

Green Proposals for a European Convention

Completing the economic and monetary union

Proposals for elements of the mandate for a European Convention by Franziska Brantner and Sven Giegold based on “A study on the legal feasibility of perspectives of reforms towards a genuine European economic and monetary union” by René Repasi, commissioned by Franziska Brantner and Sven Giegold (September 2012).

1. Strong, European and democratic control of national budgets

1.1. Integration of the Fiscal Compact into EU law

The Fiscal Compact, which was concluded as an international treaty outside the EU framework, should be integrated into EU law.

Treaty changes (TFEU):

- Inclusion of the debt brake (Art. 3(2) of the Fiscal Compact): new Art. 126(11a).
- Inclusion of the reverse qualified majority voting rule (Art. 7 of the Fiscal Compact): Art. 126(12).
- Deletion of the exclusion of jurisdiction of the ECJ (Art. 8 of the Fiscal Compact): Art. 126(10).
- Inclusion of the Euro Summit (Art. 12 of the Fiscal Compact): new Art. 137a

1.2. Ceilings for the balance of national budgets

Upper limits on the annual budget balance of individual Member States should be set by common decision at EU level.

Treaty changes (TFEU):

- Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure as regards the excessive deficit procedure regulation (Art. 126(14)).
- This excessive deficit procedure regulation should replace Protocol No 12 on the excessive deficit procedure, while the reference values of 3% of GDP and 60% of GDP should be maintained.
- Creation of a legal base for the setting of individual upper limits for Member States below the reference values of 3% and 60%.

1.3. Prior approval of national debt above ceiling

Member States should be required to justify and ask for approval before they can issue government debt beyond the level agreed in common at EU level.

Treaty changes (TFEU): Inclusion of such a provision in Art. 126(11).

1.4. A strong and accountable Commissioner for Monetary and Financial Affairs

The Commissioner for Monetary and Financial Affairs should be strengthened and made more accountable. He or she should also be Vice-President of the European Commission and become a key decision-maker in a more integrated economic and monetary union. To ensure the democratic legitimacy of his or her action, he or she should be individually elected by the European Parliament.

Treaty changes (TEU):

- Inclusion of an own provision for the Commissioner for Monetary and Financial Affairs with a description of the tasks and the election procedure in the EP (new Art. 18a).
- Adaptation of Art. 17 (on the Commission) to this new position of Commissioner, comparably to the provisions on the High Representative for Foreign Affairs and Security Policy.

Treaty changes (TFEU):

- Adaptation of Art. 246 (on the replacement of commissioners) to the new Commissioner, comparably to the provisions on the High Representative.
- Adaptation of Art. 248 (on the division of labour in the Commission) to the new Commissioner, comparably to the provisions on the High Representative.

1.5. Strengthening parliamentary control in surveillance procedure

On the basis of Protocol No 1 (TFEU) on the role of national parliaments in the EU, the European Parliament could form a joint committee, composed equally of MEPs and Members of a national parliament concerned by EU decisions with regard to its national budget. The joint committee could draft a common position, which could then be adopted by both parliaments. That position would be communicated as parliamentary position to the Council.

In case the Commissioner for Monetary and Financial Affairs annuls a national budget plan, the national parliament concerned should be able to call upon the European Parliament to check that decision. The European Parliament could then overrule the decision.

2. European solidarity and common debt liability – democratically controlled and balanced

2.1. Integration of the ESM Treaty into EU law

The European Stability Mechanism, which was concluded as an international treaty among Member States, should be integrated into EU law. At the same time, parliamentary control should be strengthened.

Treaty changes (TFEU):

- Inclusion of the Union into the derogation norm (derogation from Art. 125(1) and maybe Art. 123) and reference to a new protocol on the ESM in Art. 136(3).
- Integration of the ESM Treaty by means of a new protocol to the TFEU. This should include the substitution of the “Managing Director” by the Commission for Economic and Monetary Affairs. It should also include a requirement of parliamentary approval by the European Parliament with regard to certain decisions taken by the Board of Governors.
- Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure (Art. 125(2)).

In the meantime, an Inter-institutional Agreement should be negotiated to organise and coordinate the different activities under the European Semester, but also to control the implementation of the ESM, and to define the role of and give a mandate to the Troika. The Agreement would ensure that the Commission, Member States when they make decisions under the ESM, and the Troika are fully accountable to the European Parliament.

2.2. Creation of a debt redemption fund

A European Redemption Fund for sovereign debt above the threshold of 60% of GDP should be created in order to commonly pay off past debt over a period of 20 to 25 years.

Treaty changes (TFEU):

- Deletion of Art. 125 or inclusion of the European Redemption Fund as an exception within Art. 125(1) (*as clarification for the sake of legal certainty, as the redemption fund could also be created without treaty change*).
- Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure (Art. 125(2)).

2.3 Common debt issuance

Option 1: partial substitution

The issuance of national debt should be partially substituted by the issuance of common debt with joint and several liability (“blue bond/red bond” proposal).

Treaty changes (TFEU):

- Deletion of Art. 125 or inclusion of common debts with several but not joint liability as an exception within Art. 125(1) (*as clarification for the sake of legal certainty*).
- Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure (Art. 125(2)).

Option 2: full substitution

The issuance of national debt should be fully substituted by the issuance of common debt with joint and several liability.

Treaty changes (TFEU):

- Deletion of Art. 125 or inclusion of common debts with joint and several liability as an exception within Art. 125(1).
- Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure (Art. 125(2)).

3. An increased EU budget financed by own resources

In order to reflect the extended tasks of the Union, the EU budget should be increased to 5% of GDP, to be financed by own resources. This requires the increase of the own resources ceiling and the introduction of new own resources in the decision on the system of own resources of the EU. Moreover, the redistribution of the applicable shares and rates of the own resources in the regulation laying down implementing measures would have to be adapted.

Treaty changes (TFEU): Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure as regards the decision on own resources and the regulation on implementing measures (Art. 311(3) and Art. 311(4)).

4. An integrated financial framework

Creating a single European banking supervision

Option 1: European Central Bank

The single European banking supervision should be exercised, for the euro area (and possibly associated non-euro area states), by the European Central Bank. The ECB's supervisory powers should not be limited to "specific tasks" as is currently provided for in Art. 127(6) TFEU.

Treaty changes (TFEU):

- Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure (Art. 127(6) and Art. 129(4)).
- The ECB should get the possibility to exercise a single European banking supervision that is not limited to "specific" tasks (Art. 127(6) TFEU).

Option 2: European Banking Authority

The single European banking supervision should be fully exercised by the European Banking Authority (involving national banking authorities where appropriate) without the current limitation to the supervision of existing EU financial regulations.

Treaty changes (TFEU): Inclusion of a new article as legal base (providing for the ordinary legislative procedure).

5. An integrated economic policy framework

5.1. Harmonisation of tax policies

The tax policies of Member States should be harmonised and capital levies introduced in a coordinated manner. Moreover, measures against tax evasion and aggressive tax competition should be adopted.

Treaty changes (TFEU): Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure regarding measures concerning indirect and direct taxes (Art. 113 and Art. 115).

5.2. Strengthening national parliaments

The role of national parliaments should be strengthened by introducing a veto right for national parliaments with regard to tax-related EU legislation, comparable to the subsidiary complaint. A qualified majority of national parliaments could thus reject a Commission proposal.

Treaty changes (TFEU): Inclusion of a new protocol on the role of national parliaments with regard to budget-related EU legislation that provides for a veto right, the number of votes for each national parliament, the modalities of a veto and which majority is needed for it.

5.3. Strengthening the EU 2020 strategy

The EU 2020 objectives and the country-specific recommendations should be made mandatory and enforceable.

Treaty changes (TFEU):

- Inclusion of sanctions in case of non-compliance with EU 2020 targets (new 121(5) and new 148(5)).
- Introduction of the reverse majority rule into the decision-making process, which should include an intervention right for the European Parliament (new 121(6) and new 148(6)).

5.4. Introducing European minimum wages

European minimum wages should be introduced, determined on the basis of certain Member State-specific indicators. They should be without prejudice to collective bargaining.

Treaty changes (TFEU):

- Ensuring full involvement of the European Parliament by switching to the ordinary legislative procedure (Art. 115).
- Inclusion of a further point mentioning “minimum wages” (Art. 153(1)) (*as clarification for the sake of legal certainty*).
- Extension of the possibility to set minimum requirements by legislative means to all policy fields concerned (deletion of the restriction in Art. 153(2)(b)).
- Deletion of the special legislative procedure and of the restrictions for the ordinary legislative procedure (Art. 153(2)(3)).
- Deletion of “pay” in the exclusion clause (Art. 153(5)).

5.5. Introducing a European basic unemployment insurance

A system of minimum benefits in case of unemployment should be created as an own EU system. Moreover, an EU compensation fund could be established.

Treaty changes (TFEU): Inclusion of the possibility to set minimum requirements by means of regulation (Art. 153(2)(b)).

Annex: Table of proposed treaty changes

Article	Proposed amendments
Treaty on European Union (TEU)	
Art. 17 TEU	Adaptation of this provision to the new Commissioner comparably to the High Representative of FASP
new Art. 18a TEU	Inclusion of an own provision for the Commissioner for Monetary and Financial Affairs with a description of the tasks and the election procedure in the EP
Treaty on the Functioning of the European Union (TFEU)	
Art. 21(3)	Replacing the special legislative procedure by the ordinary legislative procedure
Art. 113	Replacing the special legislative procedure by the ordinary legislative procedure
Art. 115	Replacing the special legislative procedure by the ordinary legislative procedure and replacing “directives” by “measures” in order to enable the EU legislator to make use of all possible measures in Art. 288 TFEU.
new Art. 121(5)	Inclusion of sanctions in case of non-compliance with EU 2020 targets
new Art. 121(6)	Introduction of the reverse majority rule into the decision making process which includes an intervention right the EP
new Art. 121a	Requirement of setting social investment standards in accordance with the guidelines of economic policies clarifying that these are minimum requirements and providing for sanctions in case of non-compliance
Art. 125(1)	Deletion of Art. 125 TFEU or inclusion of common debts with joint and several liability and of the European Redemption Fund as an exception within Art. 125(1) TFEU
Art. 125(2)	Replacing the special legislative procedure by the ordinary legislative procedure
Art. 126(10)	Deletion of the exclusion of jurisdiction of the ECJ (integration of the Fiscal Compact)
Art. 126(11)	Inclusion of the prior approval and justification of MS’ issuance of government debt beyond the level agreed in common
new Art. 126(11a)	Inclusion of the debt brake (integration of the Fiscal Compact)
Art- 126(12)	Inclusion of the reverse qualified majority voting rule for all decisions taken within Art. 126 TFEU (integration of the Fiscal Compact)
Art. 126(14)	Replacing the special legislative procedure by the ordinary legislative procedure
Art. 127(6)	Replacing the special legislative procedure by the ordinary legislative procedure
Art. 129(4)	Replacing the special legislative procedure by the ordinary legislative procedure
Art. 136(3)	Inclusion of the Union into the derogation norm and reference to a new protocol on the ESM (integration of the ESM-Treaty)
new Art. 137a	Inclusion of the Euro Summit (integration of the Fiscal Compact) including the mandatory participation of the president of the European Parliament
new Art. 148(5)	Inclusion of sanctions in case of non-compliance with EU 2020 targets
new Art. 148(6)	Introduction of the reverse majority rule into the decision making process which includes an intervention right the EP
Art. 153(1)	Inclusion of a further point mentioning “minimum wages”
Art. 153(2)(b)	Extension of the possibility to set minimum requirements to all fields covered by 153(1) (deletion of the restriction to para. 1(a) to (i)) and inclusion of the possibility to set minimum requirements by means of regulation
Art. 153(2)(3)	Deletion of the special legislative procedure and of the restrictions for the ordinary legislative procedure

Art. 153(5)	Deletion of “pay” in the exclusion clause
Art. 246	Adaptation of this provision to the new Commissioner comparably to the High Representative of FASP
Art. 248	Adaptation of this provision to the new Commissioner comparably to the High Representative of FASP
Art. 311(3)	Replacing the special legislative procedure by the ordinary legislative procedure
Art. 311(4)	Replacing the special legislative procedure by the ordinary legislative procedure
Art. 352(1)	Replacing the special legislative procedure by the ordinary legislative procedure
Protocols	
<u>New protocol on the role of national Parliaments with regard to budget-related legislation:</u> Inclusion of a new protocol on the role of national Parliaments with regard to budget-related EU legislation that provides for a veto right, the number of votes for each national Parliament, the modalities of a veto and which majority is needed for it.	
New protocol on a Social Investment Pact	
<u>New protocol on the ESM:</u> Integration of the ESM Treaty. This must include the substitution of the “Managing Director” by the Commission for Economic and Monetary Affairs. It must also include a requirement of parliamentary approval by the European Parliament with regard to certain decisions taken by the Board of Governors	