

INTRODUCTORY STATEMENT

The role of the Eurogroup in the economic governance framework

*Joint Hearing ECON – AFCO on
“Institutional Aspects of the New Rules on Economic Governance and the Role of the Eurogroup”*

Tuesday, 5 May 2015

Good morning, Mister Chairman Gualtieri, and dear Members of the Economic and Monetary Affairs Committee as well as of the Constitutional Affairs Committee. I would like to thank you for inviting me to this public hearing on “Institutional Aspects of the New Rules on Economic Governance and the Role of the Eurogroup”. This first panel is dedicated to the “role of the Eurogroup in the economic governance framework”.

THE ROLE OF THE EUROGROUP FORESEEN BY PRIMARY LAW

From a purely legal perspective, there is not much to say: The role of the Eurogroup is a minor one. According to Protocol (No 14) of the Lisbon Treaty on the Eurogroup, the main task of the Eurogroup is merely “to discuss questions related to the specific responsibilities they [the ministers of Eurozone Member States] share with regard to the single currency”. The Eurogroup is an informal body. It is no Union institution. It cannot adopt legally binding decisions. This was just recently confirmed by a series of orders by the General Court dismissing applications to annul a decision of the Eurogroup concerning Cypriot banks in March 2013. The General Court clearly stated that decisions of the Eurogroup do not produce legal effects. The complete absence of the Eurogroup in the law making of the Union and its inability to adopt legally binding decisions explains why the Lisbon Treaty did not provide for a mechanism to hold the Eurogroup to account for its action. There is no legal obligation of the Eurogroup to inform the public or other institutions about its activities and there are no transparency rules for the Eurogroup. There are no minutes of Eurogroup meetings. Only brief summaries are sent to the participants of these meetings. The president of the Eurogroup is legally not obliged to appear in front of any Parliamentary body and he or she has not to be afraid of any consequences attached to a negative assessment of the performance of the Eurogroup.

Yet, and I repeat myself, such a lack of accountability can be tolerated, from a legal point of view, with regard to a purely informal gathering of ministers that exchange their views. But can this understanding of the Eurogroup still be upheld for the Eurogroup as it stands today? Already the pre-crisis Eurogroup was called at the time of its establishment “the sketch of a European Economic Government”. Did the crisis transform the sketch into a painting?

ECONOMIC GOVERNANCE STRUCTURES FORESEEN BY PRIMARY LAW

Before turning to this question, I would like to briefly recall the Treaty framework for a “European Economic

Government". Member States' fiscal and economic policies are coordinated through the so-called "multilateral surveillance procedure". The Council adopts guidelines of the economic policies (Article 121 TFEU) and of the employment policies (Article 148 TFEU) of the Member States. The Commission monitors the economic performance of the Member States and their compliance with the just mentioned guidelines. Where inconsistencies are established, the Council adopts a recommendation to the Member State concerned with necessary measures to adjust its economic policies. Bad fiscal and economic policies are to be sanctioned by the financial markets through raising interest rates on government bonds wherefore the position of Member States on the financial markets has to be same as of any other private institution.

Member States' budgets are monitored by the European Commission. The decisions on the existence of an excessive deficit, the recommendations with measures to remedy the excessive deficit, the decisions on setting time limits for Member States to comply with those recommendations and the decisions to impose sanctions are all adopted by the Council. If the decisions and recommendations of the Council under both procedures concern Eurozone Member States, only Eurozone Member States take part in the vote in the Council. Other Council members are, however, not excluded from participating in the deliberations and from presenting their positions.

THE NEW ROLE OF THE EUROGROUP IN THE ANTI-CRISIS LEGISLATION

What is now the role of the Eurogroup in this "European Economic Government"? Originally, there was no role foreseen for the Eurogroup. This changed with the adoption of the so-called "Six Pack". In the "Macroeconomic Imbalances Procedure" (MIP), the European Commission has now to inform the Eurogroup about its measures. The Commission annual report is discussed by the Eurogroup and the Commission has to take due account of this discussion when undertaking an in-depth review of a Member State. In the "Two Pack" regulations, two years later, the role of the Eurogroup was further strengthened. Eurozone Member States have now to submit their draft budgetary plans and their national debt issuance plans not only to the Commission but also to the Eurogroup for monitoring and assessment. The Commission presents its opinion on the draft budgetary plans to the Eurogroup, which afterwards discusses the budgetary situation in each Member State. The results of those discussions are to be made public where appropriate.

If we now detach our perception of the Eurogroup from the legal texts and include those fora in which the same persons take decisions that come together in the Eurogroup, we have to come to the conclusion that the Eurogroup today has as forum that bundles different discussions a significant *de facto* role in the economic governance framework. Not only does the Eurogroup discuss draft budgetary plans and national debt issuance plans of Eurozone Member States, but the same persons forming the Eurogroup decide as "ESM Board of Governors" on ESM financial assistance programmes and vote as "ECOFIN Council" on decisions and recommendations to Eurozone Member States under the multilateral surveillance and the budgetary control procedure. Taking into account that the Eurogroup meets regularly the day before the official ECOFIN meeting, discussions and decisions on those subjects can be preponed to the informal Eurogroup meeting and "rubberstamped" by the subsequent ECOFIN Council meeting.

This *de facto* crucial role of the Eurogroup as a body is supplemented by the fact that not only the European Commission, represented by the Commissioner for Economic and Monetary Affairs, but also the European Central Bank (ECB), mostly represented by its president, participates in Eurogroup meetings. The latter does not only create tensions with the ECB's independence in conducting the Union's monetary policy but raises also questions about the degree to which the ECB influences political decisions that are to be taken outside of its policy mandate – a problem that was pointed out recently by Advocate General *Cruz Villálon* in his opinion in the OMT case (Opinion of 14 January in Case C-62/14, OMT).

LEGAL PROBLEMS RELATED TO THE STRONG *DE FACTO* ROLE OF THE EUROGROUP

The strong position of the Eurogroup, which goes beyond a simple sketch of a “European Economic Government”, gives rise not only to significant accountability problems which will be addressed by the second session today. It also leads to legal problems. The European Court of Justice decided in case C-27/04, *Commission v Council* ([2004] ECR I-6649) that the economic governance procedures explicitly foreseen by the Treaties cannot be undermined: “It follows from the wording and the broad logic of the system established by the Treaty that the Council cannot break free from the rules laid down by Article 104 EC [today’s Article 126 TFEU] and those which it set for itself in Regulation No 1467/97. Thus, it cannot have recourse to an alternative procedure, for example in order to adopt a measure which would not be the very decision envisaged at a given stage or which would be adopted in conditions different from those required by the applicable provisions” (ECJ, Case C-24/04, *Commission v Council* [2004] ECR I-6649 para 81). This refers in particular to the exclusion of non-Eurozone Member States in the deliberations concerning decisions under the multilateral surveillance and the budget control procedure. A simple rubberstamp function of the ECOFIN Council for decisions that were prepared in the Eurogroup would certainly infringe the Treaties. Primary law provides for a right of non-Eurozone Member States to also present their views on Eurozone matters in the Council and, by that, to control the Eurozone Member States, which have the exclusive voting rights in Eurozone matters.

This leads me to my final remark, which can also be understood as an outlook to the next session. The Treaty considers the Council as the core decision-making institution in the economic governance of the Union. The Council covers all 28 EU Member States. The Treaty only restricts the voting rights to the Eurozone Member States. The non-Eurozone Member States are not excluded from taking part in the Council meetings on Eurozone affairs and from raising their voices therein. By both elements the Treaties make clear that the control of Eurozone activities is a task of the Union as a whole. Against this background, a genuine democratic accountability of whatsoever kind of “European Economic Government” for the Eurozone requires a democratic control by a Parliamentary body of the entire Union, which is the European Parliament.

CONCLUSIONS

In order to sum up, Mister Chairman, dear Members, the Eurogroup had originally, from a legal point of view, only a minor role in the economic governance framework. This role was reinforced by the anti-crisis legislation. Today, the Eurogroup has a significant *de facto* role in the economic governance framework. It bundles as a forum the discussion on Member States’ draft budgetary plans, the discussions on decisions and recommendations that are to be adopted by the Council within the multilateral surveillance and the budget control procedure and the discussions on ESM decisions. This strong *de facto* role is not reflected by an appropriate accountability mechanism. It bears the risk of a further silent intergovernmentalisation of European decision-making procedures. I hereby want to conclude my introductory statement and I am very much looking forward to the upcoming debate of this hearing.



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