

Euro – Quo Vadis? The European Union under ESM and Euro Pact Plus moving towards a Common Economic Government?

RESEARCH PROPOSAL

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Research Questions:

- 1) Are the rescue package for Greece, the Euro-rescue package including the EFSF, the ESM and the ECB stabilisation measures in the secondary markets for sovereign bonds compliant with EU-law? Do they imply a transfer of power from the Member States to the European Union? Are these instruments compliant with national constitutional law (exemplarily for Germany)?
- 2) Are the “Six-pack” measures, the European Semester and the Euro Plus Pact compliant with EU-law? Is the European Union moving towards a common economic government and to which extent would this be compliant with current European law?

Table of Content:

1. Introduction

Chapter 1 describes the relevant primary and secondary legislation, mechanics and institutions of the Economic and Monetary Union (EMU) of the European Union as well as their relationships and competences. All EU Member States are part of the EMU, an advanced stage of an economically integrated single market based on close co-ordination of economic and fiscal policies. Currently 17 countries form the Euro area with a single monetary policy and a single currency. Whereas the monetary policy is responsibility of the European Central Bank and the national banks of the Euro area countries, national governments continue to be responsible for national fiscal policy, but agreed to adhere to rules regarding public finances (e.g. the Stability and Growth Pact). In addition, Member States continue determine their own structural policies, e.g. labour, pensions, but coordinate themselves to achieve agreed common goals of stability, growth and employment.

This chapter focuses on the strengths and weaknesses of the EMU ahead of recent changes and amendments following the financial crisis, in particular the disconnect between a centralised European monetary policy and a de-centralised, nationally-determined fiscal policy.

1.1. The European Economic Union

Chapter 1.1 briefly describes the principles of the European Economic Union including institutions, competences and the four freedoms. Some focus of this chapter is on mechanisms for coordination, review and control of national fiscal and economic policy and its effects, including the Stability and Growth Pact (SGP), the Economic and Financial Committee, the EcoFin Council and the Eurogroup.

The SGP is a rule-based framework based on a resolution of the European Council (Amsterdam, 17 June 1997, Official Journal C 236 of 2 August 1997, Council Regulation (EC) No 1467/97 and No 1466/97) to ensure coordination of national fiscal policies of the EU member states having adopted the Euro. Primary objective is to monitor public finances and ensure sound levels taking aging population into account. The SGP consists of a preventive and a dissuasive arm:

- Under the preventive arm, Member States have to prepare annual Stability (for Euro countries) and Convergence Programmes (for non Euro countries) (SCP) underlining their intention to achieve or safeguard sound fiscal positions (multilateral surveillance, Art. 121 of the TFEU). These programmes are assessed by the Commission and opined upon by the Council after consulting the Economic and Financial Committee. The policy instruments include early warnings to prevent excessive deficits by identifying significant divergence from medium-term budgetary objectives (MTOs) or from the adjusted path towards the MTO and policy advice addressed directly to Member States on broad implications of their fiscal policies.

- The dissuasive part of the SGP governs the excessive deficit procedure (EDP, Art. 126 of the TFEU, Prot. No 12 annexed to the Treaty) triggered by exceeding either a deficit-to-GDP ratio of 3% or a debt-to-GDP ratio of 60%. In case of a decision that the deficit is excessive in the meaning of the Treaty (leaving room for interpretation), Member States concerned have to correct the excessive deficit based on recommendations of the Council within a given time frame. Non-compliance with the recommendations results in a move to the next step of the EDP with the ultimate possibility being to impose financial sanctions on Euro area Member States.

The Maastricht Treaty provides for the Economic and Financial Committee consisting of members appointed by the Member States, the Commission and the European Central Bank to be set up at the beginning of 1999 to monitor and report about the economic and financial situation of the Member States and the Community for/to the Council and the Commission and to support the Council especially regarding recommendations for the multilateral surveillance, i.e. the preventive arm described above, and decisions within the excessive deficit procedure (the dissuasive part). In addition, the committee may review the exchange rate of the Euro and provide the framework for the dialogue between the ECB and the Council.

The EcoFin Council itself as one of the configurations of the Council of the European Union is composed of the Finance and Economic Ministers of the EU Member States (and occasionally Budget Ministers) and responsible for various EU policy areas such as economic surveillance, i.e. examining the stability and convergence programmes mentioned above, monitoring of fiscal and budgetary policy and public finance of Member States, economic and fiscal policy coordination, financial markets, the Euro regarding legal, practical and international aspects, etc. (Council of the European Union (2011)).

Another coordination mechanism is the Eurogroup, recognised in the Lisbon Treaty in Protocol No. 14 as informal gathering of the Finance Ministers of the EU Member States sharing the Euro. Its meetings are in addition attended by the Eurogroup President, the Commissioner for economic and monetary affairs and the President of the ECB. Discussions cover a broad range of topics concerning the functioning of the EMU, in particular budgetary policies, economic surveillance, stability in the Euro area, etc.

1.2. The European Monetary Union

Having discussed fiscal policy and economic coordination of the EMU, focus of Chapter 1.2 lies on the monetary policy covering the principles, relevant institutions, among others the European System of Central Banks, the European Central Banks and the Eurosystem, their responsibilities and coordination with each other and fiscal policy.

The European System of Central Banks (ESCB, Art. 127f. of the TFEU) is composed of the European Central Bank (Art. 13 of the TEU, Art. 282f of the TFEU) and the 27 national central banks of the EU Member States. Since 1 January 1999 monetary policy of the Euro area is determined centralized by the Eurosystem, the ESCB excluding all national banks of EU Member States not being part of the Euro area. With the primary objective being price stability, the Eurosystem shall, “without prejudice to the objective of price stability”, support general economic policies of the European Union to contribute to the objectives of the Union (Art. 127 of the TFEU), high level of employment and sustainable, non-inflationary growth (Art. 2 of the TEU).

As laid down in the Treaty and in the Statute, the ECB acts political independent which is conducive to maintaining price stability as extensive theoretical analysis and empirical evidence support (ECB (2011)). Practically, neither institutions of the ESCB nor any of their decision-makers may seek or take instructions from any institution or body of the European Union or of any Member State.

Basic tasks include the definition and implementation of the monetary policy of the Euro area, conduct of foreign exchange operations, holding and management of official reserves of Member States and promotion of “smooth operations of payment systems” (Art. 127 of the TFEU). These are further specified in the Statute of the ESCB and the ECB attached to the TFEU.

To join the Economic and Monetary Union, EU Member States have to fulfil convergence respectively Maastricht criteria regarding price, fiscal, exchange rate and long-term interest rate developments (Art. 140 of the TFEU, see ECB (2011)). Together with fiscal policy coordination and a centralised, independent monetary policy maintaining price stability as well as increasing economic integration and interdependence based on the economic union with the four freedoms and the principle of non-discrimination should lead to a harmonization of economic cycles,

economic growth and a high level of employment with price stability despite de-centralised fiscal and structural policies. The subsequent chapter will assess the above mentioned principles of the EMU.

1.3. Assessment of Pre-Crisis Situation

Having introduced and discussed the principles and mechanisms of the EMU in its pre-crisis set-up, Chapter 1.3 assesses strengths and weaknesses, in particular

- The asymmetric architecture of the EMU (Breuss et al (2003)):
 - o implications of a centralised monetary policy vs de-centralised fiscal and structural policy being determined by Member States
 - o the weakness of the toothless SGP with its questionable sanction potential (i.e. effectiveness of monetary sanctions based on political decisions in situations of severe economic stress and tight budgetary situation, call for reforms of the SGP as several Member States have broken the regulations of the pact) and the convergence respectively Maastricht criteria (Breuss (2007)) and
 - o the related free rider problem resulting from increased economic interdependence, limited flexibility to adjust monetary policy to individual Member States, not-fully harmonized economies of the Member States in terms of cycle and competitiveness and toothless sanction mechanisms
- Problems related to the institutional architecture of the EMU: the legal position of the ECB and "Maastricht conformity" of public undertakings (Breuss et al (2003))
- Implications of the issues mentioned above on the Member States indebtedness and macro economies as well as their fiscal and structural policies.

2. Assessment of Implemented Measures addressing Euro-Area Weakness

High levels of government deficits paired with indebtedness considered close to an unsustainable level led to a crisis of confidence and in the following a sovereign debt crisis of the Euro periphery including in particular the PIIGS countries, Portugal, Ireland, Italy, Greece and Spain. This lack of confidence having been further manifested by a series of downgrades, weak economic growth and uncertain impacts of austerity packages resulted in a significant widening of spreads and CDS levels of affected countries compared to "Euro core" countries, foremost Germany. To avoid imminent restructuring and subsequent contagion of the debt crisis to the remaining Euro countries, the Greek bail-out, a comprehensive rescue package based on the European Financial Stability Facility, the European Stability Mechanism (ESM) and certain monetary measures were/will be agreed upon. These measures will be analysed in the following, in particular regarding conformity with relevant EU law, international law and constitutional law (exemplarily for Germany).

2.1. Greece's Rescue Package

EMU countries and the IMF agreed to grant Greece a conditional three-year loan amounting to €110 Bn, thereof €80 Bn of the EMU countries contributing according to the respective central banks' contribution to the ECB's capital. This loan package allows Greece to refrain from market issuances for at least two years (Antonucci, Bartsch (2010A), assuming no private capital inflows) and in the meanwhile to address its fiscal problems and reduce related long-term solvency risk. The loan package is conditional on implementation of an agreed fiscal austerity package, in particular deficit reduction targets. Greece's progress will be strictly monitored based on quarterly reporting to the European Commission and the IMF. In Germany the EMU Financial Stability Law (Währungsunion-Finanzstabilitätsgesetz) was introduced to facilitate participation in Greece's rescue package. In March 2011 a reduction in interest and an extension of their maturity to 7.5 years was agreed upon. In July 2011 a second rescue package was agreed upon providing Greece another €109 Bn of financing with significantly lower interest rates compared to the first package, maturities of up to 30 years including a 10 year grace period and private sector involvement.

From a legal perspective certain questions require further analysis:

- Is the outside-EU-law crisis management compliant with EU law? Although exclusive competences are limited to monetary policy, i.e. responsibilities and tasks of the ECB and

the ESCB acc. to Art. 127ff of the TFEU, fiscal and structural policies have to comply with Art. 123, Art. 125 and Art. 126 of the TFEU

- Can Art. 352 of the TFEU serve as legal basis for the loan package when considering the package as instrument not being provided for by pre-crisis EU-law? If so, Art. 5 (3) of the TEU would have to be taken into account.
- Is the Greece loan package compliant with Art. 122 (2) of the TFEU, in particular can the financial crisis be interpreted as “exceptional occurrence beyond control” of Greece, is the financial crisis the reason for the imminent insolvency as other factors such as fiscal policy of previous years might also be of importance for the crisis of confidence that led to the bail-out.
- Can the prohibition of credit facilities of the ECB and national banks to public institutions, bodies and agencies on EU and Member State level (Art. 123 of the TFEU) be interpreted as prohibition of facilities of Member States to Member States or is Art. 123 limited to prohibition of monetary budget finance?
- Is the “no-bail-out rule” (Art. 125 of the TFEU) of relevance? As the no-bail-out rule might not be an absolute prohibition due to the existence of Art. 122 of the TFEU, relevance depends on the level of economic interpretation of the no-bail-out aspect and the form of “commitment” referred to in Art. 125 as the Greece loan is conditional and voluntary.
- The Greece package might be in conflict with Art. 126 of the TFEU prohibiting excessive deficits of Member States as a Member State with an excessive deficit is receiving support.
- Are the austerity package as well as corresponding rights regarding fiscal and economic policy surveillance/ control an evasion of the framework of existing coordination mechanisms as well as restrictions of Art. 121 (6) and Art. 136 of the TFEU?

2.2. The Euro-Rescue Package Including the EFSF

The Euro-rescue package including the EFSF is characterized by its hybrid structure based on foremost intergovernmental agreements, international and private law, as the EU law did not provide for adequate instruments required to address the sovereign debt crisis before the amendment of Art. 136 of the TFEU, and only partly on EU law:

- The first element, coordinated intergovernmental loans, amounting to a maximum of €440 Bn is based on international law and administered by a newly set-up special purpose vehicle with limited liability, the European Financial Stabilisation Fund (EFSF), backed by pro-rata guarantees of the Euro countries. Loans provided have similar terms and conditions as usual IMF terms and are subject to strict conditionality. Negotiations on policy conditions and the adjustment programme are led by the European Commission, together with the ECB and in joint effort with the IMF, via administrative assistance, however final unanimous decision and approval fall to the Member States.
- The second element, the IWF tranche, is amounting to a maximum of €250 Bn for Euro countries.
- The third element, the European Financial Stabilisation Mechanism (EFSM), is the increase of the €50 Bn EU balance-of-payments facility by an additional €60 Bn backed by all 27 EU Member States and based on secondary legislation, Council Regulation No 407/2010 according to Art. 122 (2) of the TFEU.

Along the second Greece package in July 2011, the role of the EFSF was expanded enabling it, among others, to buy government bonds in secondary markets in periods of extreme market volatility as well as to support banks through the provision of credit lines.

Relevant fields of analysis include similar questions as already mentioned for the Greece package above: compliance of outside-EU-law crisis management with EU law based on Art. 352 of the TFEU, a potential transfer of EU competences (back) to Member States in the light of the subsidiarity principle, Art. 122 (2) of the TFEU as legal basis, compliance with Art. 123, 125 and 126 of the TFEU and problematic “outsourcing” of fiscal and economic policy surveillance/ control in crisis situations. Relevant for the legal analysis of this section are the differences to the Greece package and separate review of the different elements of the Euro-rescue package itself. Whereas the Greece package was based on bilateral guarantees of EU Member States, the Euro-rescue package has the above mentioned hybrid structure being partly based on EU secondary

legislation, partly on international law, with the Euro area stabilisation mechanism drawing on the emergency powers under Art. 122 of the TFEU. For the intergovernmental loans not only the SPV, but also the possibility of intervention in primary government bond markets raises questions regarding compliance with Art. 123, 125 and 126 of the TFEU.

Germany enacted the Law on the Euro Stabilisation Mechanism (Euro-Stabilisierungsmechanismus-Gesetz, EuroStabmechG) as legal basis for the EFSF. For its compliance with German law/constitution the limitation to a predetermined limit, adequate influence of Germany on decision making of the SPV as well as annual reporting are of relevance.

2.3. The ESM

Based on an addition to Art. 136 of the TFEU (to avoid issues mentioned above), the European Council agreed on the ESM, an intergovernmental organisation under public international law, assuming the role of the EFSF and the EFSM after June 2013 on a permanent basis. The ESM will be activated in case of indispensability to ensure stability of the whole Euro area with mutual agreement. Any assistance will be strictly conditional on a macro-economic adjustment programme and a rigorous analysis of sustainability of public debt by the European Commission together with the IMF and the ECB. Appropriate and adequate private-sector involvement on a case by case basis is required as well: if the beneficiary State can realistically restore sustainability of its public debt, main private investors should maintain their exposures, otherwise direct involvement of private creditors in restoring debt sustainability has to be ensured. Based on €700 Bn subscribed capital, of which €80 Bn paid-in capital and €620 Bn guarantees and committed callable capital, the effective lending capacity will amount to €500 Bn. Instruments include loans and purchases of sovereign bonds in primary debt markets on an exceptional basis. From July 2013 onwards, standardized Collective Action Clauses (CACs) will be included in all Euro area government bonds with maturities exceeding one year to facilitate agreements between private-sector creditors and sovereigns. The ESM will have preferred creditor status and the IMF will rank above the ESM.

Although the addition to Art. 136 of the TFEU and the international law basis, i.e. the SPV structure, should mitigate various issues raised above regarding the Greece package and the Euro-rescue package, the decision on the Art. 136 addition in simplified procedure, compliance with Member State constitutional law (exemplarily for Germany) and the relation between Art. 136 and Art. 125 as well as Art. 126 and Art. 123 of the TFEU require further analysis.

2.4. The ECB Measures

In May 2010 the ECB announced temporary sterilised interventions in public and private debt markets (the Securities Market Programme, SMP). Under the SMP the ECB and national banks can buy and sell marketable instruments outright in the secondary market for public debt and in the primary and secondary market for private sector debt of Euro area entities. National banks will participate according to their ECB capital share. In addition the SMP allowed temporarily banks access to unlimited term-funding via full allotment in 3M tenders and a reinstated 6M tender (Bartsch, Antonucci (2010A)). At least until the end of the second quarter of 2011 tender operations will remain in place.

In particular the non-standard monetary instruments of the SMP raises questions regarding the ECB's independence versus a starting/ increased instrumental use by politics which would violate Art. 130 of the TFEU. Furthermore, the interventions in the secondary public sector debt market potentially ahead or briefly after issuances in the primary market have to be assessed in terms of compliance with Art. 123 and Art. 125 of the TFEU.

2.5. Compliance with German Constitutional Law

Since May 2010 several cases have been filed at the German Constitutional Court against both the Greece package and the EU Stabilisation Fund. Two independently acting groups of claimants filed the most prominent complaints, using different lines of argument, but referring to similar legal bases:

- Schachtschneider et al., a group of 5 Euro sceptic professors, filed a claim on 7 May 2010 and extended it on 5 July 2010. In addition they announced another extension after acceptance of the ESM by the German Parliament. The two main arguments are the violation of the structural principles of the German constitution, in particular the principle of democracy, due to the extensive right of representation of German people via their legislative bodies and the violation of the fundamental right of property by supporting

inflationary trends in the monetary union. Schachtschneider et al. regard the structural principles and the fundamental right of property being violated by the EMU Financial Stability Law, the Greece package, the Council regulation 407/2010, the German Law on the Euro Stabilisation Mechanism, the EFSF and the buying of government bonds by the ECB. Concerning the ESM the group refers to a potential violation of the Principle of the Welfare State due to permanent transfers to other countries, the Rule of Law due to non-compliance with Art. 125 of the TFEU and the Democratic Principle. In case of the ESM transforming the Euro area to a fiscal union, the German constitution would be changed in a form requiring ratification by referendum.

- Markus Kerber representing more than 50 members of the German Association of Family Entrepreneurs filed a constitutional complaint on 1 June 2010 and its extension on 18 August 2010. Kerber et al. base their reasoning on a violation of the fundamental right of property due to non-compliance with Art. 125 of the TFEU and inflationary tendencies and on a violation of the democracy principle and the principles of electoral law due to a lack of representation of the German Legislative in the decision-making process. The extension further underlines their argumentation regarding democratic participation and fundamental right of property as the EFSF delays fiscal consolidation in Mediterranean countries and the recapitalization of systemically relevant banks. In addition the group asks for a preliminary ruling of the European Court of Justice and Germany to sue the ECB due to the non-compliance of the SMP with Art. 130 of the TFEU (Heinen (2011)).

Regarding the Greece package, the second senate rejected the application of Schachtschneider et al. from 7 May 2010 to issue a temporary injunction to prohibit the Federal Republic of Germany from giving financial aid to Greece applying a strict standard in the weighing of consequences. However, the loan agreement includes a clause stating that under a negative ruling of the German Constitutional Court Germany is not obliged to provide further funding. So far no judgements have been made. Schachtschneider et al. was forwarded to the Bundesbank, the ECB and the German government for statements. Despite absence of a judgment, the constitutional complaints influenced policymaking, in particular evidenced by the amendment of Art. 136 of the TFEU, the unchanged non-bail-out rule (Art. 125 of the TFEU) and the rejection of a joint liability scheme in the Euro area (Bartsch, Antonucci (2010B)).

3. A Common European Economic Government?

Based on the pre-crisis situation described in Chapter 1 and the rescue measures and changes discussed in Chapter 2 during and in the aftermath of the crisis, Chapter 3 discusses the “Six-pack” measures, the European Semester and the Euro Plus Package facilitating economic coordination within the European Union and their compliance with EU law as well as the range of current understanding(s) of a common European economic government vs. the envisaged respectively implemented measures so far including the Euro Plus Pact. In addition this Chapter analysis the extent to which a common economic government can be implemented under current EU law and constitutional law (illustratively for Germany).

3.1. The “Six-pack” Measures

The “Six-pack” measures are a set of measures aiming for improved economic coordination and more credible sanction potential in case of violations of budgetary discipline and agreed economic principles:

- Strengthened economic coordination, in particular mechanisms to address macroeconomic imbalances based on a scoreboard of economic indicators, a strengthened SGP, more precise definition of exceptions for excessive deficits and sanctions for violations
- New sanctions, in particular in case of violations of budgetary discipline respectively principles of fiscal policy independent from existence of an excessive deficit
- Introduction of the reverse majority voting allowing for sanctions based on recommendations of the European Commission as long as the Council is not overruling these with qualified majority or amending these with unanimity (in dispute) within ten days

The strengthened fiscal policy coordination seems to be compliant with relevant EU law. The introduction of new sanctions as well as the reverse majority voting, however, seem to be not compliant with

- Art. 121 (6) of the TFEU allowing the European Parliament and the Council only to adopt *detailed rules for the multilateral surveillance procedure*,
- Art. 126 (14) of the TFEU allowing the Council only to lay down *detailed rules and definitions for the application of the provisions* of the Protocol on the excessive deficit procedure on a proposal from the Commission and after consulting the European Parliament
- Art. 136 of the TFEU allowing the Council to adopt measures specific to Euro countries to strengthen coordination and surveillance of budgetary discipline and to set out economic policy principles *in accordance with the relevant procedure from among those referred to in Art. 121 and 126 of the TFEU except for Art. 126 (14)* (see Griller (2011))

3.2. The European Semester

The European Semester is a cycle of economic policy coordination in the first six months every year with the objective to reinforce ex-ante coordination while major budgetary decisions are still in preparation. Following the annual growth survey by the Commission, the survey is debated and guidance is provided by the Council and the European Parliament. Based on the conclusions the European Council identifies the major economic challenges for the EU and gives strategic policy advice to the Member States. Thereafter the excessive deficit proceedings reports, the National Reform Programs and the SCPs are submitted by the Member States. The European Commission issues country-specific assessments and recommendations for consideration by the Council on the SCPs. Based on the assessment of the SCPs and country-specific guidance by the Council, the European Council issues country-specific recommendations in July before Member States finalise their budgets for the following year. Questions to be addressed are related to the quality and the enforceability of the recommendations as well as potential changes to the balance of powers (see Heinen (2011B)).

3.3. The Euro Plus Pact

The Euro Plus Pact aims to strengthen the economic pillar of the EMU and to improve economic policy coordination in order to increase competitiveness and achieve a higher degree of convergence. Beside the Euro area, Bulgaria, Denmark, Latvia, Lithuania, Poland and Romania joined the pact. The focus lies on areas under national competence that are key for competitiveness. The four guiding rules include the compatibility with the existing economic governance in the EU, the focus on priority policy areas being essential for increased competitiveness and convergence, the political monitoring of concrete yearly national commitments (which will be reflected in the National Reform Programmes and Stability Programmes) and the full respect of the integrity of the Single Market. The objectives of the Pact are the following:

- Fostering competitiveness assessed by wage and productivity developments
- Fostering employment based on life long learning, tax reforms and flexicurity
- Enhancing sustainability of public finances to safeguard functioning of the SGP
- Reinforcing financial stability based on national legislation for banking resolution

In addition, tax policy coordination is regarded as necessary element of the envisaged stronger economic coordination, although direct taxation remains national competence (Bartsch, Antonucci (2011)). The Euro Plus Pact raises in particular questions regarding vertical balance of power.

3.4. Understandings of a Common European Economic Government

In recent years there have been two groups, on the one hand headed by France supporters of a common European economic government as counterbalance to the ECB and on the other hand Germany and smaller countries opposing the French model of a more dependent ECB combined with less strict fiscal rules and (the smaller countries) fearing dilution of their voting power. The Euro Plus Pact together with the “Six-pack” measures and the European Semester described above can be seen as a German French compromise reflecting on the one hand a more coordinated economic policy as balance to the centralised monetary policy and on the other hand unchanged independence of the ECB and the objective of budget discipline and sustainability of public debt. As the coordination instruments introduced are a compromise and to a major extent based on non-binding commitments, political monitoring and review as well as intergovernmental agreements, they are to be seen as first step towards a common European economic government with room for further development, in particular in the areas of taxation up to the introduction of EU

taxes and resulting increased independence of the EU of Member States governments, fiscal policy based on an increased EU budget, supranational debt by issuing EU bonds, etc. The legal restrictions of these elements will be discussed in the subsequent chapter.

3.5. Assessment of a Common European Economic Government

Chapter 3.5 discusses compliance of various elements of a more extensive common European economic government with EU law and constitutional law (exemplarily for Germany). Important provisions are among others the subsidiary principle, competences and potential transfer of these from Member States to EU institutions and the definition of core parts or principles of Member States constitutions whose changes would require ratification by referendum. For Germany, in particular the Maastricht Judgment (1993), the Euro Judgment (1998) and the Lisbon Judgment (2009) evolved the relationship between the German constitutional law, fundamental rights and European law:

- According to the Maastricht Judgment, any further conferment of competences to the European Union should be explicitly agreed upon by the German Legislative
- According to the Euro Judgment the Federal Government and the German legislative have sole responsibility for safeguarding monetary stability in their policy actions
- The role of the German parliament is strengthened due to the Lisbon Judgment binding the German representative in the Council and European Council to the opinion of the German Legislative

4. Summary and Conclusion

Chapter 4 summarises the key findings and provides a conclusion.

Methodology:

To answer the research questions raised at the beginning of this proposal, in particular for assessing the compliance of the various rescue measures and implemented respectively intended instruments and mechanisms to facilitate closer coordination within the European Union with EU law, the thesis will be based on identifying, interpreting and discussing relevant legislation, German and English literature and jurisprudence. Due to the actuality of the field of research which is continuing to be in flux, main focus will be on interpretation of legislation as well as draft legislation and discussion of papers analysing these. In particular due to the underlying economic causes and implications of intended and implemented measures, I will use an interdisciplinary research approach drawing beside legal research tools and background on practical experience as advisor to financial institutions during and after the financial crisis and academic background as economist. Furthermore, any ruling of the German Constitutional Court will support the otherwise more theoretical, literature-based definition of principles of Member States constitutions, the question regarding compliance of the above mentioned measures with constitutional law and the assessment of a potential more extensive common European economic government.

Bibliography:

- Antonucci, Daniele; Bartsch, Elga (2010A): *Euroland Economics - Quick Comment: Our First Assessment of Greece's Loan and Austerity Package*; Morgan Stanley Research Europe, 2 May 2010
- Bartsch, Elga; Antonucci, Daniele (2011): *Europe Economics – A Not So Grand Bargain*, Morgan Stanley Research Europe, 28 March 2011
- Bartsch, Elga; Antonucci, Daniele (2010A): *Europe Economics - Fast-track to Fiscal Union?*, Morgan Stanley Research Europe, 10 May 2010
- Bartsch, Elga; Antonucci, Daniele (2010B): *Europe Economics - Enter the EFSF*, Morgan Stanley Research Europe, 7 June 2010
- Breitenmoser, Stephan; Husheer, André: *Europarecht (Band I) – Institutionelle Grundlagen von EU und EG*, Zürich 2002
- Breuss, Fritz: *The stability and growth pact: experience and future aspects*, Springer, 2007
- Breuss, Fritz; Fink, Gerhard; Griller, Stefan: *Institutional, legal, and economic aspects of the EMU*, Springer, 2003
- Brown, Brendan: *Euro crash : the implications of monetary failure in Europe*, 2010
- Chaloupek, Günther [editor]: *Finanzkrise und Divergenzen in der Wirtschaftsentwicklung als Herausforderung für die Europäische Währungsunion*, Marburg, 2009
- Council of the European Union (2011): <http://www.consilium.europa.eu> (22 April 2011)
- Craig, Paul; De Búrca, Gráinne: *EU Law. Text, Cases, and Materials*, 2008
- Dausen, Manfred A.: *Rechtliche Grundlagen der Europäischen Wirtschafts- und Währungsunion*, Europäisches Wirtschaftsrecht, 28, München, 2003
- ECB (2011): <http://www.ecb.int/home/html/index.en.html> (20 April 2011)
- European Commission (2010): http://ec.europa.eu/economy_finance/sgp/index_en.htm (22 April 2011)
- Farina, Francesco; Tamborini, Roberto: *Macroeconomic policy in the European Monetary Union: from the old to the new stability and growth pact*, Routledge, 2007
- Faßbender, Kurt: *Der europäische „Stabilisierungsmechanismus“ im Lichte von Unionsrecht und deutschem Verfassungsrecht*, NVwZ 2010, 799)
- Ferreiro, Jesús; Fontana, Giuseppe: *Fiscal policy in the European Union*, Palgrave Macmillan, 2008
- Frauscher, Kathrin: *Glaubwürdigkeit und Transparenz der Europäischen Zentralbank in einer rechtsökonomischen Analyse*, 2003
- Gaitanides, Charlotte: *Das Recht der Europäischen Zentralbank*, Tübingen, 2005
- Griller, Stefan: *Die neuen Bestimmungen zur Vermeidung übermäßiger Defizite und makroökonomischer Ungleichgewichte sowie der Euro Plus-Pakt - Eine erste juristische Analyse der Kompetenzgrundlagen und der vorgesehenen Verfahren*, 6 May 2011
- Haratsch, Andreas; Koenig, Christian; Pechstein, Matthias: *Europarecht*, Tübingen, 2009
- Hasse, Rolf H. [editor]: *Europäische Union – Ökonomie, Institutionen und Politik*, Bern 2006
- Heinen, Nicolaus (2011A): *Constitutional complaints*, Deutsche Bank Research, 17 March 2011
- Heinen, Nicolaus (2011B): *The European Semester – Economic policy coordination in detail*, Deutsche Bank Research, January 2011
- Hockenos, Paul [editor]: *Europe's currency crisis*, Bielefeld, 2010
- Huster, Stefan [editor]: *Verfassungsrecht nach 60 Jahren: das Grundgesetz von A bis Z*, Baden-Baden, 2009
- Kaltenthaler Karl: *Policymaking in the European Central Bank*, Lanham, 2006
- Lechner, Hans; Zuck, Rüdiger: *Bundesverfassungsgerichtsgesetz: Kommentar*, München, 2011
- Münchau, Wolfgang: *Kernschmelze im Finanzsystem*, München, 2008
- Öhlinger, Theo: *Verfassungsrecht*, Wien, 2007
- Quaglia, Lucia: *Central banking governance in the European Union*, Brüssel, 2008
- Rautner, Uwe: *Staateninsolvenz und privates Nachsehen*, Die Presse, 18 January 2010

- Saglam, Osman: *Die geldpolitischen Maßnahmen der Europäischen Zentralbank*, Saarbrücken, 2008
- Thiele, Alexander: *Europarecht*, 2011
- Thym, Daniel: *Euro-Rettungsschirm: zwischenstaatliche Rechtskonstruktion und verfassungsgerichtliche Kontrolle*, EuZW 2011, 167
- Wehr, Andreas: *Griechenland, die Krise und der Euro*, Köln, 2010
- Wieland, Joachim: *Der Rettungsschirm für Irland*, NVwZ 2011, 340
- Wragge, Alexander: *Euro-Rettungsschirm – „Karlsruhe in der Verantwortung“*, interview with Prof. Kerber, 3 September 2010
- Wragge, Alexander: *Euro-Rettungsschirm – „Bruch mit dem Grundgesetz“*, interview with Dr. Jeck, 5 July 2010