

spotlight europe



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Reforming Economic and Monetary Union: Legislation and Treaty Change

This paper examines the legal mechanisms for reforming EMU – EU legislation, amendments to intergovernmental treaties concluded outside EU law, and EU treaty changes. It provides guidance on how to introduce several needed changes to EMU, suggesting that many reforms can be accomplished *à traité constant*, but that improving the EU institutional system ultimately requires changing the EU treaties.

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1. Introduction

The reform of Europe's Economic and Monetary Union (EMU) remains on the agenda of the institutions and the member states of the European Union (EU). Several high-level institutional reports on deepening and completing EMU have been published in the last few years, and the European Commission is expected to deliver by March 2017 a white paper mapping how

to strengthen the Eurozone economy and its institutional set-up. This effort acquires a new meaning since it coincides with the likely trigger that month by the United Kingdom (UK) of negotiations to leave the EU. Brexit has already prompted soul-searching within the EU and created the need to think anew about Europe's strategic future. The purpose of this paper is to contribute to this debate, by analyzing the legal ways and means to reform EMU — on the understanding that the success of the European integration project also depends on the successful resolution of the Euro-crisis and consolidation of EMU.

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There are three legal avenues to reform EMU, completing and deepening Europe's architecture of economic governance: 1) through EU legislation adopted within the framework of the current EU treaties; 2) through amendment of intergovernmental treaties concluded outside the framework of EU law; 3) through amendment of the EU treaties themselves. As the paper claims, EU legislation suffices to introduce several important innovations in EMU, including the completion of Banking Union through a European common deposit guarantee scheme and setting up a European unemployment insurance fund — as well as incorporating in EU law the Fiscal Compact and creating an EU fiscal capacity. Amendments of intergovernmental treaties are required to upgrade the European Stability Mechanism. Amendments of EU treaties, finally, are needed to overhaul the Eurozone's institutional architecture, mutualize debts via Eurobonds, or create a debt-restructuring mechanism.

As the paper points out, reforming EMU through legislation is easier than by amending treaties — and many EMU reforms could be already undertaken now, à traité constant. Nevertheless, Brexit creates a window of opportunity to introduce far-reaching revisions to the EU treaties, and this should quickly be exploited to endow the EU with a more perfect constitutional architecture. Treaty changes are indeed required to address the deep legitimacy deficit exposed by the Euro-crisis and its aftermath.

2. Proposals for EMU reform

There is a growing consensus on the need to reform EMU's architecture. The leaders of the EU's institutions have long stressed the urgency of putting EMU on a more solid basis, and devised various road-maps to this end. In December 2012, the President of the European Council, in cooperation with the Presidents of the European Commission, Eurogroup and European Central Bank (ECB) released a plan "Towards a Deeper EMU."¹ In July 2014, the new Commission President emphasized the importance of stabilizing EMU in his inaugural speech to the European Parliament.² And in June 2015, a new report making the case for "Completing Europe's EMU" was released by the President of the European Commission, in coordination with the Presidents of the European Council, Eurogroup, ECB and European Parliament.³

National leaders have also endorsed the goal of stabilizing EMU. Despite the emergence of new crises — from Brexit to migration, and internal and external security threats — EMU has remained an item on the agenda of heads of state and government. The Bratislava Declaration of September 2016 reaffirmed the importance of economic and social development in the EU.⁴ And a number of national governments have advanced proposals to further strengthen EMU. In particular, French and German economics ministers Emmanuel Macron and Sigmar Gabriel jointly made the case in June 2015 for Eurozone reform, strengthening the institutional framework and favoring public investments,⁵ while the Italian finance minister Pier Carlo Padoa-Schioppa put forward in February 2016 a comprehensive policy strategy for growth, jobs and stability in the EMU.⁶

Finally, the European Parliament has consistently called for further steps towards EMU integration.⁷ And this institutional focus on EMU reform is reflected in a wider public and academic debate. As early as 2012 the Tommaso Padoa-Schioppa report of Notre Europe advanced a road-map toward fiscal union.⁸ Calls to further integrate the Eurozone have been made by intellectuals in Germany (the Glienicker Group) in October 2013,⁹ and in France (the Eiffel Group) in February 2014.¹⁰ And although concern for the Euro-crisis has tended to slip from public view, the debate has been relaunched recently. In particular, the report "Repair and Prepare: Growth and the Euro after Brexit," published in September 2016 by the Bertelsmann Stiftung and the Jacques Delors Institutes in Berlin and Paris, devised a plan de route to make EMU fit for purpose.¹¹

Most blueprints on EMU reform are structured in three phases, distinguishing steps to be taken in the short-, mid-, and long-term. Hence, roadmaps toward a deeper and more genuine EMU firstly identify measures that can, and should, be taken immediately — usually because they are either politically uncontroversial, or economically indispensable to the Eurozone's stabilization. Secondly, they outline a subsequent set of reforms that ought to be carried out in a clearly-defined time-horizon, because these usually require greater political capital (coming from national elections) or more protracted economic adjustments. Last, all reports conclude with more ambitious proposals for comprehensive systemic and institutional reforms to be undertaken some ten years down the road with the goal of complementing

EMU reforms that can be accomplished through EU legislation include:

- Incorporation of the Fiscal Compact in EU law
- Greater coordination of member states' budgetary policies
- Completion of Banking Union through a European Deposit Insurance Scheme
- Enhancement of the social dimension of EMU via a European Unemployment Insurance Scheme
- Launch of an expanded investment plan
- Creation of an EU Fiscal Capacity

EMU with a real Political Union, in whatever guise. While all reports acknowledge the difficulty of moving toward a federal-type model for EMU, they still stress the importance of finalité in Europe's future.

The purpose of this paper is to examine the reform of EMU from a legal perspective. The paper discusses several proposals recently put forward and evaluates how they can be implemented in legal terms. Accordingly, it distinguishes between: 1) measures that can be adopted within the current EU treaty framework, through EU legislation (see Section 3 below); 2) measures which can be adopted without treaty change, but by amending other inter-governmental agreements — such as the European Stability Mechanism (ESM) — concluded outside the EU's legal framework (Section 4); and 3) measures which can be adopted only by amending the EU treaties (Section 5). As the paper posits, because changing treaties is a more complex and burdensome procedure than adopting legislation within the current EU treaty framework, measures which fall in the first group can be implemented with greater speed than measures which fall in the second and third group. However, the need to adapt the EU legal order in light of Brexit offers a window of opportunity to change the EU treaties also as far as EMU is concerned.¹²

In discussing the legal measures to be carried out on these three lines, the paper does not consider the legitimacy aspects raised by each proposal. Yet by mapping the avenues for legal and institutional reforms in the EMU and signalling their complexity, it aims to provide a compass on what is constitutionally possible in the short-, mid-, and long-term in EMU.

3. Reforms through EU legislation

Multiple legal measures to reform EMU can be adopted within the current EU treaty framework.¹³ On the side of stability, measures can be taken to improve economic policy coordination and foster the process of convergence among the Eurozone member states. Legislative steps in the direction of an “Economic Union”¹⁴ can be adopted (on the basis of Articles 121 and 126 Treaty on the Functioning of the EU (TFEU)). These include creating Competitiveness Boards¹⁵ — designed to provide independent advice to national governments on structural reforms — and upgrading the European Semester, so as to increase ownership and compliance with the Country Specific Recommendations.¹⁶ A special legal basis (Article 136 TFEU) is then available to put in place particular measures relating to the Eurozone only — e.g. examining the Eurozone's overall fiscal stance in Eurogroup debates on the Annual Growth Survey.¹⁷

Moreover, while the rules of the Stability and Growth Pact (SGP) have been strengthened since the Euro-crisis,¹⁸ the current EU constitutional framework would permit further steps towards enhancing fiscal surveillance, such as incorporating within the EU legal order the key substantive provision of the Fiscal Compact.¹⁹ Article 3 of the Treaty on the Stability Coordination and Governance within the EMU (TSCG) — which was concluded in March 2012 by 25 of the then 27 EU member states (all, except the UK and the Czech Republic) — requires contracting parties to maintain an annual structural deficit of 0.5% of GDP. This requirement, moreover, is to be put into domestic law “through provisions of binding force and permanent character, preferably constitutional or otherwise guaranteed to be fully respected and adhered to throughout the national

budgetary process.” This clause could already be brought back within the framework of EU law — with all the related benefits in terms of administrative and judicial enforcement — through a regulation (based on Articles 121 and 126 TFEU) combined with the use of the enhanced cooperation procedure (foreseen in Articles 326–334 TFEU) by the 25 EU member states which signed up to the TSCG.²⁰

The current EU treaty framework, however, also allows for further integration steps on the side of solidarity. Hence, measures to complete Banking Union with a European Deposit Insurance Scheme (EDIS) could be accomplished without any treaty change by resorting to Article 114 TFEU.²¹ The goal of establishing a functioning internal market at the core of this provision would be an adequate legal basis to complement the Single Supervisory Mechanism²² and the Single Resolution Mechanism²³ with a Europe-wide risk-sharing mechanism among national deposit insurance schemes — as repeatedly demanded, not least, by the ECB.²⁴ It would also allow steps towards the creation of a Capital Markets Union, e.g. with EU legislation favoring securitization.²⁵

In addition, current treaties would permit new legal measures to tackle the dire problem of unemployment. While the Euro-crisis has come at a high social cost, particularly in some EU countries,²⁶ new, well-articulated proposals have been made to endow the EU with an unemployment insurance fund, able to tackle cyclical downturns in employment rates within one member state which occur because of asymmetric shocks inside EMU.²⁷ In particular, Articles 174 and 175 TFEU, which empower the EU institutions to develop and pursue action strengthening economic, social and territorial cohesion, would seem a suitable legal basis to pursue the creation of a European Unemployment Insurance Scheme (EUIS). If a EUIS were to be restricted to Eurozone member states only, Article 136 TFEU would then have to be used in conjunction with the above-mentioned provisions to strengthen EMU’s social dimension.²⁸

The EU legal framework, moreover, allows for a great deal more action impacting upon EMU. First, the EU treaties grant to the EU institutions extensive power to intervene in the functioning of the internal market. Indeed, Article 119 TFEU explicitly states that “the economic activities of the Member States and the Union shall include, as provided in the Treaties, the adoption of an economic policy which is based on the

coordination of the Member States’ economic policies, on the internal market, and on the definition of common objectives.”²⁹ Hence, further legislative steps to complete the internal market, e.g. in services, could be pursued through the Community method by the Parliament and Council,³⁰ with positive spill-overs onto EMU.³¹

Second, no constitutional change is required to promote a broader program of public investments — a development often invoked as a mid-term reform of EMU.³² As the example of the European Fund for Strategic Investments (EFSI) underlines,³³ the EU already enjoys the competence — in the field of industry (Article 173 TFEU), technological development (Article 182 TFEU), and economic, social and territorial cohesion (Article 174 TFEU) — to start a program of public investment designed to stimulate the economy and promote growth. Indeed, additional legal bases — on trans-European networks (Article 170 TFEU), on research (Article 179 TFEU) and on energy (Article 194 TFEU) empower the EU institutions to launch a comprehensive public and private investment initiative — even beyond the simple plan to extend the life of the EFSI and increase its funding recently brought forward by the Commission.³⁴

Last but not least, the current EU treaty framework already permits the adoption of an EMU reform regarded by all policy and institutional reports as due in the long-term: creating a fiscal capacity for the EU (or the Eurozone), supported by European taxes.³⁵ In fact, Article 113 TFEU empowers the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament to adopt legislation on the harmonization of taxation. At the same time, Article 311 TFEU states that “[t]he Union shall provide itself with the means necessary to attain its objectives and carry through its policies.” Although this clause does not mention EU taxation explicitly, it affirms that “[w]ithout prejudice to other revenue, the budget shall be financed wholly from own resources.” As I have argued elsewhere, these two Articles can be read in conjunction as empowering the EU institutions to raise the financial resources necessary to sustain a fiscal capacity.³⁶ Indeed, the European Commission proposed using Article 113 TFEU to introduce a Financial Transaction Tax (FTT)³⁷ or a Common Consolidated Corporate Tax Base³⁸ — and indicated that the revenues derived from this tax would be assigned to the EU budget (in lieu of other member states’ financial transfers).³⁹

Needless to say, the use of Articles 113 and 311 TFEU raises a range of complicated issues connected with the requirement to reach unanimity in the Council. However, this hurdle could be overcome by adopting a single harmonized EU tax through the enhanced cooperation procedure — as effectively done with the FTT⁴⁰ — although adopting differentiated integration on the revenue side would inevitably have an impact on the expenditure side.

In conclusion, ample legal room exists to reform EMU within the current treaty framework — if there is the political will.

4. Reforms through amendments of intergovernmental agreements

EMU reforms that can be accomplished through amendment of intergovernmental treaty include:

- Upgrade of the ESM
- Creation of a rapid-response facility

A second set of reforms of EMU can only be accomplished by amending intergovernmental agreements concluded by groups of member states outside the framework of EU law. Leaving aside here the question whether the EU principle of institutional balance should constrain the use of such accords,⁴¹ member states have, in response to the Euro-crisis, often stepped outside the framework of EU law and adopted EMU-related measures through international treaties. The ESM Treaty, in particular, was concluded unanimously in February 2012 by all the member states of the Eurozone to ensure the euro area's financial stability.⁴² According to its Article 3, “the purpose of the ESM shall be to mobilize funding and provide stability support under strict conditionality [...] to the benefit of ESM Members which are experiencing, or are threatened by, severe financing problems, if indispensable to safeguard the financial stability of the euro area.” To this end, the ESM is endowed with an authorized capital stock of €700 billion paid by the Eurozone countries, which is handled by a Board of Governors on which Eurogroup finance ministers sit.⁴³

Recent proposals have made the case for reforming the ESM, either by bringing it back within the framework of EU law,⁴⁴ or by strengthening it externally.⁴⁵ One suggestion is that the ESM could be upgraded by creating a rapid-response facility of €200 billion for secondary market purchases of government bonds (de facto replacing the ECB Securities Market Programme⁴⁶), and that this revamped ESM could also be used as a back-stop for the Single Resolution Fund dealing with bank failures.⁴⁷ Moreover, to tackle the deficiencies ensuing from the ESM's intergovernmental structure, another suggestion is that the Eurogroup President should take on a leading role in managing the ESM, with national parliamentarians involved through an inter-parliamentary conference to improve democratic oversight.

Any proposal to modify the ESM along these lines would require an amendment to the ESM Treaty. This does not foresee special procedures for its revision. But pursuant to customary principles of international law — codified in the Vienna Convention on the Law of the Treaties — international agreements can be modified with the consent of all the contracting parties. Hence, unanimous approval of all the 19 member states that are contracting parties to the ESM Treaty would be necessary to amend it. In some member states, however, such amendments would be subject to ex ante judicial review as a condition for ratification. In Germany, in particular, the Bundesverfassungsgericht (Federal Constitutional Court) authorized ratification of the ESM Treaty in its final judgment of March 2014 requiring among other things that the German government takes steps to ensure that its veto power be maintained under any future treaty changes.⁴⁸ Any new amendment would therefore have to pass the test of some national constitutional courts — with all the uncertainties that follow. Assuming the amendments do not affect Article 48 of the ESM Treaty, the revised treaty could instead

enter into force when a super-majority of contracting parties deposit their instruments of ratification.

currently prohibited by Article 125 TFEU, the only kind of Euro-bond that might be permitted today is one backed exclusively by EU assets. For the same reasons, another proposal often made sottovoce in discussions

5. Reforms through EU treaty amendments

EMU reforms that can be accomplished through amendment of the EU treaties include:

- Overhaul of the EU constitutional system through new EU institutions
- Introduction of qualified majority voting for decision-making on tax issues
- Debt mutualization
- Debt-restructuring mechanism

A last set of reforms to enhance EMU can be accomplished solely by revising the EU treaties. In particular, such amendments are necessary to introduce changes to the current EMU institutional architecture.⁴⁹

Indeed, apart from the proposal to ensure a unified external representation of the Eurozone in international financial institutions⁵⁰ — which is specifically foreseen by Article 138 TFEU — and that to appoint the Commissioner for Economic and Financial Affairs (ECFIN) as President of the Eurogroup⁵¹ — which is permitted by the vague language of Article 2 of Protocol No. 14 on the Eurogroup — all other options for institutional reform would require treaty change. This includes, among others, the proposals to appoint the ECFIN Commissioner as permanent Chair of the ECOFIN Council⁵² — which would require an amendment to Article 16(9) Treaty on EU (TEU) — or to create a Eurozone treasury⁵³ — which would call for a significant re-allocation of powers between the Council and the Commission.⁵⁴ Indeed, a treaty change would be necessary even to bring back within the framework of EU law the institutional provisions of the Fiscal Compact, and in primis its Article 12, which creates the Euro Summit and provides for its President — along the model of the European Council and its President.⁵⁵

In addition, also a number of substantive reforms of EMU would be permissible only through treaty reform. Although the current treaty framework leaves ample room for legislative action, measures such as creating Euro-bonds, or setting up a debt redemption fund,⁵⁶ could only be possible through treaty change: since the mutualization of governments' debt is

about EMU's future — i.e. creating an orderly debt-restructuring mechanism⁵⁷ — would necessitate a specific grounding in the EU treaties.

The procedure to amend the EU treaties is regulated in Article 48 TEU, which distinguishes between an ordinary and a simplified revision procedure. Given the nature of the constitutional changes discussed above — which amount to an expansion of EU powers, or touch upon provisions of the EU treaties which are outside the current Part III of the TFEU — the simplified revision procedure could not be used. The ordinary revision procedure would therefore be needed: this requires the setting up of a Convention (unless the European Parliament consents to avoid this), the approval of the amendment by the representatives of all the member states within an intergovernmental conference, and ratification by each member state in accordance with its own constitutional requirements. It goes without saying that reforming EMU via EU treaty amendment is more burdensome than doing so via EU legislation. But it should also be considered that EU treaties have regularly been amended during the last 25 years, and that Brexit creates the need for new treaty change anyway.⁵⁸

Conclusion

The purpose of this paper has been to analyze from a legal perspective a number of proposals for reforming the EMU. In recent months numerous reports — by the EU institutions, national governments, and European think-tanks — have advanced blueprints for deepening and completing Europe's EMU, outlining a roadmap to repair and prepare the euro after Brexit. As the paper has pointed out, EU treaties already allow for the adoption of a wide variety of reforms in the field of EMU — both on the stability-side and on the solidarity-side. While further steps to enhance multilateral fiscal surveillance remain possible, the EU treaties also allow the completion of Banking Union, the creation of a Capital Markets Union and the establishment of a EUIS. In addition, the current EU constitutional regime provides a solid basis to re-launch public investments, and complete the single market. Finally, the existing treaty framework would permit also steps toward an EU fiscal capacity — based on real own resources. Given the emphasis on European public goods by the High Level Group on Own Resources chaired by Mario Monti,⁵⁹ a fiscal capacity would be a valuable instrument to restore a degree of output legitimacy in the EU.

Several other reforms of EMU cannot be accomplished through EU legislation only. Calls to upgrade the ESM could only be achieved by amending the ESM Treaty — which would require the unanimous consent of the 19 Eurozone countries, and national ratification under the oversight of domestic constitutional courts. Initiatives to reform the EMU institutional architecture could only be undertaken by amending the EU treaties — on the basis of the ordinary revision procedure enshrined in Article 48 TEU. In the end, the adoption of a number of institutional reforms in the EMU architecture appears inevitable in the long run if the EU is to gain adequate input legitimacy.⁶⁰ And Brexit may offer a window of opportunity. However, reforms of the EMU through treaty amendment — just like those through EU legislation — remain dependent on the willingness, foresightedness and leadership of those national and European policy-makers who care about the future of Europe.

- 1 See Four Presidents report “Towards a Genuine EMU”, 5 December 2012.
- 2 See European Commission President-elect, Jean-Claude Juncker, “A New Start for Europe: My Agenda for Jobs, Growth and Democratic Change”, Speech at the European Parliament, Strasbourg 15 July 2014, 7.
- 3 See Five Presidents report, “Completing Europe’s EMU”, 22 June 2015.
- 4 See Bratislava Declaration and Roadmap, 16 September 2016, para. IV.
- 5 See Emmanuel Macron and Sigmar Gabriel, Op-Ed, “Europe Cannot Wait Any Longer”, The Guardian, 3 June 2015.
- 6 See Pier Carlo Padoan, “A Shared European Strategy for Growth, Jobs and Stability”, 22 February 2016.
- 7 See European Parliament Resolution of 20 November 2012 Towards a Genuine EMU, P7_TA(2012)0430 and European Parliament Resolution of 24 June 2015 Review of Economic Governance Framework, P8_TA(2015)0238.
- 8 Tommaso Padoa-Schioppa Group, “Completing the Euro: Roadmap towards Fiscal Union in Europe”, 26 June 2012.
- 9 Glienicker Group, “Toward a Euro Union”, 17 October 2013.
- 10 Eiffel Group, “For a Euro Community”, 14 February 2014.
- 11 Henrik Enderlein, Enrico Letta et al, “Repair and Prepare: Growth and the Euro After Brexit”, Bertelsmann Stiftung, Jacques Delors Institut — Berlin and Jacques Delors Institute Paris, September 2016.
- 12 See further Federico Fabbrini, “How Brexit Creates a Window of Opportunity for Treaty Reform in the EU”, spotlight europe 1/2016, Bertelsmann Stiftung, September 2016.
- 13 See further Federico Fabbrini, “Economic Policy in the EU After the Crisis: Using the Treaty to Overcome the Asymmetry of EMU” (2016) 20 Diritto Unione Europea 529.
- 14 Five Presidents report p. 6.
- 15 See Commission Recommendation for a Council Recommendation on the establishment of National Competitiveness Boards within the Euro Area, 21 October 2015, COM(2015)601 final.
- 16 Henrik Enderlein, Enrico Letta et al p. 21.
- 17 Five Presidents report Annex 2.
- 18 See Regulation (EU) No. 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area, OJ 2011 L 306/1; Regulation (EU) No. 1174/2011 of the European Parliament and of the Council of 16 November 2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area, OJ 2011 L 306/8; Regulation (EU) No. 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No. 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, OJ 2011 L 306/12; Regulation (EU) No. 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances, OJ 2011 L 306/25; Council Regulation No. 1177/2011 of 8 November 2011 amending Regulation (EC) No. 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure, OJ 2011 L 306/33; Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States, OJ 2011 L 306/41; Regulation (EU) No. 473/2013 of the European Parliament and the Council of 21 May 2013 on monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficits in euro-area Member States, OJ 2013 L 140/11; Regulation (EU) No. 472/2013 of the European Parliament and the Council of 21 May 2013 on enhanced surveillance of euro-area Member States experiencing or threatened with serious difficulties with respect to their financial stability, OJ 2013 L 140/1.
- 19 See Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, 2 March 2012, available at http://www.eurozone.europa.eu/media/304649/stootscg26_en12.pdf.
- 20 See further Federico Fabbrini et al (eds), The Constitutionalization of European Budgetary Constraints (Hart 2014).
- 21 See Commission proposal for a Regulation of the European Parliament and the Council amending Regulation (EU) No. 806/2014 in order to establish a European Deposit Insurance Scheme, 24 November 2015, COM(2015)586 final.
- 22 See Council Regulation (EU) No. 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, OJ 2013 L 287/63.
- 23 See Regulation (EU) No. 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No. 1093/2010 of the European Parliament and of the Council, OJ 2014 L 225/1.
- 24 See e.g. ECB President, Mario Draghi, Introductory statement in front of the European Parliament, Brussels, 15 June 2015.
- 25 See Commission proposal for a Regulation of the European Parliament and the Council laying down rules on securitization, 30 September 2015, COM(2015)472 final.
- 26 See also European Parliament resolution of 13 March 2014 on the enquiry on the role and operations of the Troika (ECB, Commission and IMF) with regard to the euro area programme countries, P7_TA(2014)0239.
- 27 See Ministero dell’Economia e delle Finanze, “European Unemployment Insurance Scheme”, October 2015.

- 28 See Commission communication on strengthening the social dimension of the Economic and Monetary Union, 2 November 2013, COM(2013)690 final.
- 29 Emphasis added.
- 30 See already Mario Monti, “A New Strategy for the Single Market at the Service of Europe’s Economy and Society” — report to the President of the European Commission, 9 May 2010.
- 31 Henrik Enderlein, Enrico Letta et al p. 26.
- 32 Henrik Enderlein, Enrico Letta et al p. 26.
- 33 See Regulation (EU) No. 2015/1017 of the European Parliament and the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub, and the European Investment Project Portal and amending Regulations (EU) No. 1291/2013 and (EU) No. 1316/2013, OJ 2015 L 169/1.
- 34 See Commission communication on strengthening European investments for jobs and growth: Towards a second phase of the European Fund for Strategic Investments and a new European External Investment Plan, 14 September 2016, COM(2016)581 final.
- 35 See in particular European Parliament resolution of 20 November 2012 towards a Genuine EMU, P7_TA(2012)0430.
- 36 See Federico Fabbrini, “Taxing and Spending in the Eurozone: Legal and Political Challenges Related to the Adoption of the Financial Transaction Tax” (2014) 39 European Law Review 155.
- 37 See Commission proposal for a Council Directive on a common system of Financial Transaction Tax, 28 November 2011, COM(2011)594 final.
- 38 See Commission proposal for a Council Directive on a Common Consolidated Corporate Tax Base, 16 March 2011, COM(2011)121 final and now the new Commission proposal on a Common Corporate Tax Base, 25 October 2016, COM(2016)685 final.
- 39 See Commission proposal for a Council Decision on the system of Own Resources of the European Union, 29 June 2011, COM(2011)510 final.
- 40 See Commission proposal for a Council Directive implementing enhanced cooperation in the area of a Financial Transaction Tax, 14 February 2013, COM(2013)71 final.
- 41 See further Federico Fabbrini, “A Principle in Need of Renewal? The Euro-Crisis and the Principle of Institutional Balance” (2016) 50 Cahiers de droit européen 281.
- 42 See European Council Decision No. 2011/199/EU of 25 March 2011, amending Article 136 TFEU with regard to a stability mechanism for Member States whose currency is the euro, OJ 2011 L 91/1.
- 43 See Alicia Hinarejos, *The Euro Area Crisis in Constitutional Perspective* (Oxford University Press 2015).
- 44 Five Presidents report p. 18.
- 45 Henrik Enderlein, Enrico Letta et al p. 21.
- 46 See Decision of the ECB of 14 May 2010 establishing a securities market programme, OJ 2010 L124/8.
- 47 See Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund, 21 May 2014 available at: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%208457%202014%20INIT>.
- 48 See BVerfG, Case No. 2 BvR 1390/12 et al., judgment (final) of 18 March 2014, para. 193.
- 49 See Jean-Claude Piris, *The Future of Europe: Towards a Two-Speed EU?* (Cambridge University Press 2011).
- 50 See Commission proposal for a Council Decision laying down measures in view of progressively establishing unified representation of the euro area in the International Monetary Fund, 21 October 2015, COM(2015)603 final.
- 51 Henrik Enderlein, Enrico Letta et al p. 25.
- 52 Henrik Enderlein, Enrico Letta et al p. 35.
- 53 Five Presidents report p. 18.
- 54 See Henrik Enderlein and Jörg Haas, “What would a European Finance Minister do: A proposal”, Policy Paper 145, Jacques Delors Institut — Berlin and Bertelsmann Stiftung, October 2015.
- 55 See Federico Fabbrini et al (eds), *What Form of Government for the European Union and the Eurozone?* (Hart 2015).
- 56 See Gertrude Tumpel-Gugerell, Expert Group on Debt Redemption Fund and Eurobills, final report, 31 March 2014.
- 57 Enderlein, Letta et al p. 35.
- 58 Fabbrini, supra note 14.
- 59 See Mario Monti, High Level Group on Own Resources, final report and recommendations, “Future Financing of the EU”, December 2016, http://ec.europa.eu/budget/mff/hlgor/index_en.cfm.
- 60 See further Federico Fabbrini, *Economic Governance in Europe* (Oxford University Press 2016).

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