position has no added value in this case.

Ex-ante coordination of the eurozone countries only makes sense where – as proposed in the transitional arrangement – **the matter is of relevance to the eurozone.** However, it is currently common practice in such cases for the eurozone countries to agree on a common position which is then presented by an Executive Director of a eurozone country. A statutory duty to do so therefore provides only limited added value in any case.

The European Semester is a timetable which ensures that the annual EU procedures to coordinate the economic and fiscal policies of the Member States, have optimum effect. The proposed increase in the involvement of the national parliaments in the European Semester is appropriate: Greater use of the existing right of national parliaments to invite a member of the EU Commission to discuss Country-Specific Recommendations and the annual national budgetary plans, may increase the willingness of parliaments to implement the recommended reforms and to comply with EU budgetary rules in their budgetary planning. It would, however, be equally significant for the Heads of State and Government of the Member States to present the respective Country-Specific Recommendations in the national parliaments after these have been approved by the European Council.

Greater **involvement of the national parliaments when it comes to passing the national Reform and Stability Programmes may facilitate their implementation** in the respective Member States. This increases the likelihood of implementation.

A "Treasury", which provides a "place" where "some" decisions of the eurozone countries on revenue and/or expenditure can be made collectively, is misguided. The Stability and Growth Pact already provides a fiscal framework for the eurozone countries. A "Treasury" which makes decisions over and above those of the Stability and Growth Pact provides no added value and in fact harbours the risk of inappropriate compromises and ongoing disputes about the use of scarce fiscal resources and/or the level of borrowings (see cep**PolicyBrief** Fiscal Union).

Legal Assessment

Legislative Competency

The EU can adopt measures to ensure within the "international financial institutions and conferences" unified representation of the eurozone (Art. 138 (2) TFEU) and common positions on matters "of particular interest for economic and monetary Union" (Art. 138 (1) TFEU). This also applies, in principle, to IMF matters. Two limitations must however be taken into account:

Firstly, both a "unified representation" and common positions are only permitted in areas where the EU has a competence to act (Principle of Conferral, Art. 5(2) TEU). Only in Recital 1 does the Decision [COM(2015) 603] restrict "unified representation" and common positions to EU competences. The provisions of the Decision do not refer to this limitation.

With respect to economic policy, in particular, the EU only has the competence to coordinate "economic policy guidelines" for the eurozone countries (Art. 136 (1) (b) TFEU in conjunction with Art. 121 TFEU). Beyond that, responsibility lies with the Member States. Other IMF matters are not covered by an EU competence at all, e.g. decisions on credit applications from third countries. In these areas, the EU is not permitted to represent the individual eurozone countries in the IMF nor can it require them to commit to common positions.

Secondly, common positions are only permitted in areas which are of "particular interest for economic and monetary Union" (Art. 138 (1) TFEU). This requires a direct connection between the IMF matter under negotiation and the economic and monetary Union of the eurozone. This may be absent, particularly in the case of matters relating to a third country.

Consequently: For both of these reasons, **the ex-ante coordination of the eurozone countries on "all positions" in IMF matters**, which the Commission is aiming to achieve by 2025, **is contrary to EU law**. The ex-ante coordination in matters which are "of relevance" to the eurozone, which is being proposed for the transitional period, must comply with the aforesaid limits on competence. This must be expressly included in the Council Decision because IMF matters are often outside those limits.

Measures to strengthen parliamentary control in the European Semester fall under the EU power to set out economic policy guidelines for the eurozone countries (Art. 136 (1) b TFEU in conjunction with Art. 121 TFEU).

It is doubtful whether the EU has the competence to create a "Treasury" to provide a place for collective decisions on fiscal policy. The EU can adopt measures to strengthen the coordination and surveillance of the budgetary discipline of the eurozone countries (Art. 136 (1) (a) TFEU in conjunction with Art. 126 AEUV). However, insofar as a "Treasury" is to issue requirements for collective fiscal policy decisions in the eurozone, this may go beyond simple coordination and surveillance and could not then be based on this legislative power. Another legislative competence is not apparent so attention turns to the flexibility clause (Art. 352 TFEU). Whether the creation of a "Treasury" can be based on the flexibility clause depends on its actual design. Otherwise – as the five Presidents have already mentioned in relation to some of the measures in Stage 2 – changes to the EU Treaties will be necessary in order to obtain the necessary powers.

Subsidiarity

The aim of unified external representation requires united action by the eurozone and thus – while respecting the limits on competence – can only be achieved at EU level. Otherwise dependent on the specific design.

Proportionality with respect to Member States

Unproblematic as regards external representation. Otherwise dependent on the specific design.

Compatibility with EU Law in other respects

Unproblematic as regards external representation. Otherwise dependent on the specific design.

Impact on German Law

Creating a "Treasury" as a "place" for "some" collective decisions on revenue and/or expenditure **must not result in the German Bundestag losing its "control over fundamental budgetary decisions"** (Federal Constitutional Court "Euro-Rettung", Case 2 BvR 987/10 i.a., para. 124). In particular, the Bundestag must not submit to any "financially relevant mechanisms" which could lead "to unmanageable budgetary pressures without any prior constitutive approval" (Federal Constitutional Court "Euro-Rettung", Case 2 BvR 987/10 i.a., para. 125). Budgetary responsibility is part of the principle of democracy which is protected against changes by the perpetuity guarantee of the Basic Law [Art. 79 (3) Basic Law (Grundgesetz)]. Thus, **budgetary responsibility cannot be relinquished even by amending the Basic Law**; it requires a new constitution (Art. 146 Grundgesetz).

Conclusion

The desired ex-ante coordination of the eurozone countries on "all positions" relating to IMF matters is in breach of EU law. It also harbours the risk that the coordinated positions will lack any clear assertions due to divergent interests. In addition, it only makes sense when the matter is of relevance to the eurozone. Greater involvement of the national parliaments in the adoption of the national Reform and Stability Programmes may facilitate their implementation in the respective Member States. Creating a "Treasury" must not result in the German Bundestag losing its "control over fundamental budgetary decisions" because budgetary responsibility cannot be relinquished even by amending the Basic Law.