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The fiscal crunch in Europe— legal ways to overcome it

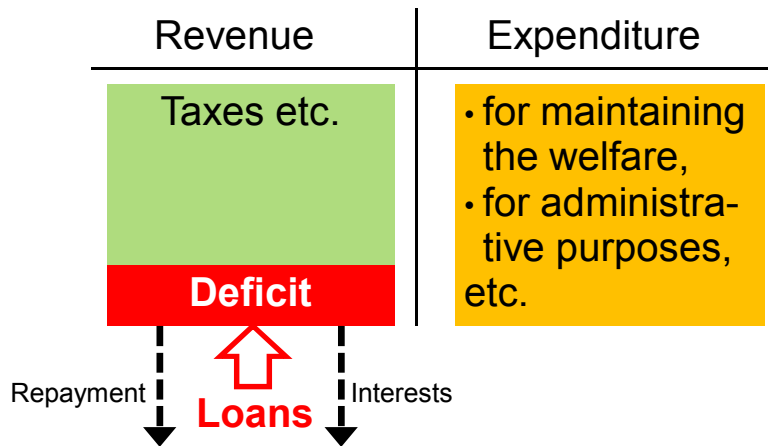
University of Exeter, 11 June 2012

Statistics on National Debt (eurostat, 2011)



	UK	Germany	Greece
Debt absolute value	€ 1,547 bn	€ 2,100 bn	€ 356 bn
Population	62 m	81 m	11 m
Debt per capita	€ 24,952	€ 25,925	€ 32,363
GDP	€ 1,737 bn	€ 2,571 bn	€ 215 bn
Debt per GDP	86 %	81 %	165 %

Causes of national debt



'Rescue Packages'

(without ECB measures)

May 2010	May 2010—June 2013	starting 1 July 2012
<p>Pooled bilateral financial support for Greece</p> <p>Eurogroup € 80bn + € 30bn IMF €110bn in total</p> <p>disbursed: € 73bn</p>	<p>European Financial Stabilisation Mechanism (EFSM) EU (Article 122(2) TFEU): € 80bn (May 2010)</p> <p>European Financial Stabilisation Facility (EFSF) (Eurogroup & IMF) € 440bn (May 2010) + € 340bn (June 2011) = € 780bn in total</p> <p>Greece: €130bn (39.4bn) Ireland: € 85bn (8.7bnUK) Portugal: € 78bn</p>	<p>European Stability Mechanism (ESM) amendment to Article 136 TFEU</p> <p>ESM-Treaty € 80bn paid-in + € 620bn callable € 700bn in total</p> <p>in addition: SCG-Treaty ('Fiscal Compact'): esp natl 'debt brakes'</p>

Legal aspects of 'financial stabilisation'

Article 122(2) TFEU

'¹Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council [...] may grant, under certain conditions, Union financial assistance [...].'

Problems:

- Debt crisis 'beyond State control'?
- No basis for permanent assistance

Legal aspects of 'financial stabilisation'

Article 125 TFEU ('no bail-out clause'):

'¹A Member State shall not be liable for or assume the commitments of governments [...] of another Member State [...].'

Problem: violation by granting of loans?

prevailing opinion:

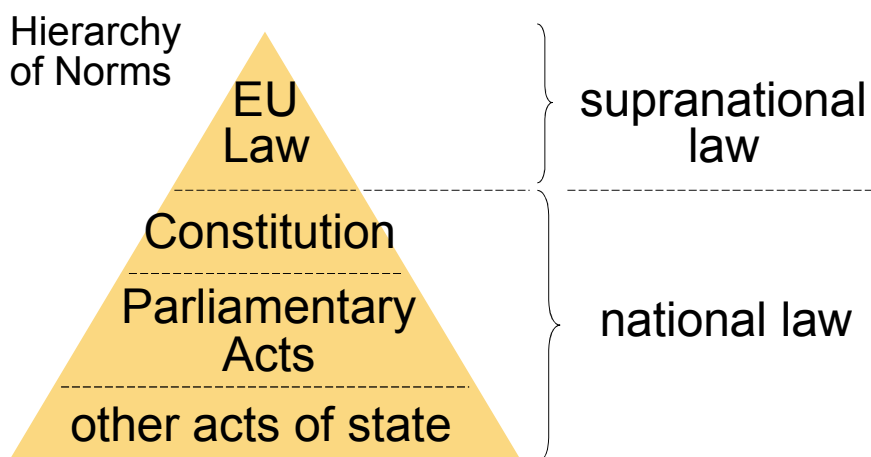
- repayable and interest-bearing
- EFSF = private company
- voluntary assistance

Legal aspects of 'financial stabilisation'

Article 136(3) TFEU (amendment 2012)

'¹The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. ²The granting of any required financial assistance under the mechanism will be made subject to strict conditionality.'

Implementation of a 'Debt Brake'



EU law: 'Maastricht criteria'



Article 126(2) TFEU (version 1993/2009)

- annual deficit limited to 3% GDP
- overall debt restrained to 60% GDP

UK: Protocol No. 15 (Article 51 TEU):
Article 126 TFEU shall **not apply to the UK**

Problem:

Lack of enforcement—

possible improvements:
'Six-Pack', 'European Semester'

'Debt Brake' for the Member States



SCG-Treaty ('Fiscal Compact' 2012)

UK refusal to amend the TFEU (9 Dec 2011)
⇒ intergovernmental treaty outside the EU
framework

- Balance or surplus of the genl government
- 'deemed to be respected' with a limit of
a structural deficit of 0.5% of the GDP

National 'provisions of binding force and per-
manent character'

National 'Debt Brake' in Germany



Article 109(3) German Basic Law (2009)

'The budget [...] shall in principle be balanced without revenues from credits.'

Applicability: 2016/2020 (Article 143d(1) BL)

Exceptions:

- Federation (Bund): 0.35% of GDP
- deficits in times of economic downswing
- unusual emergency situations
subject to immediate subsequent amortisation

Problem: **excessive existing debts**

National 'Debt Brake' in the UK



s.1 Budget Responsibility & Natl Audit Act 2011

Charter for Budget Responsibility:

- ensure sustainable public finances that [...] promote intergenerational fairness [...]
- forward-looking target to achieve cyclically-adjusted current balance by the end of 2016
- target for public sector net debt as a percentage of GDP to be falling at a fixed date of 2015–16

Problem: **political targets as opposed to binding obligations**

Fiscal Crunch in Europe



***Thank you
for your kind attention!***