

Procedure file

Basic information	
NLE - Non-legislative enactments Decision	2010/0821(NLE) Procedure completed
Treaty on the Functioning of the EU (TFEU): stability mechanism for Member States whose currency is the euro (amend. Article 136 TFEU)	
Subject 2.50.10 Financial supervision 5.10.01 Convergence of economic policies, public deficit, interest rates 5.20.01 Coordination of monetary policies, European Monetary Institute (EMI), Economic and Monetary Union (EMU) 5.20.02 Single currency, euro, euro area 8.10 Revision of the Treaties, intergovernmental conferences	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	AFCO Constitutional Affairs		26/01/2011
		PPE BROK Elmar	26/01/2011
		S&D GUALTIERI Roberto	
		Shadow rapporteur	
		ALDE DUFF Andrew	
		Verts/ALE HÄFNER Gerald	
		ECR FOX Ashley	
		EFD MESSERSCHMIDT Morten	
Council of the European Union	Committee for opinion	Rapporteur for opinion	Appointed
	BUDG Budgets	The committee decided not to give an opinion.	
	ECON Economic and Monetary Affairs		10/01/2011
		PPE GAUZÈS Jean-Paul	10/01/2011
		S&D SCICLUNA Edward	
European Commission	Council configuration	Meeting	Date
	General Affairs	3079	25/03/2011
European Commission	Commission DG	Commissioner	
	Secretariat-General	BARROSO José Manuel	

Key events			

20/12/2010	Legislative proposal published	00033/2010	Summary
18/01/2011	Committee referral announced in Parliament		
07/03/2011	Vote in committee		Summary
07/03/2011	Committee report tabled for plenary, 1st reading/single reading	A7-0052/2011	
09/03/2011	Debate in Parliament		
23/03/2011	Results of vote in Parliament		
23/03/2011	Decision by Parliament	T7-0103/2011	Summary
25/03/2011	Act adopted by Council after consultation of Parliament		
25/03/2011	End of procedure in Parliament		
06/04/2011	Final act published in Official Journal		

Technical information

Procedure reference	2010/0821(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consultation of Parliament
Legislative instrument	Decision
Legal basis	Treaty on European Union TEU 48-p6-a2
Stage reached in procedure	Procedure completed
Committee dossier	AFCO/7/04974

Documentation gateway

Legislative proposal		00033/2010	20/12/2010	EUCO	Summary
Committee opinion	ECON	PE456.896	14/02/2011	EP	
Committee draft report		PE458.618	24/02/2011	EP	
Amendments tabled in committee		PE460.672	03/03/2011	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0052/2011	07/03/2011	EP	
European Central Bank: opinion, guideline, report		CON/2011/0024 OJ C 140 11.05.2011, p. 0008	17/03/2011	ECB	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0103/2011	23/03/2011	EP	Summary

Additional information

European Commission	EUR-Lex
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Final act

[Decision 2011/199](#)
[OJ L 091 06.04.2011, p. 0001](#) Summary

Treaty on the Functioning of the EU (TFEU): stability mechanism for Member States whose currency is the euro (amend. Article 136 TFEU)

PURPOSE: to establish a permanent crisis mechanism to safeguard the financial stability of the euro area and amending Article 136 of the Treaty on the Functioning of the European Union

PROPOSED ACT: European Council Decision.

BACKGROUND: at the meeting of the European Council of 28 and 29 October 2010, the Heads of State or Government agreed on the need for Member States to establish a permanent crisis mechanism to safeguard the financial stability of the euro area as a whole and invited the President of the European Council to undertake consultations with the members of the European Council on a limited treaty change required to that effect. On 16 December 2010, the Belgian Government submitted, in accordance with Article 48(6) a proposal for revising Article 136 of the TFEU by adding a paragraph under which the 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 and stating that the granting of any required financial assistance under the mechanism will be made subject to strict conditionality. At the same time, the European Council adopted conclusions about the future stability mechanism

LEGAL BASIS: Article 48(6) of the Treaty on the Functioning of the European Union (TFEU). This Article allows the European Council, acting by unanimity after consulting the European Parliament, the Commission and, in certain cases, the European Central Bank, to adopt a decision amending all or part of the provisions of Part Three of the TFEU. Such a decision may not increase the competences conferred on the Union in the Treaties and its entry into force is conditional upon its subsequent approval by the Member States in accordance with their respective constitutional requirements.

CONTENT: the draft decision states that a paragraph shall be added to Article 136 TFEU. This provides that 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. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality.

Member States must notify the Secretary-General of the Council without delay of the completion of the procedures for the approval of this Decision in accordance with their respective constitutional requirements.

The Decision will enter into force on 1 January 2013, provided that all relevant notifications have been received, or, failing that, on the first day of the month following receipt of the last of the notifications.

Lastly, the recitals to the draft Decision state that the stability mechanism will provide the necessary tool for dealing with such cases of risk to the financial stability of the euro area as a whole as have been experienced in 2010, and hence help preserve the economic and financial stability of the Union itself. At its meeting of 16 December 2010, the European Council agreed that, as this mechanism is designed to safeguard the financial stability of the euro area as whole, Article 122(2) of the TFEU will no longer be needed for such purposes. The Heads of State or Government therefore agreed that it should not be used for such purposes.

Treaty on the Functioning of the EU (TFEU): stability mechanism for Member States whose currency is the euro (amend. Article 136 TFEU)

The Committee on Constitutional Affairs adopted the report drafted by Elmar BROK(PPE, DE) et Roberto GUALTIERI (S&D, IT) on the draft European Council decision amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro.

Members are concerned that the draft European Council decision, if adopted, might lead to the constitution of a mechanism completely outside the Union's sphere, without any role being assigned to the Union institutions as such. They consider that participation by the Union institutions in the mechanism should be fully ensured and permanently safeguarded and that all possibilities should be explored with a view to bringing the mechanism fully into the institutional framework of the Union and providing for the involvement in it of those Member States whose currency is not the euro.

The report stresses that the establishment and functioning of the permanent stability mechanism must fully respect the core principles of democratic decision-making such as transparency, parliamentary scrutiny and democratic accountability. It emphasises that the mechanism should closely involve the Union institutions and bodies responsible for monetary issues - the European Commission, European Central Bank and European Investment Bank.

Members state that, in order for the proposed draft European Council decision to be properly scrutinised, supplementary information is needed, notably concerning the envisaged design of the stability mechanism and the relations which it is intended to have with the Union institutions, with the proposed European Monetary Fund and with the International Monetary Fund. They accordingly, call on the European Council to fulfil the following conditions in the process of establishing the new European stability mechanism:

(1) a redrafting of the European Council draft decision by suggesting that the ESM, notwithstanding its intergovernmental character, would be placed in the framework of the Union, e.g. in the form of an agency. In this regard, Members propose a series of amendments to the draft European Council Decision;

(2) alternatively, Members call for a clear commitment by the European Council ensuring that:

- the operational features of the permanent stability mechanism and the conditionality measures, involving a programme of economic and fiscal adjustment, will be decided on the basis of a proposal by the Commission, in accordance with the ordinary legislative procedure, and that the Commission will be responsible for ensuring full respect of these measures and for the precautionary use of the mechanism, regularly reporting back to Parliament;
- the European Commission will carry out all the necessary tasks in implementing and monitoring the permanent mechanism and in assessing the financial situation of all the Member States whose currency is the euro, regularly reporting back to the European

Parliament;

- the financial assistance under the mechanism will be subject to rigorous analysis and to a programme of economic and financial recovery. Those Member States whose currency is the euro and those representing Member States participating in and contributing to the permanent stability mechanism will act, when deciding to grant financial assistance, on the basis of an evaluation provided by the Commission, the European Central Bank and, in so far as it may be involved, the International Monetary Fund; with regard to the analysis and the conditions for financial and economic recovery, the Commission will report back to Parliament;
- no Member State whose currency is the euro and which has contributed to the permanent stability mechanism should be excluded from accessing it on the grounds of its size;
- the secretariat of the permanent stability mechanism will be provided by the Commission.

The report stresses that each national parliament shall be fully involved, in accordance with their budgetary and control rights, at all stages, especially in the context of the European semester, in order to increase the transparency, ownership and accountability of any decision taken.

Lastly, the Commission is called upon to look for other mechanisms to ensure the financial stability and sustainable and adequate economic growth of the euro area, and to make the necessary legislative proposals. Members underline the need for the stability mechanism to include measures used to reduce risks to financial, economic and social stability, including: (i) effective regulation of financial markets; (ii) revision of the SGP and better economic coordination; (iii) the introduction of instruments for the reduction of macroeconomic imbalances inside the euro area and; (iv) measures directed at ecological reconstruction.

Treaty on the Functioning of the EU (TFEU): stability mechanism for Member States whose currency is the euro (amend. Article 136 TFEU)

OPINION OF THE EUROPEAN CENTRAL BANK on a draft European Council Decision amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro.

In a monetary union, strengthened fiscal and macroeconomic surveillance is the appropriate instrument to minimise risks of sovereign debt crises of the magnitude and severity that the European Union has experienced in the recent past. To this end, the ECB has called for a 'quantum leap' in the economic governance of economic and monetary union (EMU), which should lead towards a deeper economic union that is commensurate with the degree of economic integration and interdependency already achieved by the Member States whose currency is the euro.

Reiterating its call for the further strengthening of fiscal and macroeconomic surveillance, the ECB welcomes the draft decision. Following approval by all Member States of the draft decision a new Article 136(3) will feature in the Treaty on the Functioning of the European Union (TFEU). In accordance with it, Member States whose currency is the euro are expected to establish a permanent mechanism, known as European Stability Mechanism (ESM).

ESM effectiveness: the necessary preparations are under way. There are four features that would enhance the effectiveness and facilitate the functioning of the ESM:

- it should be established by means of a Treaty subject to international public law approved by the Member States whose currency is the euro so that national laws have to be made compatible with the provisions of the Treaty;
- the rules for decision-making in the ESM should favour efficiency, for instance by providing for the activation of the ESM by mutual agreement of the Member States whose currency is the euro;
- in full compliance with the Treaties, the ESM should be granted the capacity to employ an appropriate range of instruments in order to be able to effectively fight against contagion in situations of acute market instability; and
- the ESM has to observe the principles of cautious and sound financial management and be subject to auditing by external and internal auditors.

Moral hazard: the ECB considers that there is a fundamental need for the ESM to be safeguarded against the moral hazard inherent in any crisis management mechanism. Safeguards such as IMF involvement in debt sustainability analysis, programme negotiations and financing, non-concessional terms consistent with IMF practice and regular and strict surveillance on compliance by the assisted Member States with the programme of fiscal and macroeconomic adjustment on which financial assistance is conditional, are indispensable for providing strong and lasting incentives for sound fiscal and economic policies in the Member States whose currency is the euro. Furthermore, such safeguards support the effectiveness of the abovementioned strengthened fiscal and macroeconomic surveillance framework of the Union.

Intergovernmental mechanism: the draft decision is that it provides for an intergovernmental mechanism instead of a Union mechanism. The ECB supports recourse to the Union method and would welcome that, with the benefit of the experience gained, the ESM would become a Union mechanism at an appropriate point in time. In the meantime, the ECB encourages that regarding the assessment of circumstances leading to the activation of the ESM and regarding conditions on financial assistance, Union institutions are granted a prominent role given their expertise and their focus on the collective Union interest.

Role of the ECB and the Eurosystem: the ECB recalls that while the ECB may act as fiscal agent for the ESM pursuant to the Statute of the ESCB, in the same way as under the Union's Medium-Term Financial Assistance Facility, the EFSM and the EFSF, Article 123 TFEU would not allow the ESM to become a counterparty of the Eurosystem under the Statute of the ESCB.

In this latter element, the ECB recalls that the monetary financing prohibition in the TFEU is one of the basic pillars of the legal architecture of EMU both for reasons of fiscal discipline of the Member States and in order to preserve the integrity of the single monetary policy as well as the independence of the ECB and the Eurosystem.

The ECB encourages Member States to approve the draft decision promptly in order for it to enter into force at the date provided in it, which is 1 January 2013.

Treaty on the Functioning of the EU (TFEU): stability mechanism for Member States whose currency is the euro (amend. Article 136 TFEU)

The European Parliament adopted by 494 votes to 100 with 9 abstentions a resolution on the draft European Council decision amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro.

Parliament considers that the draft European Council decision, if adopted, might lead to the constitution of a mechanism completely outside the Union's sphere, without any role being assigned to the Union institutions as such. It feels that all possibilities should be explored with a view to bringing the European stability mechanism fully into the institutional framework of the Union and providing for the involvement in it of those Member States whose currency is not the euro.

In this regard, Members consider that the Commission must be a member of the board of this mechanism, and not simply an observer. Moreover the Commission should be entitled to take the appropriate initiatives in order to achieve, with the consent of the Member States concerned, the objectives of the European stability mechanism.

The resolution stresses that the establishment and functioning of the permanent stability mechanism must fully respect the core principles of democratic decision-making such as transparency, parliamentary scrutiny and democratic accountability. It emphasises that the European stability mechanism should closely involve the Union institutions and bodies responsible for monetary issues: the European Commission, the European Central Bank (ECB) and the European Investment Bank.

Members acknowledge the positive signals perceived in the letters from the Presidents of the European Council and of the Euro Group and the Commissioner responsible for monetary policy. They take note that:

- the policy conditionality established under an enhanced surveillance or a macroeconomic adjustment programme will be defined by a regulation to be proposed by the Commission;
- access to financial assistance under the European stability mechanism will be provided on the basis of a rigorous analysis of public-debt sustainability conducted by the Commission together with the IMF in liaison with the ECB;
- on the basis of the assessment provided by the Commission together with the IMF and in liaison with the ECB of the financial needs of the beneficiary Member State, the Board of Governors of the European stability mechanism will mandate the Commission to negotiate a macro-economic adjustment programme with the Member State concerned, together with the IMF and in liaison with the ECB;
- the Commission will propose to the Council a decision endorsing the macro-economic programme and, once that decision is adopted, will sign a Memorandum of Understanding on behalf of the Member States whose currency is the euro;
- financial assistance will be activated on request by a Member State, after an assessment by the Commission, in liaison with the ECB, of the existence of a risk to the financial stability of the euro area as a whole;
- the Commission, together with the IMF and in liaison with the ECB, will be responsible for monitoring compliance with the policy conditionality and will report to the Council and to the Board of Directors;
- after discussion in the Board of Governors, the Council decision to implement post-programme surveillance will be taken on a proposal put forward by the Commission;
- Parliament will be regularly informed by the Council and the Commission about the establishment and the operations of the European stability mechanism and will thus be in a position to properly scrutinise its activities.

Parliament endorses the draft European Council decision, notwithstanding its reservation that it would have been preferable to place the mechanism within a Union framework. It calls on the European Council to ensure that:

- the regulation addressing the policy conditionality is adopted in accordance with the ordinary legislative procedure of the Union;
- every Member State whose currency is the euro and which has contributed to the permanent stability mechanism will have access to it independently of its size.

Lastly, Members call on the Commission to look for other mechanisms to ensure the financial stability and sustainable and adequate economic growth of the euro area, and to make the necessary legislative proposals. They underline the need for the European stability mechanism to include measures used to reduce risks to financial, economic and social stability, including (i) effective regulation of financial markets; (ii) revision of the SGP and better economic coordination; (iii) the introduction of instruments for the reduction of macroeconomic imbalances inside the euro area and (iv) measures directed at ecological reconstruction.

Treaty on the Functioning of the EU (TFEU): stability mechanism for Member States whose currency is the euro (amend. Article 136 TFEU)

PURPOSE: to introduce a limited modification to Article 136 of the Treaty on the Functioning of the European Union (TFEU) in order to allow those Member States interested to constitute a stability mechanism for the euro-zone.

NON-LEGISLATIVE ACT: European Council Decision 2011/199/EU amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro.

CONTENT: at the meeting of the European Council of 28 and 29 October 2010, the Heads of State or Government agreed on the need for Member States to establish a permanent crisis mechanism to safeguard the financial stability of the euro area as a whole and invited the President of the European Council to undertake consultations with the members of the European Council on a limited treaty change required to that effect.

On 16 December 2010, the Belgian Government submitted a proposal for revising Article 136 of the TFEU. At the same time, the European Council adopted conclusions about the future stability mechanism.

The proposal for revising Article 136 of the TFEU by adding a paragraph under which the 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 and stating that the granting of any required financial assistance under the mechanism will be made subject to strict conditionality.

The stability mechanism will provide the necessary tool for dealing with such cases of risk to the financial stability of the euro area as a whole as have been experienced in 2010, and hence help preserve the economic and financial stability of the Union itself. At its meeting of 16 and 17 December 2010, the European Council agreed that, as this mechanism is designed to safeguard the financial stability of the euro area as

whole, Article 122(2) of the TFEU will no longer be needed for such purposes.

ENTRY INTO FORCE: 01/01/2013, provided that all the notifications have been received, or, failing that, on the first day of the month following receipt of the last of the notifications.