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# Eurozone Crisis & EU Democratic Deficit: EU and Greece in Multilevel Perspective

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## Abstract

The Eurozone crisis during the late 2000s constituted one of the greatest socio-political and economic challenges to the Eurozone and the EU more generally. During this time, some of the most fundamental changes to the EU *modus operandi* were introduced. These changes had, *inter alia*, a considerable impact on the, arguably already problematic, democratic process within the EU. The aim of this research is to determine how the measures assumed during the Eurozone crisis have impacted the EU Democratic Deficit. To determine this impact, a conclusive, empirical framework for evaluating the effect EU measures have on the Deficit, based on the theoretical contributions in the existing literature, is introduced within this research through the use of additive theory. This framework is then used in a detailed analysis conducted to determine the impact specifically of Eurozone crisis supranational measures on the Deficit. These measures include both those applicable throughout the entire EU/Eurozone (e.g. Six-Pack), and those applicable to specific Eurozone Member States (e.g. financial assistance programs). By considering measures that are both EU-wide but also Member State-specific, both levels referenced within the relevant literature are addressed. Each measure is forensically examined and then evaluated against the indicators established in the empirical Deficit framework, and an overall conclusion is drawn in terms of impact of the measures on the Deficit. To more adequately examine the Member State-specific measures, the case of Greece, the first Eurozone Member State to request financial assistance and the one with the most severe financial and structural problems, is chosen. The outcome of the national level-focused analysis is then put in perspective by comparatively analyzing these findings with the case of Ireland, in to yield whether there are wider conclusions or overall tendencies. The research outcomes indicate that, across the board, the supranational measures assumed during the crisis have impacted the Deficit negatively, chiefly through considerably increased delegation and influence of the supranational level on important national policy areas, lack of corresponding Parliamentary input, inability to protect EU citizens' rights, and introduction of processes that lack the principles of transparency, accountability and stakeholder participation.

## List of Abbreviations

Term	Explanation
ALC	Act of Legislative Content
ANEL	Independent Greeks (in Greek: “ <i>Ανεξάρτητοι Έλληνες</i> ” <sup>1</sup> )
bn	Billion
BoP	Balance of Payments
BUDG	European Parliament Committee of Budgets
CDO	Collateralized Debt Obligation
CLM	Community Loan Mechanism
CoA	Court of Auditors
CoG	Constitution of Greece
CoM <sup>2</sup>	Council of Ministers of the European Union
CONT	European Parliament Committee of Budgetary Control
DD	Democratic Deficit
DEC	Decision (EU legislation)
DG	Directorate-General
DIMAR	Democratic Left (in Greek: “ <i>Δημοκρατική Αριστερά</i> ”)
DIR	Directive (EU legislation)
EBA	European Banking Authority
EBU	European Broadcasting Union
EC	European Commission
ECB	European Central Bank
ECJ	European Court of Justice
ECOFIN	Economic and Financial Affairs of the Council of Ministers
ECON	Economic and Monetary Affairs European Parliament Committee
ECSC	European Coal & Steel Community
EFSF	European Financial Stability Facility
EFSM	European Financial Stabilisation Mechanism
EG	Eurogroup
EIOPA	European Insurance & Occupational Pensions Authority
EIP	Excessive Imbalance Procedure
ELSTAT	Hellenic Statistical Authority
EMPL	Employment & Social Affairs European Parliament Committee
EMU	Economic and Monetary Union
EP	European Parliament
EPP	Economic Partnership Programme
ERM	Exchange Rate Mechanism
ESA	European Supervisory Authority
ESFS	European System of Financial Supervisors
ESCB	European System of Central Banks
ESM	European Stability Mechanism
ESMA	European Securities & Markets Authority
ESRB	European Systemic Risk Board
EU	European Union
EUCO	European Council
EUR	Euro (currency)
EUROSTAT	European Statistical Service
FAFA	Financial Assistance Facility Agreement
FAWG	Financial Assistance Working Group
FinM	Finance Minister / Secretary of the Treasury
GDP	Gross Domestic Product

<sup>1</sup> Quotations are italicized throughout.

<sup>2</sup> Also Council of the European Union.

GG	Government Gazette of Greece
GLF	Greek Loan Facility
IMF	International Monetary Fund
LAOS	Popular Orthodox Alert (in Greek: “Λαϊκός Ορθόδοξος Συναγερμός”)
MAP	Macroeconomic Adjustment Programme
MoF	Ministry of Finance
MoU	Memorandum of Understanding
MD	Ministerial Decision
MS	Member State(s)
MTBF	Medium Term Budgetary Framework
MTFA	Medium-Term Financial Assistance
MTFS	Medium Term Fiscal Strategy
OMC	Open Method of Coordinations
OP	Opinion (EU legislation)
ND	New Democracy ( <i>Νέα Δημοκρατία</i> )
PASOK	Panhellenic Socialist Movement (in Greek: “Πανελλήνιο Σοσιαλιστικό Κίνημα”)
PD	Presidential Decree (in Greek: “Προεδρικό Διάταγμα”)
PM	Prime Minister
PPM	Post-Programme Monitoring
PPS	Post-Programme Surveillance
PROP	Proposal (EU legislation)
PSI	Private Sector Involvement
QMV	Qualified Majority Voting
REC	Recommendation (EU legislation)
REG	Regulation (EU legislation)
REGI	European Parliament Committee on Regional Development
RoP	Rules of Procedure
RQMV	Reverse Qualified Majority Voting
SA	Société Anonyme
SGP	Stability & Growth Pact
SOEs	State-Owned Enterprises
SPV	Special Purpose Vehicle (finance)
SSFs	Social Security Funds
SYRIZA	Coalition of the Radical Left (in Greek: “Συνασπισμός Ριζοσπαστικής Αριστεράς”)
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
TFGR	Task Force for Greece
TSGC	Treaty on Stability, Growth & Coordination
USA	United States of America



## Chapter 1: Introduction

The aim of this research is to investigate and analyze one of the most important issues prevalent in the global political realm during recent years: the Eurozone crisis (hereinafter ‘crisis’) and its impact on the European Union’s (EU) democratic processes. The crisis has been related to the more general late-2000s financial crisis, which began in the United States of America (USA) during 2007-8 with the collapse of the housing market bubble (primarily sub-prime mortgages). The EU, and more specifically the Eurozone, followed later with its own crisis in the form of a banking and then sovereign debt overload that eventually resulted in a credit crunch. The inability of EU, and more importantly Eurozone, Member States (MS) to borrow as a result of this credit crunch was disastrous, since they could not obtain the necessary funding to roll-over their debt. Therefore, the need arose for financial assistance mechanisms of various forms to be created by the EU in cooperation with the International Monetary Fund (IMF). This assistance was conditional upon implementation of structural adjustment programmes of varying types and intensity, which were monitored by the Troika<sup>3</sup>: an ad-hoc cooperation between the IMF, the European Central Bank (ECB) and the European Commission (EC). In addition to the above, a broader overhaul of the EU’s economic governance framework was pursued, with the introduction of various measures aiming at greater fiscal integration and enhanced coordination. These legislative changes fundamentally altered the operating and decision-making mandates of the EU and its institutions.

Given the aforementioned response to the crisis, the measures assumed can be broadly separated between those that were EU-wide, which include both financial assistance mechanisms (broadly, their conceptualization and establishment) and enhanced coordination measures (e.g. Six-Pack or Two-Pack), and those that were MS-specific, which primarily concern the way the financial assistance programs were actually implemented. The EU’s response to the crisis has, thus, focused on both the supranational and national levels. Similarly, the effect on the democratic process exists on both levels.

The implementation of the measures, especially the MS-specific ones, have been met with considerable citizen dissatisfaction, and claims relating to the EU has

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<sup>3</sup> The word originates from Russian (troie = three, itself derived from Ancient Greek “τρείς”, meaning three), and its literal meaning is: a vehicle that is carried by three horses. It is a synonym of triumvirate, originating from triumvir, used to describe “one of three men sharing public administration in Ancient Rome” (Berube et al. 1997, 1447-8). It is contemporarily used to describe a union of three administrative bodies or individuals enjoying administrative power (Berube et al. 1997, 1447-8).

been unable to adhere to its values and democratic processes. In fact, one of the most prominent claims during the crisis has been that the measures adopted suffer from considerable democratic deficiencies, especially given the fact that they have fundamentally altered the nature and modus operandi of the EU. A mere indication of this citizen dissatisfaction is the outcome of the 2014 EU elections, the first to be conducted after the beginning of the crisis. The rise of anti-EU, and mostly extreme, political parties was evident, with 228 out of 751 Members of European Parliament (MEPs; approximately 30%) belonging to either far-right or far-left anti-EU parties, with extreme anti-EU sentiments, often combined with extreme ideology, across major EUMS, such as France (25%) and UK (28%; Hockenos 2014). In the meantime, the percentage of Europeans with a negative image of the EU has more than doubled<sup>4</sup> from 2002 to 2014 (Katseli 2016, 29). These are but mere indications that the EU's appeal to the electorate has been considerably reduced. The EU seems more distant, more technocratic and less accountable than ever before. There is, then, a question to be set in relation to these measures and their impact on the EU's democratic process.

However, it could also be argued that most EU citizens already consider these measures, and especially those that are MS-specific (financial assistance programmes), as challenging to the EU's democratic principles and practices. Concordantly, a major part of the existing academic literature is of the same view. Hence, there seems to be a broad agreement over these issues. Despite such fact, academic research should not shy away from analyzing issues that are broadly considered as settled, since detailed, forensic analysis may actually yield different conclusions than those considered as a given.

There are multiple examples where this has been the case in relation to the crisis supranational measures. On the one hand, while the financial assistance programmes are often considered lacking in democratic value, it is often not highlighted that all structural adjustment measures upon which they are conditional have also gone through the regular EU legislative process, in the form of Council of Ministers (CoM) Decisions (DEC), Recommendations (REC), Opinions (OP), Proposals (PROP), etc, as also observed by the interviewed (process and participants presented in section 4.3.3) Hon Prof. Ioannis Stournaras, Governor of the Bank of

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<sup>4</sup> From 10% in 2002 to 22% in 2014 (Katseli 2016, 29).

Greece and Hon. Prof. Evangelos Venizelos, Member of the Greek Parliament (MP)<sup>5</sup>. Likewise, the Troika, which monitors the conditionality and structural adjustment programmes, has, since 2013, constituted a cooperation recognized also through regular EU CoM DEC. Hence, these are a part of the EU's normal legal order and have gone through the regular EU legislative procedure. Why, then, should they be considered contrary to democratic process?

Even in the case of national legislation relevant to financial assistance programmes, which, in any case, constitutes implementing legislation passed by the parliament and not an international agreement or other form of international legislative instrument<sup>6</sup>, this legislation has gone through all three branches of government (executive, legislative, judiciary), and has, for the most part, been upheld (or where it has not, it was not implemented). Therefore, even the national-level democratic process has been adhered to. Similar conclusions can be drawn in relation to measures such as the Two-Pack provision of supranational oversight of Eurozone MS budgets. This was acknowledged and voted for by national parliaments. Thus, the legitimacy necessary for this process has been properly acquired<sup>7</sup>. In any case, it can also be argued that the budget of an MS, as a purely legislative act, in itself (i.e. without the issuance of additional legislative acts), does not include the possibility of violating any fundamental or democratic rights and, in this way, does not constitute a key national policy area<sup>8</sup>. In simple terms, why would any of these issues be considered challenging to the democratic process at all<sup>9</sup>?

On the other hand, and despite the above, a negative impact of the crisis supranational measures on the democratic process is also existent. The argument could be raised that the nature of these measures, as well as the lack of any representative input in their provisions, indicates a deficit in terms of the democratic process. In relation to the Troika and the financial assistance programs, it could be argued that the conditional structural adjustment policies included were essentially imposed on Eurozone MS in financial turmoil that had little or no room to object to

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<sup>5</sup> From the interviews with Hon. Prof. Ioannis Stournaras, Governor of the Bank of Greece, Professor of Economics and, inter alia, former Finance Minister, and with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, inter alia, former Deputy PM and FinM.

<sup>6</sup> From the interview with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, inter alia, former Deputy PM and FinM.

<sup>7</sup> This argument was also raised in the interview with Dr. Lina Papadopoulou, Associate Professor of Constitutional Law.

<sup>8</sup> *ibid.*

<sup>9</sup> Similar arguments were also raised in the interview with the former ECJ judge.

any of the conditions<sup>10</sup>. National democratic processes relevant to these measures were stretched beyond proportion to accommodate the necessary character of these measures<sup>11</sup>. Similarly, it could be argued that the EU largely failed to protect the social and economic rights of EU citizens. Even though the measures included in the financial assistance programs were also existent in EU-based legislative instruments (e.g. DECAs), those instruments also suffer from deficiencies in relation to the Charter of Fundamental Rights of the EU, as well as in relation to issues of influence over key national policies<sup>12</sup>. Finally, the international legal character of the many of the measures is indicative of a somewhat disappointing trend in terms of the strength and applicability of the EU's community method<sup>13</sup>, and the IMF's participation may raise serious concerns in terms of the EU's independence and self-sufficiency<sup>14</sup>, designating that there is no more solidarity within the EU than in the global realm<sup>15</sup>.

All the above issues will be further delineated and investigated throughout this present research, and especially in Chapters 7 (for the EU-wide measures) and 9-10 (for the MS-specific measures). However, from this brief overview it is evident that there are important questions to be analyzed in terms of how exactly the supranational crisis measures have affected the EU's democratic process. It is not at all clear which measures and in what way negatively have negatively impacted this process, or if the impact is negative at all. Therefore, this issue is not as self-evident and simple as often portrayed. Furthermore, and because this issue is often perceived as a given, detailed analyses of the conclusive set of supranational crisis measures is needed (even if the negative impact is assumed as a given), in order to precisely determine where the democratic process has been affected and how, and where it has not, such analyses are largely absent from the relevant existing literature (as demonstrated in Chapter 2). This type of analysis will, then, also serve to benefit future research on how to improve an adverse impact on the democratic process.

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<sup>10</sup> This argument was also raised in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

<sup>11</sup> This argument was also raised in the interviews with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law, and with Dr. Lina Papadopoulou, Associate Professor of Constitutional Law.

<sup>12</sup> This argument was also raised in the interview Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Laws.

<sup>13</sup> This argument was also raised during the interviews with the former ECJ judge, with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law, and with Prof. Dimitris Chrysochoou, Professor of Theory and Institutions of European Integration.

<sup>14</sup> This argument was also raised in the interview with the former ECJ judge.

<sup>15</sup> This argument was raised in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

The research question of this investigation is: **How have the Eurozone crisis supranational measures, both EU-wide and MS-specific, impacted the EU's Democratic Deficit?** The EU Democratic Deficit (DD) is the most conclusive concept efficiently engulfing the various different democratic principles and processes relevant to the EU. The core issue of the research is not if the measures impacted the EU DD and in what general manner, but rather in what specific ways and why this impact occurred.

The first issue to be raised, then, in relation to this research question is how the impact on the democratic process is evaluated. There are, obviously, multiple answers, since the concept of democracy has long escaped a broadly accepted definition or even a general agreement on its defining properties. The substantial history, both existential and academic, of the concept yields a great amount and variety of literature. Within the EU, the EU DD is the focus of the relevant scholarly field on the democratic process. The literature is extensive in both size and issues examined, but centres around three main categories: input, output, throughput. The existence of the EU DD itself is not questioned per se by scholars of any of the theoretical camps. What is debated is the importance and magnitude of the DD (whether substantial or menial), and whether there is any reason for concern over it.

How is the impact of EU measures on the EU DD to be evaluated? Despite the many useful theoretical contributions of the EU DD literature, a conclusive empirical framework for evaluating the impact of EU measures it is mostly lacking. Scholars disagree in relation to the theoretical aspects of the EU DD, but there has been no empirical framework upon which an evaluation of the impact of specific EU measures on the EU DD can be conducted. This empirical framework is constructed within this research, utilizing the theoretical contributions of the existing literature as foundations (Chapter 3). Through the analysis of the existing literature of the EU DD, it is found that scholarship focuses on providing different answers to questions which examine, essentially, similar issues. These issues are re-organized and grouped under four empirical qualitative indicators that emphasize aspects that have been raised by all EU DD scholars. Additive theory and further examination into the ontological foundations of the existing literature on the broader fields of democratic theory and EU integration theories further contribute to the production of this model. This framework is generalizable; it can be utilized in evaluating any EU measure in terms of its impact on the EU DD, and its construction constitutes the first major contribution of this research to the existing scholarly field.

In addition to the above, the actual measures that are examined need to be further specified. To begin with, the temporal limitations of the research are set, in order to determine which measures are to be included in the analysis. As the Eurozone crisis is an ongoing phenomenon, setting these time limits present a challenge. The duration of the research is set to 5 years, from 2008 until 2013. 2008 was arguably the beginning of the financial crisis in the USA, and its transference to the Eurozone (Chapter 5).

Justifying the ending of the investigation is somewhat more difficult. 2013, which is set as the cut-off date of this research, is chosen for the following reasons (delineated in section 4.2). Firstly, by the end of 2013 two Eurozone MS (Ireland and Spain) exited their financial assistance programmes, prompting arguments concerning the success of these programmes. If it is admitted by the EU that the above two Eurozone MS exiting the programmes constitutes the first in a number of successful programme completions, thus marking the end of a circle of instability, this is a fitting point for setting the end of an analysis of this type. Secondly, 2013 marked the last instance when a new Eurozone MS resorted to EU-IMF financial assistance (Cyprus). Finally, by the end of 2013, almost all important legislation relating to the restructuring of the EU and Eurozone framework had already been proposed and enacted. In addition to all the above, practical considerations also need to be taken into account, i.e. the need for every research to have an ending point. Based on the above, 2013 is chosen as an end-point for the purposes of this investigation.

But how are the supranational crisis measures to be included and efficiently categorized? This constitutes the second major contribution of this research to the existing scholarly field, as this investigation analyzes conclusively and simultaneously the supranational crisis measures. To make the analysis more efficient, the measures are separated into two categories: EU-wide and MS-specific. These categories are further separated into sub-categories, according to their content (Figure 1). Pursuant to this, each category of measures is analyzed in-detail, referencing, *inter alia*, which specific measures are included, when and how they were adopted, which legal acts they include, etc. This is an important contribution to the existing field. As outlined in detail in Chapter 2, the existing literature could benefit from a categorization and more thorough and detailed reference and analysis of the specific provisions of each measure.

In terms of EU-wide measures, the focus of this research is the Eurozone. The Eurozone is not simply an economic sub-organisation within the EU construct. It

consists of the most cohesive and integrated EU MS, and hence it is, in a way, the final destination of the EU. As the Hon. Prof. Evangelos Venizelos, MP and, inter alia, former Deputy PM and FinM highlights, the Eurozone “*is the most advanced form of European Integration*”<sup>16</sup>. In addition, the Eurozone MS were the ones most affected by the crisis and the most intensely coordinating measures included Eurozone MS. In any case, all EU MS except UK and Denmark (opt-outs) are obliged to join the Eurozone, i.e. any Eurozone reform will eventually apply to all EU MS. Naturally, the EU will receive secondary focus, as it is the overarching organisation within which lies the Eurozone, and it also itself enjoyed substantial policy modifications.

For the MS-specific measures, the focus is on financial assistance and relevant structural adjustment programs. Clearly, it is not possible to include an analysis of all measures implemented in every specific Eurozone MS under financial assistance within the limits of this investigation, especially given the detailed and in-depth character of the analysis. A choice is, thus, made to investigate in-depth the measures implemented in one case, rather than investigating one specific measure throughout all cases. The Hellenic Republic (Greece) is chosen as the case for analyzing these measures. Greece was the first Eurozone MS to request EU-IMF financial assistance, and, in a way, the entire financial assistance process, the ad-hoc cooperation between the EU and the IMF for providing this financial assistance to Eurozone MS, as well as a large percentage of the EU-wide measures introduced during the crisis, were on account of Greece’s economic trajectory and request for assistance. Greece is also the only Eurozone MS that has received financial assistance through every single financial assistance mechanism established by the EU during the crisis (and also the only Eurozone MS to have utilized both existing financial assistance mechanisms of the IMF).

Furthermore, Greece has received, by far, the largest amount of financial assistance from the EU and IMF combined, standing at EUR 236.3 billion (bn) disbursed as of May 2016. The large amount of financial assistance corresponds to the abrupt and extensive structural adjustment, arguably the most intensive throughout the Eurozone crisis, and perhaps one of the most intensive throughout history. To provide for adequate generalizability of the findings in terms of MS-specific measures, broader comparative observations of the conclusions on Greece with Ireland are presented, to establish whether there is a pattern in terms of the impact of

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<sup>16</sup> From the interview with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, inter alia, former Deputy PM and FinM.

supranational crisis measures on the EU DD for specific Eurozone MS. Ireland is chosen as a comparative case since it was the first Eurozone MS to be affected by the crisis, one of the first two to exit the crisis, and the one closest to Greece in all the criteria presented above (the claims for choosing these cases are further delineated in Chapter 5).

Having broadly defined how the specific measures analyzed will be determined and categorized, the research methods utilized need to be outlined. Given the intricacy and the complexity of the issue to be investigated, three research methods will be used. The first method is in-depth, detailed, forensic document analysis. This is important so that each measure and its relevant provisions are thoroughly analyzed, thus ensuring validity of the research outcomes. The second method is enquiries and requests for additional, unpublished documentation from official EU institutions. In many cases, published material is not enough to provide information in specific areas where further analysis is necessary. Finally, the third method utilized is semi-structured, elite academic interviews. Given the nature of the measures, particularly MS-specific ones (i.e. financial assistance programs), and the related negotiating processes there is additional information to be obtained from the actual actors partaking in the process. This is another contribution of this research to the existing literature, since both further enquiries in relation to unpublished official documentation, as well as academic interviews in relation to this phenomenon, and especially in relation to the MS specific measures of Greece, have not previously been undertaken as systematically and with such top-level political elites as within this research. Of course, each method has its shortcomings, but their combination provides for the best possible research scenario.

Inevitably, there are some anticipated shortcomings in relevance to this research, the most prominent of which is the temporal aspect. The Eurozone crisis is a contemporary phenomenon and the argument could be raised that there has not been sufficient time to efficiently come to conclusions in regards to its various aspects. However, the Eurozone crisis started 5 years before the cut-off date of this research. This, coupled with the substantial volume of modifications and changes introduced both at the supranational and national levels, seems to make this interval sufficient to establish conclusions in relation to their impact on the EU DD. Moreover, it is this very contemporary character of this research that makes it invaluable in linking the analysis with possible effects on the real world of politics.



In conclusion, the aim of this research is to provide an evaluation of the way in which the supranational crisis measures within the EU, whether EU-wide or MS-specific, have impacted the EU DD. In investigating this issue, a conclusive and in-depth summation of the EU DD literature will be provided, and, based on this literature, a single, unified, empirical framework for evaluating the aforementioned impact will be created. This framework is generalisable and can be used for evaluating the impact of any EU measure on the DD. In order to conduct the analysis, the measures will be investigated in forensic detail. This is necessary, given the considerable number of provisions introduced, but also their nature, since legislation consists of several technicalities. Specificity and detail are, thus, required in order to produce a well-informed and accurate conclusion. This is also an important contribution of this research to the existing field. Such a detailed and specific analysis of the broad summation of these measures is largely absent from the relevant academic field, either at the national or supranational levels.

The research is separated into three main Sections, aside from the Chapters of the Introduction and Conclusion (Chapters 1 and 11). Section A includes the functional details of the research. Chapter 2 analyzes the existing literature relevant to the Eurozone, the crisis and democratic processes. It highlights the contributions offered by the relevant scholarship in relation to both the EU and national (and, more specifically, Greek) levels. It also identifies the areas not previously extensively examined, where further contributions can be made by this research: construction of a single, empirical framework for evaluating impact of any EU measure on the EU DD, systematic categorization and in-depth analysis of supranational crisis measures at both EU and national levels, combination of the above to evaluate the impact of crisis measures on the EU DD. In Chapter 3, the construction of the empirical EU DD evaluation framework is presented. The framework is founded upon the important theoretical contributions offered by the existing EU DD scholarship. A single, 4-qualitative-indicators empirical, evaluative model is then created through the use of additive theory. Within this Chapter it is also examined if, and under what conditions, the construction of this empirical framework is possible. Chapter 4, delineates the research methods used, and the structure and design of the research.

Section B concerns the EU-wide measures and the evaluation of their impact on the EU DD. Chapter 5 includes a brief chronological analysis of the unfolding of the crisis, and the temporal progression of the adoption of the EU-wide supranational crisis measures. While the analytical contribution of this Chapter is somewhat limited,

it adds considerable contextual nuance in how the crisis unfolded and under what circumstances the crisis measures were adopted. Chapter 6 includes a detailed foundational analysis of each of the EU-wide measures, including any pre-existing relevant similar frameworks that existed prior to the crisis. Finally, Chapter 7 is the first main analytical portion of the research, whereby the provisions of each of the measures, outlined in Chapter 6, are evaluated in terms of their impact on each of the four EU DD empirical, qualitative indicators of Chapter 3. It is the case that most measures introduced were entirely new, but, where similar measures existed, prior to the crisis a comparative analysis is also provided.

Section C concerns the MS-specific measures of the crisis and the evaluation of their impact on the EU DD. This section is focused on the case of Greece and the comparative approach of the conclusions of Greece to the case of Ireland. Chapter 8 provides a chronological analysis of the events that unfolded during the crisis in Greece. Similarly to the EU-wide corresponding Chapter 5, while there is limited analytical value in this Chapter, it adds necessary contextual nuance to when and under what circumstances the measures were assumed. Chapter 9 includes a detailed overview of each of the measures adopted, then evaluating the impact of their provisions on the EU DD indicators of the empirical framework established in Chapter 3. This Chapter is the second main analytical portion of the research. Chapter 10 consists of the comparative analysis between Greece and Ireland, providing for wider conclusions that can be drawn. Finally, Chapter 11 is the conclusion to this research.

## SECTION A: RESEARCH FOUNDATIONS, METHODS & LITERATURE

### Chapter 2: Review of Relevant Existing Literature

#### **2.1. Introduction**

The aim of this Chapter is to analyse the existing literature relevant to the research question of this investigation. That is, to examine any existing scholarship that investigates the impact of supranational crisis measures on the EU democratic process is investigated. Through this process, both the valuable contributions but also areas which have not yet been sufficiently explored by the existing literature, in which this current research can further contribute, will be provided.

Preliminarily, it is perhaps surprising that there is very little in combining the supranational crisis measures and the EU DD. There is a considerable volume of literature drawing from political economy, leaving considerable room for an EU-politics-based contribution, i.e. not primarily focusing on the measures adopted, but rather on the way they were adopted and their impact on democratic process. From the literature relevant to these issues, most examines various broad concepts of democracy and how they have been transformed by the overall principles and general provisions of the crisis supranational measures.

Therefore, while there are considerable insights offered by the existing literature, there is room for further contributions in terms of not only the specificity of the supranational crisis measures and their exact provisions, but in the way these measures impact not general concepts of democracy, but the EU DD. Furthermore, an account of, simultaneously, the national and supranational levels is also largely unexplored by the existing literature. Scholars usually focus on one or the other (and usually favour the national level in terms of democratic process), with little account of the connection and interrelationship between the two. This is where this research aims to contribute. Because of the above, and while there are substantial insights in the existing literature, its functionality and use for this research question is somewhat limited. This Chapter is separated across the two broad axes of the study: firstly, the literature relevant to the EU-wide measures is examined, followed by that relevant to the MS-specific measures, especially in relation to the primary case of this research for examining this category of measures (Greece). A conclusion is offered in the areas of contribution of this research to the existing field.

## 2.2. EMU & Democracy: Supranational Level

Albeit not centered around a specific evaluative framework, existing literature related to the supranational level of the Economic and Monetary Union (EMU)<sup>17</sup> and problems relevant to democratic processes offers contributions in relation to more general conclusions. Many of the scholars highlight Dani Rodrik's incompatibility principle, whereby it is not possible to have democracy, national determination and economic globalisation at the same time. It is only possible to have two of these three coinciding (Crum 2013, 615; Bohle 2014, 289).

The main arguments raised originate from the fact that participation in the EMU, while increasing financial gains and security, and decreasing transaction and other costs, effectively removes a wide variety of fiscal and monetary (control over interest/exchange rates) policy options from Eurozone MS governments (Crum 2014, 620; Schmidtke 2004, 22-3; Meny 2014, 1339; Ravasio & Ohly 1997, 478-81). These alternatives would normally allow "*national governments to respond to the diversity in the economic conditions and the political preferences they face*" (Crum 2013, 614). For example, as Ravasio & Ohly (1997) highlighted during the early years of the EMU, in case of a crisis within the EMU, "*countries will lose the exchange rate as an adjustment instrument*" (479). As Crum (2013) concludes, policy measures assumed during the crisis resulted in "*a clear contravention of national fiscal autonomy*" (622). However, as Hon. Prof. Evangelos Venizelos highlights, the ability to adapt monetary policy to a potential crisis, which would be held by the central banks of MS, is now replaced with the ECB's quantitative easing policies<sup>18</sup>. The problem, then, is not the absence of the ability to adapt the monetary policy accordingly, but the different interests of Eurozone MS governments expressed in the ECB's Governing Council that do not coincide<sup>19</sup>. This would not be an issue if one government was in charge, as in a central bank of any MS prior to Eurozone accession, of the USA or UK, etc.)<sup>20</sup>. In either way, the above restrictions also affected the ability of the state to implement more socially- driven policies to enhance the protection of financial vulnerable groups from the effects of the crisis. This has been a recurring argument in terms of the relation between democracy and EMU, as Gill (1998) has argued (18).

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<sup>17</sup> The concept of EMU is further examined in section 4.2.1.

<sup>18</sup> From the interview with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, inter alia, former Deputy PM and FinM.

<sup>19</sup> *ibid.*

<sup>20</sup> *ibid.*

In terms of the specific scholarship on the Eurozone crisis, Bohle (2014) focuses on the sharp divide that has arisen between the Eurozone core and periphery. She suggests that “*the current sovereign debt crisis...is threatening to tear European democracies apart*” with Germany pushing adjustment costs onto the periphery Eurozone MS and, consequently, with large political changes occurring in those Eurozone MS (Bohle 2014, 288). Moreover, overall incompatibilities between EMU governance and Eurozone MS’ governments arise, leading to restriction of “*responsiveness to domestic political constituencies,*” and to the phenomenon where

*economically powerful countries are tempted to ease the tensions between responsiveness and responsibility by withdrawing from their international responsibilities and externalising the costs of adaptation to the periphery. Peripheral countries, with limited room to manoeuvre, have much harder choices to make. Democratic breakdown, then, is more likely in the periphery than in the core* (289).

German hegemony within the EMU, expressed through ordoliberal<sup>21</sup> foundations and policies, whether before or after the crisis, assumes primary positioning in the relevant literature. The influence of ordoliberalism dates back to the EMU’s establishment. Germany, with a very strong ordoliberal tradition was willing to participate to the EMU only provided that this tradition was not compromised (Majone 2012, 10). Hence, it exerted a substantial amount of influence in the very design of EMU, primarily through the fact that the concept of ‘sound money’<sup>22</sup> was a key commitment undertaken by MS in relation to their finances (Strange 2011, 5). In addition there was considerable influence in terms of the German Central Bank (Bundesbank) influencing the ECB upon its establishment<sup>23</sup>, even taking into consideration the fragmentation within the ordoliberal tradition in Germany at the

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<sup>21</sup> Ordoliberalism was developed during the 1930s by Walter Eucken, Franz Böhm and Hans Grossmann-Doerth in Freiburg University in Germany (hence ordoliberalism is also termed as the Freiburg school; similarly to neoliberalism as the Chicago school; Schnyder & Siems 2012, 3; Sally 1996, 233). The first composite of the term originates from the Latin word *ordo* which means order. The theory advocates for a more regularized version of the laissez-faire environment proposed by liberalism (Sally 1996, 233). It does not embrace the broad notion of the majority of liberal theories that government is the essential problem or that a completely undisturbed market is the solution (Sally 1996, 234). Instead, the state should assume a positive role in ensuring a free market economy (liberal interventionism), “...supported by a strong legal system and appropriate regulatory framework” (Schnyder & Siems 2012, 2-4). The state needs to be limited, but such limitation should not impede its power in areas where it is to assume a strong role, such a regulation (Bulmer 2014, 1246). Another key characteristic of ordoliberalism is a social aspect to the market economy paradigm, in order to prevent a “*proletarianisation of the working class*” (Schnyder & Siems 2012, 5; Bulmer 2014, 1246). Hence, the objection to the role of the state in welfare and social policy is mitigated, under the condition that said state would conform to market practises (Schnyder & Siems 2012, 2-4).

<sup>22</sup> This is enshrined as an obligation in TEU article 119(3), where it is stipulated that EU MS are to maintain “*sound public finances*” (European Union 2012, 96-7).

<sup>23</sup> It is the case that the Bundesbank and the Deutschmark did, in either case, arguably dominate the pre-EMU environment (Scharpf 2011, 6-11).

time (Dyson 2010, 604; Bulmer 2014, 1246-7; Featherstone 2003, 931; Featherstone 2011, 201-2; Gill 1998, 8 & 10-15)<sup>24</sup>.

The implementation of ordoliberalism within the EMU has been argued to produce adverse results, especially in relation to the core ordoliberal idea that “*economic problems only emerge from budgetary indiscipline and not from risky and unsustainable economic behaviour in the private market*” (Regan 2012, 473). Ideally, sound public finances ensure a better financial situation of the country, thus leading to better future prospects. However, as Regan (2012) suggests, budgetary indiscipline is not the only problem leading to economic difficulties, since

*the problem is not labour costs and government spending but the mismanagement of private capital by private actors coupled with an unsustainable tax base [...] Thus, while the Irish and Spanish economies were overheating internally, the ECB continued to cut interest rates to encourage higher levels of economic growth in...Germany and France (479).*

Scharpf (2011) arrives at similar conclusions, highlighting that indebtedness problems of Eurozone MS under programmes were “*due to private-sector rather than public sector borrowing*” (20 & 22)<sup>25</sup>.

In addition, there are also exogenous (to a MS) reasons accounting for economic problems within the Eurozone. Economic booms in the periphery, which were often accompanied by cheap capital inflows by banks in more economically powerful Eurozone MS (Germany, France, etc), inevitably led to loss of competitiveness. The governments of the periphery Eurozone MS had little ability to restore this loss, as EMU participation had removed fiscal policy alternatives from them (Bohle 2013, 301-2; Schaprf 2011, 16-8; Tsoukala 2013, 249)<sup>26</sup>. This effect was further intensified by the fact that within the ordoliberal-oriented EMU environment, primary focus was placed on price stability, which was misaligned with the economic and socio-political traditions of the periphery MS; this was a one-policy-fits-all paradigm that did not fit some Eurozone MS (Crum 2013, 617-8; Regan 2012, 470; Majone 2012, 8; Murlon-Druol 2014, 1283-4; Regan 2012, 472)<sup>27</sup>. The above

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<sup>24</sup> However, it has also been argued that “*despite frequently repeated assertions that the Bundesbank has served as the model for the European Central Bank, the differences between the two institutions are much more significant than the similarities*” (Majone 2012, 14).

<sup>25</sup> On the opposite side, Katsimi & Moutos (2010) argue that “*the Greek crisis, mainly government-induced, provides prima facie evidence in favor of the SGP's focus on government balances*” (573).

<sup>26</sup> Core Eurozone MS experienced the opposite effect upon adoption of the Euro (Scharpf 2011, 13-4).

<sup>27</sup> There are divisions of varying intensity between the economic models of EU MS. Some, such as between the liberal UK and the coordinated market economy in mainland Europe, are considerable. Others, such as between dependent market economies of Central and Eastern European Countries (CEECs) and Latin-capitalism-based economies of the Mediterranean, are more nuanced (Crum 2013, 617-8).

resulted in trade imbalances and growth disequilibria, further weakening the import-led, deficit-expanding economy of the periphery Eurozone MS *vis-à-vis* the export-led, high competitiveness economy of the core Eurozone MS (Otero-Iglesias 2014, 1; Bulmer 2014, 1255). As Featherstone (2011) observes:

*the euro area was seen as sustaining severe demand imbalances, exacerbating divergences between the growing deficits of Greece, Portugal, Spain and Malta, and the growing surpluses of Germany and the Netherlands [...] Germany was exporting credit dependence to others* (200).

As the Hon. Prof. Evangelos Venizelos, conclusively suggests,<sup>28</sup>

*the Eurozone crisis revealed...the locked inequalities of MS... (i.e.) that you are subjected to the same fiscal rules and you apply the same monetary policy, while you are in different levels of growth and in a different fiscal situation, you have a different banking system, you have different levels of efficiency of the tax system, you have different needs in relation to a growth strategy, and, of course, the surplus of one is not transferred to the other; when you have a very small community budget it cannot operate as a redistribution mechanism [...].*

Ordoliberal ideals have not subsided during the crisis, whereby many institutional and legal measures adopted still largely reflect that model (Bulmer 2014, 1254-5; Featherstone 2011, 208). As Bulmer (2014) argues, Germany's heavy promotion of ordoliberal standards reached proportions that are “*consistent with Gramscian notions of ideational hegemony*” (1247 and 1255). Similar points had been brought up from very early on (e.g. Gill 1998, 1-3). Germany has, aside from ordoliberalism, also exerted influence in a number of other areas relevant to the crisis measures. For example, the Bundestag opinion in the Greek bailout decision 2 BvR 987/10 of the German Constitutional Court, included arguments relating to the broad, rather than narrow, interpretation of TFEU article 125<sup>29</sup>, stipulating that this article does not constitute a ‘no-bailout’ clause. This specific argument proved considerably influential in the supranational judicial level and the ECJ C-370/12 (Pringle), in which the ECJ offered a similar interpretation.

This interpretation was made possible, *inter alia*, because, according to an enquiry made in the context of this research to the General Secretariat of EUCO in relation to TFEU article 125(2), “*no item of European Union secondary legislation has ever provided a definition or specification of the scope of application of the no-*

<sup>28</sup> From the interview with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, *inter alia*, former Deputy PM and FinM.

<sup>29</sup> Paragraphs 66 & 67 of 2 BvR 987/10, and 130 through 137 of the ECJ C-370/12 (Bundesverfassungsgericht 2011; European Court of Justice 2012a). Note that the German Court's decision was issued almost a year earlier than the referral of the *Pringle* case to the ECJ (September 2011 and August 2012 – European Court of Justice 2012c).

*bail out clause laid down under Article 125(1) TFEU*” (European Union 2012, 99; Council of the European Union 2016e – email correspondence).

Consistent with the broad principles of ordoliberalism, throughout the crisis measures there has been an aim to “*move towards the further depoliticisation of questions of money and finance [...] claiming that there is no credible alternative to EMU in its current form*” (Gill 1998, 16). This depoliticisation raises serious concerns in terms of democratic standards, as “*institutions that ensure time consistency of policies in a democracy may be illegitimate because they sacrifice the democratic accountability of policy*” (Schelke 2005, 375-7). As Sandbeck & Schneider (2013) suggest “*highly political questions are turned over to a seemingly technocratic surveillance framework which can trigger an automatic sanction mechanism widely detached from any parliamentary control*” (852). This is consistent with the contemporary mode of governance beyond party politics which downgrades or even excludes the popular component (also termed as post-popular democracy), a major driving force behind which is “*the growing acceptance and legitimation of non-political, or depoliticized, modes of decision making*” (Mair 2013, 14-5 and 19).

The depoliticized policy paradigm that has been presented throughout the crisis as the only way out is restrained fiscal policy (austerity)<sup>30</sup>. Hence, the lack of political alternatives has rendered the electoral choice moot (Bohle 2014, 302; Dukelow 2015, 107-8). As Maduro et al. (2012b) point out:

*It is a mistake to insist, as national politicians invariably do, when they defend the measures taken at late night Council meetings, that there is no alternative to the decision they have made* (4).

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<sup>30</sup> Aside from the concerns relating to the democratic process, there are also objections in terms of the actual implementation of austerity. It can be argued that when austerity is implemented in a procyclical manner (e.g. wage cuts during a recession), it may result into a Sisyphean situation: more austerity leads to more lending that leads to an increase of the state’s already sizeable debt and so on. Furthermore, there are also concerns in terms of the scholarship supporting the implementation of austerity. The debate has been chiefly influenced by the studies of Reinhart & Rogoff in 2010 on debt sustainability and growth, and of Alesina & Ardagna (2009; Reinhart & Rogoff 2014). Reinhart & Rogoff suggest that countries that experience high debt-to-GDP levels (over 90%) “*are associated with notably lower growth outcomes*” (Reinhart and Rogoff 2010, 22). Their study has been argued to be the “*intellectual bulwark in support of austerity politics*” (Herndon et al. 2013, 15). Alesina & Ardagna (2009) argued that tax cuts are to be preferred against spending increases and that “*spending cuts adopted to reduce deficit have been associated with economic expansions rather than recessions*” (3). Both studies were used as cornerstones in the implementation of austerity during the Eurozone crisis. For example, the ECB President stated in 2010 that “*the idea that austerity measures could trigger stagnation is incorrect...*” (Krugman 2013). The Reinhart-Rogoff (2010) paper was proven to suffer from statistical irregularities, which, if corrected, would result in the conclusion that the “*average GDP growth at public debt/GDP ratios over 90 percent is not dramatically different than when public debt/GDP ratios are lower,*” (Herndon et al. 2013, 2-3).



Democracy throughout the Eurozone and EU has “*democracy without choices*” (Laffan 2013, 283-4). This lack of alternatives had again been observed from very early on (e.g. Gill 1998, 16).

Obviously, the above have different degrees of effect throughout Eurozone MS. MS that are more economically strong have had their position strengthened *vis-à-vis* the economically weaker MS, not least through actual lending and corresponding structural adjustment. Correspondingly, this could lead to an increase in the authority of Parliaments of the economically stronger, and thus more able to affect supranational policy, Eurozone MS *vis-à-vis* their executive, as was the case with Germany, but also *vis-à-vis* parliaments in the economically weaker, heavily indebted Eurozone MS (Bulmer 2014, 1256-8; Crum 2013, 622). For example, repeated decisions of the German Federal Constitutional Court (Bundesverfassungsgericht – most notably the one on the Greek bailout on September 2011<sup>31</sup> and the one on the European Stability Mechanism – ESM almost a year later on September 2012<sup>32</sup>) provided the representative legislature of Germany (mainly Bundestag but also Bundesrat) with enhanced decision-making and inquisitive authority over financial assistance programmes and other relevant issues/bodies. Inter alia, these decisions demanded that German representative bodies “*retain control of fundamental budgetary decisions even in a system of intergovernmental administration*” (Maduro et al. 2012b, 11), as well as that the “*professional secrecy of all persons working for the ESM must not stand in the way of the comprehensive information of the Bundestag and of the Bundesrat*” (Schneider 53-4).

There are multiple examples of this in relation to the cases of Greece and Ireland. In relation to Ireland, during November 2011, key, confidential details (e.g. 2% increase in VAT) of the Irish budget were provided to the Bundestag before they were even given to the Irish Parliament for review (Smyth & Spiegel 2011). What is more, this was done under the auspices of the EC, which transposed the documents from the Irish executive to the German legislature (Smyth & Spiegel 2011). In relation to Greece, the German Constitutional Court decided in the Greek bailout case that

*there is a violation of the right to vote if the German Bundestag relinquishes its parliamentary budget responsibility with the effect that it or a future Bundestag can no longer exercise the right to decide on the budget on its own responsibility* (Bundesverfassungsgericht 2011).

<sup>31</sup> Order of 7 September 2011 – 2 BvR 987/10 (Bundesverfassungsgericht 2011).

<sup>32</sup> Order of 12 September 2012 – 2 BvR 1390/12 (Bundesverfassungsgericht 2012).

Both of these examples demonstrate that, on account of the supranational crisis measures, not only have the parliaments of the Eurozone MS under financial assistance lost considerable ability to impact policy, but also the their executives have increased their influence over the legislative process, and, most importantly, that institutional actors of the Eurozone MS acting as lenders, with particular emphasis on the legislature, have gained considerable ability to directly influence policy in the MS under assistance. In other words, in the example of Ireland, the German parliament, through the financial assistance programs, negotiated directly with the Irish executive, before the Irish parliament was even aware of the legislation at hand. Similarly, in the example of Greece, the German constitutional court ruled that that relinquishing budgetary authority by a legislature is democratically unacceptable. However, this same resignation from freely determining the state budget was requested and was provided from all Eurozone MS under financial assistance programmes. What is more, this request was also made, among others, by the German government, whose own national supreme constitutional court determined that such an action is opposite to the proper democratic functioning of the state. These issues constitute not only paradoxes but clear problems in relation to the proper functioning of representative democracy within the Eurozone. It seems that due to the crisis measures, some Eurozone MS are now able to afford better democratic standards than others (democratic ‘double-standards’).

The counter argument often presented in relation to the above observations is that this is necessary for the Eurozone MS acting as lenders to be guaranteed the reimbursement and proper use of their loans. After all, the governments of those MS are also accountable to their own electorate and, as such, they must democratically abide by the will of the people who desire to be reassured that public money is accounted for and returned. As the Hon. Prof. Ioannis Stournaras suggests

*When I was a FinM in the Eurogroup, they (other FinM) came and told me: how are we going to the parliament to take a decision to give you money, when they ask us what the average pension in Greece is and we are embarrassed to say (because it was comparatively higher)?<sup>33</sup>*

However, in the above cases, and more generally throughout the crisis, there seems to be direct influence of other Eurozone MS within most of the national level policies of the MS receiving financial assistance. Therefore, while this counter

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<sup>33</sup> From the interview with the Hon. Prof. Ioannis Stournaras, Governor of the Bank of Greece, Professor of Economics and, inter alia, former FinM.

argument may be logically founded, it seems democratically problematic that a state's legislature and/or executive would or could have such extensive control and authority over another state. Democracy should not function *expressio unius est exclusio alterius*, i.e. democracy in a lender MS cannot impede or should be at the cost of democracy on a borrower MS. If democracy in a lender MS results in an a priori distortion of democracy in a MS under financial assistance, then democracy at that lender state seems distorted as well.

It is evident from the above that the existing literature focuses on the core-periphery distinction and on issues relevant to intergovernmental hegemony and power relations within the Eurozone. Overall, it appears that most of the relevant literature is primarily assuming a political economy perspective (e.g. Dyson 2001; Crawford 1996; Laursen 2013; Smaghi 2013; Cafruny 2015; Durand & Keucheyan 2015; Jessop 2015). While this approach may often share similar characteristics and might investigate similar phenomena with an EU-politics approach, the focus of each is different. The approaches of the existing literature, originating primarily from political economy, focuses mostly on how various measures during the crisis have reduced national, particularly fiscal, autonomy, which is then later translated into reduction in broad democratic principles. An analysis from an EU politics perspective is more inclusive in relation to democratic process, as it assumes a more comprehensive standpoint in relation to democratic principles, not focusing only on the national level or to few concepts of legitimacy. For example, the argument that EMU deprived Eurozone MS from the ability to control monetary policy and, thus, externally devalue in the case of fiscal adversity does, as argued from a political economy perspective, in fact reduce the national sovereignty of MS in restricting implementing fiscal policy at will. However, from an EU politics perspective, and more specifically from an EU DD perspective, this might not actually be democratically problematic, since relevant provisions enacted may have enjoyed previous legislative ratification and popular support (as they did upon construction of the EMU), or may have even been matched by advances in supranational, representative decision-making authority.

Hence, the two aforementioned approaches actually yield different conclusions in terms of adherence to democratic principles/processes. The aim of this research in relation to the relevant scholarly field is to assume a broader EU politics-based perspective. The measures are not analyzed from a political economy perspective as is the case with most of the literature; rather they are analyzed in terms

of their impact on democratic process, which may include issues similar to political economy, but also additional ones. Hence, there is more room for contributing in relation to the manner and impact of the crisis measures on the EU DD i.e., to more conclusively analyze how the crisis measures have impacted the democratic process. To achieve this objective, there is room to contribute a unified empirical, evaluative framework which would streamline the impact on the democratic processes aspect of the analysis.

There has been some literature on how economic governance within the EMU has impeded democratic processes, existent from the Maastricht Treaty and throughout the EMU's course (e.g. Featherstone 1994; Gill 1998; Featherstone 2011). Despite this fact, these contributions largely focused on contradictions of broad principles of the governance of EMU *vis-à-vis* generic democratic concepts (legitimacy, accountability, etc) defined in a non-specific manner, i.e. without focusing on how these concepts have been examined within the context of the EU DD scholarship, or could benefit from update of additional developments (e.g. Crum 2013; Egenberg et al. 2014; Schmidtke 2004; Beukers 2013; Gill 1998; Majone 2012; Meny 2014; Rittberger 2014).

In addition, most of this existing scholarship largely focuses on the participatory (or input) aspects of democracy at the national level. An indicative example is Beukers (2013), who premises his analysis on the idea that “*the most prominent source of legitimacy for European integration lies at the level of national parliaments and democracy*” (17). Laffan (2014) and Maurer (2013), also rely almost exclusively on intergovernmental sources (e.g. Moravcsik), arguing a priori that the economic component of the EMU is purely intergovernmental (5). Yet the Eurozone crisis has constituted a major transfer of powers to the supranational level, notably on fiscal surveillance. Because of this, there is considerable room to further contribute to other aspects of the EU democratic process, such as output at both national and supranational levels, as well as input and throughput at the supranational level.

Some scholars do draw broad connections with the input-output aspects of the EU DD literature, but explicit references or in-depth analysis of the EU DD in relation to EMU remain largely unexplored (e.g. Torres 2006; Majone 2012; Ruffert 2011; Laffan 2014; Gandrud & Hallerberg 2014; Scharpf 2011; Schmidt 2009). The aim, then, is to contribute to these areas with the construction of an empirical framework for evaluating the impact of EU measures on the EU DD and with the evaluation of the crisis measures. There is also considerable room for contribution in

terms of specific references to the supranational crisis measures, as in the existing literature they are discussed in a somewhat more brief manner (e.g. Gandrud & Hallerberg 2014; Rittberger 2014; Murlon-Druol 2014;). Oftentimes, scholars focus either on one specific measure or a specific set of consequences of that measure (e.g. De la Porte & Heins 2015; Beukers 2013; Laffan 2014; Schwarzer 2012; Maduro et al. 2012b; Sandbeck & Schneider 2014; Baratta 2011; Tomkin 2012).

### **2.3. Eurozone Crisis: National Level**

This section aims at reviewing the scholarship relevant to the MS-specific supranational crisis measures, with a particular emphasis on this investigation's main case of Greece. EMU literature, both before and after the crisis is substantially larger and more expanded; literature specific to the national level, and much more to Greece, is more scarce in the international academic realm. Most of the MS-specific literature originates from an economy or political economy perspective, similarly to the literature relevant to EU-wide measures (e.g. Carstensen 2013; Dukelow 2015; Featherstone 2011; De Giorgi et al. 2012; partially Scharpf 2011 27-31; Bosco & Verney 2012; Busch et al. 2011; Theodoropoulou 2014; Athanassiou 2009; Kaplanoglou & Rapanos 2011; Katsimi & Moutos 2010). Further contributions in this field of scholarship can be made in terms of a more exclusive focus on democracy and the impact of crisis measures on the democratic process, as the above do not extensively focus on these issues. In the few cases where democracy is directly investigated, that is done in a broad manner (e.g. Bosco & Verney 2012 with electoral outcomes/participation in Eurozone MS under structural adjustment; Tsakatika & Elftheriou 2013; Verney 2012). The national-supranational dimension is left largely unexplored, and most pieces of existing literature examine the crisis measures through their impact on national-level policies alone.

In relation to the literature specific to Greece, this dimension is also left largely unexplored. For example, Ladi (2014) analyses Greek public administration before and after the crisis, not exploring the entirety of the financial assistance program structural adjustment provisions. Similarly, Katsanidou (2012) investigates only party behaviour in relevance to the programmes, and Aranitou et al. (2011) briefly analyses an indicative set of changes under the programmes from the perspective of Greece's political history. The more detailed analyses of the case-specific relevant scholarship are presented from a legal perspective (e.g. Katrougkalos 2010 and 2011; Manitakis 2011; Marias 2010a and 2010b; Kasimatis 2010; Drosos

2010; Xrysogonos 2010), although most of it is in Greek and, hence, not easily accessible to international scholars. This scholarship focuses mainly on the contradictions (or lack thereof) between the financial assistance programmes and the manner in which they were implemented, and the Greek legal order, usually with a focus on the Constitution of Greece (CoG). Marias (2010a) presents quite a detailed account, especially regarding the relevant EU-based DECAs addressed to Greece, their relevance and similarities with the financial assistance programs, and their potential conflicts with the existing EU Treaty framework (2215). Xrysogonos (2010) and Kasimatis (2010) also manage to highlight the contradictory paths of national legislation for the 1<sup>st</sup> financial assistance programme within the domestic political realm, as well as a detailed evaluation of the Greek loan agreements, particularly in terms of national sovereignty, resignation from immunity based on such sovereignty, and the relevant legal framework in the English law which governs the loan agreements. Still, there is considerable room left for a more EU politics-based approach to democratic issues which, although based on relevant legislation, are more abstract and based on the EU DD approaches. Therefore, there is the possibility for further contributions focusing more on the democratic and less on the legal aspect of the issue at hand.

#### **2.4. Conclusion**

The aim of this Chapter was to provide a background on the existing literature relevant to this research. The existing literature offers considerable insight in relation to the power relations and hegemonic tendencies within the EU, the growing imbalances between core and periphery MS (especially within the Eurozone), and the challenge to MS equality posed by the transformation of the relationship between the MS into a relationship between lender and borrower. In addition, many scholars focus on the power and authority EU institutions or EU MS governments have acquired through the supranational crisis measures. These issues are important for understanding the EU and its future post-crisis measures.

However, as outlined above, the areas examined within this research are essentially novel. Most of the scholarship originates from a political economy perspective, even when addressing issues of democratic process, which seems, in either case, to considerably favor an input-based approach at the national level. Hence, issues relevant to broader considerations of the democratic process within the EU framework, and of the EU DD, are left unexplored. The research aims at

contributing in this area, while also contributing in the field of EU politics through the construction of an empirical framework for evaluating the impact of EU measures on the EU DD. There have been considerable contributions offered in relation to the restrictions of national-level policy-making upon joining the EU, and much more the Eurozone (mostly in relation then to fiscal, monetary or economic policy). This has been a recurring argument in relation to the EMU structure. However, this is primarily dealt from a political economy perspective, leaving further room to contribute from an EU politics perspective. This perspective, in relation to the democratic process, presents considerations that are in addition to those falling within the remit of the political economy perspective, but also introduces a more comprehensive evaluation of the national-supranational level inter-relation within the EU.

In relation to the national level, existing literature is, as expected, less prominent in the international scholarly field, compared to literature relevant to the EU level. This is especially the case in relation to the Greek case, where most of the literature relevant to this research is in Greek, published in Greek journals or books. Aside from the above, literature pertaining to the national level still largely originates from a political economy or purely economic perspective. Similarly to the observations relating to the EU level existing literature, there is more room to contribute in more specific and forensic analysis of the measures assumed, in considering the national-supranational level dimension, and, most importantly, in introducing an EU-politics based approach. As most analyses at the national level assume either a political economy or a strictly legal perspective, the scholarly field could benefit from an EU politics-based perspective, which would examine more thoroughly and specifically the impact of measures assumed during the crisis on the EU DD.

Based on the above, there are three main areas of contribution of this research to the existing scholarly field. The first is focused on an EU politics perspective, and includes the creation of an empirical model for evaluating the impact of EU measures on the EU DD. This framework makes it possible to undertake an overall evaluation of the impact of any EU measure on the EU's democratic process. The second area of contribution of this research to the existing field is the more detailed and forensic analysis of each of the supranational crisis measures. The third area of contribution is the consistent and systematic evaluation of the impact of the crisis measures on the EU DD. This is done from an EU politics perspective. That is, the measures assumed are both national and supranational, and thus mandate the analysis of both levels as

well as their interaction. This explores a broader and more comprehensive position to that of the majority of the existing literature originating from political economy, which, implicitly and, oftentimes, explicitly, favours a national-focused, input-based analysis of the impact of the measures on the democratic process. In addition, the evaluation is conducted from an EU politics perspective, i.e. measures are not only evaluated in terms of their impact on economic policy, financial capabilities, fiscal autonomy, etc of EU and Eurozone MS (which, in either case, may or may not raise concerns in terms of democratic process), but in terms of their overall impact on the democratic process, which includes other concerns relating to how these measures were assumed and what their impact is on democratic processes, such as delegation, Parliamentary influence, etc.

In conclusion, despite the fact that there have been considerable contributions offered by the existing literature in the areas relevant to this research, the aforementioned three areas remain unexplored. It is in these areas that novel contributions are provided by this research to the existing scholarly field, mainly focused on an EU politics perspective. The aim is not only to advance the current literature, but to provide a solid foundation for building future research on the EU DD and the EU/Eurozone modified structure that has arisen after the crisis.



## Chapter 3: EU Democratic Deficit Evaluative Framework

### **3.1. Introduction**

As outlined in the preceding Chapter, a single, consistent empirical framework for evaluating the impact of any EU measure(s) on the EU DD is largely absent from existing literature, although scholarship to the EU DD is extensive and offers important theoretical insights into the democratic process of the EU, which could then further constitute a basis for this framework. The aim of this Chapter is to present the construction of this framework, and outline its specifics, mainly bound by the following principles. At first, it will have to provide for the sui generis nature of the EU. In other words, it will have to include indicators that address the impact on the democratic processes of the national and EU levels, as EU policy-making (especially during the crisis) consists of both. At second, in order for this framework to be generalizable, it will have to have the potential for application beyond specifically the crisis measures, to any EU measure. At third, it should reflect principles of the existing literature of the EU DD. To achieve this, certain modifications and re-organization of the existing literature will have to be introduced.

The Chapter follows the following structure. To begin with, the literature relevant to the EU DD is analysed and categorized. There are three main approaches to the EU DD: Input, Output, and Throughput. Furthermore, the foundations of the relevant literature are presented. The EU DD scholarship draws (either directly or indirectly) from two broader theoretical fields: democratic theory and EU integration theory. In the following section, the ontological concerns for the construction of this audit-based, empirical model are discussed. Is it possible, or even prudent, for this model to be constructed based upon current EU DD literature? And if so, how can this be achieved and what are the necessary conditions to be satisfied? In this case, the contribution of additive theory is invaluable in setting a precedent for the construction of empirical models based on different theoretical approaches, and the necessary conditions for this construction. The main section of this Chapter is concerned with the actual construction of the framework. The main elements of the three approaches of the EU DD are re-organized, summarized and constructed around four qualitative, empirical indicators. Each of the indicators is further individually analyzed vis-à-vis its relation to the different EU DD scholarship approaches, as well as their foundations. Finally, the Chapter concludes with the overall purpose and aim of this framework, its attributes and generalizability, and its use within the context of this present investigation.

### 3.2. The EU Democratic Deficit Approaches

Obviously, the EU DD draws primarily from the elements of the broader theoretical field of democratic theory. Although this is examined later in the Chapter (section 3.3.1), it is perhaps fitting to briefly provide some introductory remarks. The definition of democracy is a subject of extensive controversy and analyses, resulting in the absence of a widely accepted definition, either at a theoretical (political philosophy) or at a practical (political system) level (Diamond 1999, 7-17; Dahl 1999, 19-20)<sup>34</sup>. The definitional debate is so extensive that it includes the question of whether the debate itself is meaningful or necessary (Beetham 1993, 55).

From a basic etymological approach, the word democracy is derived from the Latin word “*democratia*”, itself originating from the Greek word “*δημοκρατία*” (Berube et al. 1997, 369)<sup>35</sup>. It is a composite word, consisting of the following words: *demos* (“*δήμος*”), which translates to the people/free citizens, and *kratos* (“*κράτος*”) which translates to power/force/government (Dormparaki 2005, 213 & 461). Democracy, thus, literally means the power of the people.

As with the concept of democracy, so with the EU DD, there is no single, widely accepted definition. Rather, there are two main views. The first view, called the orthodox view, places the focus on the absence of representative elements within decision-making processes of the EU (Chrysochoou 2000, 32; Schmidt 2006, 64-5; Majone 2010, 150). This is consistent with the broader debate on parliamentary decline in modern, Western democracies. The absence of “*social responsibility*” among members of Parliaments has turned politics into a game rather than a process of debating and resolving policy issues and, hence, parliamentary procedure has steadily been distorted (Chrysochoou 2000, 108-9)<sup>36</sup>. Moreover, the executive branch, with its agencies and technocratic actors, has become substantially more powerful over the legislative, especially given the increasingly technical nature of legislation (Schmidt 2006, 64). For example, within the EU, the EP is unable to cover

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<sup>34</sup> As Chrysochoou (2000) argues “*a large number of problems arise when one tries to present a definitive view of democracy, let alone examine its qualities in the actual process of government*” (48). As Held (1993) suggests: “*Furthermore, there is not simply one institutional form of democracy. Contemporary democracies have crystallized into a number of different types...*” (14).

<sup>35</sup> As a functioning political system, democracy first originated in Ancient Greece, predominantly in the city-state of Athens (Dahl 1998, 10-2). There are earlier references to representative regimes in Greece, predominantly in Chios, and then also in Megara, Ambracia and other city-states, during the mid-6<sup>th</sup> century BC, but none assumed the definitive form of democracy as existent in Athens (Robinson 2004, 1; Held 2006, 12).

<sup>36</sup> There have been counter-arguments to such position. For example, Hix (2008) argues that parliaments were always less powerful than executives, and therefore this critique, whether for the national or the supranational level, is largely misguided.

for the loss of national parliaments' participation at the EU level (Chrysochoou 2000, 114 and 117 and 122; Hix 2008, 68-9).

The second view suggests that there is a “*gap between elite proposals and popular perceptions*,” which can be corrected only by a stronger counter-balance to the European Council (EUCO)/CoM (EC & EP to grow stronger; Chrysochoou 2000, 34). This is reinforced by the argument that “*the consociational dimension of Union governance effectively weakens the infrastructure of transnational democracy by making executive-centred elites the decisive subject of EU politics*” (Chrysochoou 2000, 171). Thus integration and its management are in the hands of elites who, for the sake of decisional efficiency<sup>37</sup>, compromise the interests of their governments (Chrysochoou 2000, 171).

These two views regarding the definition of the EU DD correspondingly address two overarching themes: the first view emphasizes the participation of citizens in decision-making process of the EU (representative institutions), while the second emphasizes the acceptance of the outcome of that decision-making process by the citizens. Building on these views, there have been, overall, three different approaches developed within the existing literature in relation to the EU DD: Input, Output and Throughput. The first two (Input and Output<sup>38</sup>) are considered the more traditional ones, and draw on elements of political systems theory<sup>39</sup>. They originate from the work of Fritz Scharpf and his study on democracy during the 1970s (Scharpf 1999, 3 & 6). Scharpf (1999) writes:

*I have described these as input-oriented and output-oriented legitimising beliefs [...] **Input-oriented** democratic thought emphasizes **government by the people**. Political choices are legitimate if and because they reflect the will of the people... By contrast, the **output perspective** emphasizes **government for the people**. Here political choices are legitimate if and because they effectively promote the common welfare of the constituency in question. While both of these dimensions are generally complementary, they differ*

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<sup>37</sup> Defined as “*the ability of...elites to reach amicable agreements through accomodationist patterns of joint decision making*” (Chrysochoou 2000, 171).

<sup>38</sup> Input and Output have taken various forms in between different authors. Different terms used are: redistributive vs regulatory, rights-oriented vs public interest-oriented, direct vs indirect, procedural vs performance. Extensive analyses can be found in Moravcsik 2002, Majone 1998 & 2010, Follesdal 2006, Follesdal & Hix 2006, Bellamy 2006 & 2010, Erksen & Fossum 2004 & 2011, Auberger & Iszkowski 2007, Brecht 2011, Cheneval & Schimmelfennig 2013, Hobolt 2012.

<sup>39</sup> The distinction originates from the difference between Republican and Liberal views of democracy. The Output approach tends to be more consistent with the view of Liberalism (Hobbes), emphasizing the protection of personal rights by the EU and the effectiveness of its policies (Scharpf 2009, 178). Input is more relevant to the Republican tradition (Aristotle), emphasizing the involvement of citizens in the EU decision-making processes.

*significantly in their preconditions and implications for the democratic legitimacy of European governance...* (emphasis added by author; 6)<sup>40</sup>

The third approach (Throughput) is a more recent addition to EU DD literature. It focuses on procedures of delegation between different institutions, and if these are transparent, allow civil society participation, are governed by regulations, etc. This approach can be seen as in the middle ground between Input and Output.

### 3.2.1. Input

The Input approach emphasizes the input of citizens necessary to produce the democratically proper outputs (Scharpf 2009, 188). While not exhaustively the case, most scholars of this approach suggest that *“the same normative standards of legitimacy we know from liberal democratic states should also apply to the EU, in complexity notwithstanding”* (Follesdal 2006, 443). As Chrysochoou (2000) argues *“...no principles of democracy which are compatible in its (democracy) domestic context should be seen as incompatible above that level”* (63). It is suggested that *“democratic legitimacy does not stem from the aggregation of the preferences of all, but from the deliberation of all”* (Eriksen & Fossum 2000a, 18). As Follesdal & Hix (2006) contend, *“institutional design (and), not policy outcomes,”* should be the main focus of a democratic society (548). The EU might have begun as a mere facilitator, but has now evolved into almost all areas over which a state has authority<sup>41</sup>. Therefore, oversight and participation through representative institutions is now necessary for democracy to properly function within the EU.

It is argued that if a core function of democracy is to allow necessary binding collective decisions to be made despite valid disagreements and uncertainty about their potential outcomes, the electoral process is essential for the policy makers to be both positively (being voted into office/re-elected) and negatively (being voted out of office) encouraged to be responsive to the will of the citizenry. In addition, deliberation platforms and party competition are of the utmost importance in adequately representing the policy debates within a society and providing ample

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<sup>40</sup> Scharpf, in his choice of the phrases ‘for the people’ and ‘by the people’ obviously draws on the words of former USA President Abraham Lincoln during the Gettysburg Address in 1863 (Library of Congress 2014a), who said: *“...that the nation, shall have a new birth of freedom, and that **government of the people by the people for the people**, shall not perish from the earth”* (emphasis added by the author; Library of Congress 2014a & 2014b).

<sup>41</sup> This argument, relating to the necessity of increasing the decision-making capacity of supranational representative institutions (e.g. EP) since, while their role in the past was also confined, the EU has evolved and acquired authority over many more policy areas, was also raised in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

information in order for a voter to choose between candidates (Follesdal & Hix 2006, 549-51). Of course, some institutions should remain insulated from citizens' influence; however those have to be identified and, most importantly, have to present evidence of the reasons this isolation is beneficial to the general interest (Follesdal 2006, 459-60; Follesdal & Hix 2006, 542-3).

There is also focus on the lack of contested input. Follesdal & Hix (2006) argue that *“if citizens cannot identify alternative leaders or policy agendas, it is difficult for them to determine whether leaders could have done better or to identify who is responsible for policies”* (548). After all, it is proposed that *“it is precisely because there is no visible quasi-official ‘opposition’, that citizens cannot distinguish between opposition to the current EU policy regime and opposition to the EU system as a whole”* (Follesdal & Hix 2006, 548-9).

Moreover, it is argued that the EU suffers from a *“neo-liberal bias,”*<sup>42</sup> favouring negative integration, i.e. market liberalisation with intense characteristics of competition leading to a *“race to the bottom,”* over positive integration, which would emphasize social protection (Moravcsik 2002, 617). In relation to this argument, it is further put forth that the EU's lack of legitimacy is owed to the failure of the EU to implement and/or adequately defend a social policy agenda. These policies would cover the legitimacy gap as they have been proven to be *“an essential source of democratic legitimation for the nation state”* (Majone 1998, 13).

The Input approach also includes arguments relevant to the small role of the EP, both examined separately and comparatively to other EU institutions (EC and EUCO /CoM; Majone 1998, 7-8). This is relevant to the problematically low turnout rate in EU elections, which tend to be regarded as secondary to national ones. Hence, even considering *“...the growing power of the European Parliament, there is not a democratic electoral contest for EU political office or over the direction of the EU policy agenda...”* (Hix 2008, 70). Such lack of participation has most prominently<sup>43</sup> been explained by the lack of a single, well-defined, consensus-based demos, i.e. *“a*

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<sup>42</sup> *“the capitalist world stumbled towards neoliberalization as the answer (to the 1960s and 1970s crises) ...with the articulation of what became known as the ‘Washington Consensus’ in the 1990s”* (Harvey 2005, 13). The main principles are: Fiscal discipline, Redirecting public expenditure toward high economic returns, Tax reform, Competitive exchange rate, Interest rate liberalization, Trade liberalization, Liberalization of foreign direct investment, Privatization, Deregulation, Secure property rights (Birdsall et. al. 2010, 7).

<sup>43</sup> Cheneval & Schimmelfennig 2013, 336-8 ; Hobolt 2012, 90; Moravcsik 2002, 615-6; Eriksen & Fossum 2004, 437-442; Schmidt 2013, 4; Bellamy & Castiglione 2000, 78-9, etc

*community of politically equal individuals, deliberating about the common good in a single, transnational public sphere*” (Cheneval & Schimmelfennig 2013, 338-9)<sup>44</sup>.

The above issues have not escaped criticism. Moravcsik (2002) argues that these arguments “rest on the questionable premise that greater participation in European political institutions will generate a deeper sense of political community in Europe or, at the very least, greater popular support for the EU” (615; Moravcsik 2008, 338). Furthermore, the suggested lack of opposition and of a more socially-oriented agenda within the EU has also been met with criticism. A race to the bottom is only possible in a small number of policy areas, in which it mostly has not occurred, while social protection within the EU has remained relatively stable (Moravcsik 2002, 618-9). In either case, EU MS governments are unwilling to surrender their decision-making authority in important policy realms such as welfare, education, etc, and EU MS citizens share this view, since social policy is considered a fundamental function of the state. In fact, given the above considerations, “*the development of welfare policies at European level would actually aggravate the legitimacy problem, reinforcing the popular image of a highly centralised and bureaucratised Community*” (Majone 1998, 14).

Objections have also been raised against the argument that the EP plays a small role within the EU, especially when compared to other EU institutions. Majone (1998) suggests that the EU system is similar, but not identical to any national-level democratic system, and hence it is not correct to assume that it has any branches of government (8). In any case, the small role of the EP does not necessarily equate to reduced levels of democracy, as the EP is only one of many actors involved in safeguarding the democratic process. It is mistaken to assume that majority rule is identical democracy, since the latter concept includes additional also consists of many non-majoritarian institutions and processes, particularly in federal, quasi-federal and “*plural societies*”<sup>45</sup> (that more closely resemble the EU paradigm; Majone 1998, 10).

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<sup>44</sup> It is further argued that, in order to successfully implement a supra or transnational democratic model, it is important that a coherent political community is existent by identifying “*those characteristics which actually make a group of people a political community*” (Chrysochoou 2000, 81 & 87-91; Warleigh 2003, 109).

<sup>45</sup> Societies that are “*sharply divided along religious, ideological, linguistic, cultural, ethnic or racial lines into virtually separate sub-societies with their own political parties, interest groups, and media of communication*” (Lijphart 1984, 22-3).

### 3.2.2. Output

The Output approach to the EU's democratic deficit stems from the main argument that further input of citizens on EU decision-making processes is not only unnecessary, given the EU's nature, but might also lead to less efficiency, an element which is, as argued, the most fundamental purpose of the EU. Supporters of this model do not necessarily deny the lack of citizen input to the decision-making processes of the EU, but rather argue that, whether by design or effect, this input can and should be sacrificed to achieve the desired output (to be produced through non-majoritarian processes; Schmidt 2013, 5; Bellamy 2010, 3). As Moravcsik (2008) argues, "*reform to increase direct political participation...would almost likely undermine public legitimacy, popularity and trust without generating greater public accountability*" (340). This is concurrent with the view that the EU "*should not seek to imitate the democratic processes of nation-states*" (Hobolt 2012, 90; generally Schmidt 2013, 10)<sup>46</sup>.

In this approach it is argued that the EU is merely a facilitating organisation/regulatory agent aimed at increasing financial gains by aiding increased cooperation between EU MS. The EU was not constructed to be anything more, and is not anything more (technocracy over democracy – Warleigh 2003, 16; Featherstone 1994, 159-63). It does not enjoy any authority over core national policy issues that are electorally salient (taxes, social welfare, education, etc.; Moravcsik 2002, 607-8; Moravcsik 2008, 333; Auberger & Iszkowski 2007, 274). These areas require democratic participation since they include, at a large degree, redistributive effects (Majone 2003, 5). In contrast, policy areas that the EU can affect, do not include the above, are highly specialized and technical, and do not have a redistributive character. Hence, in this case, participation is not a democratic prerequisite, i.e. the EU policy areas are not electorally salient (Majone 2010, 157; Bellamy 2006, 735-8; Hobolt 2012, 90; Schmidt 2013, 10).

Given the above, an infusion of input democracy in this technocratic system would actually have adverse effects on the democratic process. In other words, it is argued that further "*politicization would result in redistributive rather than Pareto-efficient outcomes, and so in fact undermine rather than increase legitimacy of the*

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<sup>46</sup> This seems in accord with arguments of democratic theory that are similar to John Stuart Mill's, i.e. that "*the more the electorate meddles in this business... the greater the risk of undermining efficiency*" (Held 2006, 86-7).

EU” (Follesdall & Hix 2006, 538)<sup>47</sup>. Independent actors, with delegated authority, would prove to be much more impartial as well as more protective of EU citizens’ interests, since they are politically insulated and are legally obliged to serve the best interest of the EU and not of sectoral interests (Majone 1998, 22-3). Hence, the issue of concern is not so much a deficit of democracy, but rather a crisis of credibility (Follesdal & Hix 2006, 537-8). Even in areas where the EU has competence, policies are characterised by intense intergovernmental fragmentation, and its actions are severely restrained by institutional checks and balances (Moravcsik 2002, 608-11 & 2008, 335). These elements are also argued to be part of the reason for the evidently apathetic electoral behaviour of EU citizens (Moravcsik 2002, 616-7; Bellamy 2006, 737). As Majone (2010) argues, policies of the EU are “...*too technical, too far removed from the everyday concerns of the citizens to attract the interest of anybody except bureaucrats*” (157).

Supporters of this approach also put forth the argument that the criteria employed to democratically evaluate the EU are too optimistic and reminiscent of an ancient, direct form of democracy, and that “*many analysts...overlook the extent to which delegation and insulation are widespread trends in modern democracies*” (Moravcsik 2002, 605). This leads to standards that are unfitting not only for the EU, but for MS as well (Auberger & Iszkowski 2007, 274). Therefore, the criticism levelled against the EU does not only pertain to the EU, but to the modern form and operation of the democratic system (Moravcsik 2002, 613). For example, EU independent technocrats, who are not subjected to democratic oversight, are, in many cases, responsible for exactly the same areas as those of independent national technocrats (e.g. Central Bank functions). In any case, it is argued that “*across nearly every measurable dimension, the EU is at least as democratic, and generally more so, than its member states*” (Moravcsik 2008, 332-340).

Even if it is supposed that the EU suffers from some deficiency in terms of democratic operation, it is argued that indirect representation of citizens via their respective governments is both valid and sufficient in terms of accountability. The national executives are held indirectly accountable for all actions at the supranational level through the national electoral process (Moravcsik 2002, 607 and 2008, 334-6; Scharpf 2009, 182). In any event, arbitrary action is quite difficult, given that “*countries can opt out in the case they do not agree with a specific policy*”

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<sup>47</sup> This is concurrent with market regulation theory, which suggests that limited policies which have a Pareto-optimal and not a redistributive outcome (and are often geared towards correcting market failures) should be made by non-majoritarian / independent institutions.



(Moravcsik 2002, 609). Conversely, some of the supporters of the Output approach (e.g. Majone) are more reserved in terms of the efficiency of this indirect accountability, suggesting that “*such indirect legitimation cannot provide an adequate normative foundation for its (the EU) supranational component*” (Majone 1998, 12)<sup>48</sup>. In this case, it is suggested that the legitimation necessary for policies conducted by purely (much as realistically possible) supranational institutions, such as the EC, is derived from their contribution to protecting economic and other various rights of EU citizens, potentially against EUMS governments’ interests (Majone 1998, 13).

As with Input, there have been many arguments against evaluating the value of the EU purely on outcome-based criteria. As Eriksen (2000) argues, “*the notion of utility calculus as the basis of legitimacy is problematic, for conceptual and empirical reasons*” (43). The argument that the EU is not the type of organisation that is or should be of a democratic nature (Hix 2008, 181), has been criticised by scholars such as Chrysochoou (2000) who suggests that:

*no single state that aspires to democracy can convincingly assert that the formation of a union composed of smaller entities should neglect the importance of democratically monitoring the decision taken within its structures. All the more so if these decision enjoy the status of having direct public effect* (36).

In fact it has often been argued that not only is the EU undemocratic, but that it “*magnifies the pathologies of the national democracies*” (Nicolaidis 2013, 351). This proliferation of democratic deficiencies of the national level in the supranational level “*is in itself a legitimate reason for reinforcing the institutional capacity of citizens to become the decisive subjects of EU politics*” (Chrysochoou 2000, 63).

Even in case of a purely output-based evaluation, some form of participation is necessary since, without it, it is impossible to determine which policies are to the best interests of the entire EU citizenry, in order to construct them in a Pareto-optimal manner (Auberger & Iszkowski 2007, 274). Citizens’ preferences can only be expressed through participation and deliberation and they do not remain static. As Follesdal & Hix (2006) argue, even if it is assumed that policies originate in the favour of the citizenry (an “*abstract European-wide median voter*”), lack of electoral input translates into “*few incentives for the Commission or governments to change these policies in response to changes in citizens’ preferences*” (545 and 549 respectively). Hence, further input serves both as a guide to what the citizens want

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<sup>48</sup> The argument in support of a regulatory approach to regional unions, and the EU more specifically, and the legitimizing effect of output, was also described in the interview with Prof. Dimitris Chrysochoou, Professor of Theory and Institutions of European Integration.

and an incentive for policy-makers to respond to changes in those preferences. (Follesdal & Hix 2006, 545 and 549)<sup>49</sup>.

Moreover, the assumption that no further democratisation is necessary due to the fact that EU policies do not have a redistributive character is argued to be misleading. EU policy today creates many winners and losers, moving away from a purely Pareto-optimal system<sup>50</sup> (Follesdal & Hix 2006, 543 and 551-2; Lord 2008, 317; Brecht 2011, 40-1). In any case, the distinction between redistributive and regulatory policies is not at all clear, and there is argued to be no apparent reason for suggesting that technocratic/independent actors will produce better policies than majoritarian institutions (Brecht 2011, 42; Bellamy 2006, 737). In fact, while technocrats are often presented as impartial, it is argued that “*experts have an unfortunate tendency to overlook issues that are legitimate worries for ordinary folk,*” not to mention being prone to pressures from particular lobbies or actors (Bellamy 2006, 740; Follesdal & Hix 2006, 546). Hence, even in the cases of the most technocratic actors (whether national or supranational) such as a Central Bank and any of its functions (e.g. setting interest rates), “*far from being pure technical exercises, such decisions have an obvious political dimension*” (Bellamy 2006, 739).

Finally, counter arguments are also presented against the manageability of indirect accountability. As Auberger & Iszkowski (2007) point out, indirect accountability within the CoM is rather fragile, as the QMV system, expanded to include a number of additional policy areas after the Treaty of Lisbon, may result in outvoting of certain governments. These governments cannot then be held accountable for policies which they defended, but in which, through no liability of their own, they were outvoted (274).

### 3.2.3. Throughput

Finally, there are scholars who support the Throughput approach. This approach has less of a normative weight than the aforementioned two (Schmidt 2013, 14). Schmidt (2013) suggests that “*throughput focuses on the quality of the governance processes of the EU [...] (and) is process-oriented, and based on the interactions – institutional and constructive – of all actors engaged in EU*

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<sup>49</sup> This argument was also raised in the interview with Prof. Dimitris Chrysochoou, Professor of Theory and Institutions of European Integration.

<sup>50</sup> It has been argued that the democratic system itself, regardless of its level (national or supranational), is a priori redistributive and not Pareto optimal (Dahl 1999, Hardin 1999).

*governance*” (5). The theory concerns issues regarding the interaction between different institutions as well as conditions of policy-making for the institutions themselves, such as their efficacy, accountability, inclusiveness, transparency, and openness. Such concepts are investigated in terms of their outcomes, as well as their ideational perspective, i.e. their more constructivist aspect (Schmidt 2013, 6-8).

Institutionally, throughput focuses on the way in which different political units work, but also in the ability which citizens and interest groups have to directly influence policy within these units. Despite the increase of pluralist decision-making provisions in EU institutions, transparency and inclusiveness remain questionable in light of the ever increasing role of lobbies. Accountability is also harmed since most decisions are taken behind closed doors (e.g. COREPER, EC) and the EP is increasingly unable to affect those decisions (Schmidt 2013, 15-6).

Focus on the process, in addition to that placed on the institutions and/or populace, has been echoed in writing of some input-side academics. For example, Eriksen (2000) argues that “...*both procedures for deliberation and for decision-making are required [...] Certain procedural norms and institutional settings are required...*” (61-2). However, other input-based scholars are more reluctant. Bellamy & Castiglione (2000) argue that “...*democratic legitimacy depends on a thick network of institutions more than on thin procedural rules*” (78).

### **3.3. The Foundations of the EU Democratic Deficit**

In the above sections, the different approaches to the EU DD were presented and analysed in detail. However, to effectively create an empirical model for evaluating the EU DD based on these approaches, their foundations have to also be investigated. This will reveal further similarities and differences of the approaches and their origins, but will also help determine if the creation of such a model is ontologically possible, delineating what foundational distinctions have to be taken into consideration. The foundations of the EU DD literature are in two different broader theoretical areas: democratic theory and EU integration theories. Elements drawn from the former theoretical area are clear, with direct links in the EU DD literature, whereas elements drawn from the latter theoretical area are more indirect, i.e. there are no direct references to EU integration theories within the EU DD literature. However, their influence can still be traced.

### 3.3.1. Democratic Theory

Democratic theory concerns the investigation of the concept of democracy, mainly from a philosophical-theoretical, historical or applied (i.e. as a political system) approach. As previously highlighted, there is no single, universally-accepted definition of democracy, with debates extending as far as questioning the importance of the debates themselves (Beetham 1993, 55). This is perhaps surprising, given its extensive usage in the modern world, particularly in Western, developed states<sup>51</sup>.

The majority of EU DD literature scholars are in agreement with the democratic theory perspective of analyzing democracy as a political system and not as a philosophical concept, focusing on the characteristics which are common to modern, Western, liberal democratic states – and indeed in EU MS – and to which most democratic theorists would agree, while avoiding the arguments and disagreements over the actual definition of the concept (e.g. Follesdal & Hix 2006, 547). Hence, democracy is analyzed more from an empirical or evaluative point of view, rather than from a theoretical one. It is suggested that a functional (not a theoretical) definition of democracy is sufficient for the system's empirical evaluation, and such a definition should only focus on the primary characteristics of democracy, thus resolving or side-stepping many of the existing definitional disagreements, of which *“the extent and significance ...has been greatly exaggerated. Most ...turn out on closer inspection to be not about the meaning of democracy, but about its desirability or practicability”* (Beetham 1994a, 28). This approach has been applied by many democratic theory scholars, primarily of David Beetham in his democratic audit model, introduced in the 1990s and aimed at evaluating the quality of a state's democratic process (the model was first applied to the UK; Beetham 1994b & 1999). Beetham (1994b) distinguished popular control and political equality as the two fundamental characteristics of the democratic political system, then subdividing political control into *“popular election of the...legislature and the head of government [...], accountability of government [...], civil & political rights [...], (and) civil society”* (28-9).

Most problems in relation to the EU DD, as emphasized by scholars in the existing literature, are concerned with popular control rather than political equality,

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<sup>51</sup> It is the case that the political systems in such states are usually described (whether titular or other description) as republics and not democracies. In terms of this distinction, it seems common to assign directness to the Ancient Greek democracy (so-called pure democracy), and representation to the Roman Republic (as by James Madison). However, there is no historic evidence to support such a claim, with the two words essentially being synonyms (Dahl 1998, 16-7). The etymology of the word republic is identical to democracy, i.e. from Latin *respublica*, a composite word from *res*: matter, thing and *publica*: of the people (Berube et al. 1997, 1159).

and more specifically with legitimacy (Beetham's "*popular election of the...legislature and the head of government*") and accountability (Chrysochoou 2000, 49-50). As Moravcsik (2008), one of the most prominent EU DD scholars and a supporter of the output approach, argues, "*one hears...that the European Union suffers from a 'democratic deficit'. It is unaccountable and illegitimate,*" further arguing that the EU's democratic deficit can be defined either "*as an absence of public accountability or as a crisis of legitimacy*" (331 and 340). The focus on legitimacy and accountability is also evident from the elements included in the two main views of defining of the EU DD, as examined above (section 3.2).

Legitimacy can be characterized as the ex ante process of democracy, through which citizens provide their consent for the decision-making process to be exercised by a governing structure (legislative and, by extension, executive), and their acceptance of authority of this structure. This acceptance is one of the most important foundations of the democratic political system (Schaprf 2009, 173; Birch 1993, 32; Bellamy 2003, 10). Traditionally, legitimacy is divided into three categories according to Max Weber (Ehin 2008, 622; Birch 1993, 33-4):

- **Traditional:** Compliance is ensured via direct loyalty to the leader, such as the tribal chief, the king, etc.
- **Charismatic:** Compliance is ensured through faith to the charisma of a specific leader and their qualities, such as Charles De Gaulle for example.
- **Legal-Rational:** Compliance is ensured through "*general acceptance of the procedures by which these orders and laws are produced*" (Birch 1993, 34).

The EU, as well as most countries which follow the modern Western, liberal, democratic tradition, follows the Legal-Rational type of legitimacy.

Accountability<sup>52</sup> can be characterized as the ex post facto process of democracy, through which citizens, having provided legitimacy to the governors and having accepted their authority, evaluate their actions and policies, and decide whether to reward or to sanction them (Strom 2003, 62)<sup>53</sup>. Through accountability, citizens have the right to evaluate the actions of elected officials, and determine whether they were in accordance or contrary to the conditions upon which legitimacy was bestowed, i.e. agreement with or divergence from the electoral platform,

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<sup>52</sup> Etymology: From *a* (to) and *cunter* (count, from Latin *computare*) (Berube et al. 1997, 9). The origin of the term is traced back to 1085 and William I of England, who "*required all the property holders in his realm to render a count of what they possessed*" (Bovens 2010, 951).

<sup>53</sup> Strom (2003) distinguishes three kinds of sanction imposed by the principal on the agent in case of non-representation: veto power (block decisions), de-authorization (ex. removal from office), and specific penalties (monetary, etc) (62).

commitments, etc. (Huller 2012, 252-3). Accountability, is divided into two categories (Huller 2012, 252-3; Dahl 1999, 21):

- **Vertical**, i.e. citizens holding rulers accountable (elections) – also termed democratic accountability.
- **Horizontal**, i.e. competition between the different representatives – also termed delegative accountability.

How are the EU DD approaches related to this broader framework of democratic theory? To begin with, there is an agreement of the majority of EU DD scholars that democracy, in the context of the EU DD, should be examined from an empirical, rather from a theoretical basis. In other words, there is broad agreement that democracy can be evaluated based on a set of its foundational characteristics, even in the absence of a single, universally-accepted definition. Furthermore, all EU DD approaches emphasize investigation of similar issues: effect of EU policies on democratic control by citizens (at the national and supranational levels), and quality of democratic processes within institutions at the supranational level.

The divergence between the EU DD approaches appears in relation to the importance of either legitimacy or accountability. In the Input approach, there is more emphasis placed on how the decision-making institutions acquire the legitimacy necessary to decide on and implement policies. Hence, increased citizen input, whether direct or indirect, in the decision-making process, and in the election of institutions responsible for policy-making, will provide increased legitimacy. In the Output approach, issues of accountability are more important, as there is increased emphasis placed on the evaluation of the EU policy outcome by citizens. The Throughput approach lies in the middle, although it seems to place more emphasis on the processes of EU institutions (rather than outcomes), thus emphasizing legitimacy more than accountability.

### 3.3.2. EU Integration Theories

In contrast to the direct reference of principles of democratic theory, the foundations of the EU DD scholarship on EU integration theories are more nuanced, as there is no relevant direct reference in the existing EU DD literature. There have been two grand-level EU integration theories. The first is Neofunctionalism, developed in the aftermath of World War II during the late 1950s by Ernst B. Haas in order to efficiently explain regional integration (Stroby-Jensen 2007, 86). Haas (1958) describes Neofunctionalism as when a regional organization is able “*to assert itself in such a way as to cause strong positive or negative expectations [...], to unite business*

*and labor ... in an effort to make common policy , [...] and a resourceful supranational executive that ends already agreed to cannot be attained without further united steps”* (xiii-xiv). Primary emphasis is placed on the supranational<sup>54</sup> institutions within the EU, which are presented as progressively independent of state influence. It is argued that they will ultimately be able to make decisions based not on national interests but rather on interests representing the EU as a whole. In this way state power would be overcome; *“integration is most nearly automatic when these forces are given maximal play”* (Haas 1966, 330). The theory is based on the premise that citizens would grow increasingly dissatisfied with their national governments, as they would prove to be increasingly weak players in a world of growing turbulence and uncertainty, and would slowly turn to supranational institutions instead.

Central to the theory of neofunctionalism is the concept of spillover<sup>55</sup>, i.e. when *“a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further actions, which in turn create a further condition and a need for more action, and so forth”* (Lindberg 1994, 107). Put simply, it is when *“cooperation in one field necessitates cooperation in another”* (Stroby-Jensen 2007, 86). Lindberg (1994) expands on the idea of spillover effect and presents five key features of it (107-8):

- spillover dynamics dependent on the convergence of the goals towards integration
- when facing difficult or contested decisions, central institutions take increased initiative and have power delegated to them
- issues and problems created in central institutions cannot be solved except through further integration of said institutions.
- economic integration can lead and advance spillover in other sectors
- nonmembers of a customs union might have negative reactions, something that can only be dealt with by further integration of institutions.

In short, Neofunctionalism places primary emphasis at the supranational level, both for integration but also for most of the processes within the EU.

Of the above elements, the fact that economic integration advances integration in other areas and that when faced with difficult decisions central institutions acquire

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<sup>54</sup> The concept of supranationality is one of the main characteristics of Neofunctionalism, defined as the existence of governmental authorities that resemble the archetype of a federation, but are not yet identical with it (Haas 1968, 59).

<sup>55</sup> Haas put primary emphasis on functional spillover, which refers to a more automated kind of procedure where cooperation in one sector naturally yields cooperation in another, and not so much on other types, such as political spillover, which is essentially forced upon by the status quo (Stroby-Jensen 2007, 89).

increased delegated authority, are extremely relevant to the current EU status quo, especially during the Eurozone crisis. Further economic integration seems to have caused a spillover effect into other areas (e.g. further monetary integration with the Banking Union), and during the Eurozone crisis, there has been a surge of delegated authority to central institutions, such as the EUCO, EC, etc. Both of these points are elaborated further in SECTIONS B and C.

The second grand-level EU integration theory is intergovernmentalism. The theory was developed during the 1970s by Stanley Hoffmann, and was later expanded and refined during the 1990s by Andrew Moravcsik (liberal intergovernmentalism). In brief, intergovernmentalism is based on three premises (Moravcsik 1991, 25):

- the realist assumption that states and their governments are the most powerful players in the regional framework,
- the fact that decisions at the supranational level are almost always based on the lowest common denominator of the most powerful states,
- the fact that states would be reluctant to make “*transfers of sovereignty*”

Moreover, Intergovernmentalism suggests that, taking into account that a government’s ultimate target is to maximize of its time in office, it will be predisposed to obey national over supranational interests. The time that a government spends in power depends upon national elections and not some form of supranational collective action. Therefore a state government will be more apt to support and push for national interests, even if they ran against a supranational perspective, based on a rational choice of maximizing gains (Moravcsik 1993, 483-487). Intergovernmentalism places the primary emphasis on the national level of the decision-making process.

The above two theories, although not referenced directly, have impacted the formation of the different approaches within the EU DD literature. This does not only pertain to the specifics of these theories, but also to the importance of one or another level of decision-making processes within the EU. The Output approach seems to be founded on premises more consistent with arguments of Intergovernmentalism. It is worth noting that one of the most prominent supporters of the Output approach, Andrew Moravcsik, is also one of the most important scholars of Intergovernmentalism. Although no direct reference to the theory is made, the Output approach emphasizes the adequacy and sufficiency of the oversight of supranational-level actors by national-level democratic mechanisms. In addition, the arguments of the Output approach pertaining to the limited decision-making capacity of the EU in



key national policy areas of MS, and the unwillingness of the MS governments to consent to an increase of this capacity, share the same foundations with the aforementioned arguments of Intergovernmentalism.

Conversely, the Input approach has foundational principles that are closer to Neofunctionalism (although comparatively less than Output to Intergovernmentalism). According to arguments advanced in the Input approach, the national level has become increasingly unable to provide sufficient democratic oversight over the supranational level; the latter has also progressively gained increased policy-making capacity in relation to more sensitive national policy areas. Hence, the issue has to now be addressed at the supranational level, and include a substantial boost in citizen participation, whether direct or indirect (representative). Similarly, in Neofunctionalism it is suggested that the supranational level will progressively assume increased decision-making capacity, geared to more technocratic rather than majoritarian actors. In fact, it is supported that this process will have adverse effects on the democratic process, particularly in terms of the ability of citizens to participate (Stroby-Jensen 2007, 95). This is consistent with Input arguments of progressively reduced ability of citizens to affect policies, which are now in the hands of technocrats and experts. In terms of Throughput, given the emphasis on the supranational level of policy, and the conditions that actors at that level should satisfy to abide by democratic principles, it seems to be closer to Neofunctionalism than Intergovernmentalism.

### **3.4 Ontological Concerns**

In order to efficiently construct the empirical framework for evaluating the impact of EU measures on the EU DD, and to have this framework founded upon elements of all three EU DD approaches, coexistence of these approaches within the model is necessary. A synthesis of different, and oftentimes partially conflicting, theories – while maintaining their theoretical integrity – towards a more comprehensive empirical framework for evaluation of various phenomena is not a novelty, and it has been applied on many occasions, particularly in relation to the EU (mainly in terms of EU integration theories; e.g. Moravcsik 1998; Ioannou et al. 2015). One prominent approach to this synthesis is applied by Jupille et al. (2003), in which multiple options of what is termed as ‘theoretical dialogue’ between different theories are examined in an attempt to utilize elements from specifically in this case

both rationalism and constructivism to more comprehensively contribute to the analysis of the institutionalist perspective of the EU.

From the different options considered, additive theory, based on complementary domains of application, is found to be comparatively the best one, since it does not include subsuming, absorbing or abolishing any theoretical approach against another, but rather provides a synthesis of the empirical aspects of these approaches in a unified framework, always maintaining their distinctive theoretical characteristics and integrity (Jupille et al. 2003, 18-9). In this way, a more comprehensive and well-rounded empirical framework is produced. Although there are clear differences and disagreements between the two theories of this particular case (rationalism and constructivism), it is argued that the theoretical discussion has run its course and that it is time to develop a basis for empirical analyses (Jupille et al. 2003, 8). On this basis, the differences between these two theories decrease significantly, both in number and kind (Jupille et al. 2003, 16).

Similarly to the case of Jupille et al. (2003), in the case of the EU DD literature, it is argued that the theoretical discussion between the different approaches is extensive, and that no single approach is going to come first. Hence, the debate would certainly benefit from further investigation of the empirical (as opposed to the theoretical) aspects of the relevant elements. More importantly, however, the aforementioned approach of additive theory based on complementary domains of application demonstrates the possibility and relevant conditions of constructing a single, empirical, evaluative framework that is based on the existing EU DD literature and relevant approaches, even if these approaches contain partial differences. After all, the additive theory approach has been implemented in entirely different theories with substantially more fundamental and irreconcilable differences compared to the approaches of the EU DD, which have only partially-opposing views of the same overall theoretical domain. Hence, the model is definitely applicable in the case of the EU DD.

For the use of additive theory to be successful, Jupille et al. (2003) set the following requirements (18-21):

- Existence of common ground between theories, so that there is common terminology and consistency.
- Sufficient analysis of the relevant field, and of the similarities and differences between the theories and their respective foundations.
- Preservation of the integrity of each theory within the evaluative model.

Also, the additive synthesis is optimal if Jupille et al. (2003, 22):

- One theory adds elements to another.
- The theories explain similar phenomena.
- The theories' explanations do not overlap.

The above conditions are satisfied in the field of the EU DD literature. Firstly, the EU DD theory consists of merely different approaches, and not entirely different theories. Hence, there is common terminology, as well as consistency. Secondly, within this Chapter, sufficient analysis was provided, both of the similarities and differences not only between the different EU DD approaches, but also their respective foundations. Thirdly, it was emphasized that the EU DD empirical evaluative model aims at additively synthesizing these approaches to more comprehensively evaluate the impact of EU measures on the EU DD, all the while maintaining their theoretical integrity (that is, there is no combination or composition of the approaches).

Further to the above, the conditions for optimal additive synthesis are also present. The EU DD approaches explain the same phenomenon without overlapping, since they emphasize different aspects of the democratic system and address EU measures from different perspectives. In this way, one approach actually potentially complements the other in a potential empirical evaluation. For example, in relation to the democratic process, while the Output approach focuses on the national level, the Input focuses on the supranational level. An additive synthesis of both provides evaluation of the EU DD at both levels, and is thus more comprehensive than an evaluation based on only one approach and only one level. The same applies to all aspects of the approaches. That is, the additive synthesis of the EU DD approaches – while maintaining their theoretical integrity – into a single, empirical framework, provides for a more comprehensive evaluation of the impact of EU measures on the EU DD, compared to an evaluation of the same phenomenon based on only one of the approaches.

Finally, the issue of the weighting of indicators needs to be addressed within the discussion relevant to ontological issues of the empirical framework. As stated above, the aim of additive theory is to synthesize different theories, and in this case approaches, into a single model, so as to benefit the empirical investigation of a certain phenomenon by providing a more comprehensive evaluative model. As previously highlighted, one of additive theory's advantages over other modes of theoretical dialogue is that there is no attempt to subsume or antagonise the theories

additively synthesized. As such, in the case of the EU DD evaluative model, all elements examined by the existing literature's approaches are considered of equal weight. The aim of the model is to provide a way for a more comprehensive evaluation of the impact of EU measures on the EU DD, and not to suggest that one or another approach (or specific elements thereof) is more important, correct or stronger compared to another. This equal weighting also contributes to the objectivity of the model, as all approaches are considered as equal, and none is given more weight than the other. The same applies in terms of the indicators of the constructed model. This is a qualitative, audit-based model. The purpose is to engage with consequences of EU measures on EU democracy, and provide for some key questions that have to be asked in relation to these consequences. Similarly to other models created (e.g. the democratic audit approach of David Beetham), there is no grading scale indicating that the existence of one indicator is more important than another.

### **3.5. Construction of an EU DD Empirical Evaluation Model**

In the sections above, the elements of the different approaches and their foundations, as well as the differences and similarities between them, were presented, following which, various ontological concerns were addressed. To construct the EU DD empirical evaluation model, a brief re-organization and overview of the elements of each approach, and its respective foundations, is necessary in order to establish what elements are to be included in the model, as well as demonstrate that all approaches (and their elements) are taken into consideration in a comprehensive and equal manner. This will also help delineate the common areas that can be grouped under a single indicator across the three different approaches. Table 1, below, presents the outcome of this re-organization and overview, based on the detailed analysis of sections 3.2. and 3.3. of this Chapter. The respective elements of each approach are numbered in single sequence, common for all three approaches.

**Table 1:** Overview of EU DD approaches & foundations.

Approach	No	Elements
<b>Input</b>	1	EU started as a facilitator, but now it has considerable influence in a wide range of policy-areas of MS, which leads to redistribution.
	2	Participation necessary for governors to be positively (election) and negatively (non-election) predisposed to follow citizen preferences.
	3	Deliberation and Party-competition platforms are important, so that differing political views are expressed and citizens have sufficient information to select candidates for election.
	4	Certain institutions are justifiably isolated from majoritarian influence, only if society's common good is achieved this way.
	5	There is lack of majority opposition offering non-extreme (e.g. different policy paradigm instead of EU exit) alternatives.
	6	Elements of intensely neoliberal ideology.
	7	Failure of the EU to defend or implement a strong social policy model.
	8	Small role of the EP.
	9	Reduced participation in EU elections (lack of EU electoral platform and of single European community).
<b>Output</b>	10	EU's main purpose is facilitating cooperation and financially reinforcing MS.
	11	Further democratization of the EU (participation) would lead to a reduction of efficiency, through increasing difficulty, or even inability, of producing desired, Pareto-optimal output.
	12	EU has no authority over key national policy areas which are electorally salient (since they include redistributive effects).
	13	EU aims at Pareto-optimal results, and further politicization (increased of democratic control) would result in redistributive and not Pareto-optimal outcomes.
	14	Independent, technocratic institutions are more impartial and protective of EU citizens' interests than majoritarian, representative institutions, given their political insulation and the obligation to represent EU and not national interests.
	15	Democratic evaluation criteria for the EU are overly optimistic (e.g. same or more delegation and authority of the executive at the national level, compared to the supranational level), or are unfitting to the modern form of democracy overall.
	16	Indirect democratic oversight through the national level of EU MS is valid and sufficient. <b>OR 17 below</b>
	17	Indirect democratic oversight through the national level might not be valid or sufficient, but the legitimacy of the EU stems from the protection of socio-economic interests of EU citizens.
<b>Throughput</b>	18	The EU and its institutions process should be the focus of democratic analyses.
	19	Interaction of different EU institutions and relevant processes: accountability, efficiency, civil society participation, transparency

Considering the elements presented in Table 1 above, as well as the extensive analysis outlined in the sections 3.2 and 3.3 of this Chapter, there appear to be common areas across the three EU DD approaches. That is, scholars from different approaches appear to put emphasis on similar aspects of EU measures in terms of their impact on the EU DD, then disagreeing over the interpretation of these aspects and their impact. The above principles can be grouped in four, distinct indicators of the EU DD empirical framework, as analyzed in the following sections. The indicators are presented in the form of thematic questions, as this best facilitates a more comprehensive analysis of the issues involved, and is more fitting to the qualitative character of the framework.

### 3.5.1. Key National Policy Areas, Redistribution & Delegation

One of the most prominent issues raised across the approaches of Input, Output and Throughput is whether the EU affects key national policy areas or not. All scholars seem to agree that areas such as taxation, defense, economic and social policy, budgetary provisions, etc. are considered very important to a state's structure and decision-making capacity, and are electorally salient due to their redistribution and reallocation effects. For example, Output scholars argue that MS governments would be unwilling to transfer any policy-making authority over these issues to the supranational level, both because the electorate would oppose such a transfer (hence remaining in office for those governments could be jeopardized), and also because the government needs to be able to exercise independent authority over policies that are considered key for the state. Conversely, Input scholars argue that the EU has already acquired substantial decision-making authority in those areas.

The question that is raised in relation to the above then, is whether the EU has authority over key national policy areas or not. Here there are differentiations observed between the EU DD approaches. Input scholars argue that the EU has authority over key MS national policy areas, with redistributive effects (which are argued, in any case, to be very difficultly distinguished from regulatory ones). Output scholars argue that the EU does not possess authority over these areas and, given the disposition of the electorate and the MS governments, it is unlikely that this would ever happen. These elements yield a divergence on the foundational aspects of each approach, with Input being more focused on the supranational level – neofunctionalism, emphasizing legitimacy of relevant actors assuming the decisions. In contrast, the Output approach is more based on intergovernmentalism, i.e. has the main focus on the national level,

arguing that the MS are in charge of key policy-making within their respective constituencies. Regardless of the individual approaches' points of view, the central question is whether EU measures affect core national policy areas and have redistributive effects or not (Pareto-optimal).

In addition to the above issues, however, the level of delegation must also be taken into account in relation to this question, regardless of the type of policies that the supranational level can affect. In other words, regardless of whether the EU can affect more key national level policies or not, the question should also be asked if there is an increase in its ability to affect national policies more generally. Naturally, emphasis should be given to sensitive policy areas, such as taxation, but the overall status of the delegation from the national to the supranational level can also provide useful insights. This aspect of delegation is also relevant to the Throughput approach, which places an overall emphasis on the processes of supranational institutions. In other words, it is important to examine how this delegation is conferred. Given the above, the first indicator of the empirical EU DD evaluative framework is: **Do the measure(s) affect key national policy areas and have a redistributive (and not Pareto-optimal) effect on EU citizens? More generally, has delegation increased or decreased?**

### 3.5.2. Majoritarian/Representative Institutions' Influence

A key element of the modern democratic political system, perhaps the most important one, is majoritarian or representative institutions, primarily parliamentary structures. Through these structures, citizens are allowed to affect (albeit indirectly) every important aspect of policy-making, thus having input in the decisions taken. In the case of the EU DD, both the Input and Output approaches focus on the role of the EP, as well as other majoritarian-based elements. Input scholars argue that the EP plays a relatively small role in the EU's decision-making process, even when taking into account the role-enhancing modifications introduced by the Treaty of Lisbon. They also place primary emphasis on the existence of relevant deliberation platforms and political Party competition, so that citizens can obtain a clear view of the opinions of competing elites (a characteristic in itself fundamental to the democratic process), and benefit from the existence of platforms where deliberation over supranational issues can take place. Throughput also places primary emphasis in the participatory processes of EU institutions, and thus aligns with the above observations. Contrary to this view, Output scholars argue that the indirect democratic oversight through the national level institutions participating in the EU policy process (such as the national governments in EUCO for example) is both valid and sufficient for ensuring democratic safeguards.

In this case, Input (as well as Throughput) scholars emphasize the aspect of legitimacy in the democratic process (i.e. who authorizes the EU to proceed to an action) and the principles upon which it is conferred, arguing that the supranational level is now equally important to, or perhaps more so than, the national level (neofunctionalism). Output scholars place more emphasis in accountability arguing that national level institutions are enough to hold EU actors accountable, clearly echoing the principles of intergovernmentalism with the primary emphasis at the national level.

Similarly to the first indicator of the framework, regardless of the differences of the specifics of each approach in relation to the influence of majoritarian institutions within EU policy, all three approaches place emphasis on this issue. Given the above, the second indicator is: **What provisions do the measure(s) include relevant to the EP and national Parliaments, and what are the resulting dynamics between them and other functions of the democratic system within the EU (whether at national or supranational level)?**

### 3.5.3. Processes of EU institutions

This indicator focuses mostly on the Throughput approach. Regardless of the ex ante and ex post facto processes of democracy within the EU, correspondingly Input, with a focus on how legitimacy towards decision-making authority is conferred, and Output, with a focus on how accountability towards the outcome of this authority (policies) is instituted, there should also be emphasis placed on how the relevant actors actually decide on policies. This lies in the middle of the above two stages, highlighting the need for certain conditions to exist which bind the process of decision-making of (mostly) supranational institutions, i.e. for the decision-making process to be efficient, transparent, open to civil society participation, and accountable. These conditions are necessary both for the legitimacy conferred to be valid, and for accountability to be exercisable. In other words, votes cast in favor of an executive that supports further delegation to EU supranational actors is conferred on the condition that such actor will be transparent. Correspondingly, if transparency is lacking, accountability for this executive and, indirectly, proper evaluation of the outcomes of the EU institution in question, becomes impossible.

In this case, it appears that the Throughput approach assumes the middle ground not only between the other two EU DD approaches, but also in terms of their foundations. That is, it is in the middle of legitimacy and accountability. Moreover, by emphasizing the processes of institutions, this issue can concern both the national and the supranational level (i.e. both neofunctionalism and intergovernmentalism) without



placing emphasis on one or the other. Given the above, the third indicator or thematic question, is: **Is there transparency, efficiency and representation of multiple interests during the process of the formation of the measure(s,) as well as within the actual measure(s) themselves?**

#### 3.5.4. Direction of EU policies & Opposition

The last element which is raised in the EU DD literature, primarily by the approaches of Input and Output, is the direction of EU policies. Scholars from both approaches emphasize the importance of the EU in protecting the rights of citizens, focused on a more social-policy-based model, even potentially against MS governments. Input scholars argue that the EU is suffering from a neoliberal bias in its policies, and it has thus largely failed to defend such a social policy paradigm within the EU. Furthermore, it is suggested that there are elements of ideational hegemony, resulting in the inexistence of a pro-EU majority opposition, i.e. opposition which advocates for non-extreme (exit from the EU) alternatives. This has adverse results not only in terms of the policies implemented, where there is a growing tendency for the EU to be geared to a one-policy-for-all structure, but also in terms of the elite competition within a democratic system. In other words, there are fewer and fewer different options to choose from. In terms of the Output approach, opinions on this issue appear to be closest to those of the Input approach. Output scholars argue that the EU technocratic actors, according to them the most important ones of the supranational level, are much more impartial and insulated from political influence precisely because of their independence from influences of a majoritarian or politicized nature. Therefore, they best represent the interests of EU citizens as a whole. It is from this representation, and the defending of EU citizens' socio-economic rights, that the EU derives its legitimacy.

Based on the above, there appears to be some convergence between the two approaches on this issue in placing primary emphasis on the protection of citizens' social and economic rights by EU institutions, and the legitimizing effect arising from such protection. Input scholars take it a step further, in presenting the EU as advocating a more social-policy-focused paradigm, and in arguing that it has failed to effectively safeguard this paradigm by experiencing a substantial neoliberal bias. In terms of the foundations of the two approaches relative to this thematic area, again, there appears to also be some convergence. Both the Input and Output approaches emphasize accountability more than legitimacy in this case; that is the ability of the EU to protect and/or implement relevant policies for EU citizens. Similarly, in terms of EU integration theories, both approaches are closer to the neofunctional view of the EU, advocating for

the efficiency, or lack thereof, of the supranational level to protect the social and economic rights of EU citizens, and focusing less on the national level (intergovernmentalism).

From the above, it is evident that an area that is considered pivotal in the evaluation of the EU DD, both for Input and Output scholars and regardless of their specific views on such area, is the direction of EU policies and efficiency in equally protecting EU citizens' socio-economic rights. Therefore, the fourth, and final, indicator or thematic question is: **What is the direction of the measure(s) and have they been successful in protecting the social and economic rights of EU citizens? In any case, was there any realistic, majority, pro-EU opposition to the measures?**

All the four above thematic questions or indicators of the EU DD evaluation framework, along with their corresponding elements of the three different approaches of the existing EU DD literature (the numerical values are the same as in Table 1 for consistency), are concisely presented in Table 2 below:

**Table 2:** EU DD empirical framework & corresponding EU DD approaches.

Approach	No	Elements	No	Indicators / Thematic Questions
Input	1	EU started as a facilitator, but now it has considerable influence in a wide range of policy-areas of MS, which leads to redistribution.	A	<b>Do the measure(s) affect key national policy areas, and hence have a redistributive (and not Pareto-optimal) effect on EU citizens? More generally, has delegation overall increased or reduced?</b>
	10	EU's main purpose is facilitating cooperation and financially reinforcing MS.		
Output	11	Further democratization of the EU (participation) would lead to a reduction of efficiency, through increasing difficulty, or even inability, of desired, Pareto-optimal output.		
	12	EU has no authority over key national policy areas which are electorally salient (since they include redistributive effects).		
	13	EU aims at Pareto-optimal results, and further politicization (increased of democratic control) would result in redistributive and not Pareto-optimal outcomes.		
Input	2	Participation necessary for governors to be positively (election) and negatively (non-election) predisposed to follow citizen preferences.	B	<b>What provisions do the measure(s) include relevant to the EP and national Parliaments, and what are the resulting dynamics between them and other functions of the democratic system within the EU (whether at national or supranational level)?</b>
	3	Deliberation and Party-competition platforms are important, so that differing political views are expressed and citizens have sufficient information to select candidates for election.		
	4	Certain institutions are justifiably isolated from majoritarian influence, only if society's common good is achieved this way.		
	8	Small role of the EP.		
	9	Reduced participation in EU elections (lack of EU electoral platform and of single European community).		
Output	15	Democratic evaluation criteria for the EU are overly optimistic (e.g. same or more delegation and authority of the executive at the national level, compared to the supranational level), or are unfitting to the modern form of democracy overall.		
	16	Indirect democratic oversight through the national level of EU MS is valid and sufficient.		

<b>Output</b>	<b>14</b>	Independent, technocratic institutions are more impartial	<b>C</b>	<b>Is there transparency, efficiency and representation of multiple interests during the process of the formation of the measure(s), as well as within the actual measure(s) themselves?</b>
<b>Throughput</b>	<b>18</b>	The EU and its institutions process should be the focus of democratic analyses.		
	<b>19</b>	Interaction of different EU institutions and relevant processes: accountability, efficiency, civil society participation, transparency		
<b>Input</b>	<b>5</b>	There is lack of mediocre / majority opposition.	<b>D</b>	<b>What is the direction of the measure(s) and have they been successful in protecting the social and economic rights of EU citizens?</b>
	<b>6</b>	Elements of intensely neoliberal ideology.		
	<b>7</b>	Failure of the EU to defend or implement a strong social policy model.		
<b>Output</b>	<b>14</b>	Independent, technocratic institutions are more protective of EU citizens' interests than majoritarian, representative institutions, given their political insulation and the obligation to represent EU and not national interests.		
	<b>17</b>	Indirect democratic oversight through the national level might not be valid or sufficient, but the legitimacy of the EU stems from the protection of socio-economic interests of EU citizens.		

### 3.6. Conclusion

The aim of this Chapter was to construct an empirical model for evaluating the impact of EU measures on the EU DD. An in-depth investigation of the EU DD literature was conducted, and it was found divided across three different theoretical approaches: Input, Output and Throughput. In addition, the foundations of these approaches were analyzed. These approaches are based on the broader field of democratic theory and EU integration theories. The influence of principles from democratic theory is direct and evident, with clear references within the EU DD literature, while the influence of EU integration is more nuanced and indirect, with no such references.

The Input approach includes arguments relating to the increase of the decision-making capacity of the EU, especially in terms of core national policy areas such as taxation or social security. This increase leads to further input by citizens, whether of a direct or indirect (representative institutions, etc.) nature, being necessary to ensure proper functioning of democratic processes. In terms of its foundations, the Input approach emphasizes issues at the supranational level and, as such, is more consistent with arguments of neofunctionalism. Additionally, in terms of the broader field of democratic theory, from the two main concepts emphasized in the overall EU DD literature, i.e. legitimacy and accountability, the Input approach is founded primarily on legitimacy, given its arguments for increased citizen participation.

The Output approach includes arguments relating to the fact that the EU is merely a facilitating organization, aiming at Pareto-optimal outcomes, and that it lacks any significant authority over key national policy areas. There is the further argument within this approach that this situation will continue in the future, as governments are unwilling to transfer any such authority, and hence decisions will always be taken for largely technical issues and with agreement based on the least common denominator. Therefore, further democratization through participation is not only unnecessary but can prove harmful to the Pareto-optimal character of the EU. In terms of foundations, the Output approach is more relevant to arguments of intergovernmentalism, with emphasis placed primarily on the national level, and the fact that it is in this level that most of the decision-making authority is concentrated within the EU. In terms of democratic theory, the Output approach emphasizes accountability more than legitimacy, with primary importance on the outcome of EU policies and how those are evaluated in relation by the citizenry.

Throughput is a more recent addition to the EU DD literature, and stands in the middle of Input and Output, in that it places primary emphasis in the processes of decision-making. Arguments in this approach highlight that aside from the participation of citizens before and the evaluation of policies after the decision-making process, the processes during such decision-making need to also be taken into account. Said processes should abide by transparency, efficiency, etc. In terms of EU DD foundations, Throughput is in the middle ground between legitimacy and accountability (similarly with the Input and Output EU DD approaches). In terms of EU integration theories, however, it is closer to neofunctionalism, as it stresses more the processes of supranational institutions than national ones.

The investigation across the EU DD literature, approaches, and foundations is pivotal in order to adequately construct the empirical, evaluative framework. Before the actual construction, the ontological concerns relating to it were developed. Even though the EU DD approaches are not entirely different theories, they, along with their foundations, have substantive differences. Can they co-exist in a single framework? Firstly, it is highlighted that the framework is empirical rather than theoretical. It aims at evaluating the impact of EU measures on the EU DD, not offer novel theoretical approaches or criticize the existing literature. Secondly, it is emphasized that the framework includes all three approaches of the EU DD, while maintaining their theoretical integrity, so as to build a more comprehensive evaluative model. In other words, the issues examined by each of the approaches are separated from any further theoretical judgments included in the literature, and are then reorganized and grouped to form an evaluative framework.

Similar approaches have been employed towards empirical frameworks based on different theoretical contributions, with one of the main ones being additive theory based on complementary domains of application. This approach promotes the construction of an empirical, evaluative model based on an additive synthesis of the elements of relevant theories, even though they may be partially, or even entirely, different. The aim is not to find a compromise regarding relevant disagreements, but rather to more comprehensively empirically evaluate a given phenomenon. This applies to the present model as well. It is not the aim to combine the different EU DD approaches, or to subsume one under the other, but rather to include issues examined by all three, as they complement one another in an empirical basis and can definitely serve a more comprehensive evaluation of the EU DD in a simple empirical framework.

Based on all the above, and the analysis of the relevant EU DD literature, the empirical model for evaluating the impact of EU measure(s) on the EU DD was constructed. It is divided into four thematic questions or areas of concern (indicators), being qualitative in nature. The aim is to examine a given set of EU measures against these key issues, in order to determine their impact on the EU DD. The indicators are:

- A)** Do the measure(s) affect key national policy areas, and hence have a redistributive (and not Pareto-optimal) effect on EU citizens? More generally, has delegation overall increased or reduced?
- B)** What provisions do the measure(s) include relating to the EP and national Parliaments, and what are the resulting dynamics between representative institutions and other functions of the democratic system within the EU (whether at national or supranational level)?
- C)** Is there transparency, efficiency and representation of multiple interests during the process of the formation of the measure(s,) as well as within the actual measure(s) themselves?
- D)** What is the direction of the measure(s) and have they been successful in protecting the social and economic rights of EU citizens? In any case, was there any realistic, majority, pro-EU opposition to the measure(s)?

The measures assumed during the Eurozone crisis, are to be investigated, analyzed in detail, and then evaluated against the above four thematic question indicators. Given the qualitative nature of the framework, a number of conclusions can be then drawn from the above analysis, in terms of how the EU measures examined (both of the Eurozone crisis but also in general) impact the EU DD. The empirical analysis can then be richer than one confined to one or other of the Input, Output or Throughput analytical positions.

## Chapter 4: Research Methods & Design

### **4.1. Introduction**

After having established the contributions, the relevant literature, and the empirical model to be used within this research, the purpose of this Chapter is to outline the methods this investigation will employ, and to delineate its design, i.e. what are the research question, hypothesis, variables, etc. Firstly, the research design of the analysis is provided. This includes the research question, hypothesis and variables of the research, and also the time limit of the investigation, i.e. which period will be covered. Secondly, the material to be analyzed is defined, i.e. what is covered and included within the supranational measures during the Eurozone crisis aimed at the national and EU levels. In relation to this, a justification is provided for choosing one main and one comparative research cases for evaluating the impact of MS-specific crisis measures on the EU DD. Finally, the research methods employed by this research are outlined. The analysis utilizes three methods: in-depth detailed document analysis, enquiries regarding non-published documentation, and semi-structured elite interviewing. The Chapter concludes with a brief overview of what is to be answered by this research, in what way, and analyzing what material.

### **4.2. Research Design**

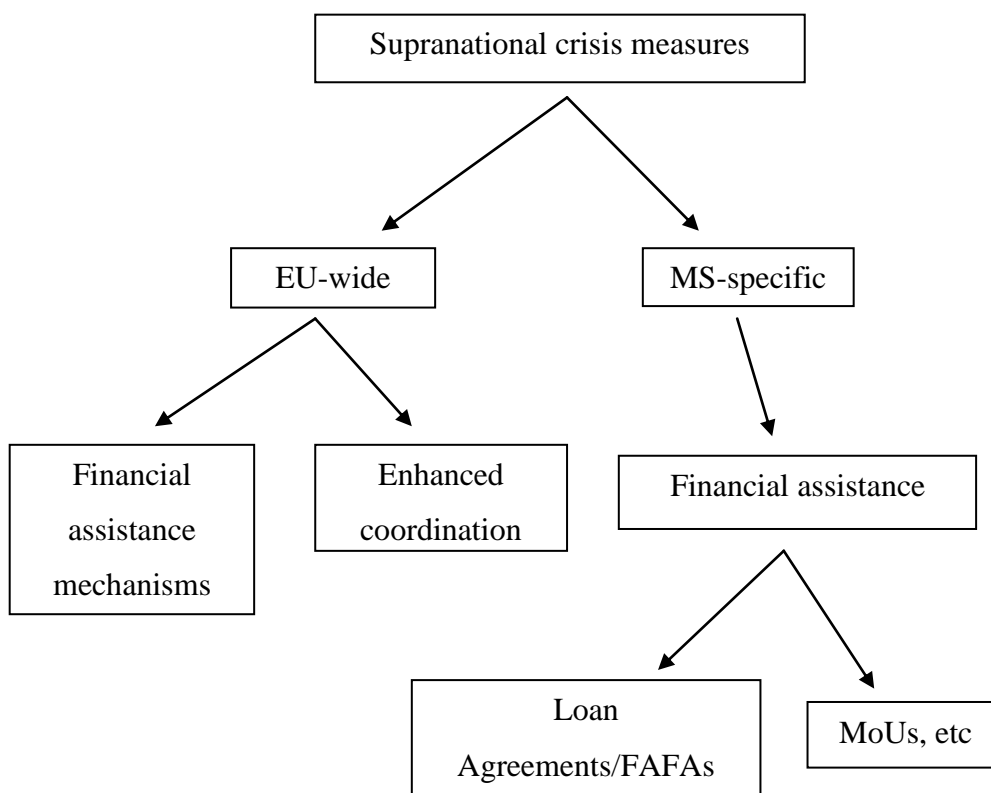
In this investigation, the research question is: **How have the Eurozone crisis supranational measures, both EU-wide and MS-specific, impacted the EU's Democratic Deficit?** In other words, the research will examine the measures adopted at the supranational level, i.e. by EU institutions, by the EU, etc., during the Eurozone crisis with the purpose of countering it. The emphasis of the analysis of will be their impact on democratic processes, as those are highlighted in the existing EU DD literature. The independent variable of the research is the supranational measures adopted during the Eurozone crisis, and includes any supranational measure, i.e. any measure adopted by the EU (either by one of its intergovernmental formations, such as the EUCO, or by one of its supranational formations, such as the EC), to counter the Eurozone crisis and its effects, within the time limit set further below, i.e. between 2008 and 2013 (see further below for temporal limitation justification).

The independent variable is categorized in accordance with the MS-specific/EU-wide distinction, i.e. into supranational measures that concern the entirety of the Eurozone or the EU (e.g. Six-Pack) and supranational measures that are specifically aimed towards the national level, i.e. specific Eurozone MS (e.g. financial assistance programs). The former category of measures can be further subcategorized



into measures relevant to the provision of financial assistance to Eurozone MS (e.g. EFSF SA, ESM, etc) and measures relevant to introducing stronger and more enhanced coordination between Eurozone/EU MS. The latter category of measures, i.e. those specific to Eurozone MS, consists largely of the financial assistance programmes and their transposition into corresponding national legislation. More specifically in relation to these programmes, the overall EU-IMF financial assistance framework consists of two parts: the financial part, i.e. the loan agreements, usually termed Financial Assistance Facility Agreements (FAFAs), outlining the specifics of the loans (disbursements, maturities, etc), and the structural adjustment part upon which the financial assistance is conditional, i.e. the Memorandums of Understanding (MoUs)<sup>56</sup> outlining the detailed policy reforms which the beneficiary MS has to implement in order to qualify for receiving each disbursement for the loan. The following Figure 1 demonstrates the categorization of the independent variable.

**Figure 1:** Categorization of the independent variable of the research.



<sup>56</sup> The term MoU is utilized as an umbrella term within this research. The IMF uses the Memorandum of Economic and Financial Policies, usually accompanied by a set of definitions in a Technical Memorandum of Understanding (International Monetary Fund 2001, 144-5). The EU uses the Memorandum of Understanding on Specific Economic Policy Conditionality, or MoU under the now permanent ESM framework. The MoUs are signed between the beneficiary MS and the IMF, and the beneficiary MS and the EC representing, in one form or another (i.e. either directly or through financial assistance mechanisms) the rest of the Eurozone or EU (depending on the mechanism) MS. Policy conditionality is monitored by the Troika (e.g. Article 7 of REG 472/2013, Article 13 of the ESM Treaty, etc; European Parliament & Council of the European Union 2013, 7; ESM 2012a, 30).

This categorization is maintained across the structure of the evaluation Chapters (7 for the EU-wide measures, Chapters 9 and 10 for the MS-specific measures). A more detailed operationalization of the exact measures included in the independent variable is provided in Chapters 6 and 9,10.

The dependent variable of the research is how the above measures have impacted on the EU DD. The operationalization of the EU DD (in terms of how it is evaluated empirically within this research) is delineated in Chapter 3. It is important to highlight, as was emphasized throughout Chapter 3, that this is not a definition of the theoretical concept or debate regarding the EU DD, but rather a proposal regarding how it can be empirically evaluated in relation to EU measures. Naturally, the national and EU levels will affect in a different way each of the four EU DD empirical evaluation indicators presented in Chapter 3. That is, measures relevant to one indicator may be more prevalent in the national level and less at the EU level. For example, analysis of how national Parliaments participated will be more extensive for the MS-specific than the EU-wide measures. However the indicators are weighed equally.

The temporal dimension of the research also needs to be sufficiently identified. The beginning of the research is set in 2008. The financial crisis of the late 2000s first begun in 2007/8 in the USA, but it was in late 2008 that the crisis reached the Eurozone through Ireland, as more extensively analyzed in the following Chapter 5. Setting the end-point of the research is a more difficult task, since, in this present case, it could be argued that the crisis is still ongoing. For the reasons following below, 2013 is set as the ending point of this research (cut-off date).

Firstly, during the investigated five-year interval (from 2008 until 2013), there were a tremendous number of fundamental changes in legislation, both EU and national, which are more than sufficient to provide for adequate volume of material to conduct research on. Secondly, 2013 marked the last instance whereby a Eurozone MS resorted to EU-IMF financial assistance, with little or no indications that any other new Eurozone MS would follow. This was Cyprus, which reached an agreement with the Troika in March 2013 and signed an MoU on 29 April 2013 (Table 4). Thirdly, by 2013 two Eurozone MS that were under EU-IMF assistance and structural adjustment became the first to exit their programmes. In November 2013, both Ireland and Spain ended their programmes with the EU-IMF (Eurogroup 2013a and 2013b)<sup>57</sup>.

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<sup>57</sup> Note that after the cut-off date of this research, Portugal exited its programme in mid-May 2014 and Cyprus in late-March 2016 (European Stability Mechanism 2014a and 2016).

The countries' exit from the programme prompted the EG to release the following statement:

*(Ireland/Spain) ...is a living example that EU-IMF adjustment programmes are successful provided there is a strong ownership and genuine commitment to reforms. [...] The success of the Irish/Spanish financial assistance programme also clearly illustrates our resolve to work together to ensure the cohesion and stability of the euro area (Eurogroup 2013a and 2013b).*

If it is admitted by the EU that the above two Eurozone MS exiting their financial assistance programmes constitutes the first in a number of successful programme completions, thus marking the end of a circle of instability, then perhaps this is, by itself but also in combination with the arguments presented above, a suitable ending point for this research, in order to effectively reflect upon and investigate the changes adopted and implemented during this period. In either case, it could be argued that “*by the standards of financial crises, four years is a long time span. A year after the Lehman shock of September 2008, confidence in the U.S....had been restored and the recovery had started. A little more than a year after the 1997 exchange-rate debacle...Asian economies were thriving again*” (Pisany-Fery 2014, 174). Finally, practical considerations also need to be taken into account. Every research has to have an ending point, and, based on the above reasons, 2013 was chosen for the purposes of this investigation.

#### 4.2.1. The EU Level

In relation to the independent variable category of EU-wide measures, of particular interest in this research is the EMU<sup>58</sup>, which evolved out of the Treaty of Maastricht and has three stages (Delors et al. 1989, 30-36; European Commission 2014l):

- Stage 1 from 1990 to 1994 entailed the completion of the internal market and enhance financial integration.
- Stage 2 from 1994-1999 included the establishment of the European Monetary Institute and preparation for the creation of the European System of Central Banks (ESCB), the pursuance of economic convergence and regulation of Euro area governance (Stability and Growth Pact), and the preparation for the Euro.

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<sup>58</sup> The idea for a common European currency existed as early as 1929, in the speech of the then German Chancellor Gustav Stresemann in the League of Nations, as a result of the increasing number of European states after the Treaty of Versailles. Stresemann asked: “*Où sont la monnaie européenne, le timbre-poste européen qui'il nous faudrait?*” i.e. ‘Where is the European currency and the European stamp that we need?’ (League of Nations 1929, 70; European Commission 2014k). The first active attempt at forming the EMU was during 1969-1970 (Bulmer 2014, 1246). After that, and upon an EC’s proposal, on October 1970 the expert group which had been assigned with creating the stages of the EMU, headed by the then PM of Luxembourg Pierre Werner, issued its report (Werner et al. 1970). Due to various adverse global financial conditions (gold standard and USA, oil crises, etc), a detailed timetable was eventually set on April 1989 by the Delors Committee, headed by Jacques Delors, which provided for a 3-stage EMU process (Delors et al. 1989, 30-36

- Stage 3 from 1999 onwards includes the final fixing of exchange rates, the establishment of the ECB/ESCB, and the introduction of binding budgetary rules and of the Euro.

EMU “*involves the coordination of economic and fiscal policies, a common monetary policy, and a common currency, the euro* (European Commission 2014m). While all EU MS partake in it, they are involved in different stages. All take part in the economic union (economic policy coordination, fiscal debt/deficit limits, common monetary policy through the ESCB/ECB), but the most integrated have moved to adopting the common currency, i.e. the Euro, and undergo enhanced ECB scrutiny. Those latter EU MS make up the members of the Eurozone.

It is worth highlighting that participation in Stage 3 of the EMU is not optional. All EU MS (opt-outs presented below aside) are to progress to the 3<sup>rd</sup> stage of EMU, i.e. “*all Member States of the European Union, except Denmark and the United Kingdom, are required to adopt the Euro and join the Euro area*”, following a specified procedure and, primarily, satisfying the *acquis communautaire*<sup>59</sup> and convergence criteria<sup>60</sup> (European Commission 2014n). Of the convergence criteria, the most important are the debt and deficit limits, for which the reference values are set in TEU article 140, TFEU article 126, and TEU/TFEU Protocol (No12), the last of which establishes the 3% GDP deficit / 60% GDP debt targets (European Union 2012, 108-9 and 99-102 and 279-80 and 281-2 respectively). There are two opt-outs from the automatic progression to the Stage 3 of the EMU: the United Kingdom<sup>61</sup> and Denmark<sup>62</sup>.

The formal introduction of the Euro was on the 1<sup>st</sup> of January 1999 “*as an accounting currency for cash-less payments and accounting purposes*” with 11 EU MS as members, and it was established in physical form 2 years later (European Commission 2014q). Today, the Eurozone consists of 19 of the 26 EU MS (without accounting for the two aforementioned opt-outs) as presented in Table 3.

<sup>59</sup> The core fundamental principles, laws, bi-laws, etc of the EU regarding a wide variety of policy areas, consisting of 35 Chapters (European Commission 2014p).

<sup>60</sup> There are five convergence criteria: Price Stability = Consumer price Inflation rate  $\leq$  1.5 percentage points above the rate of the 3 best performing EuroMS, Sound Public Finances = Government Deficit  $\leq$  3% of GDP, Sustainable Public Finances = Government Debt  $\leq$  60% of GDP, Durability of Convergence = Long term interest rates  $\leq$  2 percentage points above the rate of the 3 best performing Eurozone MS (in terms of price stability), Exchange Rate Stability = ERM II participation without tensions  $\geq$  2 years (European Commission 2014o).

<sup>61</sup> The UK, according to TEU/TFEU Protocol (No 15) on Certain Provisions Relating to the United Kingdom of Great Britain and Ireland is exempted from the Stage 3 of EMU, and retains national power over monetary policy (note in the Protocol there is a specific commitment by the UK on avoiding excessive government deficits; European Union 2012, 284-6).

<sup>62</sup> According to TEU/TFEU Protocol (No16) on Certain Provisions relating to Denmark, Denmark is exempted from automatically proceeding to the Stage 3 of EMU, pending on satisfying national legislative provisions (European Union 2012, 287).

**Table 3:** Eurozone accessions (European Commission 2014q).

Enlargement Wave	Year	Countries	No
<b>Founding Members</b>	1999	Luxembourg	1
		Belgium	2
		Netherlands	3
		Austria	4
		Spain	5
		France	6
		Germany	7
		Italy	8
		Portugal	9
		Finland	10
		Ireland	11
<b>1<sup>st</sup></b>	2001	Greece	12
<b>2<sup>nd</sup></b>	2007	Slovenia	13
<b>3<sup>rd</sup></b>	2008	Malta	14
		Cyprus	15
<b>4<sup>th</sup></b>	2009	Slovakia	16
<b>5<sup>th</sup></b>	2011	Estonia	17
<b>6<sup>th</sup></b>	2014	Latvia	18
<b>7<sup>th</sup></b>	2015	Lithuania	19

Two Eurozone decision-making institutions are arguably the most important (aside from the ECB) and, thus, of particular interest to this research: the Eurosummit and the Eurogroup (EG). The EG is a sub-configuration of the ECOFIN only for the Eurozone MS FinM, meets informally usually once every month, and elects its own President for a 2.5 years term (European Council 2015a). It is legislatively established in TEU/TFEU Protocol (No 14) (European Union 2012, 283). The Eurosummit is similar to the EG, in that it can be considered as a sub-configuration of EUCO. It consists of the Heads of State or Government of Eurozone MS. It began under an unofficial character, with the first Eurosummit being held in Paris in October 2008 because of the financial crisis and the urgent need to assume decisive measures to respond to it (European Council 2015b). The body remained unofficial until the entry into force of the Treaty on Stability Coordination and Growth (TSCG) in March 2012 (for more details see Chapter 6), whereby it was recognized as an official EU instrument, but, similarly to the EG, retained its informal character (European Council 2012a, 19). Eurosummits are to be convened at least twice a year in order for there to be a discussion on issues relating to the Eurozone (European Council 2012a, 19). In March 2013, the CoM released the RoP for the Eurosummit (Council of the European Union, 2013d).

In terms of the supranational level, there also needs to be a clarification in terms of the EU and the Eurozone *vis-à-vis* the focus of this research. It is the case

that the primary focus is placed with the Eurozone, while secondary focus is placed with the EU. This distinction is necessary for several reasons. First of all, Eurozone MS can be considered to be at the heart of the EU integration process. They are the ones considered to be furthest along the integrative process and enjoy the greatest degree of convergence among all EU MS. This, after all, is the principal reason for allowing the adoption of a common currency in addition to all other EU-wide policy coordination procedures adopted by every EU MS. In this sense, from an integration point of view, the Eurozone is the “*advanced form of European integration*”<sup>63</sup>. Furthermore, Eurozone MS were and are the group most affected by the crisis within the EU, and, partly because of this, they are clearly at the centre of supranational measures adopted (e.g. Table 4). In any case, the common currency was perhaps one of the main reasons that the EU, and the EU MS, went to such lengths to maintain economic stability in the Eurozone since contagion was far more straightforward and far quicker than among EU MS. In addition, as progression to Stage 3 of EMU is considered mandatory for all EU MS but the UK and Denmark (opt-outs), any change that is solely manufactured for the Eurozone to counter the financial crisis will eventually come to apply to all EU, and future Eurozone, MS. This research, by placing the primary emphasis on Eurozone-wide measures, essentially includes measures that all EU MS will eventually become a part of.

Obviously, the Eurozone is not an independent or different organisation from the EU. Many of the supranational crisis measures concern the entire EU, in conjunction with focusing on the Eurozone, as outlined in Table 4. For example, the Six-Pack includes legislative instruments concerning both solely the then Eurozone MS, but also the EU – and future Eurozone – MS. Also, the EC, an EU and not Eurozone institution, has played an integral part in proposing, enforcing, and monitoring measures. Given these observations, while it is clear that the Eurozone is the main and, in regards to independence and importance, the only institutional entity within the EU which can be termed as a sub-organisation, the EU remains the ‘umbrella’ organization and principal legal entity. As such, while primary focus is assigned with the Eurozone, secondary focus is also given to EU-wide measures.

#### 4.2.2. The National Level

In relation to the category of MS-specific measures of the independent variable, Eurozone MS measures are the ones to be analyzed. Aside from the

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<sup>63</sup> From the interview with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, inter alia, former Deputy PM and FinM.

aforementioned observations relating to the primary focus of the research on the Eurozone, Eurozone MS were the subject of the most elaborate and democratically-challenging measures during the crisis. Furthermore, financial assistance to Eurozone MS is not provisioned anywhere within the TEU/TFEU, which makes the assistance process legally but also democratically challenging and questionable<sup>64</sup>. Further to the above, from all Eurozone MS, those under EU-IMF financial assistance and structural adjustment must be the primary concern of this investigation, as they underwent extensive modifications during their structural adjustment periods, which other Eurozone MS that received no financial assistance did not face. The measures in these cases presented considerable challenges to the democratic process, and is thus more fitting to determine the impact on the EU's democratic deficit at the national level.

It is, obviously, not manageable to evaluate the impact on the EU DD of every measure for every Eurozone MS under financial assistance within a single research and in the depth required. Therefore, it is necessary to either examine one measure across all Eurozone MS that implemented it or one Eurozone MS that implemented most, if not all, of the measures that other Eurozone MS also adopted. The latter is chosen, as this provides for the ability to forensically investigate the most measures possible. To achieve greater validity and generalizability, the Eurozone MS chosen must have implemented the most of the MS-specific measures. Table 4 below outlines the Eurozone MS under financial assistance, along with the measures they employed and the amounts of the assistance provided.

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<sup>64</sup> The TFEU provisions the granting of financial assistance to non-Eurozone MS for Balance of Payments problems in article 143(1). Financial assistance may also be provided to any EU MS in accordance with TFEU article 122(2) for “...*natural disasters or exceptional occurrences beyond its (EU MS) control...*” (European Union 2012, 98-9 and 110-11). It also needs to be noted that TFEU Article 125(1) prohibits the EU or an individual EU MS to assume or be liable for “*the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State;*” this is the so-called no bail-out clause (European Union 2012, 99).

**Table 4:** Eurozone MS that received financial assistance from the EU-IMF (data compiled by author; amounts are in EUR bn)<sup>65</sup>.

Eurozone MS	EU + IMF Total Amount Disbursed	EU					IMF			
		EU Amount Disbursed	Institution	1 <sup>st</sup> MoU	1 <sup>st</sup> FAF/Loan Agr.	Date out	Amount (approx. disbursed)	Instrument	Date in	Date out
Greece	236.2	52.9	GLF	03-05-2010	08-05-2010	11-03-2012	20	SBA	09-05-2010	14-03-2012
		130.9	EFSF SA	11-03-2012	01-03-2012	30-06-2015	12	EFF	15-03-2012	15-01-2016
		7.16	EFSM	17-07-2015		01-08-2015	-	-	-	-
		20.4 <sup>66</sup>	ESM	19-08-2015	19-08-2015	-	-	-	-	-
Ireland	62.01	22.5	EFSM	03-12-2010	N/A	03-2014	21.81	EFF	16-12-2010	18-12-2013
		17.7	EFSF SA		27-10-2011	08-12-2013				
Portugal	76.3	24.3	EFSM	17-05-2011	N/A	12-11-2014	26	EFF	20-05-2011	30-06-2014
		26	EFSF SA		24-05-2012	18-05-2014				
Spain	41.3	41.3	EFSF SA	23-07-2012	24-07-2012	31-12-2013	-	Terms of Ref.	-	-
Cyprus	7.3	6.3	ESM	May 2013	08-05-2013	31-03-2016	1	EFF	15-05-2013	06-03-2016

<sup>65</sup> Sources: Algemene Rekenkamer 2014; European Financial Stability Facility n.d.(1) and n.d.(2) and 2011c and 2012 and 2013a and 2015a and 2015b and 2015c and 2015d; European Stability Mechanism 2012c and 2013 and 2014 and 2015a and 2015b and 2016a and 2016b; Council of the European Union 2010f and 2011i and 2015c and 2015d and 2015e; European Commission 2010a and 2011b and 2012d and 2012e and 2014h and 2015d; Irish Department of Finance 2010; Hellenic Parliament 2010a; International Monetary Fund 2010a and 2011a and 2012b and 2013a and 2013b and 2016a and 2016b and 2016c and 2016d.

<sup>66</sup> EUR 86 bn committed in total until 2018 (European Stability Mechanism 2015a)



From the above Table 4 it is clear that Greece is the Eurozone MS that has employed the most of the MS-specific measures. In addition, Greece was the very first Eurozone MS to request and receive financial assistance, which at the time was provided through bi-lateral loans with each of the Eurozone MS, combined with IMF financing (Eurogroup 2010b). In a way, the entire financial assistance process, the ad-hoc cooperation between the EU and the IMF for providing this financial assistance to Eurozone MS, as well as a large percentage of the EU-level measures introduced during the crisis, were most likely on account of Greece's economic trajectory and assistance request.

Furthermore, as stated above, Greece is the only Eurozone MS that has received financial assistance through, and thus has utilized, every single financial assistance mechanism established by the EU during the crisis. Greece is also the only Eurozone MS that has utilized both existing financial assistance mechanisms of the IMF: Stand-By Arrangement (SBA)<sup>67</sup> and Extended Fund Facility (EFF)<sup>68</sup>. In addition, Greece has received, by far, the largest amount of financial assistance from the EU and IMF combined, standing at EUR 236.3 bn disbursed as of May 2016, more than 200% of the second highest amount of financial assistance received by Portugal. The large amount of financial assistance is reflected in the abrupt and extensive structural adjustment, arguably the most intense throughout the Eurozone crisis, and one of the most intense throughout history. The indicators below, based on the Tables 22 through 27 as presented in APPENDIX A, indicate the severity of the structural adjustment Greece has undergone from 2008 until 2013:

- In Greece, an average of approximately 31% of the total population was at risk of poverty or social exclusion between 2008-2013, by far the highest across the Eurozone MS (Table 22; Eurostat 2016a).
- Greece has lost 25.5% of its GDP from 2008 to 2013, more than triple the second largest loss among Eurozone MS (Spain with 7.6% loss; Eurostat 2016b).
- Greece has the second highest average unemployment rate among all EU MS between 2008 and 2013 at approximately 17% of the total population. However, it has had a more abrupt adjustment than Spain, (first highest average at approximately 20%), adjusting from a 7.8% unemployment rate in 2008 to 27.5% in 2013, with an increase of close to 20 percentage points (Spain has a 15 percentage points rise; Tables 24 and 25; Eurostat 2016c). The same applies to youth unemployment (less than 25 years old). Greece comes in second among all EU MS between 2008 and 2013 with an approximate 40% youth unemployment rate, after Spain (approximately 43%). However, again, Greece has adjusted much harsher, experiencing an

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<sup>67</sup> Aimed mostly to providing short-term assistance to countries coping with crises and ensuing problems with balance of payments, with a duration of two (and a potentially third) years (IMF 2016e).

<sup>68</sup> Aimed at providing medium to long-term financial assistance to countries with serious payments imbalances, with a duration of three (and a potentially fourth) years (IMF 2016f).

increase of approximately 36.5 percentage points between 2008 and 2013 (Spain: 31 percentage point increase).

- Greece has, by far, the highest average General Government Debt (approximately 149%) and the second highest average General Government Deficit (approximately 11.4% GDP) among all EU MS between 2008 and 2013 (Tables 26 and 27; Eurostat 2016d and 2016e).

Given all the above considerations, Greece is chosen as the primary case for analysis of the supranational crisis measures aimed at the national level. However, to increase generalizability and address the broader issues in relation to MS-specific measures, comparative observations with the conclusions drawn from Greece are presented in relation to another Eurozone MS to establish whether there is a pattern in relation to the impact of supranational crisis measures for specific Eurozone MS on that national level. Ireland is chosen as this comparative case, since it was the first Eurozone MS to be affected by the crisis, one of the first two Eurozone MS to exit its financial assistance program (actually the first to exit a financial assistance programme similar to Greece, since the other exiting Eurozone MS was Spain that received assistance only for restructuring its banking sector and, thus, had a limited MoU/FAFA compared with the rest of the Eurozone MS; both claims delineated in Chapter 5), and the one closest to Greece in all the above statistical data (Tables 22 through 27 in APPENDIX A). In a way, Ireland and Greece constitute the opposite ends of the spectrum. Greece is the one extreme, with the considerable amounts of financial assistance and a prolonged period of structural adjustment (still continuing to this day), whereas Ireland, the first to suffer the economic consequences of the crisis, is the other extreme. It was the first to exit the financial assistance program, and one of the first to demonstrate signs of a rebounding economy.

### **4.3. Research Methods**

As observed by the review of the existing literature in Chapter 2, the existing scholarship that is relevant to issues examined in this research offers insights, but has several areas in which further contributions could be offered. One such area is a detailed and forensic examination of the supranational measures assumed during the crisis, whether those concerned the EU or national levels. This is an area where this investigation makes an important contribution to the existing field, offering a novel approach regarding the supranational measures adopted during the crisis: focus is placed on clearly structuring, and presenting in detail, the entirety of the supranational measures adopted during the crisis, whether EU-wide or MS-specific (for the latter, these are confined to Greece, and, in a secondary manner, to Ireland), by analyzing their procedure of adoption, legal basis and functional characteristics. Utilizing this

forensic analysis, the empirical evaluation of these measures on the EU DD is presented, in the second major contribution of this research to the scholarly field. In order to effectively pursue the above issues, three research methods are utilized to carry out this research: document analysis, enquiries submitted to official institutions and relating to additional, unpublished, information and documentation, and semi-structured interviews.

#### 4.3.1. Document Analysis

The primary method utilized is document analysis, since it fits the requirements for detail and forensic analysis of the crisis measures, and can serve to unravel and discover every element of those measures, in order to then validly draw conclusions on their impact on the EU DD. It is the case that both hard-law structures and soft-law interactions are regulated by, from a smaller to a greater extent, legislation or other relevant acts. While it may seem a standard or obvious method, it is worth noting that some of the contributions of this research to the existing literature are precisely because of the way in which document analysis is pursued. Instead of placing emphasis on secondary sources, within this investigation primary focus is placed on exhaustively analyzing the primary legal sources for the adopted measures. As such, an unfiltered and conclusive outcome on the true nature and EU DD impact of those measures can be formed. This is quintessential to properly and accurately produce valid results of the analysis.

The main official sources from which documents and other relevant research data will be drawn are, for the national level, from the Hellenic Parliament and the Government Gazette of the Hellenic Republic, and for the supranational level, from the Official Journal of the EU, as well from the internal documentation of different institutions investigated (such as EFSF SA, ESM, etc). The results of the above analysis will then be cross-referenced against the empirical EU DD evaluative framework, as established in Chapter 3, in order to produce the outcomes necessary to determine the impact of measures during the crisis on the democratic deficit of the EU.

To place the analysis within the more general context under which the investigated measures were assumed, and in order to avoid a ‘dry-cut’ research focused only on purely legalistic evaluations, timelines will be provided both for the supranational and national levels (Chapters 5 and 9 respectively). Hence, the method is not constrained solely to forensic analysis of legal or operational documentation, but a rather broader look at the socio-political and economic situation during the

adoption and implementation of the crisis supranational measures. In this case particular emphasis will be given both on detailed reference and also on breadth and variety of sources, in order to establish the most conclusive timelines of events possible, including major media outlets (e.g. BB, New York Times, Bloomberg, etc).

#### 4.3.2. Enquiries relating to additional information

Despite the in-depth analysis of the documentation publicly available, in some cases it is necessary to obtain more specific information relevant to the measures implemented, and the processes under which those measures were adopted, which is not readily available or has not been released in public. In these cases, direct contact is made with the relevant authorities, followed by submission of appropriate requests to obtain such information. For the EU level, access to documents and other relevant material is guided by TEU Article 15(3)<sup>69</sup>, complemented by secondary legislation in EP/CoM REG 1049/2001 “*Regarding Public Access to European Parliament, Council and Commission Documents*” (European Union 2012, 54; European Parliament & Council of the European Union 2001). In this research, relevant requests have been submitted to the EC and the General Secretariat of the CoM regarding a variety of documents relating to the specifics of Task Force for Greece (TFGR), the EP and its relation with the Troika, TFEU article 125, etc. This documentation is referenced where relevant.

#### 4.3.3. Interviews

Document analysis can indeed provide the detail and forensic analysis necessary for this research. However, in certain cases, such as for example the negotiation or implementation of MoU measures, document analysis does not necessarily cover the entire breadth of information, as many related processes take place behind closed doors or, in any case, are not included in documents. Therefore, this research also employs semi-structured, elite interviews with key, top-level actors. Types of interviews for research are largely divided according to the type of questions utilized. Close-ended questions are used most often when “...one aims to make inferences about a larger population...,” while open-ended questions are used when “...one needs to probe for information and to give respondents maximum flexibility in structuring their responses...,” in order to obtain the nuances of the responses and

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<sup>69</sup> “Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union's institutions, bodies, offices and agencies, whatever their medium” (European Union 2012, 54).

provide for an in-depth analysis of the responses' reasoning (Aberbach & Rockman 2002, 673-4). Based on this distinction, academic interviews are divided largely in three types: structured, semi-structured and unstructured, described as follows (Leech 2002, 665):

- Unstructured interviews are essentially similar to conversations, and are mostly used by ethnographers, they are more a “*source of insight, not for hypothesis testing.*”
- Structured interviews consist of close-ended questions in opinion surveys, questionnaires, etc., and are mostly used when the researcher already knows a lot on the subject of the research, and wants “*very specific answers to very specific questions.*”
- Semi-structured interviews are the middle ground between unstructured and structured interviews. Open-ended questions are used, but with a certain core structure behind them.

From the aforementioned types of interviews, semi-structured interviews are most fitting for this present research, targeted towards elites, such as public officials, government officials, Members of Parliament, executives, etc. The aim, inter alia, is to guide the “*work that uses other sources of data*” (Goldstein 2002, 669). As such, open-ended questions and a semi-structured-interview context are the most fitting for this research (Aberbach & Rockman 2002, 674). There are anticipated disadvantages in terms of coding and analysis, considering, for example, the different sequencing and overall variance of the questions (Aberbach & Rockman 2002, 674). However, as Aberbach & Rockman (2002) observe, “*the advantages of conversational flow and depth of response outweigh the disadvantages of inconsistent ordering [...] because the less than ideal approach is better than the alternative (in this case, a clumsy flow of conversation...)*” (674). Finally, additional limitations relevant to the interview process concern the conditions under which they were held (distance, financial or availability concerns).

The interviews conducted have a longitudinal survey-type characteristic, and the main questions used were regular, grand tour (both general and specific), and example ones, with prompts being used less frequently (Aberbach & Rockman 2002, 675; Leech 2002, 667-8; Berry 2002, 681-2). In relation to sampling, a nonrandom or systematic error is avoided, as the instruments used to evaluate the impact of the measures on the EU DD, i.e. the indicators presented in Chapter 3, are founded and derived from the EU DD literature. Naturally, systematic errors of another nature, such as nonresponse, could not be avoided. However, given the limited use of the interview data within this research (there is no quantification of the data, no quantitative content analysis, etc), as well as the very specific areas that these interviews cover, such systematic errors are considerably reduced (Goldstein 2002, 669). In terms of random sampling error, an attempt was made to include individuals

who were actually involved in the processes of these measures, represent a variety of political, Partisan, etc., affiliations and belong to all three branches of government (in accordance with relevant processes used across similar studies, e.g. Aberbach & Rockman 2002, 673). Individuals belonging to the above categories are the target population relevant to the research question (Goldstein 2002, 670).

In terms of the process, ethics approval was sought by the University of Sheffield Politics Department's relevant Ethics Review Panel, in accordance with the requirements and principles of the University of Sheffield's Ethics Policy Governing Research Involving Human Participants, Personal Data and Human Tissue. The Ethics' approval was given under Reference number 009234. Relevant requests for interviews were sent. It is firstly worth noting that **His Excellency the President of the Hellenic Republic, Professor Prokopis Paulopoulos graciously accepted** an approximately **40-minute personal discussion** in his office in the Presidential Palace, where various issues relevant to the Eurozone crisis, the crisis measures, and the impact of both on the democratic process of the EU and Greece were discussed (an official interview was not possible because of the constitutional role of the President). Considering the above, nine interviews were conducted in total, with a medium duration of 30-40 minutes per interview, with the following top-level officials:

- **Honorable Professor Ioannis Stournaras**, Governor of the Bank of Greece (Central Bank) and Professor of Economics at the University of Athens, and, inter alia, former FinM.
- **Honorable Professor Evangelos Venizelos**, MP of Greece, Professor of Constitutional Law at the Aristotle University of Thessaloniki, and, inter alia, former: Deputy PM (2011-2012 & 2013-2015) and FinM (2011-2012) and President of the major center-left Greek political party PASOK (2012-2015).
- **Honorable Professor Louka Katseli**, Chair of the Board of Directors of the National Bank of Greece, President of the Hellenic Bank Association, Professor of Economics at the University of Athens, and former: Minister for the Economy, Competition and Maritime Affairs (2009-2010) and Minister for Labour Affairs and Social Security (2010-2011) of Greece and MP.
- **Honorable Professor Kostas Xrysogonos**, MEP (2014-2019) and member of the Economic and Financial Affairs committee of the EP (ECON), and Professor of Constitutional Law at the Aristotle University of Thessaloniki.
- **Professor Dimitris Chrysochoou**, Professor of Theory and Institutions of European Integration at Panteion University of Social and Political Sciences.
- **Professor Zoi Georganta**, Professor of Econometrics at the University of Macedonia and former Board Member of ELSTAT.

- **Dr. Lina Papadopoulou**, Associate Professor of Constitutional Law at Aristotle University of Thessaloniki.
- **Dr. Miranda Xafa**, former member of the IMF's Executive Board.
- **Former judge of the European Court of Justice (ECJ)**; the interviewee requested they be referenced only by generic professional title).

#### 4.4. Conclusion

The aim of this Chapter was to analyze the structure, aims and functional elements of this research. The research question of this research is set as follows: How have the Eurozone crisis supranational measures, aimed at the EU and national levels, impacted the EU's Democratic Deficit? Based on this design, the independent variable is the supranational measures adopted during the crisis. This involves all measures adopted from 2008, arguably the beginning of the crisis and its transference within the Eurozone, to 2013, arguably the beginning of the end of the crisis with two Eurozone MS exiting their financial assistance programs. The variable is separated across two categories that largely follow the supranational-national dimension of EU policy-making: measures concerning the entire EU/Eurozone (EU-wide), and measures concerning specific Eurozone MS (MS-specific), with further sub-categorizations as presented in Figure 1. The independent variable is more specifically operationalized in Chapter 6 for the EU-wide measures and Chapters 9 and 10 for the MS-specific measures. The dependent variable is set as the evaluation of the impact of the measures on the EU DD, more specifically operationalized in the EU DD empirical framework of evaluation as established in Chapter 3.

For the EU-wide measures, of particular importance to this research is the Eurozone, as those MS in it sustained the most abrupt and intense financial problems, structural adjustment, etc. In addition, the measures assumed for the Eurozone MS were, arguably, the most intense. Finally, all EU MS are obliged to join the Eurozone (opt-outs of UK and Denmark set aside), and therefore any Eurozone-based change will, eventually, apply to the entire EU. Within this context, the EG and Eurosummit are also important. However, the Eurozone is not itself independent, and the EU remains the main organization, it receives secondary focus within the research.

In relation to the national level, it is deemed that the best research strategy to more thoroughly and effectively examine the MS-specific measures is to choose a single case. Greece is chosen based on the amount of assistance, the extent and intensity of structural adjustment, the continuously deteriorating financial situation, and the fact that it was the first Eurozone MS ever to request EU-IMF assistance. To draw broader conclusions in relation to similar MS-specific measures implemented to other Eurozone MS, a comparative analysis is undertaken with Ireland, which was the

first Eurozone MS to be affected by the crisis, of the two to first exit the crisis, and the one closest to Greece in all the statistical criteria cumulatively.

To conduct the investigation three methods are utilized. The first is in-depth, detailed document analysis. This provides for an intricate and forensic analysis of the supranational crisis measures and, most importantly, of their impact on the EU DD. The second method is similar to the first, and consists of enquiries relating to non-published documentation. Oftentimes it is necessary to obtain further information or more documentation which is not published. In these cases, official access-to-documents request were made to the appropriate authorities, in order to obtain this additional documentation. Finally, the third method utilized are semi-structured elite interviews with top-level officials. This serves to provide context and additional information that may not appear in any documentation, either published or non-published, and is particularly useful in the MS-specific measures. Obviously, there are shortcomings to the methods used. Documentary analysis may be considered dry, requests for documents can never cover the full breadth of unpublished material, interviews may suffer from non-response or other errors, financial, temporal or availability constraints, etc. However, it is argued that the combination of all three provides for the best possible research strategy to serve the aims of this investigation.



## SECTION B: SUPRANATIONAL LEVEL & EU DEMOCRATIC DEFICIT

### Chapter 5: Supranational Timeline

#### **5.1. Introduction**

The aim of this Chapter is to present a timeline of how the crisis unfolded at the supranational level. Reference is firstly made to the beginning of the crisis in the USA, and its further contagion/transfer across the Atlantic to the EU. A timeline is then presented for EU/Eurozone-level events, concluding in a summative table. While the analytical value is limited, the timeline adds important contextual information into the situations under which the crisis measures were assumed.

#### **5.2. The onset of crisis – USA**

While the crisis itself is not the focus of this investigation, it is useful to provide a brief background into how it began and how it was transferred to the Eurozone. It is the case that financial crises have differed greatly across time, starting as early as the Tulipmania bubble of 1637 (Sinclair 2010, 93-4). The starting point of the late 2000s financial crisis is placed approximately in 2007/8 in the USA, although it can be traced as far back as the credit boom of stocks relating to dot.com bubble and the ensuing stock market frenzy during the 2000s, or even as far back as 1997 Thailand/Association of Southeast Asian Nations/East Asia credit crisis (Sinclair 2010, 93 & 100). Many causes have been presented, but the core problem that led into the eventual credit crunch<sup>70</sup> was subprime mortgages and the decision to withdraw investment from them (stop purchasing related securities). During the 2000s boom of the USA housing market, the practises of predatory lending were used in order to produce higher profits. However, this led to a relaxation of the conditionality for mortgages, and to Alternative A-paper and subprime mortgages (low conditionality mortgage products with high risk) being provided in greater numbers than prime mortgages (Wallison 2010, 8). After the housing bubble burst, subprime mortgage products became toxic and their price skyrocketed. The Asset-Backed Securities' market collapsed, and the uncertainty regarding Collateralized Debt Obligations (CDOs), i.e. which financial products were safe and which weren't, led to a decrease in confidence between banks, which in turn led to the restriction of credit "*in order to compensate for the uncertainty surrounding possible default*" (Martins 2010, 3).

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<sup>70</sup> A credit crunch/credit squeeze is a shortage of credit in whatever form, (usually loans), when "*the supply of credit is restricted below the range usually identified with prevailing market interest rates and the profitability of investment projects*" (Council of Economic Advisors 1991).

During February 2007 “*the Federal Home Loan Mortgage Corporation*”<sup>71</sup>...announced that it will no longer buy the most risky subprime mortgages and mortgage-related securities,” while on September 2007, the UK Chancellor of the Exchequer authorised the Bank of England to provide liquidity support for Northern Rock, “*the United Kingdom’s fifth-largest mortgage lender,*” which was later placed under the UK Treasury’s ownership on February 2008 (Federal Reserve Bank of St. Louis 2014). The financial services sector was terminally overrun, with large investment banks, such as Bear Stearns and other large financial services’ firms, such as Lehman Brothers and Merrill Lynch, falling for bankruptcy, being bailed-out, sold and/or placed under the control of the USA government<sup>72</sup> (Wallison 2010, 4-7). According to the USA’s Federal Deposit Insurance Corporation, within one year (2008 to 2009), the number of problem institutions increased by approximately 179%, and of problem assets by approximately 153% (Federal Deposit Insurance Corporation 2009, 3).

The USA policy response consisted of two sides, both of which were vastly different from the EU/Eurozone responses. The first side was aimed at dealing with the problematic (toxic) assets of large banking and finance corporations. During 2008 the Troubled Asset Relief Programme<sup>73</sup> was set up which authorised the Secretary of the Treasury Department to “*to purchase, troubled assets from any financial institution, on such terms and conditions as are determined by the Secretary,*” (United States of America 2008, 3767). In simple terms, the USA government absorbed the majority of the toxic private debt<sup>74</sup>. The second side was aimed at combating unemployment, stagnant market conditions, etc. A stimulus package of a total \$840 bn<sup>75</sup> was introduced, which assisted in the creation of jobs, the enhancement of growth, the introduction of tax cuts to alleviate the tax burden, the funding for federal contracts, etc (Recovery.gov 2014).

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<sup>71</sup> Otherwise known as Freddie Mac. It is a Government Sponsored Enterprise, created in 1970 “*primarily to keep Fannie Mae (created to buy mortgages, thus freeing capital that could go to other borrowers) from functioning as a monopoly*” (Pickert 2008). Its mission is “*to stabilize the nation’s residential mortgage markets and expand opportunities for homeownership and affordable rental housing...*” (Freddie Mac 2014).

<sup>72</sup> The most astonishing case was Lehman Brothers, a financial services and investment banking corporation, which in September 2008 filed for bankruptcy with a massive debt of \$613 bn (overexposed to sub-prime mortgage securities; Lehman Brothers 2008)

<sup>73</sup> USA Public Law 110-343/03-10-2008: Emergency Stabilization Act of 2008 (United States of America 2008).

<sup>74</sup> It is worth noting that just in 6 months (October 2008 – March 2009), the USA Treasury purchased preferred stock of banks worth a total of approximately more than \$200 bn (Federal Reserve Bank of St. Louis 2014)

<sup>75</sup> USA Public Law 111-5/17-02-2009: American Recovery and Reinvestment Act of 2009 (United States of America 2009).

### 5.3. EU & Eurozone

Concerns about contagion of the crisis from the USA to the EU arose quite early, on account of the expanding inter-bank credit crunch. Among growing fears for a domino effect and a potential bank run, the Irish government, with a considerably exposed banking sector, moved to guarantee all Irish banks' loans and deposits – approximately EUR 400 bn – in September 2008 (Pop 2013; Murray-Brown & Dennis 2008). Ireland also became the first Eurozone MS to impose austerity measures in an attempt to counter the deteriorating lending situation of the state at the international markets, initiating a wave of protests by thousands of people (The Irish Times 2008; The Irish Examiner 2008; Little 2008).

Despite the above, and also the common belief that the first MS to resort to EU-IMF financial assistance was Greece, the first MS to resort to assistance was actually a non-Eurozone MS: Hungary<sup>76</sup> in October 2008, with the first MoU entered into a month (November 2008; European Commission 2014r)<sup>77</sup>. Similarly, Latvia<sup>78</sup> as well as Romania<sup>79</sup> followed later, also requesting financial assistance from the EU-IMF ad-hoc cooperation (December 2008 and Spring 2009 respectively) on similar basis as Hungary (based mainly on REG 332/2002; European Commission 2014s and 2014t), still before any Eurozone MS had requested assistance. Therefore, the EU-IMF ad-hoc cooperation, contrary to popular belief, actually predated the Eurozone MS financial assistance programmes (albeit by few months). It does need to be highlighted, however, the EU and IMF were two of many actors participating in the assistance to these EU MS, as opposed to them being the only two organizations involved in assistance for Eurozone MS. These cases did not raise any concern in relation to Eurozone MS, since, after all, the TFEU (article 143), as well as relevant EU secondary legislation (CoM REG 332/2002, based on TEU article 352), expressly provision the granting of mutual financial assistance to an EU MS outside the Eurozone (i.e. under a derogation), should it face Balance-of-Payments (BoP) problems (European Union 2012, 110; Council of the European Union 2002b).

Not too long after the Hungarian MoU, in mid-November 2008, the then EC President setup an “*independent High Level Group on financial supervision* [...] (to

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<sup>76</sup> A total amount of EUR 6.5 bn; CoM DEC 2009/102/EC and 2009/103/EC (European Commission 2014r; Council of the European Union 2008b and 2008c).

<sup>77</sup> The package included EU, IMF and World Bank financial assistance (European Commission 2014r).

<sup>78</sup> CoM DEC 2009/289/EC, CoM DEC 2009/290/EC (Council of the European Union 2009a and 2009b).

<sup>79</sup> At a total amount of EUR 20 billion, including World Bank and European Investment Bank assistance; CoM DEC 2009/459/EC (European Commission 2014t; Council of the European Union 2009c).

*make recommendations to the Commission on strengthening European supervisory arrangements covering all financial sectors”* (European Commission 2008a). The emphasis was placed on creating a more adequate supervisory framework for the financial sector, lack or failure of which was a major reason for the USA crisis (European Commission 2007, 2 and 2008a). The Report of the Group was issued almost four months later in February 2009. In addition to the reforming, the EC proposed a fiscal stimulus plan, titled the European Economic Recovery Plan, which was fully endorsed by EUCO on December 2008 (European Council 2009, 9). It was based on *“an immediate budgetary impulse amounting to EUR 200 bn (EUR 170 bn from EU MS budgets and EUR 30 bn from EIB)...and a number of priority actions, grounded in the Lisbon Strategy...aimed at raising potential growth,”* and was aimed at cushioning the effects of the recession of many Eurozone/EU MS on society based on *“solidarity and social justice”* (European Commission 2008c, 3-6). An enquiry was deposited with the EC (section 4.3.2) in terms of the implementation of this stimulus plan and, according to the EC, the plan consisted of the following parts (European Commission 2016b):

- *“An injection of resources in the real economy of EUR 170bn through fiscal stimulus by Member States.[...]*
- *An increase in intervention by the European Investment Bank... of EUR 30 bn in 2009-2010, especially for small- and medium-sized businesses for renewable energy and for clean transport. [...]*
- *The Commission proposed and the Council approved in July 2009 an European energy programme for recovery with a total budget of EUR 4 bn. [...]*
- *The simplification of procedures and expedited implementation of programmes financed by the various EU funds, such as the Cohesion Fund, Structural Funds, and the European Agricultural Fund for Rural Development.*
- *...the European Social Fund was increasingly mobilised to assist employment, especially for the benefit of the most vulnerable segments of the population. [...]*
- *...the establishment of the 2020 European Fund for Energy, Climate Change & Infrastructure (the Marguerite Fund) [...]. This was the first example of co-financing in a single fund of EU institutions with several National promotional Banks from EU Member States.”*

Despite the aforementioned actions, the crisis started to more extensively affect Eurozone MS. In January 2009, S&P degraded Spain, while in Ireland, the first Eurozone MS to implement austerity measures, there were protests against budget cuts between February and March 2009, with demonstrators reaching more than 100.000 people (Bloomberg 2011; RTE 2009a and 2009b; BBC 2009; The Irish Times 2009). Against this background, in October 2009 the newly elected Greek government announced that the previous government undermined the deficit value,

and that it needed to be revised upwards to more than double of its former value<sup>80</sup>. This led to major downgrades from all three major CRAs (Fitch, Standard & Poor's, and Moody's)<sup>81</sup>, leading to a severe credit crunch for Greece; the country was virtually unable to borrow from the international financial markets at sustainable interest rates.

Because of the above, in early 2010 the Greek government became the second Eurozone MS to introduce austerity measures in an attempt to reassure the financial markets (Pisany-Ferry 2014, 181). In addition to this, during February 2010 the EU declared its willingness to participate to assist Greece in conjunction with IMF lending, should that prove necessary (European Council 2010b). Fears of contagion to similar Latin-capitalism-modelled Eurozone economies, and particularly Spain, led the then Spanish PM, José Luis Rodríguez Zapatero to also quickly adopt austerity measures, to prevent a financial meltdown (Moya 2010b). By this point, there were considerable fears over the financial situation and fiscal sustainability of all heavily-indebted Eurozone MS, i.e. the Eurozone periphery<sup>82</sup>. As a result, Portugal became the fourth Eurozone MS, after Spain, to implement austerity measures in March 2010 (Bloomberg 2011).

The above actions were proven insufficient to inspire stability to the markets, and on April 2010 Greece became the first Eurozone MS to request EU-IMF financial assistance (PrimeMinisterGR 2010). The May 2010 EG confirmed the activation of the assistance mechanism (at the time bi-lateral loans from Eurozone MS), subject to strong conditionality monitored by the EC (Eurogroup 2010b)<sup>83</sup>. A few days later, the ECOFIN agreed on creating the European Financial Stability Facility (EFSF) Societe Anonyme (SA), an Special-Purpose Vehicle Public Limited Company aimed at providing financial assistance to Eurozone MS, and on reinforcing the existing Eurozone legal framework, through emphasizing fiscal discipline and “*establishing a*

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<sup>80</sup> The specific timeline for Greece is analyzed in Chapter 8.

<sup>81</sup> Fitch, Standard & Poor's, and Moody's are the three CRAs that are officially authorized to conduct ratings for states by the USA's Securities & Exchange Commission, under the license of a “*Nationally Recognized Statistical Rating Organization - NRSRO*” (Securities and Exchange Commission 1994, 1 and 8-9).

<sup>82</sup> These Eurozone MS are often referred to by the acronym P.I.I.G.S., i.e. Portugal, Italy, Ireland, Greece, Spain (BBC 2010; Featherstone 2011). The acronym, used as early as 1979 and often written as PIGS, has an intensely derogatory connotation and has been the cause of loud protests from governments in those countries (Koba 2011; Krouse 2012; Mackintosh, 2010; The Economist 2010).

<sup>83</sup> This 1<sup>st</sup> financial assistance programme would be followed by a 2<sup>nd</sup> and 3<sup>rd</sup> in 2012 and 2015 respectively (BBC 2011; Kyriakidis 2016 6-7; Table 4)

*permanent crisis resolution framework*” (Council of the European Union 2010a, 6-7; Eurogroup 2010c).

As the nature of the crisis, which started from Ireland as a mortgage ‘bubble’ (i.e. quite similar as the sub-prime mortgage crisis in the USA), took a turn from the private sector to the public sector, transforming towards a sovereign debt crisis, EUCO established a Task Force to report on the necessary measures “*needed to reach the objective of an improved crisis resolution framework and better budgetary discipline*” (European Council 2010c, 6). The Task Force presented its final report on October 2010, one month after the EC had made the first proposal for reviewing the SGP and general economic governance framework within the EU and Eurozone, proposing the adoption of the Six-Pack (European Commission 2010b). The report, endorsed by EUCO, included a variety of enhanced supranational economic governance and oversight measures, most relating to increase of SGP sanctions in quantity and effectiveness, also presenting the need for creating “*a credible crisis resolution framework for the euroarea capable of addressing financial distress and avoiding contagion;*” this mechanism was the ESM (Task Force to the European Council 2010; European Council 2010c, 1-2).

From September 2010 onwards, Ireland also began facing credit crunch difficulties similar to Greece, consecutively being downgraded by CRAs. This inevitably led to the need for requesting financial assistance from the EU-IMF ad-hoc cooperation on November 2010, and to Ireland becoming the second Eurozone MS to do so (Pisany-Ferry 2014, 182; Thomas 2010; Council of the European Union 2010g). Despite the turmoil across the Eurozone, Estonia became the 17<sup>th</sup> MS to join on January 2011 (European Commission 2014u). Issues persisted with the three main CRAs now downgrading Portugal as well (Pisany-Ferry 2014, 183). Demonstrations against austerity took place in Portugal with more than 200.000 people, but the credit crunch was inevitable and the country became the third Eurozone MS to request financial assistance in April 2011 (Pereira et al. 2011; Kowsmann & Forelle 2011; Eurogroup 2011).

In the meantime, and given the severity of the unfolding situation, in March 2011 and, in order to establish the permanent stability mechanism that had been decided in 2010, TFEU article 136 was amended in order to “*establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole*” (European Council 2011d, 2). The Treaty establishing this permanent

mechanism (ESM) would be signed on February 2012<sup>84</sup> (Council of the European Union 2012b, 1).

There was large citizen opposition to the austerity-based policies implemented across the Eurozone, the pinnacle of which was the Indignants or *Los Indignados* that begun protests on May 2011. The movement originated in Spain from 15<sup>th</sup> May 2011 onwards (hence also referenced as the ‘15-M movement’)<sup>85</sup>. The protests, which ran through 2011 and 2012, were large in size and influenced similar demonstrations across the EU, particularly within Eurozone MS under financial assistance.

From July to September 2011, Italy became the fifth Eurozone MS to introduce austerity measures amidst growing uncertainty and unsustainable lending interest rates, while Spain continued to implement additional spending cuts. On account of this continuously worsening situation, the EC proposed another two pieces of fundamental legislation in November 2011, aimed at enhancing coordination between Eurozone MS even further than the Six-Pack; these were termed the Two-Pack (European Commission 2011c). In addition, on March 2012 the Treaty on Stability, Convergence and Governance (TSCG) was signed, which included the Fiscal Compact.

However, the above actions were, once again, proven not to be enough. Both Italy and Spain were downgraded by Standard and Poor’s (Donadio 2011; Donovan 2011). This was followed by successive downgrades of another 7 Eurozone MS (France, Portugal, Cyprus, Austria, Malta, Slovenia and Slovakia), as well as of the then existent financial assistance mechanism (EFSF SA; Chan & Trotman 2012; AP 2012). This was continued across 2012, with S&P downgrading 16 Spanish banks (Pisany-Ferry 2014, 184; Reuters 2012). Inevitably, Spain became the fourth Eurozone MS to request financial assistance in June 2012, but in this case only for its banking sector (Table 4; Eurogroup 2012).

On the same day as the Spanish request, Cyprus also requested financial assistance, raising the total final number of Eurozone MS under financial assistance (until the cut-off date of this research) to five (European Stability Mechanism 2014b; Orphanides & Christie 2012). The request of Cyprus came amid growing problems of its banking sector, primarily due to its exposure on Greek debt that had been involved in the Private Sector Involvement (PSI) process of the 2<sup>nd</sup> Greek financial assistance

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<sup>84</sup> There was a first version of the Treaty signed in July 2011, but the second version was signed “*modified to incorporate decisions taken by the heads of state and government of the euro area on 21 July and 9 December 2011*” (Council of the European Union 2012b, 1).

<sup>85</sup> It was expressed by a series of demonstrations mainly by youth, and was organized largely using social media (Twitter, Facebook, etc). The first protests were of young Spaniards demonstrating in Spain’s main square, *Puereta del Sol* (BBC 2012; Rainsford 2011).

program, which had been concluded approximately two months prior to the request (Al Jazeera 2012). However, the Cyprus MoU was concluded more than a year later, on account of differences<sup>86</sup> which arose during the negotiations between the Troika and the Cypriot government (Table 4). Growing fears of a bank run led to Cyprus banks being closed for almost two weeks during March 2013 (16<sup>th</sup>-28<sup>th</sup>), with restrictions being enforced (Parmenter 2013; Johnston 2013)<sup>87</sup>. In April 2013, the bailout was approved by the Cyprus Parliament<sup>88</sup> (Republic of Cyprus 2013).

To advance the reforming process at the EU institutional level, during the June 2012 Eurosummit, Eurozone MS leaders affirmed their intention to create “*an effective single supervisory mechanism*” for the national banking sectors in order to “*break the vicious circle between banks and sovereigns*” (European Council 2012b). This was termed as the “*Banking Union*,” by the EC<sup>89</sup> (European Commission 2012g, 1). During November 2013 Ireland and Spain, terminated their programmes remaining under Post-Programme Surveillance<sup>90</sup> (PPS; European Financial Stability Facility 2013a; European Stability Mechanism 2015b). The countries’ exit from their programmes prompted the EG to portray the EU-IMF programmes as a success (Eurozone 2013a and 2013b). After the cut-off date of this research the same exit and PPS have also applied to Portugal since June 2014, and Cyprus since March 2016, leaving Greece, which has entered a 3<sup>rd</sup> financial assistance programme as of 2015 (with a three year duration until 2018), the only Eurozone MS currently under financial assistance (Table 4; European Commission 2014h; European Stability Mechanism 2016a). The above events, until the cut-off date of this research, are summarized in the following Table 5.

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<sup>86</sup> Despite the growing pressures and the dangers reported being imminent, until March 2013 an agreement had still not been ‘ironed-out’, primarily on account of the bank levy terms, which, at the time, included all customers of a bank, even with less than EUR 100.000 in their account (6.75% levy, and 9.9% levy for more than EUR 100.000 accounts; BBC 2013a), but also on account of disagreements over privatizations, pensions, etc (BBC 2013a; Psyllides 2012). It was the first time that such a measure was implemented in regards to the Eurozone crisis. Towards the end of March 2013 an agreement was reached to exclude deposits under EUR 100.000 from the levy (Eurogroup 2013c; CNN 2013)

<sup>87</sup> The overall capital controls lasted for approximately two years, being lifted entirely in April 2015 (Kambas 2015).

<sup>88</sup> Law No 4173/30-04-2013 (Republic of Cyprus 2013)

<sup>89</sup> COM(2012) 510 final/12-09-2012 EC Communication to the EP/CoM (European Commission 2012g, 1).

<sup>90</sup> Established under Article 2 of REG 472/2013, provisioning that the EC, with the ECB, are to conduct regular review missions to Eurozone MS that have received financial assistance and have exited their programme, until at least 75% of the amount of this assistance has been repaid (European Parliament & Council of the European Union 2013a, 9).



**Table 5:** Condensed timeline of supranational-level events (data compiled by author).

	Date	Event
2008	30-09	Ireland guarantees all banks laonsideposits
	04-11	Hungary financial assistance programme
	11-11	EC sets-up de Larosiere High Level Group
	26-11	EC stimulus plan
2009	28-01	Latvia financial assistance programme
	14-01	Spain is degraded by S&P
	25-02	de Larosiere High Level Group Report
	24-04	Romania financial assistance programme
	21-10	Greek FinM announces 2009 deficit will be double (6% -> 12,5%)
2010	11-02	EU: Assistance to Greece, with IMF, possible
	26-03	EC sets-up Economic Governance Task Force
	03-05	Greece 1st financial assistance programme
	10-05	ECOFIN: Set-up EFSM, EFSF SA., revise Eurozone framework
	07-06	EFSF SA incorporated
	29-09	EC proposes Six-Pack
	28-11	Ireland financial assistance programme
	21-10	Economic Governance Task Force Report
	29-10	EUCO: Endorses the Economic Governance Task Force Report & ESM
	24-11	3 ESAs established (EIOPA, ESA, ESMA) & ESRB
2011	28-11	EG: ESM Agreement
	01-01	Estonia joins Eurozone: 17 Euro MS
	25-03	Amendment TFEU Article 136 for Eurozone stability mechanism
	13-05	Portugal financial assistance programme
	11-07	ESM Treaty 1st version signed
	21-07	Greece 2nd financial assistance programme
	08-11	Six-Pack enacted (across 16-11)
2012	23-11	EC proposes Two-Pack
	02-02	ESM Treaty 2nd (final) version signed
	02-03	TSCG signed (includes Fiscal Compact)
	25-06	Cyprus requests financial assistance
	29-06	Eurosununit Set-up Banking Union
	20-07	Spain financial assistance programme
2013	29-04	Cyprus financial assistance programme
	21-05	Two-Pack enacted
	15-10	Banking Union SSM established
	14-11	Ireland & Spain exit financial assistance and enter PPS

#### 5.4. Conclusion

The aim of this Chapter was to provide the temporal context relevant to the Eurozone crisis and, more specifically, to the EU-wide crisis measures adopted. It was clear that the late-2000s financial crisis began as a private-sector, sub-prime mortgage crisis in the USA. Despite the fact that it initially affected the Eurozone also in this way (Ireland), it eventually transformed into a public-sector, sovereign debt crisis,

with heavily-indebted periphery Eurozone states experiencing adverse financial effects and being unable to borrow sustainably from the international markets. While Greece was the first Eurozone MS to resort to EU-IMF financial assistance, it is worth highlighting that Ireland was actually the first affected. It is also worth noting that, while often presented as such, the EU-IMF cooperation had been activated in relation to non-Eurozone MS, some time before Greece resorted to financial assistance. This cooperation arguably became a novelty when concerning Eurozone MS. Hence, while the cooperation was existent, the participation of the IMF within the Eurozone can be considered as a novelty.

## Chapter 6: Overview of Supranational Measures

### **6.1. Introduction**

The aim of this Chapter is to provide a detailed and forensic overview of the EU-wide crisis supranational measures. This is the first of the two categories of the independent variable. This Chapter also constitutes one of the major contributions of this research to the existing scholarly field. It outlines the supranational measures assumed during the crisis not only in forensic detail but with legal clarity, i.e. each measure is referenced along with its corresponding legal basis. Broadly, EU-wide supranational crisis measures can be further sub-categorized into those aimed at providing financial assistance and those aimed at increased or enhanced coordination between EU/Eurozone MS (Figure 1).

### **6.2. Pre-Crisis Mechanisms**

The EU-wide pre-existing (to the crisis) mechanisms cover two categories of measures: provision of financial assistance on the one hand and fiscal surveillance (debt, deficit, etc) on the other. A brief overview of these measures is presented in this section, and an analysis from a comparative perspective in relation to the measures introduced during the crisis in terms of the EU DD indicators is presented (where applicable) throughout this Chapter and Chapter 7. Despite popular belief that financial assistance within the EU was a novelty, a mechanism providing such assistance predates the crisis. However, this mechanism did not cover the possibility of provisioning financial assistance to Eurozone MS, and its applicability and force were considerably reduced compared to the mechanisms introduced during the crisis.

#### 6.2.1. Medium-Term Financial Assistance (MTFA)

EU mechanisms for the provision of financial assistance were created as early as 1971 with the “*machinery for medium-term financial assistance*” to EU MS under BoP problems provisioned in CoM DEC 71/143/EEC (Council of the European Union 1971). This assistance was accompanied by economic policy conditionality, i.e. “*undertakings in respect of economic policy the recipient Member State must enter into*” (Council of the European Union 1971, 178). This machinery was complemented by the creation of a Community Loan Mechanism (CLM) under REG 682/81<sup>91</sup>, accompanied by stricter conditionality. In the CLM, the CoM evaluated the adjustment programme submitted by the EU MS facing BoP problems, which

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<sup>91</sup> Based on the provisions of REGs 397/75 and 398/75 (Council of the European Union 1975a and 1975b and 1981, 1)

included “*economic policy conditions*” aimed at returning the BoP to a sustainable path, in order to determine whether to grant a loan (Council of the European Union 1981, 1).

The 1971 machinery for assistance and the CLM were combined into one single facility for Medium-Term Financial Assistance (MTFA) under CoM REG 1969/88 (Council of the European Union 1988, 1-2). Under this united facility, based on TEU articles 143<sup>92</sup> and 308<sup>93</sup>, there was economic policy conditionality applied for the EU MS requesting assistance and monitoring of the implementation of this conditionality by the EC (Council of the European Union 1988, 1-3). After the establishment of the Eurozone, the MTFA was modified under REG 332/2002<sup>94</sup> (mainly based on TEU article 352<sup>95</sup>), which repealed REG 1969/88, restricting the MTFA’s usage only to non-Eurozone MS (Council of the European Union 2002b, 1-2).

It is worth noting that REG 332/2002 was last modified under CoM REG 431/2009, adopted in May 2009, one month after the request of financial assistance by Greece (Council of the European Union 2002a). The changes introduced by the amending act aligned the MTFA framework with the modalities of financial assistance as created under the, then, temporary framework of bi-lateral Eurozone MS loans to Greece, i.e. to include an MoU in all provisions relevant to conditionality (Council of the European Union 2002a, 4-5). In addition, the amount available for assistance was doubled from EUR 25 to EUR 50 bn, obviously anticipating the impact of the Greek, and later Eurozone, crisis on the EU MS fiscal positions (Council of the European Union 2002a, 3).

### 6.2.2. Stability and Growth Pact (SGP)

In relation to fiscal restrictions, budgetary discipline, etc, the pre-existing EU legislation was encapsulated in primary EU law (TEU/TFEU) and secondary law (SGP). In relation to primary EU law, there are clear stipulations that the EU MS should maintain a balanced budgetary position (“*budgetary discipline*”) and avoid excessive deficits in TFEU Article 126, and TFEU Protocol (No12). Protocol (No12) sets the 3% GDP deficit / 60% GDP debt targets (European Union 2012, 99-102 and

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<sup>92</sup> Then Article 108 of the Treaty of Rome.

<sup>93</sup> Then Article 235 of the Treaty of Rome.

<sup>94</sup> Last amended by CoM REGs 1360/2008 and 431/2009 (Council of the European Union 2002a).

<sup>95</sup> Then Article 308 of the TEC.

279-80). These are the foundational provisions for the establishment of the Excessive Deficit Procedure (EDP).

Complementing the aforementioned primary EU law provisions, the SGP was introduced as secondary EU legislation, consisting (prior to the crisis) of (European Commission 2014e; Council of the European Union 2015b, 5):

- EUCO Resolution 97/C 236/01 (European Council 1997b),
- Preventive Part: CoM REG (EC) No 1466/97, as amended by CoM REG 1055/2005 (Council of the European Union 1997a and 2005a)
- Corrective Part: CoM Regulation (EC) No 1467/97, as amended by CoM REG (EC) No 1056/2005 (Council of the European Union 1997b and 2005b)

The EUCO resolution included the commitment by EU MS (except those under derogation) to maintain budgetary discipline and to “*correct excessive deficit as quickly as possible after their emergence*” (European Council 1997b, 2). The EU institutions relevant to the EDP, namely the EC and CoM, also committed to proceeding with the necessary actions and to producing the necessary reports in compliance with the TEU/TFEU, with the CoM also a priori committing “*always to impose sanctions if a participating Member State fails to take the necessary steps to bring the excessive deficit situation to an end...*” (European Council 1997b, 2).

CoM REG 1466/97 introduced the procedures and guidelines for the submission of EU MS Stability and Convergence programmes<sup>96</sup>, their evaluation by the CoM, and monitoring of actions related to those programmes, in order to avoid the creation of excessive deficits. The REG sets differentiated medium-term budgetary objectives for all EU MS, also providing for the possibility of deviation (Council of the European Union 2005a, 2-3). The EC and CoM are tasked with monitoring the implementation of the submitted programmes. CoM REG 1467/97 concerns the specifics of the EDP (deadlines of publishing reports or imposing sanctions under EDP, of implementing requested deficit correction measures, when the EDP is suspended etc). This REG also defines the circumstances when an excessive deficit is considered “*exceptional and temporary*”<sup>97</sup> (Council of the European Union 1997b, 8).

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<sup>96</sup> Stability programmes are submitted by Eurozone MS, while Convergence programmes are submitted by non-Eurozone MS (Council of the European Union 1997a, 3-4).

<sup>97</sup> When “*resulting from an unusual event outside the control of the Member State concerned and which has a major impact on the financial position of the general government, or when resulting from a severe economic downturn,*” or when the EC forecasts “*that the deficit will fall below the reference value following the end of the unusual event or the severe economic downturn*” (Council of the European Union 1997b, 8). Severe economic downturn was originally defined as a minimum 2% real GDP fall. However, the numerical value was later removed in 2005, being replaced by “*negative annual GDP volume growth rate or from an accumulated loss of output during a protected period of very low annual GDP volume growth relative to its (EU MS) potential,*” during the time when both France and Germany had qualified for an EDP but, unlike other Eurozone MS (e.g. Portugal), they “*succeeded in halting the application of the excessive Deficit Procedure that enshrined Germany’s own*

The REG also set a 0.5% GDP annual increase as a benchmark for achieving excessive deficit correction, and vests monitoring capacities for compliance with reports, RECs and DEC's to the EC and CoM. Finally, it stipulates the conditions under which a deposit is to be used as a sanction, and it can be converted to a fine (Council of the European Union 1997b, 9-10).

### 6.3. EU/Eurozone Crisis Measures

The number, and especially the scope, of the EU Eurozone crisis measures aimed at the supranational level are considerable and most of them novel, so much so that constitute any comparison with the pre-existing status-quo void of any substantial conclusion. Even in the case of the modification of the SGP (Six-Pack), the specialization, additions and alterations are so substantial so as to essentially constitute a new piece of legislation. The measures introduce far-reaching and fundamental changes in the EU modus operandi, particularly in terms of technocratic authority, national-to-supranational delegation, and EU-level decision-making capacity. It is worth noting that some of the measures are of a dual legal nature: they combine the form of an international agreement with that of EU legislation, in that they are agreements outside the EU jurisdiction but with EU or Eurozone MS participating and with the agreement making exclusive use of EU institutions.

#### 6.3.1. European Financial Stabilisation Mechanism (EFSM)

The European Financial Stabilisation Mechanism (EFSM) was the very first attempt at countering the crisis at a supranational level. During May 2010, shortly after the Greek request for financial assistance<sup>98</sup>, it was decided by ECOFIN in an extraordinary meeting to create two new financial stability mechanisms: the EFSM and an SPV, later to become the EFSF SA (Council of the European Union 2010a, 7). The EFSM is broadly similar to the MTFA<sup>99</sup>, being available to all EU MS that face “*severe economic or financial disturbance caused by exceptional occurrences beyond its control*” (Council of the European Union 2010b, 1). It was created under CoM REG 407/2010 and is based on TFEU article 122(2), which allows for the CoM to approve, under conditions, financial assistance to an EU MS if it is threatened “*with*

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*stability culture at the EU level*” (Council of the European Union 1997b, 8 and 2005b, 6; Bulmer 2014, 1247-8; generally IMF 2004, 86-9; Collignon 2004, 2; Bagus 2012, 109-10).

<sup>98</sup> Note that Greece, the first Eurozone MS to request financial assistance, had already done so almost a month before on late April 2010. By the time EFSM was created, the 1<sup>st</sup> Greek MoU had already been concluded. In that case, assistance was provided via pooled, bi-lateral loans from Eurozone MS to Greece.

<sup>99</sup> The MTFA is preserved alongside the EFSM (Council of the European Union 2010a, 7 & 2010b, 1)

*severe difficulties caused by natural disasters or exceptional occurrences beyond its control*” (European Union 2012, 98; Council of the European Union 2010a). Its lending capacity was set to a maximum of EUR60 bn, a considerably larger amount than that provisioned under the MTFA<sup>100</sup> (Council of the European Union 2010a, 7).

Financial assistance through the EFSM is provided by loan or credit line, and is accompanied by a set of economic policy conditions in the form of an adjustment program (proposed by the MS and approved/potentially modified by the CoM) and an MoU including these conditions and agreed between the EC and the MS concerned (Council of the European Union 2010b, 2-3). The ECB, along with the EC, participate in the drafting of the MoU, while the EC is entrusted with monitoring its implementation (Council of the European Union 2010b, 2-3). The approval of financial assistance, as well as the relevant adjustment program (and, hence, the MoU) by the CoM is achieved under QMV. By the cut-off date of this research, the EFSM had been activated for Portugal and Ireland<sup>101</sup> for a total of approximately EUR 50 bn (Ireland: EUR22.5 bn, Portugal: EUR24.3 bn) with the loans concluded as of 2014 (European Commission 2015a; Table 4).

The EFSM is the first official instance whereby the EU - IMF cooperation is introduced within the context of the Eurozone, as well as the first instance whereby the ECB and the EC (two out of the three Troika institutions) assumed drafting responsibilities in relation to MoU. None of these provisions existed in the only other previous financial assistance framework (MTFA; Council of the European Union 2002). Therefore, this is a first step towards the creation of the so-called Troika (Council of the European Union 2010b, 1). In addition, The EFSM is also the first appearance of the concept of the MoU within the EU legal order; a term otherwise extensively used by the IMF (Council of the European Union 2010b, 2)<sup>102</sup>.

### 6.3.2. European Financial Stability Facility *Société Anonyme* (EFSF SA)

The EFSF SA is the second institution decided in the May 2010 ECOFIN. It is an SPV established as a Public Liability Limited Company<sup>103</sup> based in Luxembourg

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<sup>100</sup> MTFA had a limit of EUR 12 bn (European Council 2002, 2).

<sup>101</sup> After the cut-off date of this research and the conclusion of the EFSM assistance to Ireland and Portugal, the mechanism was used only once more as a bridge financing instrument for Greece (in between the 2<sup>nd</sup> and 3<sup>rd</sup> financial assistance programs) on July 2015 for the amount of EUR 7.16 bn (Council of the European Union 2015).

<sup>102</sup> As referenced in section 6.2.1, the MoU had also existed in the MTFA as an amendment to the relevant REG 332/2002 after Greece’s request for financial assistance and its 1<sup>st</sup> programme.

<sup>103</sup> One of the main purposes for choosing the form of a company was to prevent contagion throughout other Eurozone MS (which may occur through the bi-lateral lending process as implemented in the 1<sup>st</sup> financial assistance program for Greece), by minimizing the financial risk of the Eurozone MS

almost a month afterwards on 7<sup>th</sup> June 2010. On the same day, the EFSF Framework Agreement, an international agreement part of international (not EU) law<sup>104</sup>, was signed between the Eurozone MS and the company (European Financial Stability Facility 2011a, 1 & 2014, 1-2). The company's Board of Directors consists of each of the then 17 Eurozone MS' Eurogroup Working Group<sup>105</sup> representatives (or alternates of such), with the EC and ECB (or other additional EU institutions) being able to attend meetings as observers with no voting rights (European Financial Stability Facility 2011a, 23 and 2016). The company's shareholders/guarantors are also the same 17 Eurozone MS (European Financial Stability Facility 2011a, 1 and 2011b, 7).

The purpose of the EFSF SA is to provide financial assistance only to Eurozone MS, in contrast to both the EFSM, which provides financial assistance to all EU MS, and to the pre-existing MTFA, which provides financial assistance only to non-Eurozone MS (Council of the European Union 2010a, 7; European Financial Stability Facility 2011a, 1). The available financial assistance<sup>106</sup> is a maximum of EUR 440 bn<sup>107</sup>, and is given conditionally upon conclusion of and compliance with an MoU between the EC (on behalf of Eurozone MS) and the MS concerned, and related to “*budgetary discipline and economic policy guidelines*” (European Financial Stability Facility 2010a, 1-2).

It needs to be highlighted that as the EFSF SA is in the form of the company and its Framework Agreement falling under international and not EU law, it is not based upon any EU Treaty provision, as were the EFSM and the pre-existing MTFA. The financing aspect of the company (Financial Facility Agreements) falls within the remit of the international business realm. The MoU and conditional structural adjustment measures based on TFEU article 136(1) (European Financial Stability Facility 2011a, 5).

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providing financial assistance to losing only the shares contributed to the company (interview with Dr. Lina Papadopoulou, Associate Professor of Constitutional Law).

<sup>104</sup> The company's statute is part of Luxembourg company law.

<sup>105</sup> Sub-configuration of the Economic and Financial Committee, consisting only of Eurozone MS representatives, the EC and the ECB. The Committee was created under TFEU article 134 (different from COREPER – Committee or Permanent Representative of MS governments under TFEU article 240) to deliver opinions to the CoM or EC, to monitor the economic situation of MS, with a particular focus on external financial relations (third countries or international institutions), to examine the free movement of capital and freedom of payments, and to prepare the work for the CoM (and for the Eurogroup when in the Eurogroup Working Group sub-configuration) relevant to financial issues (European Council 2012, 105 and 154).

<sup>106</sup> This was given originally only through loans (Loan Facility Agreements), and later through a variety of instruments such as Loans, Precautionary Facilities (e.g. credit lines), Facilities for recapitalizing financial institutions, Facilities for purchasing bonds in either primary or secondary markets (European Financial Stability Facility 2010a, 1 and 2011, 1-2).

<sup>107</sup> The capital is acquired through the EFSF SA engaging with a variety of financial instruments (European Financial Stability Facility 2010a, 1-2).



By the cut-off date of this research, EFSF SA has provided financial assistance to Greece, Ireland and Portugal, at a total amount of approximately EUR 188 bn (European Financial Stability Facility 2014b). From 1<sup>st</sup> July 2013 and onward, the company is not to conduct any new lending operations and is inactive. All of its responsibilities and activities were now conducted by the ESM (European Commission 2014d; European Financial Stability Facility 2011a, 30; European Stability Mechanism 2012, 3)<sup>108</sup>.

### 6.3.3. TFEU Article 136 Amendment & ECJ Case C-370/12

Approximately 4 months after the May 2010 ECOFIN, and the creation of the EFSF SA as a temporary financial assistance mechanism, during the October 2010 EUCO Summit, the Heads of State/Government of the EU MS 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 invite the President of the European Council to undertake consultations... on a limited treaty change...*” (European Council 2010a, 2). There were three main characteristics of this new mechanism agreed upon during this EUCO: a private sector participation, a role for the IMF, and “*very strong conditionality*” for the financial assistance programmes of this new mechanism (European Council 2010a, 2). EUCO also reaffirmed the neo/ordo liberal policy direction of the EU to be assumed during the crisis, noting that “*fiscal discipline is reinforced in the European Union*” (European Council 2010a, 2).

The November 2010 EG elaborated further on the above main characteristics of the new mechanism<sup>109</sup>, inter alia stipulating that any financial assistance would be provided under unanimous agreement by all EG members (Eurogroup 2010a, 2). Based on the above, the EUCO on December 2010 agreed<sup>110</sup> on a TFEU amendment

<sup>108</sup> However, the duration of the company is unlimited and it is to be dissolved when all outstanding payments from Eurozone MS under assistance have been repaid (European Financial Stability Facility 2014a, 4).

<sup>109</sup> The EG reiterated the importance of the IMF’s participation, stipulating that any assistance is given conditionally upon “*stringent programmes of economic and fiscal policy adjustments*” (Eurogroup 2010a, 1). It also maintained IMF involvement in the assistance programmes (the IMF loan is the only one more senior to the ESM loan; Eurogroup 2010a, 2). Finally, the EG provisioned a private sector involvement, with rules “*adapted to provide for a case by case participation of private sector creditors*” (later termed PSI and implemented in Greece for the first time; Eurogroup 2010a, 2). It also needs to be highlighted that this is the first instance whereby the unified rule of Collective Action Clauses (CACs), similar to the UK’s or USA’s systems, is mandated for all Eurozone MS government bonds after June 2013 (Eurogroup 2010a, 2).

<sup>110</sup> On the first day of the EUCO summit, the Belgian government submitted a proposal under the simplified revision procedure of TEU article 48(6) (any section of Part Three of the TFEU, which includes Economic and Monetary Policy, can be amended by the EUCO after EP, EC and ECB consultations without the conference of EU MS governments’ representatives that is mandated under the ordinary revision procedure – In the case of monetary policy the vote has to be unanimous) to

to allow for the ESM to be consistent with EU law (although not to make the ESM part of the EU legal order), with the entry into force of the amendment set on 1<sup>st</sup> of January 2013 (European Council 2011a, 1). The amending EUCO DEC 2011/199/EU was officially published on 25 March 2011, adding an additional paragraph 3 to TFEU Article 136, which permitted the Eurozone MS to “*establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of such financial assistance...will be made subject to strict conditionality*” (European Council 2011b, 2)<sup>111</sup>.

The amendment was challenged before the ECJ. On July 2012, a case of the High Court of Ireland, between an Irish MP (Thomas Pringle) and the Government/Advocate General of Ireland, was referred to the ECJ for a preliminary ruling in relation to the above amendment of article 136 TFEU and the ESM Treaty signed in 2012 (European Court of Justice 2012; European Stability Mechanism 2012)<sup>112</sup>. The ECJ, in case C-370/12 (Pringle case) dismissed all the referring questions<sup>113</sup>, ruling that there were no issues with either TFEU article 136 revision or with the ESM Treaty (par. 186, European Court of Justice 2012)<sup>114</sup>.

#### 6.3.4. Euro Plus Pact

In February 2011, the Eurosummit decided to “*achieve a new quality of economic policy coordination in the euro area to improve competitiveness...*” (European Council 2011d, 13). This new arrangement was to include all Eurozone MS, but other EU MS would also be invited to participate (European Council 2011d, 13). A month later, during the March 2011 Eurosummit, “*The Pact for the Euro... (establishing) a stronger economic policy coordination for competitiveness and convergence*” was officially adopted in text by the Eurozone MS and the following

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amend TFEU article 136 by adding a paragraph to allow for the establishment of the ESM by Eurozone MS (European Union 2012, 42 and 59-137; European Council 2011a, 1 and 2011b, 1).

<sup>111</sup> Entire paragraph added: “*3. 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. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality*” (European Council 2011b, 2).

<sup>112</sup> The applicant (Pringle) claimed inter alia that the amending DEC 2011/199/EU altered and increased the competences of EU institutions through the ESM, and hence the simple revision procedure of TEU article 48(6) could not have been used. He further claimed that the relevant DEC introduced provisions that ran contrary to EU Treaties’ provisions on economic and monetary policy, as well as to EU law in general, also directly encroaching the EU’s exclusive competence in these (par. 2, European Court of Justice 2012).

<sup>113</sup> While not within the remits of this analysis, there have been several issues raised in relation to the ECJ’s judgment in this case (e.g. Schömann 2014, 20-4; Tuori & Tuori 2014, 128-145).

<sup>114</sup> In terms of whether the entry into force of the DEC was a precondition for the conclusion of the ESM Treaty, the ECJ ruled that this amendment confirms a power which the MS already had; hence the entry into force of the DEC was not a precondition (par. 184 and 185, European Court of Justice 2012).

EU MS: Latvia & Lithuania (joined Eurozone after 2011), Bulgaria, Denmark, Latvia, Lithuania, Poland and Romania, i.e. 23 out of the then 27 EU MS (European Council 2011c, 5; European Council 2011e, 1). The aim is to

*further strengthen the economic pillar of EMU and achieve a new quality of economic policy coordination, with the objective of improving competitiveness and thereby leading to a higher degree of convergence reinforcing our social market economy (European Council 2011c, 5).*

The Euro Plus Pact concerns areas under national and not EU competence. It includes common objectives, as those are agreed by the Heads of State/Government of the participating MS on an annual basis. Those commitments, which are to foster competitiveness, employment, and contribute to the sustainability of public finances, then need to be translated into “*concrete national commitments*”, (European Council 2011, 14-5). They are included in each participating MS annual National Reform or Stability Programmes, while the monitoring of their implementation is conducted by the EC through an assessment of commonly agreed (by EUCO) indicators (European Council 2011c, 14-5 and 20). The policy mix for pursuing the above aims is determined freely by each participating MS, although a commitment to consult the other participants prior to the adoption of “*...each major economic reform having potential spill-over effects...*” is undertaken (European Council 2011, 14-5). If challenges are found in any of these areas, then the MS concerned has to address them within a given timeframe (European Council 2011c, 15).

Given the fact that the Pact does not include the potential for any delegated or other legislative acts on the part of the EU, that it includes agreements on policy areas which fall outside the competence of the EU, and that it is based simply on monitoring of each participating MS by the peers, it is largely based<sup>115</sup> on the Open Method of Coordination (OMC; European Council 2016)<sup>116</sup>. The OMC involves is a

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<sup>115</sup> Conversely, the fact that this Pact was adopted in relevance to the OMC is not referenced anywhere within the text. However, in a strategic note the EC observes that the Pact was “*guided by the largely ineffective Open Method of Coordination,*” (European Commission 2015b, 1). In addition, in various respective national documents, such as for example the 2015 Stability Programme of Germany, the Euro Plus Pact commitments are recognized as being voluntary in nature (Federal Republic of Germany 2015b, 20), while in others, such as the 2013 document of Ireland on the Euro Plus Pact, they appear simply as commitments without further characterization (Republic of Ireland 2013).

<sup>116</sup> OMC originated from principles outlined at the December 1997 Luxembourg EUCO (mostly in relation to employment; European Council 1997a and European Union 2016). Drawing on this and other EUCO Conclusions (e.g. the one in June 1999 at Cologne), the OMC was officially established in the March 2000 Lisbon EUCO (Hodson & Maher 2001, 723), in the conclusions of which a separate subchapter is devoted to “*implementing a new open method of coordination... as the means of spreading best practice and achieving greater convergence towards the main EU goals*” (European Council 2000). OMC, in which social partners, NGOs and other societal actors are extensively involved, has 4 key characteristics: setting short/medium/long term timetables and guidelines for achieving goals (adopted by the CoM), comparing best practices by setting benchmarks/indicators, adopting measures for transferring the relevant policies to the national/regional levels, peer-review and monitoring/evaluation by the EC (European Council 2000; European Union 2016).

‘soft’ law approach, as it does not include any binding EU legislation, and is purely intergovernmental in nature: the EU MS are each evaluated against one another (peer-pressure), utilizing the EC as a surveillance mechanism; the ECJ and EP have no role in this process (European Union 2016). Albeit theoretically useful, the OMC has been judged to have had rather limited success in inducing reforms (European Commission 2015b, 1).

The implementation of the Pact has fallen short of expectations, despite an auspicious beginning (European Commission 2015b; European Council 2011f). Few, if any, participating MS have proceeded with including Euro Plus Pact references or provisions within their annual National Reform Programmes and Stability Programmes<sup>117</sup>. For example, for the year 2015, only 5 of the above 23 EU MS included specific references to the Euro Plus Pact and its commitments<sup>118</sup>.

### 6.3.5. European Stability Mechanism (ESM) Treaty

During the October 2010 EUCO summit, the Heads of State/Government of the EU MS agreed to replace both the existing EFSM and EFSF SA with a permanent mechanism for providing financial assistance to Eurozone MS after June 2013, towards which the aforementioned DEC 2011/199/EU<sup>119</sup> was introduced (European Council 2011c, 21; European Stability Mechanism 2012a, 3). This permanent mechanism was the ESM<sup>120</sup>: an international, intergovernmental organization outside the EU framework, established under an international treaty (ESM Treaty) signed by all the then 17 Eurozone MS and governed by international public law (European Council 2011c, 22; European Commission 2012a). The ESM utilizes the EC and the ECB in performing various related tasks (under relevant authorisation by the EU MS;

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<sup>117</sup> It is worth noting that only one – Ireland – was found to have a separate document for Pact commitments, and that only for a few years between 2011 and 2016 (e.g. Republic of Ireland 2013).

<sup>118</sup> Four Eurozone MS, i.e. Belgium (Kingdom of Belgium 2015, 165-7), Germany (Federal Republic of Germany 2015a, 34 and 2015b, 20), Latvia (Republic of Latvia 2015, 6), Malta (Republic of Malta 2015, 51), and 1 non-Eurozone MS, i.e. Denmark (Kingdom of Denmark 2015, 1).

<sup>119</sup> While the relevant DEC 2011/199/EU was adopted on 25<sup>th</sup> March 2011, it entered into force more than one year after the ESM Treaty’s signature, on 1<sup>st</sup> May 2013 (European Parliament 2013).

<sup>120</sup> The purpose of the ESM is “to mobilise funding and provide stability support under strict conditionality, appropriate to the financial assistance instrument chosen, 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 as a whole and of its Member States” (European Stability Mechanism 2012a, 10).

European Stability Mechanism 2012a, 6). Participation for all Eurozone MS in the ESM is obligatory (European Stability Mechanism 2012a, 5)<sup>121</sup>.

The ESM Treaty was first signed on 11<sup>th</sup> July 2011, but was later modified<sup>122</sup> and signed again almost six months later on 2<sup>nd</sup> February 2012 (European Stability Mechanism 2012b, 1)<sup>123</sup>. The ESM has a total capital of EUR 700 bn<sup>124</sup> (European Council 2011c, 24). It is also worth highlighting that the ESM has a very close relationship with the IMF, with the latter's participation at both technical and financial levels to be required, and with a request for simultaneous financial assistance by the IMF constituting a requirement for a Eurozone Member State requesting assistance from the ESM (European Stability Mechanism 2012a, 5). Any dispute in relation to the ESM Treaty is to be submitted to the ECJ, under TFEU Article 273 (European Stability Mechanism 2012a, 8).

### 6.3.6. European Supervisory Authorities (ESAs)

On November 2008 the then EC President setup an “*independent High Level Group on financial supervision [...] (to) make recommendations to the Commission on strengthening European supervisory arrangements covering all financial sectors*” (European Commission 2008a). The specific aim of the Group centred on revising the supervisory framework of the three existing Lamfalussy<sup>125</sup> 3<sup>rd</sup> level Committees (Committee of European Banking Supervisors<sup>126</sup>, Committee of European Insurance and Occupational Pensions Supervisors<sup>127</sup>, Committee of European Securities

<sup>121</sup> Hence, Latvia, Lithuania and Estonia, which joined the Eurozone after 2011, also became signatories to the ESM Treaty (European Stability Mechanism 2012a, 1 compared to the original at European Commission 2012a).

<sup>122</sup> The major modifications in the second version were the connection of the Treaty with the TSCG (specifically its budgetary discipline part or Fiscal Compact), requiring that a Eurozone MS that requests financial assistance ratify it, the alignment with IMF practices in regards to PSI, and additional changes in terms of financial instruments used by the ESM and relevant pricing (Council of the European Union 2012b, 1-2).

<sup>123</sup> It entered into force approximately six months after its signature on 27<sup>th</sup> September 2012 (European Stability Mechanism 2012b, 1).

<sup>124</sup> Broken down to “... EUR 80 billion ... in the form of paid-in capital provided by the euro-area (and) [...] a combination of committed callable capital and of guarantees from euro area Member States to a total amount of EUR 620 billion” (European Council 2011c, 24).

<sup>125</sup> The Lamfalussy, comitology-based process was initiated in 2001 to establish “*an efficient mechanism to begin converging European financial supervisory practice and enable Community financial services legislation to respond rapidly and flexibly to developments in financial markets*” (European Commission 2007, 2). It includes three levels: the first, whereby broad legislation is agreed upon, the second, whereby technical details are provided by the EC (with EP input), the third, whereby the three Committees mentioned above advise the EC on the details and ensure convergence of relevant national practices, and the fourth, whereby the EC ensures EU law is transferred within the national order public (European commission 2007, 2).

<sup>126</sup> Established under EC DEC 2004/5/EC (European Commission 2004a).

<sup>127</sup> Established under EC DEC 2004/7/EC (European Commission 2004b).

Regulators<sup>128</sup>) as well as coordinating “*the allocation of tasks and responsibilities between the national and European levels*” (European Commission 2007, 2 and 2008a). The High-Level Group released its report on Financial Supervision in late February 2009, which report was endorsed by the EC (Barroso 2009).

The Report proposed the creation of a European Systemic Risk Council under the ECB, which would “*pool and analyse all information, relevant for financial stability, pertaining to macro-economic conditions and to macro-prudential developments in all the financial sectors*” (the de Larosière Group 2009, 46). It further provided that the role and responsibilities assigned to the aforementioned 3<sup>rd</sup> level Committees “*are not sufficient to ensure financial stability in the EU and all its Member States,*” proposing the creation of the European System of Financial Supervisors (ESFS): a network of the above 3<sup>rd</sup> level Committees which would be enhanced to set supervisory standards and manage cooperation with and between national supervisors (The de Larosière Group 2009, 47-9). This structure was to address the micro-prudential supervision. The proposed three new Authorities (European Banking Authority, European Insurance Authority, European Securities Authority) would have increased competences to, *inter alia*, adopt binding supervisory standards, legally enforce mediation between national supervisors, adopt decisions which are binding to individuals institutions, and license EU-wide institutions (e.g. CRAs). National supervisors would still be responsible for day-to-day supervision (the de Larosière Group 2009, 57).

The above three proposed authorities were established more than a year later in November 2011, with the aforementioned increased competences: the European Bank Authority (EBA) under EP/CoM REG 1093/2010, the European Insurance and Occupational Pensions Authority (EIOPA) under EP/CoM REG 1094/2010, and the European Securities and Markets Authority (ESMA) under EP/COM REG 1095/2010. The European Systemic Risk Board (not Council, as had been originally proposed) was established under EP/CoM REG 1092/2010 (European Parliament & Council of the European Union 2011a and 2011b and 2011c and 2011d).

### 6.3.7. Six-Pack

One of the key issues during the Eurozone crisis was the efficiency of and adherence to the SGP, which defines the limitations and rules relevant to the fiscal position of EU MS. The Six-Pack is a total of 5 REGs and 1 DIR during November 2011, aimed at amending, renewing and enriching the SGP and consisting of the

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<sup>128</sup> Established under EC DEC 2001/527/EC (European Commission 2001).

following legislative acts (European Commission 2014c; Hungarian Presidency of the Council of the European Union 2014):

- CoM DIR 2011/85/EU, on EU MS Budgetary Frameworks (Council of the European Union 2011g),
- EP/CoM REG (EU) 1173/2011, for Eurozone budgetary surveillance (European Parliament & Council of the European Union 2011e),
- EP/CoM REG (EU) 1174/2011, for Eurozone excessive macro-economic imbalances correction, (European Parliament & Council of the European Union 2011f),
- EP/CoM REG (EU) 1175/2011, amending SGP REG 1466/97 (European Parliament & Council of the European Union 2011g),
- EP/CoM REG (EU) 1176/2011, for EU macro-economic imbalances (European Parliament & Council of the European Union 2011h),
- CoM REG (EU) 1177/2011, amending SGP REG 1467/97 (Council of the European Union 2011h).

DIR 2011/85/EU aims at delineating the process of the implementation of TFEU Protocol (No12), setting the 3% GDP deficit and 60% GDP debt targets, and more generally the rules for budgetary frameworks of EU MS (European Union 2012, 279-80; Council of the European Union 2011g, 41 & 44). Inter alia, it introduces the three-year Medium-Term Budgetary Framework (MTBF) as an integral part of the SGP and it stipulates that specific values should exist within the EU MS national budgets to ensure compliance with the deficit/debt values (Council of the European Union 2011g, 43 and 45-6).

REG 1173/2011 concerns the budgetary surveillance of Eurozone MS, introducing sanctions that enhance SGP enforcement (European Parliament & Council of the European Union 2011e, 1 and 3). This REG, among others, calls for new and stricter sanctions within the Eurozone, and delineates the interest and non-interest bearing deposit procedures in case of deficit/debt violations, as well as sanctions imposed in cases of statistical inaccuracies (European Parliament & Council of the European Union 2011e, 2-5). It also introduces new sanctions of a more direct nature within the process of TFEU article 126, otherwise not included in the TFEU<sup>129</sup> (European Parliament & Council of the European Union 2011e, 5). This REG also includes horizontal delegation for a duration of 3 years (can be repealed by either the EP or the CoM) to the EC for imposing relevant fines (European Parliament & Council of the European Union 2011e, 2 and 5-6).

REG 1174/2011, similarly to REG 1173/2011, concerns only Eurozone MS and the correction of macroeconomic imbalances that might exist within the Eurozone (European Parliament & Council of the European Union 2011f, 8). It also focuses on

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<sup>129</sup> Such as a fine imposed by the EC on a Eurozone MS that has been deemed by the CoM to not have corrected its deficit (European Parliament & Council of the European Union 2011e, 5)

societal factors, aimed at promoting “*interlinked and coherent policies for sustainable growth and jobs, in particular a Union strategy for growth and jobs*” (European Parliament & Council of the European Union 2011f, 8). Fines under this procedure are annual and are imposed under a similar procedure to that of REG 1173/2011 above. The EC’s proposal for a fine is deemed adopted, unless the CoM, under QMV, rejects it within 10 days, i.e the decision-making process is Reverse Qualified Majority Voting (RQMV; European Parliament & Council of the European Union 2011f, 10). In both REGs 1173/2011 and 1174/2011 qualified majority voting does not include the Eurozone MS concerned.

REG 1176/2011 concerns all EU MS, and aims at correcting macroeconomic imbalances that occur within the entire EU (European Parliament & Council of the European Union 2011h, 25). Surveillance is expanded “*beyond budgetary surveillance to include a more detailed and formal framework*” (European Parliament & Council of the European Union 2011h, 25). It may “*include...mission to Member States by the Commission, in liaison with the European Central Bank,*” and can be initiated by the EC upon mere suspicion that a given EU MS might suffer from imbalances in the future (European Parliament & Council of the European Union 2011h, 27 and 29). The REC also establishes the creation of a scoreboard to predict macroeconomic imbalances (alert mechanism), as well as the “*excessive imbalance procedure,*” (EIP) under which the EU MS concerned must provide a plan and timetable of the implementation of relevant CoM recommendations addressed to it (European Parliament & Council of the European Union 2011h, 26-7). The procedure is placed under TFEU Article 121 §4 (European Union 2012, 97-8).

REG 1175/2011 is the first main SGP revision, and amends REG 1466/97 (preventive part; European Parliament & Council of the European Union 2011g, 12). It broadly provisions “*more stringent surveillance*” of the Stability Programmes submitted by EU MS (European Parliament & Council of the European Union 2011g, 12). It introduces the concept of the European Semester, whereby the CoM surveys and reviews how EU MS apply the broad economic guidelines and their Stability or National Reform Programmes, and what measures are taken to prevent macroeconomic imbalances (European Parliament & Council of the European Union 2011g, 15). The EP is to be involved in the European Semester, mostly through its ability to interview key political players (European Parliament & Council of the European Union 2011g, 16). Within this REG it is emphasized that “*the submission and assessment of stability and convergence programmes should be made before key decisions on the national budgets for the succeeding years are taken*” (European



Parliament & Council of the European Union 2011g, 12-4). REG 1177/2011 is the second main SGP revision, and amends regulation 1467/97, pertaining to the EDP and introducing similar provisions to the above REG 1175/2011 in terms of monitoring and EP inclusion in the entire EDP process, (Council of the European Union 2011h, 35). Taking into consideration the above, the Six-Pack REGs can be thematically separated as follows:

- REG 1176/2011 introduces the EIP for all EU MS.
- REGs 1175/2011 and 1177/2011 modify and further enhance, through sanctions and temporal limitations, the SGP for all EU MS.
- REGs 1173/2011 and 1174/2011 introduce even further enhancements of the sanctions related to the SGP and EIP for Eurozone MS.

### 6.3.8. Treaty on Stability, Coordination and Growth (TSCG)

The TSCG is an international agreement between 25 EU MS<sup>130</sup>, aside from the UK, which vetoed the TSCG as an EU Treaty amendment (and hence the international legal nature of the TSCG)<sup>131</sup>, the Czech Republic, because of ratification difficulties, and Croatia, which acceded the EU afterwards. It was signed on 2<sup>nd</sup> March 2012 and entered into force almost a year later on the 1<sup>st</sup> of January 2013 (European Council 2012a; European Stability Mechanism 2012a, 4; European Parliament 2013). The TSCG had been announced in the form of a stronger ‘Fiscal Compact’ during the Eurosummit of December 2011 (European Council 2011g)<sup>132</sup>. The result of this was the TSCG, with the specifics of the Fiscal Compact further delineated in Title III of the TSCG (Articles 3-8; European Council 2012a, 11-6).

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<sup>130</sup> The Treaty applies to all Eurozone MS and all EU MS participating, once a decision to abrogate their Eurozone derogation or opt-out has been lifted, or if they choose to be bound only by the Fiscal Compact and Economic Coordination provisions in Chapters II and IV of the Treaty regardless of derogation or opt-out abrogation (European Council 2012a, 21-2).

<sup>131</sup> During the Eurosummit of December 2011, during which the TSCG had been decided, it had been noted that “*considering the absence of unanimity among the EU Member States, they (Eurozone Heads of State or Government) decided to adopt them (additional coordination measures) through an international agreement [...] The objective remains to incorporate these provisions into the treaties of the Union as soon as possible*” (European Council 2011g, 7). At the time, a modification of the EU Treaties to incorporate the TSCG was supported by all EU MS except the UK, which vetoed this “*largely on the grounds that ... (it) had not managed to secure a guarantee that it (the TSCG) would not affect the UK’s financial services industry*” (Miller 2012, 1).

<sup>132</sup> The idea of introducing the Fiscal Compact originated primarily with Germany. A few days prior to the December 2011 EUCO and Eurosummit, “*France and Germany set out in a letter to the European Council President, Herman Van Rompuy, joint proposals for Treaty changes to address the Eurozone crisis,*” including forbidding any PSI in debt restructuring process, automatic sanctions for EDP, balanced-budgets Golden Rule, etc, with all enshrined either in an EU Treaty amendment or, failing to reach unanimity, a Eurozone MS-based Treaty (Miller 2012, 2-3). Most of the proposals were reflected in the final form of the TSCG (European Council 2012a).

### 6.3.9. Two-Pack

The Two-Pack consists of two REGs adopted in May 2013 and concerns only Eurozone MS. The REGs were “*designed to further enhance economic integration and convergence amongst euro area Member States,*” (European Commission 2014f) and are (Council of the European Union 2013b):

- EP/CoM REG (EU) 472/2013, for surveillance of financially unstable Eurozone MS (European Parliament & Council of the European Union 2013a).
- EP/CoM REG (EU) 473/2013, for assessment of Eurozone MS budgets and excessive deficit corrections (European Parliament & Council of the European Union 2013b).

REG 472/2013 focuses on enhanced budgetary surveillance of Eurozone MS under financial stress or already under a financial assistance programme with the EFSM/EFSF SA/ESM or IMF or other relevant financial institution, reiterating the importance and need for implementation of strict conditionality and enhanced surveillance (European Parliament & Council of the European Union 2013a, 3). In addition, a surveillance procedure of a Eurozone MS may be implemented in the case that this MS is simply “*threatened with serious financial difficulties*” (European Parliament & Council of the European Union 2013a, 1-3). Furthermore, within this enhanced surveillance framework, the Troika is, for the first time since the beginning of the crisis, officially established within the EU legal order<sup>133</sup> (European Parliament & Council of the European Union 2013a, 5-6). The decision to subject a Eurozone MS to enhanced surveillance is taken by the EC. The participation of the EP in this process is provisioned but, again, mostly restricted to its right to call for interview or enter a dialogue with the institutions involved (European Parliament & Council of the European Union 2013a, 9-10).

According to this REG, Eurozone MS that are under financial assistance, that are generally under enhanced surveillance, or that are implementing policies that incur adverse effects throughout the Eurozone, prepare a Macroeconomic Adjustment Program (MAP<sup>134</sup>; European Parliament & Council of the European Union 2013a, 5). In relation specifically to provisions relating to financial assistance, this REG stipulates, among others, that an evaluation of the requesting Eurozone MS government debt by the Troika is to be conducted. Furthermore, the MoU is referenced as the document agreed between the relevant Eurozone MS and the EC on behalf of the EFSF SA or ESM (i.e. on behalf of the rest of the Eurozone MS), and is

<sup>133</sup> Article 3(5): “*The Commission, in liaison with the ECB ...and, where appropriate, with the IMF, shall conduct regular review missions ...to verify the progress made by that Member State...*” (European Parliament & Council of the European Union 2013a, 5).

<sup>134</sup> MAPs are generally used as the set of structural adjustment policies upon which financial assistance by the EU-based EFSM, EFSF SA, ESM, etc is conditional (European Parliament & Council of the European Union 2013a, 5).

to be compatible with the MAP (European Parliament & Council of the European Union 2013a, 6-8). Finally, the process of Post-Programme Surveillance (PPS)<sup>135</sup> is established, whereby the Troika conducts review missions to a Eurozone MS receiving financial assistance, after its program has ended and until it has repaid at least 75% of the assistance received (European Parliament & Council of the European Union 2013a, 9). The second Two-Pack REG 473/2013 concerns perhaps one of the most democratically important supranational measures implemented during the crisis; the supranational evaluation of Eurozone MS national budgets before their enactment through relevant national provisions (European Parliament & Council of the European Union 2013b, 13-18)<sup>136</sup>. Eurozone MS need to submit drafts of their national budgets to the EC for evaluation “*in advance of becoming binding*” (European Parliament & Council of the European Union 2013b, 13). After the submission, the EC adopts an opinion on the draft budgets submitted, and, if discrepancies or non-compliance with obligations (e.g. SGP) are found, the Eurozone MS concerned needs to modify the budget in accordance with the EC’s opinion as soon as possible, and then re-submit it (European Parliament & Council of the European Union 2013b, 19-20). The opinions of the EC, as well as the draft budgets, are transmitted to the EG for discussion (European Parliament & Council of the European Union 2013b, 20). In addition to the above, Eurozone MS are to “*report ex ante on their public debt issuance plans to the Eurogroup and the Commission*” (European Parliament & Council of the European Union 2013b, 13 and 20).

This REG also introduces the Economic Partnership Programme (EPP), to be submitted by a Eurozone MS under an EDP (Eurozone MS under MAPs of REG 472/2013 are exempted). The EPP includes “*a number of specific priorities aiming to enhance competitiveness and long-term sustainable growth and addressing structural weaknesses,*” and is additional to the National Reform or Stability Programmes (European Parliament & Council of the European Union 2013b, 20-1). In terms of delegation, the EC is authorized to issue all delegated acts included in the REG,

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<sup>135</sup> The corresponding IMF process is Post-Programme Monitoring (PPM), initiated when “*a member’s outstanding credit in the General Resources Account...exceeds a threshold of 100 percent of quota*” or in other cases were, for example, there are developments that call “*into question the member’s progress toward external viability*” (International Monetary Fund 2000). It “*is intended to ensure the continued viability of a country’s economic framework and provide early warning of policies that could jeopardize the country’s external viability and, hence, its capacity to repay the IMF*” (International Monetary Fund 2016g).

<sup>136</sup> Article 6: “*Member States shall submit annually to the Commission and to the Eurogroup a draft budgetary plan for the forthcoming year by 15 October. That draft budgetary plan shall be consistent with the recommendations issued in the context of the SGP ...*” (European Parliament & Council of the European Union 2013b, 18).

unless opposed by the EP or CoM (European Parliament & Council of the European Union 2013b, 22). Finally, provisions similar to those of REG 472/2013 above exist in relation to the ability of the EP to call for interview key actors or to be informed (European Parliament & Council of the European Union 2013b, 22-3).

#### 6.3.10. Banking Union

During the late-June 2012 Eurosummit, Eurozone MS leaders affirmed their intention to create “*an effective single supervisory mechanism*” for the national banking sector in order to “*break the vicious circle between banks and sovereigns*” (European Council 2012b). This was termed the “*Banking Union*” by the EC, and would assume oversight of the banking sector (European Commission 2012b, 1 and 7-10). The banking union was legally established across 2013-14, and consists of the following (Council of the European Union 2014a through 2014c):

- **Single Supervisory Mechanism (SSM):** Established in October 2013. It is based on CoM REG 1024/2013 and EP/CoM REG 1022/2013 (Council of the European Union 2013c; European Parliament and Council of the European Union 2013c). The first CoM REG “*confers on the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions*” (Council of the European Union 2013c), while the second amends the EBA framework in light of such conferral (European Parliament and Council of the European Union 2013c).
- **Single Resolution Mechanism (SRM):** Completed in July 2014. It is based on EP/CoM REG 806/2014 (European Parliament and Council of the European Union 2014a). The SRM will assume the responsibility for resolving failed banks of MS (European Commission 2014g).
- **Single Rulebook:** Established across 2013-14. It is based on EP/CoM DIR 2013/36/EU, EP/CoM REG 575/2013 (Capital Requirements Directive IV and Capital Requirements Regulation respectively), EP/CoM DIR 2014/49/EU (Deposit Guarantee Scheme Directive) and EP/CoM DIR 2014/59/EU (Bank Recovery and Resolution Directive; European Parliament and Council of the European Union 2013d and 2013e and 2014b and 2014c). The above “*among other things, lay down capital requirements for banks, ensure better protection for depositors, and regulate the prevention and management of bank failures*” (European Commission 2014g).

#### **6.4. Conclusion**

Taking into consideration the aforementioned analysis, Table 6 below comprehensively presents the EU-wide crisis measures, along with their respective participating EU/Eurozone MS.

**Table 6:** Supranational crisis measures and participants (data compiled by author; ranked by date)<sup>137</sup>

MEASURES				PARTICIPANTS	
Name	Category	Date	Legislation	19 Eurozone MS	9 non-Eurozone MS
EFSM	Financial assistance	11-05-2010	CoM REG 407/2010	✓	✓
EFSF SA	Financial assistance	07-06-2010	Luxembourg Public Limited Company	✓	×
Euro Plus Pact	Enhanced coordination	25-03-2011	EUCO Conclusions	✓	✓ only Denmark, Poland, Romania.
TFEU article 136 amendment	Financial assistance	25-03-2011	EUCO DEC 2011/199/EU	✓	✓
ESM	Financial assistance	1 <sup>st</sup> : 11-07-2011 Final: 02-02-2012	International (ESM) Treaty	✓	×
ESFS (ESAs)	Enhanced coordination	24-11-2010	1) EP/CoM REG 1092/2010 (ESRB) 2) EP/CoM REG 1093/2010 (EBA) 3) EP/CoM REG 1094/2010 (EIOPA) 4) EP/CoM REG 1095/2010 (ESMA)	✓	✓
Six-Pack	Enhanced coordination	November 2011	1) CoM DIR 2011/85/EU/ 2) EP/CoM REG (EU) 1173/2011 3) EP/CoM REG (EU) 1174/2011 4) EP/CoM REG (EU) 1175/2011 (amends REG 1466/97) 5) EP/CoM REG (EU) 1176/2011 6) CoM REG (EU) 1177/2011 (amends REG 1467/97)	✓	✓ only for DIR 2011/85/EU & REGs 1175, 1176, 1177/2011, except UK.
TSCG	Enhanced coordination	02-03-2012	International Treaty	✓	×
Two-Pack	Enhanced coordination	21-05-2013	1) EP/CoM REG (EU) 472/2013 2) EP/CoM REG (EU) 473/2013	✓	×
Banking Union	Enhanced coordination	2013-2014 (Decided: 29-06-2012)	1) CoM REG 1024/2013, EP/CoM REG 1022/2013 (SSM) 2) EP/CoM REG 806/2014 (SRM) 3) EP/CoM DIR 2013/36/EU, EP/CoM REG 575/2013, EP/CoM DIR 2014/49/EU, EP/CoM DIR 2014/59/EU (Single Rulebook)	✓	✓

<sup>137</sup> Sources as in throughout Chapter, and Tables 3 and 4.

A brief comment on Table 6 above should be made in relation to the integration levels of the EU. The data presented is indicative of the level of fragmented or differentiated integration<sup>138</sup> across the EU (Stubb 1996). Even the sharp division between Eurozone and EU MS, integration-wise, now seems to fade, pushing the EU into a more a la carte direction. The response to the crisis has resulted in even more measures that provided the ability to EU MS to pick and choose “*in which policy area they would like to participate*” (Stubb 1996, 285). For example, the TSCG is an international treaty for Eurozone MS, in which EU MS, except three, participate, including one with a Eurozone opt-out (Denmark). The same situation, ceteris paribus, applies to the Euro Plus Pact (only one of the MS with opt-out joined). Another example is the Six-Pack, whereby only half of the measures included apply to non-Eurozone MS, with the other half applying only to Eurozone MS.

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<sup>138</sup> “...the general mode of integration strategies which try to reconcile heterogeneity...” in the EU (Stubb 1996, 283).

## Chapter 7: Supranational Measures Evaluation

### **7.1. Introduction**

The aim of this Chapter is to evaluate the EU-wide crisis measures in terms of their impact on the EU DD, through the EU DD empirical framework constructed in Chapter 3. As outlined in Chapter 6 and Figure 1, the EU-wide crisis measures can be separated thematically across two main sub-categories: measures that concern the provision of financial assistance and measures that concern enhanced coordination between Eurozone/EU MS. To facilitate the analysis, this thematic distinction is maintained throughout this Chapter.

In relation, specifically, to the first subcategory, i.e. financial assistance, it needs to be highlighted that, at least insofar as the focus of this assistance is Eurozone MS, this is a completely novel process and a combination of national-supranational or supranational-international levels for the EU. For example, the use of EU institutions to monitor policy relevant to those MoUs raises issues in terms of EU legal and democratic processes. As regards the MoU/Loan Agreement process, the analysis of this Chapter focuses more on their abstract form and relation to the EU legal order, and less on the actual policies included in the MoUs or their adoption and implementation by the Eurozone MS concerned. Observations relating to this latter aspect are presented in more detail, both for Greece and in a comparative perspective for Ireland, in SECTION C of this research. The second subcategory (enhanced coordination) includes and follows more mainstream processes of the EU, thus posing less of a procedural challenge to the existing status quo.

The structure of this Chapter examines each of the four indicators of the EU DD empirical framework, as established in Chapter 3, within each of which the aforementioned sub-categorization of the EU-wide measures is maintained. To further facilitate the evaluation, the analysis of the impact on each of the indicators is broken down into more concise thematic areas.

### **7.2. Indicator A: Key national policy areas, redistribution, delegation**

#### 7.2.1. Key national policy areas, redistribution

It is the case that most, if not all, of the measures assumed at the EU supranational level during the Eurozone crisis extensively affected key national policy areas with redistributive effects. Obviously, the more pertinent and more direct were those relevant to the financial assistance mechanisms: EFSM, EFSF SA and ESM. All three of these institutions included provisions granting considerable influence to EU supranational actors, particularly the EC, ECB and EG (or EG Working Group -

EWG) on key national policies, mainly through the MoU process and the structural adjustment policies included therein. Hence, the primary issue of concern here is the concept of the MoU itself, and whether it is covered, in any way, under the EU framework. Of particular importance is the element of conditionality of the MoU in relation to the EU status quo, since conditionality not only adds a very strong element of necessity of the MS concerned in terms of abiding with the MoU provisions (or otherwise the lack of funding can be disastrous), but is also enforced by EU institutions<sup>139</sup>. In terms of the EU-wide enhanced coordination measures, the issue of concern are any provisions that, directly or indirectly, result in an increase in the ability of supranational actors to affect key national policy areas.

In relation to the above issues, the EFSM arguably presents the most limited impact of the three mechanisms in terms of supranational level actors influencing national policy. This is precisely because, contrary to the EFSF SA and the ESM, it is an exclusively EU-based financial assistance mechanism (the other two are completely outside as they are an international corporation and an international organization), which includes all EU MS both as potential lenders and borrowers. Because of its EU-based nature, it includes less provisions affecting the national policy realm, as it is constrained by the EU legal framework. In relation to the MoUs, it provisions that the MS concerned should prepare an “*adjustment programme*” to be approved by the CoM, which is then to be consistent with an MoU concluded between it and the EC (European Council 2010b, 2). Within the EFSM’s REG 407/2010, it is still provisioned that any activation of the EFSM would be done under “*strong economic policy conditions*” for the MS concerned, in order for it to achieve a financially sustainable position, but the nature of the economic policy conditions is not as specific as in latter measures<sup>140</sup> (European Council 2010b, 1-3).

Contrary to the above, issues in terms of the MoU process become increasingly problematic with the EFSF SA and the ESM. These institutions, contrary to the EFSM, were constructed specifically for providing assistance to Eurozone MS. This possibility is not included within the EU Treaties, hence these institutions were established outside the EU framework. In relation to the EFSF SA, MoUs and structural adjustment measures became much more specific compared to the EFSM. More importantly, as the EFSF SA is outside the EU framework, structural adjustment

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<sup>139</sup> In any case the argument could be put forth, as in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law, that the MoUs are not international treaties or documents of a de jure binding character and that, instead, this character is de facto expressed through conditionality. As such, this is perhaps the most important area of the MoUs to be analyzed in relation to the EU DD.

<sup>140</sup> In the EFSM REF, reference is made to “*general economic policy conditions*” accompanying the financial assistance (European Council 2010b, 1-3).



measures were only outlined to the MoU, with no EU-based structural adjustment program equivalent, compared to the updated, post-2009 MTFAs or the EFSM, which maintain the concept of an adjustment program in principle, with the MoU being its materialization (European Financial Stability Facility 2011a, 2).

In turn, the lack of foundation of the MoU in any EU-based process in the EFSF SA raises serious issues in terms of democratic process and accountability. Considering that the Eurozone MS are the sole shareholders of EFSF SA, and that the company exclusively employs EU institutions, the potential lack of any connection between the conditionality policies and the EU framework could be considered as an attempt to circumvent EU democratic safeguards in allowing EU-based formations (such as the EG or Eurosummit that, in this case, were identical to the EFSF SA meeting of the Board of Directors) to make decisions outside the EU procedure and safeguards. Given the nature of these decisions, which included extensive impact on key national policy areas of the Eurozone MS requesting or receiving financial assistance, this would be democratically problematic. To avoid these issues, it is provisioned within the EFSF SA framework that the MoU is to be compatible with a TFEU article 136(1) DEC (European Financial Stability Facility 2011a, 2 and 5). While not mandatory, in practice all MoUs under the EFSF SA framework were also reflected in a relevant EU DEC. More specifically:

- **Ireland** received combined EFSM & EFSF SA financial assistance (Table 4). The assistance of the EFSM was based on CoM DEC 2011/77/EU/07-12-2010, and the relevant Irish EU MoU was agreed on 03-12-2010 (Council of the European Union 2011a, 34; Republic of Ireland 2010, 1).
- **Portugal**, similarly to Ireland, also received combined EFSM & EFSF SA financial assistance (Table 4). The EFSM assistance was based on CoM DEC 2011/344/EU and the relevant Portuguese EU MoU was agreed on 13-05-2011 (Council of the European Union 2011b, 88; European Commission 2011b, 38).
- **Greece**, unlike Ireland and Portugal, received financial assistance only from the EFSF SA and not the EFSM during the beginning of the crisis (Table 4). This was based, in relation to the policy-based aspect of the assistance<sup>141</sup>, on an MoU between EFSF SA, Greece, the Hellenic Financial Stability Fund and the Central Bank of Greece (European Financial Stability Facility 2012a, 1-4). The relevant EU-based decision is CoM DEC 2011/734/EU/12-07-2011<sup>142</sup> under TFEU articles 126(9) and 136 (EDP).

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<sup>141</sup> The financing aspect was based on a Master FAFAs (including various FAFAs) of 01-03-2012 (European Financial Stability Facility 2012a, 1-4).

<sup>142</sup> This is mainly recasting DEC of DEC 2010/320/EU/10-05-2010 (European Financial Stability Facility 2012a, 3; Council of the European Union 2010d and 2011c). DEC 2010/320/EU was recast a number of other times through DEC 2010/486/EU/07-09-2010, 2011/57/EU/20-12-2010, 2011/257/EU/07-03-2011, 2011/791/EU/08-11-2011, 2012/211/EU/13-03-2012, 2013/6/EU/04-12-2012 (Council of the European Union 2010c, 2010d, 2011c, 2011d, 2011e, 2011f, 2012a, 2013a).

Therefore, contrary to popular belief, in each of the cases of financial assistance by the EFSF SA, the conditional structural adjustment policies included in the MoUs had actually been also approved through regular, EU-based process<sup>143</sup>.

A similar provision is included in the now permanent ESM, whereby the MoU is to be in agreement with any act issued under EU-based legislation, with such provision, however, being set in a general manner and not specifying any EU legislative procedure (European Stability Mechanism 2012a, 29). This, then, appears to offer to the MoU process the democratic safeguards applicable in any other EU-based decision-making process, since MoU measures are not included only in the framework of some international organization or corporation, but also have EU-based equivalents that have gone through the regular EU legislative process. As the ECJ in case C-370/12 (Pringle) observed, “*the conditions to be attached to the grant of...(financial) support to a Member State are, at least in part, determined by European Union law*” (par. 174, European Court of Justice 2012).

In relation to the EU-based process, up to the establishment and use of the EFSF SA, as outlined above, this entailed the issuing of CoM acts, but without a unified EU legislative basis. After the ESM, the relevant Two-Pack REG 472/2013 established the process of enhanced surveillance for Eurozone MS, which also addresses the relationship between the MoU and any EU legislative acts. The process is to be activated, inter alia, when a Eurozone is requesting financial assistance from any EU-based, or international institutions (European Parliament & Council of the European Union 2013a, 3-8). In this case, the MS concerned prepares, in cooperation with the Troika, a MAP, which is then approved by the CoM and its implementation is monitored by the Troika (European Parliament & Council of the European Union 2013a, 5-7)<sup>144</sup>. These provisions are a completely novel addition to the EU operating framework. The foundation of the entire REG is referenced as TFEU articles 136 and 121(6), but none of these two articles include provisions relevant to any MAP by a Eurozone MS, nor to the connection of this MAP with the MoU and, thus, the assumption of a conditional character by it.

The above observations indicate that, contrary to popular belief, MoUs are not stand-alone documents that are completely outside the EU framework. The measures

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<sup>143</sup> There may also be de jure problems in this case, as the EFSF SA MoU and CoM DEC connecting process was only really applied in the case of Greece. While Ireland and Portugal both also had CoM DEC's outlining policies adopted in the MoU, these DEC's did not fall under the provisions of Article 2(1)(a) of the EFSF Framework Agreement, as they were not DEC's under TFEU Article 136(1). Hence, technically, these were not covered under the provisions of the EFSF Framework Agreement.

<sup>144</sup> The Troika also examines any MAP updates necessary (European Parliament & Council of the European Union 2013a, 6).

outlined in the MoUs have, in one way or another, always had an equivalent EU-based legislative act, which includes the MoU measures and was issued in accordance with the normal EU legislative procedure. Therefore, the problem in relation to the MoUs is not, as often perceived, the absence of any EU participation in the measures included but, instead, whether these EU-based acts that are relevant to the MoU measures are sufficiently provisioned within the EU framework, i.e. whether they can accommodate the conditional character of the MoUs.

The element of conditionality, while a key characteristic of the MoUs and the entire financial assistance process, is absent, at least in this form, from the EU operating framework. Through the connection of the MoU with the EU-based legal instruments, a conditional character seems to be added to these instruments, which they do not, by mandate, have. In fact, the only case where conditionality appears within the EU is in TFEU article 122(2) which stipulates that the EU “*may grant, under certain conditions, Union financial assistance...*” (European Union 2012, 98). This, by extension, applies to the EFSM as well. The addition of conditionality in this case has its basis on the preparatory work for the Treaty of Maastricht, where it was emphasized that a financial support scheme should be set in order to assist Member States facing serious financial difficulties, and that it should be attached to positive conditionality<sup>145</sup> (European Union 1991, 24 & 54). As financial assistance is given on condition that structural adjustment policies are implemented, i.e. belongs to positive conditionality, this could be argued to fall within the EU Treaties process, at least insofar as the process of TFEU article 122(1) is concerned (although this principle could be conceivably equally extended to any EU-based financial assistance scheme as well). Through this interpretation, the EU could be considered entitled, upon providing financial assistance to Eurozone MS, to attach certain policy conditions to it.

There is no definite legal interpretation of this issue, and it is also important to highlight that the concept of conditionality appears only in relation to TFEU article 122(2) and, therefore, would apply only to the assistance programs of Ireland and Portugal in relation to the EFSF SA, and not to that of Greece, or any other MoU-equivalent EU legislative act in relation to an ESM programme. Even in the cases of Ireland and Portugal, as observed above, the EFSM framework, precisely because of its EU-based nature, includes provisions related to more general economic conditions than those included in the MoUs and, hence, this could also be conceived as a

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<sup>145</sup> Positive conditionality can be defined as entailing “*promising benefits to a state if it fulfills...conditions,*” while negative conditionality “*involves reducing, suspending, or terminating those benefits if the state violates the conditions*” (Smith 2005, 23).

potential incompatibility between the EFSM framework and the MoU. However, more broadly in relation to conditionality and the EFSF SA and ESM, and considering the aforementioned observations, it seems technically acceptable for the EU to add a conditionality character to the provision of financial assistance. This contradicts the popular belief that the MoU measures are democratically challenging because they are outside the EU process.

What do the above demonstrate in relation to the EU DD? It is evident that through the MoU/MAP process, supranational actors have now increased decision-making and monitoring capacity in relation to Eurozone MS key national policies, that is, however, provisioned both from the international institutions for financial assistance side and from the EU-based side. The question, then, is not, as often thought, whether the EU, as an organization, partakes in the MoU policies but whether the mode of participation of the EU in these policies is really possible, i.e. whether the EU framework, and the ability of EU institutions to affect key national policies of MS through the MoU/MAP process, include the concept of detailed conditionality. In this case, it seems that conditionality is estranged to the purpose and, mostly, mandate, of the EU-based legislation equivalent to the MoU measures and relevant authorizations given to EU institutions. In other words, EU institutions partaking in the financial assistance process do not seem to have the mandate to impose conditionality in relation to specific policies to be implemented by a Eurozone MS. Therefore, the issue in relation to the MoU process is not so much that EU institutions may have gained new ability to influence key national policy areas (which is examined later individually for institution), but rather that they can do so in a way that is different from the EU operating framework. Through conditionality, supranational institutions have gained not only decision-making authority but also power in implementing the outcome of this authority. Furthermore, the mostly technocratic character of these institutions makes this quite challenging in terms of legitimacy, and the lack of specific procedures on how the MAP/MoU process is to be conducted makes accountability quite difficult.

In terms of EU-wide measures aimed at enhanced coordination between MS, those too seem to include various provisions that, directly or indirectly, provide for more influence of supranational actors in key national policy areas. What is more, this influence, as opposed to that obtained through the financial assistance process, is permanent. A first example is the Euro Plus Pact. Although technically founded on a voluntary basis, the measures included aim at further coordination of policies that lie outside EU competences, most of which (such as employment and taxation) are

considered key for the national level. It is the case that the effect of the Pact has been limited, both because of its ambiguous, mostly unbinding, legal nature (OMC), as well as of its methods of implementation (peer-review & peer-pressure). However, the Pact could be conceived as a first step towards a more formal process, which will include more supranational institutions affecting these key national policy areas at a later stage.

A more pertinent impact on key national policy areas relating to the EU-wide enhanced coordination crisis measures is through the Six-Pack. DIR 2011/85/EU introduces specific numerical fiscal rules, which are to be reflected on the budget and budgetary process of all EU MS (Council of the European Union 2011g, 42-45). To ensure consistent implementation of these rules, the DIR further introduces the three-year MTBF, which shifts the focus of supranational level influence from the annual basis that the MS budgets were established until now to the medium-term, further provisioning that each annual budget has to be in line with the MTBF (Council of the European Union 2011g, 46). What happens if a new government, with different policy priorities, is elected mid-way through the MTBF? To cover for this possibility, article 11 of the DIR further provides that a new government may pursue new policy priorities and adapt the MTBF accordingly, but in this case, “*the new government shall indicate the differences from the previous medium-term budgetary framework*” (Council of the European Union 2011g, 46). This provision does not really safeguard the democratic process as much as establish the minimum respect for its core, i.e. representative authority in key national policies (mostly encapsulated in the budgetary process). Furthermore, in subsequent legislation that includes specific provisions relevant to the MTBF, such as in REG 1175/2011, this stipulation of the ability of an MS government to alter the MTBF is not referenced at all (European Parliament & Council of the European Union 2011e).

Observations relevant to key national policy areas are even less encouraging throughout Six-Pack REGs 1175/2011 and 1176/2011. The first amends the preventive part of the SGP, and introduces the concept of a European Semester, whereby the budgetary process and related issues (e.g. debt issuance) are synchronized across the entire EU (European Parliament & Council of the European Union 2011e, 15). Within this REG it is provisioned that any acts relevant to the provisions of TFEU article 121, are to be taken under consideration by a MS before any key budgetary decisions (European Parliament & Council of the European Union 2011e, 15). If deviations are observed, then RECs issued may include specific measures (European Parliament & Council of the European Union 2011e, 15). In this

case, the stipulation that the relevant measures are to be taken prior the approval of the national budgets, obviously increases the influence of the relevant acts vis-à-vis key national policy areas. In addition, it is provisioned that the guidelines issued in cases of deviation are to be specific, compared to the previous, more general, framework. Finally, issues of compatibility with the TFEU are also raised, since article 121 does not provide for the ability of EU institutions to adopt RECs that include specific measures, but only of “*broad guidelines of economic policies of the Member States and of the Union*” (European Union 2012, 97).

Similar compatibility issues are raised in REG 1176/2011, which introduces the EIP<sup>146</sup>. Again, the TFEU basis for this REG is questionable. The EIP is placed under TFEU article 121(3) and 121(4) (European Parliament & Council of the European Union 2011h, 25). The former provides for the ability of EU institutions to “*monitor economic developments in each of the Member States and in the Union as well as the consistency of economic policies with the broad guidelines*” (European Union 2012, 97). It is, then, ambiguous as to whether economic developments can envelope the entirely new process of EIP, especially considering that the EIP includes, as mentioned above, “*specific rules*”<sup>147</sup>. Furthermore, the fact that EIP is an addition and does not replace the existing article 121 procedure suggests that this is not process within the article itself, but rather an exogenous element added through this REG. Similar concerns arise in relation to Article 8(1) of the REG, whereby it is provisioned that any MS under an EIP “*shall submit a corrective action plan to the Council and the Commission [...] (which) shall set out the specific policy actions...*” (European Parliament & Council of the European Union 2011h, 30). However, within the process of TFEU article 121, only EU institutions may proceed with PROPs, OPs, or RECs in relation to deviations from the broad economic guidelines set. It is a one-way system, with no provisions under which the submission of a specific plan by the MS concerned, which would, in fact, include detailed measures and timetables, could be placed. Even more important issues in relation to this REG are raised in relation to the imposition of fines or deposits to Eurozone MS that have been observed to consistently not conform to the above RECs (European Parliament & Council of the European Union 2011h, 27). The imposition of monetary penalties, or the possibility

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<sup>146</sup> This process is similar to the EDP, but relevant to macroeconomic imbalances of EU MS (European Parliament & Council of the European Union 2011h, 30).

<sup>147</sup> In relation to these concerns, there is the provision of TFEU article 121(6) that the EP and CoM can issue REGs in establishing “*detailed rules for the multilateral surveillance procedures*” of articles 121(3) and 121(4) (European Union 2012, 98). It still, however, doubtful whether this allows for extending at such degree, and in some cases actually adding, new processes based on or within TFEU article 121.

for the introduction of a relevant measure, is not provided for anywhere within TFEU article 121.

In the case of REG 1176/2011, therefore, there is the addition of yet another entirely new procedure of monitoring and sanctioning of public finances by the supranational level. Supranational actors acquire new abilities to scrutinize and more closely monitor national level policies, and impose sanctions (in this case primarily in relation to economic policy) in many cases going beyond relevant EU Treaty provisions. This, in turn, also leads to concerns over the legal foundation of these processes. As these policies directly affect the budgetary process of EU MS, one of the core national policy areas, strict adherence to the principle of conferral<sup>148</sup> should be observed. In addition, provisions in relation to participation of civil society or representative structure are minimal.

The above concerns also apply in terms of the new ESAs. Their upgrade from 3<sup>rd</sup> level Committees to Authorities provided for an increase in their decision-making capacity, now obtaining the capability of initiating and enforcing mandatory policies and supervision within the national realm EU MS. Formerly, as Committees, the role was mainly restricted to advisory functions for the EC (e.g. European Commission 2004c, 3). Similarly, the Banking Union also considerably increases the impact of supranational actors over key national policy areas and, more specifically, the MS banking sector. This is a key provision, as the banking sector is key in relation to the private economic realm. More specifically, through the SSM, the ECB directly oversees and supervises large financial banks (the rest remain under national supervision; European Commission 2014g). According to the Chair of the Board of Directors of the National Bank of Greece and President of the Hellenic Bank Association, Hon. Prof. Louka Katseli, there are 123 systemic banks throughout the EU “*that are under the oversight of the SSM*”<sup>149</sup>. In addition, the SSM also approves each Board member of those banks using “*fit and proper criteria*.”<sup>150</sup>

A more compounded effect of the supranational level on the national level banking sector is through the SRM. Under the previous framework (DIR

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<sup>148</sup> TEU article 4(1) provides that “*competences not conferred upon the Union in the Treaties remain with the Member States*” (European Union 2012, 18). Specifically, the Principle of Conferral is defined in TEU article 5(2), and stipulates that “*under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. competences not conferred upon the Union in the Treaties remain with the Member States*” (European Union 2012, 18).

<sup>149</sup> From the interview with the Hon. Prof. Louka Katseli, inter alia, former Minister of Economy, Competitiveness and Shipping (2009-2011), and former Minister of Employment and Social Security (2010-2011).

<sup>150</sup> *ibid.*

2014/59/EU), “*each Member State shall designate one or, exceptionally, more resolution authorities that are empowered to apply the resolution tools and exercise the resolution powers*” (Council of the European Union 2014e, 219). However, under the new SRM framework,

*where...,the Board performs tasks and exercises power which ...are to be performed or exercised by the national resolution authority, the Board shall... be considered to be the relevant national authority* (Council of the European Union 2014d, 25).

In other words, the SRM now takes full control of relevant financial entities resolution over from the national level.

Even more democratic concerns are raised in relation to the enhanced coordination measures that are solely focused on Eurozone MS are even more democratically problematic. The TSCG provides for a stricter form of economic policy coordination, setting specific limits for when a budget is to be considered balanced (maximum 0.5% GDP structural deficit) and for a specific 1/20 rate per year reduction of the debt if it is in excess of 60% GDP, going beyond the commitments referenced within the EU Treaties (European Council 2012a, 9-11 and 14). Furthermore, a number of requirements in relation to fiscal policy of Eurozone MS are established, which are in addition to the existing EU framework, such as ex ante reporting on debt issuance and discussion among all Eurozone MS of major economic reforms to be undertaken by one of them (European Council 2012a, 15 and 18). These provisions clearly place additional burden on MS budgets to conform yet to another criterion which, however, is not provisioned anywhere within the EU framework. As such, this constitutes a direct and additional influence of the supranational level into the budgetary process of Eurozone MS by the supranational level, and in fact through provisions outside the EU framework.

Perhaps the most democratically questionable provision of the TSCG is the obligation undertaken by signatories to introduce a correction mechanism activated automatically when divergence is observed from the MTBF targets (European Council 2012a, 11-12). This mechanism is to be established through “*provisions of binding force and permanent character, preferably constitutional, or otherwise guaranteed to be... adhered to throughout the national budgetary processes,*” and to be based on common principles proposed by the EC (European Council 2012a, 12). In this case there are several concerns.

To begin with, this provision disregards any constitutional, socio-political, and fiscal traditions and existing conceptualizations within different Eurozone MS. While in some MS a debt-break might be considered acceptable, in others it might not. What



is more, even in the case where a debt-break is introduced, the TSCG provisions that this is to be done in accordance with the guidelines provided by a technocratic, supranational actor: the EC. No ability is provided in terms of civil society or other national institutional actors influencing this process and its outcome. Furthermore, this provision does not only bind the administration current at the time of the TSCG, but also the following ones, and does so for an issue of the utmost importance for the state: the budget. Therefore, it does not only increase the ability of the supranational level to influence the most important policy area of a MS, but also reduces the national level authority *vis-à-vis* the supranational level (of which the instruments, and particularly the EC, enjoy increased decision-making and technical authority). As of the cut-off date of this research, there are 6 EU MS (5 Eurozone and 1 non-Eurozone) that have introduced a balanced-budget rule<sup>151</sup>.

Issues of increased delegation in relation to key national policy areas are raised also in the Two-Pack. REG 472/2013 establishes the process of enhanced surveillance for Eurozone MS to be activated when a Eurozone MS is “*experiencing or threatened with serious difficulties with respect to... (their) financial stability which are likely to have adverse spill-over effects on other Member States in the euro area,*” or when it is requesting financial assistance from any EU MS-based, or international institutions (e.g. IMF, etc.; European Parliament & Council of the European Union 2013a, 3-8).

When a Eurozone MS is under enhanced surveillance, then it, in cooperation with the Troika and the relevant ESAs and ESRB where appropriate, adopts “*measures aimed at addressing the sources or potential sources of difficulties*” (European Parliament & Council of the European Union 2013a, 4). The Troika is also to conduct monitoring and review missions to the Eurozone MS concerned, to determine the progress made in relation to these targets (European Parliament & Council of the European Union 2013a, 5). If it is determined that further measures are needed and the CoM adopts a relevant DEC, or when the Eurozone MS requests financial assistance, then the MS prepares a MAP, which is approved by CoM after an

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<sup>151</sup> In terms of the Eurozone MS, Germany was the first to introduce it in 2009 (termed “*Schuldenbremse*”). This constituted the model upon which it was agreed by the then French President and German Chancellor that the relevant Eurozone-wide provisions should be based (The Economist 2011a). In November 2011, Austria also introduced similar legislation, with the purpose of incorporating it into the constitution (Schneeweiss 2011). During 2011 the Spanish government also introduced “*a German-style ‘golden rule’ deficit cap,*” into the constitution (The Economist 2011b; BBC 2011c). In 2012, Italy passed legislation amending the constitution “*to make future governments run balanced budgets*” (Mackenzie & Heavens 2012). Lastly, Slovenia passed legislation amending the constitution for a budget-spending cuts in 2013, to become effective from 2015 onwards (Rousek 2013). In terms of EU MS, “*Poland has a self-imposed debt threshold of 55% of GDP [...] The Polish constitution prohibits borrowing if debt hits 60% of GDP*” (Sobczyk 2011).

EC PROP and its implementation is monitored by the Troika (European Parliament & Council of the European Union 2013a, 5-7). The Troika also examines any MAP updates necessary, cooperates closely with the Eurozone MS concerned to “*take measures... aiming to reinforce the efficiency and effectiveness of revenue collection capacity and the fight against tax fraud and evasion,*” and, specifically in relation to financial assistance programmes, maintains its monitoring capacity until at least 75% of the amount of financial assistance received is repaid (PPS)<sup>152</sup>. It is worth noting that the duration of the PPS may be extended by the CoM upon an EC PROP (European Parliament & Council of the European Union 2013a, 6).

There are a few concerns that should be addressed in relation to this REG, the primary one of which is the extension of the Troika review missions and of the MAP to Eurozone MS that are not in a financial assistance program. Until this REG was issued, the Troika had the responsibility of negotiating and monitoring the implementation of a financial assistance program of a Eurozone MS. This REG does not only establish the Troika as an ad-hoc cooperation within the EU legal framework, but further extends its use beyond financial assistance, being a permanent structure within the EU framework. Similarly, the EU-based adjustment program for Eurozone MS receiving financial assistance is extended, through the concept of the MAP, to cases of Eurozone MS that are not under a financial assistance programme. In this way, a Eurozone MS that is deemed suffering from difficulties in relation to its financial stability is monitored by the Troika even if it has not requested any financial assistance and, should the measures it adopts not prove sufficient, then it has to negotiate a MAP with the Troika, again, even though it is not receiving any financial assistance. This is a crucial REG, as it extends the ability of supranational actors to affect directly key national policy areas, even in cases where no financial assistance is provided. What is more, the REG provisions explicitly the influence of the Troika, consisting of three fully technocratic, non-majoritarian institutions, in the area of taxation and combating fraud, otherwise one of the most important policy areas of a state. Finally, the PPS process raises serious concerns, as this indicates that Troika oversight and influence can be extended for a considerable amount of time after financial assistance has ended.

The importance of this REG is, mostly, in relation to the Troika and its authority. One aspect of this issue is the one almost permanent participation of the IMF within the EU/Eurozone. This demonstrates considerable weaknesses on the part

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<sup>152</sup> The Troika is also responsible for preparing a Debt Sustainability Analysis for Eurozone MS receiving financial assistance (European Parliament & Council of the European Union 2013a, 9).

of the EU and raises serious concerns in terms of democratic process and influence over key national policy areas<sup>153</sup>, at the very least for Eurozone MS outside a financial assistance program. Why did the IMF participate in the first place? As both the Governor of the Bank of Greece and former, inter alia, FinM Hon. Prof. Ioannis Stournaras and the MP and, inter alia, former Deputy PM and FinM Hon. Prof. Evangelos Venizelos suggest, the participation of the IMF was because a choice of the German government and Chancellor<sup>154</sup>. The Hon. Prof. Evangelos Venizelos further explained that this choice was made

*to express lack of trust to the EC, because the EC did not predict the crisis and to counter it, and because it (German government) judged that it (the EC) did not have the expertise and strictness vis-à-vis governments; that it is more lenient towards governments of MS in crisis<sup>155</sup>.*

IMF's participation poses considerable challenges to the governance not only of the Eurozone, but of the entire EU. As the Hon. Prof. Ioannis Stournaras, Governor of the Bank of Greece, suggests "*the role of the IMF was not, in the end, positive [...] it would be best if it did not exist (within the Eurozone framework). It has a very high level of expertise, but it also has obsessions in various issues, and it also has expensive loans: 4.5% interest rate while the ESM has less than 1%*"<sup>156</sup>. After all, it has been argued that the involvement of the IMF within the Eurozone "*would be felt as an admission that the eurozone is incapable of dealing with its internal problems and that it needs help from "Washington" [...] (and) would be seen as a blow to EU surveillance and in particular to the stability and growth pact* (Pisani-Ferry and Sapir 2010 and more generally Featherstone 2011, 203). The challenges raised are not only from an economic or political economy perspective, but also from a democratic one<sup>157</sup>. The process of the IMF's participation, while typically covered (IMF is invited to sit on EG meetings, etc), has been argued to raise serious questions about the EU democratic process and the juxtaposition between the external nature of the IMF to this process and its, now permanent, intense participation in Eurozone/EU affairs<sup>158</sup>. This indicates that the IMF has, de facto, become a permanent institutional aspect of

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<sup>153</sup> This argument was also raised in the interview with the former ECJ judge.

<sup>154</sup> From the interviews with the Hon. Prof. Ioannis Stournaras, Governor of the Bank of Greece, Professor of Economics and, inter alia, former FinM, and with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, inter alia, former Deputy PM and FinM.

<sup>155</sup> From the interview with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, inter alia, former Deputy PM and FinM.

<sup>156</sup> From the interview with the Hon. Prof. Ioannis Stournaras, Governor of the Bank of Greece, former FinM and Professor of Economics.

<sup>157</sup> From the interview with the former ECJ judge.

<sup>158</sup> *ibid.*

the EU and Eurozone, while also consisting the most major indirect influence of the USA in Eurozone affairs<sup>159</sup>.

The other Two-Pack REG 473/2013 sets unified time limits for submission and adoption of the national budget, the MTBF, etc. for all Eurozone MS, thus harmonizing the budgetary process. This REG also includes perhaps the most fundamental crisis measure of supranational influence in key national policy areas, and perhaps one of the most important steps in Eurozone, and more broad EU economic (or at least fiscal) integration<sup>160</sup>: oversight of national budgets, prior their adoption, by supranational level institutions (European Parliament & Council of the European Union 2013b, 17). The process includes the obligation of Eurozone MS to submit their draft budgets, i.e. before they are adopted by the respective national legislatures, to the EC and the EG for evaluation (European Parliament & Council of the European Union 2013b, 18). The EC issues an OP on the draft budget of each Eurozone MS; if the EC “*identifies particularly serious non-compliance with the budgetary policy obligations laid down in the SGP,*” it requests a modification of the draft budget accordingly (European Parliament & Council of the European Union 2013b, 18-9). The EG then discusses the draft budgets and relevant EC OPs (European Parliament & Council of the European Union 2013b, 20).

This constitutes a truly landmark measure not only within the Eurozone, but within the EU in general. This the first time that supranational actors, and in-fact one of them being exclusively technocratic, obtain such direct access and ability to affect the principal domestic policy issue that is otherwise a matter for a representative institution (the national parliament): the budget. Not only that, but the REG provisions the obligations of the Eurozone MS to conform to modifications of their draft budgets proposed by these actors, before even submitting for consideration in Parliament. There is an obvious legitimizing problem here, not only because of the mere fact of the overview of the budgets by supranational actors, but also because of the provision of the draft budget to be modified prior to its deposit in parliament. In other words, this REG essentially adds two completely new institutional actors in the budgetary process of each MS.

In addition, there is no provision upon which reviewing of national budgets by a supranational technocratic actor can be based upon, and no such mandate is

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<sup>159</sup> From the interview with the Hon. Prof. Evangelos Venizelos, MP of Greek Parliament, Professor of Constitutional Law and, inter alia, former Deputy PM and FinM.

<sup>160</sup> This argument was also raised in the interviews with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law, with Prof. Dimitris Chrysochoou, Professor of Theory and Institutions of European Integration, and with Dr. Lina Papadopoulou, Associate Professor of Constitutional Law.

provided within the EU Treaties. In fact, given the sensitivity of the budget for a state, not only in relation to key national policy but also as a core instrument of the expression of sovereignty and self-governance, again the principle of conferral should be fully observed. Even if supranational scrutiny over national budgets is considered democratically acceptable, the EC is a completely technocratic, non-elected actor, with little legitimacy and accountability to provide opinions over the national budgets, and even less to scrutinize it, bearing in mind that it is entirely different, both in structure, purpose and, more importantly, in legitimacy and accountability provisions, from respective Independent Fiscal Institutions, such as the Office of Budget Responsibility in the United Kingdom (International Monetary Fund 2016h). That is, there are no equivalent legitimation mechanisms in terms of the EC, but also the EG, influencing the national budget of Eurozone MS<sup>161</sup>. REG 473/2013 also includes a reinforced process in relation to the EDP for Eurozone MS. If a Eurozone MS is deemed to be under EDP by the CoM, then it is to present an Economic Partnership Programme (EPP) “*describing the policy measures and structural reforms that are needed to ensure an effective and lasting correction of the excessive deficit...*” (European Parliament & Council of the European Union 2013b, 20).

Overall, it is evident that, either through financial assistance mechanisms, or through enhanced coordination measures, supranational actors have gained considerably increased decision-making capacity in terms of national key policy areas, most with redistributive effects, especially when compared with their previous authority. However, this is often found in different areas than commonly perceived. For example, it is widely considered that the problem regarding MoU policies is that they lie outside the EU framework, while it was found that, actually, all MoUs have corresponding, EU legislation counterparts. The issue in this case is not the absence of EU-based relevant processes, but the extension of these processes so as to accommodate the connection with the MoU, i.e. the fact that conditionality is potentially incompatible with the purpose and mandate of both the corresponding EU legislation and the supranational actors included in it. Furthermore, in many cases supranational actors are able to directly monitor and affect a wide range of important economic or budgetary issues, and are able to even impose sanctions, culminating in the ability to monitor and scrutinize the entire budget. This is considerably problematic in terms of legitimacy of these actors to influence these policies, since they are either technocratic or an intergovernmental formation. How legitimate is the

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<sup>161</sup> This argument was raised in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

FinM of Austria to decide on issues relevant to the Greek budget, even if they have been elected (appointed by the legislature) and are held accountable by the Austrian people (and vice versa)? Furthermore, considering that the exact processes for exerting this influence is never fully delineated, and, in many cases is either intensely technocratic or held behind closed doors (e.g. EG when deliberating on the Eurozone MS budgets), it is difficult to exercise proper accountability, as there is little transparency and rules as to how these provisions are actually implemented and who is responsible.

### 7.2.2. EC Delegation/Decision-Making Capacity

As analyzed in detail in section 3.5.1, Indicator A of the EU DD includes not only an investigation of how the supranational level can affect key national policies of the MS, but also the overall level of delegation in terms of supranational institutions (except the EP, which is examined separately in Indicator B of the EU DD). That is, have EU institutions gained more or less decision-making authority, or has there been no change? The first of the institutions examined is the EC.

The EC has acquired considerably more decision-making authority through the measures adopted to provide financial assistance to Eurozone MS. In the EFSM framework, the authority of the EC remains relatively stable in reference to its previous authority to monitor structural adjustment implemented by MS under financial assistance in the pre-existing MTFA. However, the EFSF SA Framework Agreement includes a stipulation that all the Eurozone MS agree to task the EC with performing certain duties under this Agreement (European Financial Stability Facility 2011a, 3)<sup>162</sup>. Those duties entail, inter alia, the negotiation and agreement with Eurozone MS concerned on the MoU (along with the rest of the Troika), and the monitoring of its implementation with the ECB (European Financial Stability Facility 2011a, 5 and 12). The EC undertakes similar duties under the, now permanent, ESM, and is authorized (European Stability Mechanism 2012a, 6 and 28-31):

- a. with the ECB, to assess whether there is a risk for the Eurozone by the difficulties experienced by the MS concerned,
- b. with the ECB/IMF, to determine the sustainability of the debt of the MS concerned,
- c. with the ECB, to assess the financing needs of the MS concerned,
- d. with the ECB/IMF, to negotiate the MoU, on behalf of the ESM, with the MS concerned,

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<sup>162</sup> It needs to be highlighted that within the EFSF SA, the Troika assumes full form in negotiating and monitoring MoUs. As stipulated in Article 2(1)(a) “*the Commission (in liaison with the ECB and the IMF) shall be hereby authorised to negotiate the MoU with the relevant Beneficiary Member State ...*” (European Financial Stability Facility 2011a, 5).

- e. to sign the MoU, on behalf of the ESM and subject to prior approval by the organization's Board of Governors (Eurozone MS), with the MS concerned,
- f. with the ECB/IMF, to monitor compliance of the MS concerned with the MoU policy conditionality.
- g. with the ECB, to determine whether the amount of an ESM precautionary financial assistance credit line (Article 14 of the ESM Treaty) is sufficient to cover the financing needs of the MS concerned

As compared to the pre-ESM tasks of the EC, the following can be observed. Point (a) is broadly covered as tasks assigned to the EC even before the ESM, through TFEU provisions of monitoring financial stability of the Eurozone (e.g. article 136; European Union 2012, 104) or entire EU (e.g. articles 121 or 126; European Union 2012, 97 and 99-100). Points (c), (d), (e), (f) did also apply to the EC prior to the ESM, through the MTF process [e.g. respectively Articles 3(2), 3a, 5 of Regulation 332/2002; Council of the European Union 2002, 4-5].

However, neither the EFSF SA nor the ESM are technically part of the EU legal order. As such, any authority delegated to the EC is not derived from a CoM-issued REG or DEC and, thus, from the EU Treaties (as is the case under the MTF or EFSM). In this case, the EC no longer operates within the EU legal framework, and so becomes an international rather than an EU institution (even if only typically, since only Eurozone MS signed and are allowed to enter the agreement). The first issue to investigate, then, is whether an international organization or entity can use the EC outside the EU legal order. Per settled ECJ precedent<sup>163</sup>, it is not forbidden to utilize EU institutions in relation to agreements outside the EU law framework, under the condition<sup>164</sup> that tasks assigned “*do not alter the essential power conferred on those institutions*” by the TFEU/TEU (par. 162, European Court of Justice 2012). Is this condition met?

The ECJ, in case C-370/12, held that the tasks entrusted to the EC and the ECB in relation to the ESM did not, in fact, alter their character and, in any case, did not “*entail any power to make decisions of their own*” (par. 160 & 161, European Court of Justice 2012). However, the analysis presented above suggests that the EC has

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<sup>163</sup> In ECJ joined cases C-181/91 and C-248/91 (Parliament v. Council & Commission) and case C-316/91 (Parliament v. Council), it was held by the ECJ that when the EU's competence in a field is not exclusive, as is the case in financial assistance (the ECJ also held that the broad framework of the ESM falls under economic policy, in which, again, the EU does not have exclusive competence; par. 160, European Court of Justice 2012), then MS can enter into commitments outside the EU framework and that there is no provision preventing MS “*from entrusting the Commission with the task of coordinating a collective action undertaken by them*” (par. 120, European Court of Justice 2012; par. 20 and generally 16, European Court of Justice 1993; generally par. 26 & 41, European Court of Justice 1994)

<sup>164</sup> In accordance with, among others, ECJ Opinions 1/92 and 1/09, which examined cases of agreements between MS assigning duties to EU institutions that were outside the EU framework (relevant par. 32 & 41, European Court of Justice 1992 and par. 75, European Court of Justice 2011).

had its decision-making capacity de facto increased, and its character was altered considerably through the duties assigned to them in relevance to financial assistance. For example, the EC did not previously enjoy such binding authority (through conditionality of financial assistance) and influence over so many different policy areas, many of which outside the competence of the EU (e.g. budgetary measures, taxation, defense, etc). Furthermore, the fundamental character of the EU is to promote the interest of the entire EU, whereas here the EC is transformed into a key decision-making actor in relation to specific policies of one MS, while representing only a certain portion of the other MS.

In addition, while tasks broadly similar to those undertaken by the EC in relation to the EFSF SA/ESM were also previously assigned to it under the pre-existing MTF, these concerned only non-Eurozone MS and were assigned directly to the EC through an EU legislative instrument (secondary legislation), which includes the entirety of the EU, i.e. a CoM REG. Only in 2013 was a similar provision included for the EFSF SA/ESM in relation to the EC's role in the financial assistance programs (REG 472/2013), and this was still very indirect and limited to proposing that the Troika negotiates the MAP, which is used in a number of cases aside from when a Eurozone MS requests financial assistance, with the Eurozone MS concerned and monitors the its implementation, and that the EC ensures the consistency of the MAP with the MoU (as outlined in section 7.2.1 above). Therefore, although the actual tasks of the aforementioned points with which the EC is entrusted in the case of the ESM may be argued to be similar to those under the MTF, the legislative gap and relevant differences are apparent. Furthermore, even if it is considered that the condition for using the EC outside the EU framework is met, there are further issues to be raised in relation to whether, when performing tasks under this capacity, the EC is bound by primary EU law and the rights protected therein<sup>165</sup>. The EC claims that, when operating under the aforementioned capacity, it is not bound by these restrictions<sup>166</sup>.

In addition to the above, the EC acquires increased ability to influence national policy through the Troika but in processes beyond financial assistance in REG 472/2013. Through the process of enhanced surveillance, the Troika can conduct the exact same activities as it can for Eurozone MS under financial assistance, but this time for Eurozone MS that are facing or merely threatened with financial difficulties. This includes on-site monitoring as well as deliberations between the MS concerned

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<sup>165</sup> From the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

<sup>166</sup> *ibid.*



and the Troika in relation to measures to be assumed and/or the MAP (European Parliament & Council of the European Union 2013a, 3-5). Moreover, as it has been presented above, the PPS of Eurozone MS under a financial assistance program may be prolonged beyond the mark of 75% of assistance being repaid. This is decided by the CoM after an EC PROP. However, this PROP can be rejected only if RQMV is achieved in the CoM, which is, in itself, much more difficult than not achieving a QMV. Through this provision, it is not only the case that the EC can continue to affect these policy areas long after the financial assistance program has concluded, but can, by its own decision, extend the monitoring even beyond the threshold set under the REG.

Even if it is considered that the EC can perform the aforementioned monitoring, it is not clear upon which legal foundation this monitoring can become conditional for the MS receiving financial assistance. In fact, as it has been demonstrated further above, the EU-based equivalents are stretched in order to assume the conditional character of the MoU, which is mostly contrary to their mandate and purpose. More to the point, however, the EC, when operating within the Troika, seems to have also undermined a considerable portion of the values it is to defend (employment, labour market collective agreements, etc.), as well as to have exceeded its institutional mandate (primarily in relation to the conditional character that its actions now assume under the Troika-MAP/MoU process). In accordance with the TEU, the EC is to propose new laws to the EP and EUCO, to manage the EU's budget, to enforce EU law, and to represent the EU internationally (European Commission 2014a & 2014b). It “*represents the interests of Europe as a whole (as opposed to the interests of individual countries) [sic]*” (European Commission 2014b). Through its participation to the Troika, the EC seems to have gained strong decision-making capacity in areas falling outside its, and in many cases the EU's, jurisdiction and competence (e.g. taxation or wages). In addition, making policy in such areas may create or promote divisions between different MS, and may better represent the interests of some, versus all, EU MS.

Furthermore, the roles assumed by the EC seem to be somewhat prone to controversy and potential conflict of interest, as the EC is both the negotiator, enforcer and overseer of the agreements reached in relation to financial assistance. This was also highlighted in the EP Report on the Troika<sup>167</sup>, which suggests that:

*...there is a potential conflict of interest within the Commission between its role in the Troika and its responsibility as guardian of the Treaties and the*

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<sup>167</sup> Procedure 2013/2277(INI)

*acquis communautaire, especially ...with regard to Member States' wage and social policy, an area in which the Commission has no competence, as well as respect for the Charter of Fundamental Rights of the European Union; points out that such a situation contrasts with the Commission's normal role"* (European Parliament 2014a).

The augmenting of the EC's decision-making capacity is also considerable in relation to the set of measures aimed at further economic coordination of EU MS. Across the Six-Pack it is clear that the EC is given considerably more authority to conduct in-depth reviews, on-site missions, assess and survey MS, etc. In Recital (7) of REG 1173/2011 (concerning only Eurozone MS) it is referenced that:

*The Commission should play a stronger role in the enhanced surveillance procedure as regards assessments that are specific to each Member State, monitoring, on-site missions, recommendations and warnings. When taking decisions on sanctions, the role of the Council should be limited, and reversed qualified majority voting should be used* (European Parliament & Council of the European Union 2011e, 1)

This Recital describes in a nutshell the entire reform of the EC's role across the crisis measures aimed at further enhancing economic coordination between EU MS, and it is repeated throughout most of the REGs in the Six-Pack<sup>168</sup>.

One of the main issues is the wide-spread introduction of RQMV in favour of EC PROPs. More specifically, in relation to breaches of SGP and EIP obligations, under REGs 1173/2011 and 1174/2011, as well as in relation to the EIP for all EU MS, under REG 1176/2011, any EC PROP imposing sanctions for breach of TFEU article 121 obligations, including interest and non-interest bearing deposits and fines, or any relevant REC for EIP corrective actions, are all considered adopted by the CoM, unless a blocking majority is formed, i.e. RQMV is now the applicable voting process (European Parliament & Council of the European Union 2011e, 10-11 and 2011f, 10 and 2011h, 31)<sup>169</sup>. Obviously, it is much more difficult to form a blocking majority than for a PROP or OP to fail because of non-attainment of votes under QMV. Therefore, many of the EC PROPs will now be enacted by the CoM much easier than before. In fact, it is referenced in Article 1(4)(3) of REG 1175/2011 (preventive part of the SGP for all EU MS) that:

<sup>168</sup> REGs 1174/2011 Recital (10), 1175/2011 Recital (12), 1176/2011 Recital (6) (European Parliament & Council of the European Union 2011f, 26 and 2011g, 13 and 2011h, 8 respectively).

<sup>169</sup> In relation to REG 1175/2011, although it is provisioned that the EC REC in relation to specific measures to be implemented by EU MS under TFEU article 121(4) and the SGP (MTBF) are to be adopted by the CoM under QMV, if they are not adopted the first time, the EC makes another proposal that is adopted, unless an RQMV is reached by the CoM (European Parliament & Council of the European Union 2011g, 19 and 22).

*The Council is expected to, as a rule, follow the recommendations and proposals of the Commission or explain its position publicly (European Parliament & Council of the European Union 2011g, 15).*

Here, the increase in the decision-making authority of the EC corresponds to a simultaneous decrease in the authority of the CoM, i.e. the technocratic supranational actor acquires considerably more executive (insofar as this can be characterized as such within the EU framework) authority than the supranational intergovernmental actor.

It needs to be highlighted that, in the past, and especially in relation to the SGP, CoM relevant processes were somewhat dominated by political power, as countries with more political weight possessed greater percentage of votes and more political weight. For example, France and Germany pushed for more relaxed SGP criteria in 2005, mainly by removing the automated procedure of the EDP and providing for more room for intergovernmental bargaining (De la Porte & Heins 2015; Majone 2012). Considering this issue, the increasingly binding nature of EC PROPs and OPs under this reinforced SGP framework, which corresponds to an increase of the EC's decision-making authority (an otherwise non-elected, highly technocratic actor) especially vis-à-vis the CoM, might introduce increased efficiency and uniformity in applying the rules, and less political influence in this process. In either case, however, these new reinforced SGP rules are to the detriment of legitimacy and accountability. The EC is held, directly or indirectly, substantially less accountable than the CoM, especially at the national level (at the supranational level the EP does maintain some, albeit rather restricted, scrutiny over the EC), and is non-elected. This means that a non-elected actor acquires considerably increased decision-making authority over key national policy areas related to the SGP, potentially at the cost of the authority of the more accountable and legitimate (in comparison) intergovernmental actors (CoM).

Another issue relevant to the Six-Pack is the ability of the EC to conduct in-depth and enhanced surveillance reviews and onsite mission in EU MS that are in breach of SGP and EIP obligations. This is provisioned in

- REG 1173/2011 Article 8(3), with the EC being able to conduct in-depth inspections to MS, including access to all statistical data (European Parliament & Council of the European Union 2011e, 5),
- REG 1175/2011 Article 1(3), in which the EC is entitled to conduct undertake monitoring and surveillance missions to MS in evaluating the implementation of any relevant European Semester CoM DEC, RECs or OPs (European Parliament & Council of the European Union 2011g, 15),

- REG 1175/2011 Article 1(15), through which the EC<sup>170</sup> can conduct on-site monitoring relevant to the MS economic situation under enhanced surveillance (European Parliament & Council of the European Union 2011g, 23),
- REG 1176/2011 (MIP for all EU MS) Recital (15), Articles 5, 9(1), 9(7) and 13, through which the EC can conduct in-depth reviews and surveillance missions to all EU MS under EIP, or in case they are threatened with being affected, or even if they are at risk of being affected, by macroeconomic imbalances, or to monitor implementation of MIP plan by MS (European Parliament & Council of the European Union 2011h, 26 and 29 and 30-31),
- REG 1177/2011 through which the EC<sup>171</sup> can conduct on-site monitoring relevant to the MS economic situation under EDP and enhanced surveillance (Council of the European Union 2011h, 34).

The above provisions greatly augment the decision-making capacity of the EC. This is especially the case in relation to REG 1176/2015, under which the EC can conduct in-depth reviews and on-site missions even in the case where an EU MS is merely at risk of being affected with macroeconomic imbalances. In short, the EC has not only acquired more decision-making authority, but has acquired considerably increased ability in the implementation and monitoring of MS policies. This intense monitoring capacity of the EC lacks strong foundations in the EU Treaties, and raises serious concerns in terms of the extent of authority of this technocratic actor to monitor and review policies of the national level at such depth.

Finally in relation to the Six-Pack, direct horizontal delegation from the CoM and EP is provided to the EC under Chapter VII of REG 1173/2011 (European Parliament & Council of the European Union 2011e, 6). The delegation is conferred on the EC for acts related to the monitoring and, if appropriate, imposition of fines relevant Eurozone MS statistics (Article 8 of the REG) for 3 years (tacitly extended if EP or CoM do not object) but can be revoked at any time by the CoM or the EP (European Parliament & Council of the European Union 2011e, 6). The authority to delegate the issuance of acts to the EC via a legislative act is provisioned in TFEU article 290, subject to the conditions that the EP or the CoM can revoke the delegation at any point, and that no objection will be raised within a specific limit by the EP or CoM against the EC-delegated act (European Union 2012, 172). The REG satisfies these conditions.

The third set of issues to be considered is relevant to the EU-wide enhanced coordination measures that concern only the Eurozone MS. In relevance to Two-Pack REG 473/2013, the EC acquires the most significant boost in its decision-making capacity relevant to key national policies of the national level. Through this REG, it is

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<sup>170</sup> In cooperation with the ECB in case of a Eurozone or ERM II MS (European Parliament & Council of the European Union 2011g, 23).

<sup>171</sup> Footnote supra.

the EC that the Eurozone MS submit their budgetary plans to, before they become binding at the national level, and it is the EC that assesses these budgetary plans and may request their modification in cases of non-compliance with the SGP (European Parliament & Council of the European Union 2013b, 19). In other words, the EC can now directly influence the budget of Eurozone MS, even before national Parliaments adopt it. This constitutes a landmark authority for a supranational institution. Furthermore, the EC is set responsible for monitoring compliance with the EPP that is submitted by Eurozone MS under an EDP and includes the structural reforms necessary to correct the excessive deficit (European Parliament & Council of the European Union 2013b, 20).

From the above, it can be concluded that the EC has had a considerable increased in its overall capacity to affect key national policies through EU-wide crisis measures, either those aimed at providing financial assistance or those aimed at enhanced coordination of MS. This is primarily through its participation in the Troika, which has now expanded to processes additional to financial assistance (e.g. enhanced coordination) within the Eurozone. What is more, this increase in its ability to influence national policy areas appears to be both legally, but, most importantly, democratically, challenging.

### 7.2.3. ECB Delegation/Decision-Making Capacity

The ECB experienced a substantial but, in comparison to the EC, somewhat more limited boost in its decision-making capacity, mostly through its participation in the Troika. In relation to financial assistance crisis measures, the EFSM is the first time, including the MTFA framework, that the ECB assumes such a primary role in economic policy of EU MS. The only pertaining relating to the ECB in the pre-existing MTFA was that the loans could be “*granted as consolidation of support made available by...*” the ECB, and it was the ECB that makes the arrangements necessary for the disbursement of the loans (Council of the European Union 2002, 2). In contrast, the EFSM provides for full consultation between the EC and the ECB on the economic conditions for financial assistance, as well as mutual oversight, review and update (if necessary) of the adjustment program (Council of the European Union 2010b, 2).

Similar provisions, but with the IMF now added to form the Troika, exist in relation to the EFSF SA and the, now permanent, ESM, as well as in relation to the EU-based part of financial assistance conditionality, as encapsulated in REG 472/2013 (European Financial Stability Facility 2011a, 5; European Parliament &

Council of the European Union 2013a, 6-7 and 12; section 7.2.2)<sup>172</sup>. Issues in this case are broadly in line with those outlined in relation to the EC (section 7.2.2). In relation to EU/Eurozone MS economic coordination measures, in the Six-Pack, in cooperation with the EC, IMF and ESAs/ESRB (if applicable), the ECB is responsible for monitoring the implementation of the EIP or for enhanced surveillance of Eurozone/ERM II members (REGs 1175/2011 and 1176/2011; European Parliament & Council of the European Union 2011g, 23 and 2011h, 31-2).

The above observations indicate that the ECB has acquired considerably increased and more direct decision-making capacity in relation to national MS policies, oftentimes in measures that are mostly, or exclusively, economic. This is particularly problematic not only because of the purely technocratic nature of the ECB vis-à-vis the mostly redistributive character of economic policies affected, but also because of its mandate. The ECB is established as a monetary policy instrument aimed primarily at maintaining price stability through monetary actions<sup>173</sup>. Monetary policy is clearly distinct from economic policy, with the Central Bank (in this case the ECB – the same principle applies for National Central Banks) being independent from the political realm and relevant influences or pressures. However, in this case, the ECB seems to now have direct input and influence economic policy. As the Hon. Prof. Louka Katseli highlights “*an independent central bank should not be part of the negotiations* (between the Troika/EG and the MS concerned), *but it is all the time*”<sup>174</sup>.

An indicative example of the above is the then ECB President’s 5<sup>th</sup> August 2011 letter to the then Italian PM. In this letter detailed fiscal policy measures, such as specific retirement provisions, extensive privatisations, wage reforms, collective bargaining system reforms, etc, were outlined and their adoption by the Italian government was requested by the ECB (Corriera Della Serra 2011; Dinmore & Atkins 2011). As the EP, in its Report on the social aspects of the operation of the Troika,

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<sup>172</sup> In terms of the ECB performing tasks for international institutions or organizations outside the EU framework, identical observations apply as those relevant to the EC in section 7.2.2.

<sup>173</sup> In accordance with the ECB’s / ESCB’s Statute (Protocol No 4 of the Treaties of the EU) as well as article 127. Article 2 of the Statute sets the primary objective of the ESCB as maintaining price stability. Its tasks, according to article 3 of the statute, are “*to define and implement the monetary policy of the Union; to conduct foreign-exchange operations...; to hold and manage the official foreign reserves of the Member States; to promote the smooth operation of payment systems*” (European Union 2012, 230-1). The ECB can also submit reports in regards to its fields of competence to any EU or national authorities “*but within the limits and under conditions set out by the Council in accordance with the procedure laid down in Article 41*” (European Union 2012, 231).

<sup>174</sup> Interview with the Hon. Prof. Louka Katseli, inter alia, former Minister of Economy, Competitiveness and Shipping (2009-2011), and former Minister of Employment and Social Security (2010-2011).

observed: “*the ECB has taken decisions that fall outside its mandate*”<sup>175</sup> (European Parliament 2014c).<sup>176</sup>

Considering the above, and the strictly monetary nature, both de jure and de facto, of the ECB, the direct increased input of the ECB into the economic realm, especially in relation to Eurozone MS and the EU-based financial assistance mechanisms, seems problematic from a strictly legal, but also from a broader democratic point of view. Economic policy, with large redistributive effects, is related to the political realm, as collective decision-making through the democratic process is necessary for conducting policy in these areas. Hence, influence by the intensely technocratic ECB on key electorally salient policies with redistributive effects raises concerns in relation to the democratic process. These issues were also highlighted by the EP Report on the Troika<sup>177</sup>, which:

*Points ...to the potential conflict of interest between the current role of the ECB in the Troika as ‘technical advisor’ and its position as creditor of the four Member States, as well as its mandate under the Treaty as it has made its own actions conditional on decisions it is itself part of (European Parliament 2014a).*

and, in addition, highlighting the potential conflict of interest in the role assumed by the ECB within the assistance framework, notes that:

*... throughout the crisis the ECB has had crucial information on the health of the banking sector and financial stability in general, and that with this in mind it has subsequently exerted policy leverage on decision-makers (European Parliament 2014a).*

From the above, it is clear that not only has there has been a considerable increase in the decision-making capacity of the ECB, but there are also indications that this increase may be contrary to its mandate. More importantly, the ECB has now increased ability to exercise decisive authority over economic (and other, through the MAP/MoU process) policies of the MS, many of which are considered key and are of a redistributive rather than regulatory character.

#### 7.2.4. CoM Delegation/Decision-Making Capacity

The CoM, in contrast to the aforementioned observations relating to the EC and ECB, has mostly either remained the same or even lost some of its decision-making capacity. Only in few cases has it acquired new authority. In relation to the

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<sup>175</sup> This argument was also raised in the interview *ibid*.

<sup>176</sup> However, the ECJ, in case C-370/12 (Pringle) found that, in terms of duties undertaken through the ESM Treaty, neither the EC nor the ECB exceeded their mandate (par. 158-169, European Court of Justice 2012).

<sup>177</sup> Procedure 2013/2277(INI)

EU-based financial assistance mechanisms, in the EFSM its decision-making authority and processes remain largely the same with the pre-existing MTF<sup>178</sup>. In relation to the EFSF SA, the CoM is referenced only in relation to the relevant TFEU article 136(1) DEC. In terms of the EFSF SA Framework Agreement, it is provisioned that the final decision for the granting of a loan and for releasing each disbursement, and thus on the MoU and on whether or not the MS has complied with it, are taken by the Eurozone MS in unanimity, as Guarantors of the company (European Financial Stability Facility 2011a, 24). Here the CoM seems to maintain its ability to influence policy, similarly to the EFSM.

In relation to EU-wide enhanced coordination measures, throughout the Six-Pack the CoM has lost considerable authority, especially when compared to the EC. As presented further above (section 7.2.2), in most measures implemented across the Six-Pack (more specifically REGs 1173/2011 through 1176/2011), EC PROPs or OPs are considered adopted unless RQMV is achieved in the CoM, versus the regular procedure where the EC's PROPs or OPs are only adopted if upheld under QMV. There seem to be some exceptions, but upon closer analysis these instances also follow the above norm<sup>179</sup>. The wide-ranging introduction of RQMV makes it much harder to not approve EC-proposed acts. In addition, considering the QMV weighting applicable under the Treaty of Lisbon, this also considerably changes the balance of power within the CoM (European Parliament 2014b). For example, RQMV would be almost impossible to achieve without any of the first five most populous countries (Germany, France, UK, Italy, Spain, Poland), on measures which could concern imposition of fines or deposits for smaller MS, such as Greece or Cyprus (European Parliament 2014b). Therefore, unless one of these MS was on board, smaller EU MS will almost never be able to block an EC proposed act, as opposed to what was formerly applicable, where, even under the post-Lisbon CoM voting rules, a QMV would still have to be formed to pass the act, or, at the very least, a weak QMV would have to be formed to block it. The new, post-Lisbon CoM voting system, combined with RQMV, results simultaneously at both a boost in the supranational element of the EU, by giving increased policy capacity to the EC (RQMV), and the intergovernmental element of the EU, by attributing more authority to larger (at least by population and economy) EU MS.

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<sup>178</sup> In both the authority of deciding on granting the financial assistance and on the terms of such assistance (i.e. the adjustment program) is assigned to the CoM, and in both cases this is decided under QMV (MTFA article 8 and EFSM article 3(3) Council of the European Union 2002, 3 & 2010, 2).

<sup>179</sup> In Articles 4 through 6 of REG 1173/2011, QMV is applied as a voting system for an EC PROP, however that is only restricted to amending, and not abolishing or not approving, the relevant PROP (European Parliament & Council of the European Union 2011e, 4-5).



Despite the apparent loss of CoM authority, there are a few cases where it has actually increased. For example, the CoM is authorized to issue DECAs, pursuant to its own RECs, i.e. more powerful legislative acts, in relation to breach of obligations under REG 1175/2011 and TFEU article 121(4), or in relation to REG 1176/2011, and the EIP (European Parliament & Council of the European Union 2011g, 14 and 2011h, 31). Furthermore, the CoM is tasked with approving (QMV), the MAP or enhanced surveillance measures for Eurozone MS in the Two-Pack, as well as monitor the implementation of the EPP for Eurozone MS under an EDP (European Parliament & Council of the European Union 2013a, 4-8). Similar observations can be made in relation to the EG. In relation to Eurozone MS, the EG, an otherwise informal meeting of the ECOFIN FinM for Eurozone MS, acquires the capacity to review and discuss the national budgetary plans of all Eurozone MS, along with the EC OPs on them (REG 473/2013; European Parliament & Council of the European Union 2013b, 19-20). Overall, the CoM has lost some of its decision-making capacity, or at least its room for political manoeuvring, especially in relation to key national policy areas where large disagreements may arise (such as the budget). However, in relation to specifically the Eurozone MS budgets, the EG (subconfiguration of the CoM) has gained considerably ability to influence policy through the EG's power to review national budgets before they become binding.

#### 7.2.4. ECJ Delegation/Decision-Making Capacity

Throughout the crisis measures, and in particular the EFSF SA and its later, permanent successor ESM, the ECJ underwent and increase in its decision-making capacity. The ECJ is set responsible for resolving disputes between Eurozone MS in relation to the EFSF SA (European Financial Stability Facility 2011a, 31)<sup>180</sup>. For the ESM, the ECJ is set responsible at second, and final, degree in relation to “*any question of interpretation or application of the provisions of this Treaty and the by-laws of the ESM*” between an ESM member and the ESM or between ESM members (European Stability Mechanism 2012a, 51). Finally, the ECJ is also set responsible in the TSCG in relation to charges brought by the EC or a participating MS relevant to failure of implementing the debt-break provisioned in the treaty (European Council 2012a, 16).

Similarly to the analysis for the EC and ECB, the question is raised whether it is possible for the ECJ to adjudicate on issues that concern an international

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<sup>180</sup> Any dispute between the EFSF SA and a Member State is subject to the jurisdiction of Luxembourg courts, as the company is registered there (European Union 2011a, 31).

corporation (EFSF SA), an international organization (ESM) and an international agreement (TSCG). In relation to this issue, TFEU article 273 states that the ECJ

*... shall have jurisdiction in any dispute between Member States which relates to the subject matter of the Treaties if the dispute is submitted to it under a special agreement between the parties* (European Union 2012, 165).

Therefore, this article, while allowing for the ECJ to assume judicial duties outside the EU Treaty framework (if this has been agreed by the MS concerned), it places two conditions:

- First, the ECJ's jurisdiction has to concern a dispute of MS, i.e. regardless of the legal framework, it is not possible for the ECJ to assume judicial duties in a dispute between a MS and another state or two other states.
- Second, there is also a material jurisdiction restriction imposed, i.e. the ECJ is authorized to resolve disputes only if it "*relates to the subject matter of the Treaties*" (European Union 2012, 165).

Are these conditions met? In relation to the ESM, the ECJ examined in case C-370/12 whether itself was subject to an increase of its decision-making capacity, or whether it is assigned any new tasks (par. 154, European Court of Justice 2012). It ruled that any disputes that would be submitted to it under the ESM do, in fact, fall within the subject matter of the Treaties and, hence, the ECJ's authority in relation to ESM disputes falls within TFEU Article 273 (par. 173, European Court of Justice 2012). More specifically, it ruled that in the case of a dispute concerning the MoU, this is still within the remits of the EU Treaties, since per Article 13(3) of the ESM Treaty, the MoU is consistent with EU-based economic policy measures (European Stability Mechanism 2012, 29). As such, "*the conditions to be attached to the grant of...(financial) support to a Member State are, at least in part, determined by European Union law*" (par. 174, European Court of Justice 2012).

However, there are questions to be raised in relation to whether the aforementioned two conditions of TFEU article 273 are met. While the ECJ did argue that the MoU is to be fully consistent with EU legislation, it is not identical to it. As such, it is questionable whether the MoU is in fact within the remit of the subject-matter of the Treaties. Secondly, in accordance with TFEU article 126(10), nor the EC nor another EU MS can bring forth charges to the ECJ related to the EDP (article 126) against another MS (European Council 2012, 101 and 161). While the ESM Treaty, in relation to PPS, refers only to TFEU Articles 121 and 136 (Recital 17; European Stability Mechanism 2012a, 8), the process of TFEU article 126 (EDP) is included in the process of article 136. Therefore, while the ECJ may not adjudicate on matters of TFEU article 126 according to the TFEU, it now may do so through the ESM Treaty.

It, thus, seems that the ECJ has acquired new authority to adjudicate over issues that it may not adjudicate over according to the EU Treaties.

The TSCG is also designated as a special arrangement in accordance with the aforementioned TFEU article 273, but again, it is questionable whether the above conditions are met (European Council 2012a, 17). While it is the case that further economic coordination falls within the subject matter of the Treaties, the Treaties themselves do not include any obligation by EU or Eurozone MS to establish an automatic correction mechanism; much less one which is of a legal permanent basis. As such, it is questionable whether the non-introduction of this mechanism by an MS within the jurisdiction of the ECJ.

#### 7.2.5. Interim Conclusion on Indicator A

Indicator A was concerned with whether the measures introduced during the crisis affected key national policy areas and, thus, have redistributive, rather than Pareto-optimal, effects in relation EU citizens. In addition, the focus was also the overall ability of supranational level institutions to affect policies of MS, i.e. whether the overall level of delegation has increased. In relation, then, to the EU-wide crisis measures, and already from the extent of the analysis for this indicator alone, it is evident that this has been the area most affected.

In relation to key national policy areas of MS, EU-wide financial assistance measures clearly increased the influence of supranational actors. The primary concern in this case are the structural adjustment policies outlined in the MoU. Overall, through the MoU process, a variety of supranational actors acquired considerable influence over key, and also general, national policies of EU MS. What is more, this is for a prolonged duration, considering that PPS may last until at least 75% of the loan is repaid. In general, the more distance between the financial assistance mechanisms and the EU framework, the greater the influence becomes. This is because the structural adjustment aspect of the assistance, i.e. the MoUs, become more specified, binding and extensive in the mechanisms that are external to the EU status quo. The EFSM, the only purely EU-founded assistance mechanism, included the least increase, as it provisioned an EU-based structural adjustment program in principle, followed then by an MoU, in which the details were included. It is also worth noting that, as the EFSM was solely based on EU legislation, it was more restricted in terms of supranational actors to influence key national policies, not least because it included all EU MS (both Eurozone and non-Eurozone), and thus the decision-making process included considerably more stakeholders with different interests.

In contrast to the above, through the EFSF SA and the ESM, which were solely by and for Eurozone MS, supranational actors gained considerably more influence in key national level policies, not least because, as these are institutions outside the EU framework, they include only the MoU without a relevant structural adjustment program. To remedy this situation, both the EFSF SA (TFEU article 136) and the ESM (in general) provision the compatibility of the MoU with any EU act that may be issued relevant to the Eurozone MS concerned. Correspondingly, EU based legislation (REG 472/2013) provisioned for the introduction of a MAP, which is to be consistent with any MoU signed. In a way, even if indirectly, it seems that any MoU has also gone through the EU legislative process, contrary to popular belief that problems relating to the MoUs arise from the fact that it has not gone through the EU process. It seems, then, that any increase in the decision-making ability of supranational institutions through these assistance programs is EU-sanctioned, at least insofar as they obtain this ability through the MoUs. From this aspect, it seems that delegation is regularly provisioned within the EU framework and that there are no problematic elements or issues of increase in terms of this particular area.

While this is true, the way in which the MoUs impact policy also has to be analyzed: namely conditionality. This is important because conditionality adds an obligatory character that mandates policies be implemented under the risk of non-disbursement of financial assistance that is necessary for the financial survival of the MS. In this case, the outcome of the analysis is different than the above. The element of conditionality only exists in TFEU article 122(2), and thus only in relation to the EFSM, which, coincidentally, is the only EU-based financial assistance mechanism and the one that included the comparatively milder impact on key national policies.

In contrast to the above, there is no provision that would cover for the element of conditionality in actions by supranational actors within the frameworks of either the EFSF SA or the ESM. The EU corresponding legislation (either TFEU article 136 or REG 472/2013) includes no element of conditionality. This creates an interesting phenomenon whereby, through their connection with the MoU process, EU-based legislative instruments acquire new attributes (namely conditionality) that are not provisioned for within the EU Treaties. Considering the above, supranational actors, within the context of Eurozone financial assistance, as well as EU legislation itself, acquire increased ability to influence key policy areas of MS, not so much through an increased level of delegation (which could be argued to fall within the remits of the EU framework) but through the nature of this delegation, i.e. the conditional character of the requested reforms.

In congruence with the above, the levels of delegation of the specific supranational institutions involved in financial assistance, i.e. the EC, ECB and CoM (EG), has considerably increased. It has often been presented that, again, the problem with the roles that these institutions assume under the assistance framework is the fact that they are outside the EU framework, and thus acquire increased ability to influence policies that would not normally be allowed within the EU. This concern is partially true. It is the case that EU institutions can be used outside the EU framework upon EU MS authorization, but their essential powers must not be altered. However, as has been demonstrated, while these institutions might have enjoyed the same level of influence over key national policies within the EU, the nature of such influence was not included, i.e. conditionality.

As such, these institutions, and primarily the EC and ECB, experience an alteration in their essential powers when operating under the EFSF SA/ESM framework. In addition, this is also the case because of the apparent conflict of interest of the EC, the lack of foundational basis of the Troika (even after 2013, the relevant EU legislation/Two-Pack is indirect at best), and the potential exceeding of the EC's and, primarily, the ECB's (monetary actor influencing economic policy, i.e. technocratic, isolated actor influencing redistributive policies) mandate. As Prof. Louka Katseli suggests in relation to how the Troika operated in the Greek case, "*the Troika formation...has had many institutional problems*" including the original absence of an institution to provide liquidity and financial assistance, or act as a lender of last resort in times of crisis, which led eventually to the operation of the ESM; other problems included, democratic legitimacy, its relationship with parliaments, the role of the ECB, the IMF's participation, and its operations on the ground.<sup>181</sup>

In relation to EU-wide measures aimed at enhanced coordination, it is observed that those too provide increased decision-making capacity to supranational institutions. For example, the MTBF, the EIP, the EU Semester, the TSCG all provide the ability to supranational institutions for influencing MS budgets, mainly through numerical rules that are, in many cases, additional to those of the EU Treaties, institute new supervision procedures, and introduce more and stricter sanctions. The most obvious example is the ability of the EC/EG to overview and even request modifications in Eurozone MS budgets before parliamentary approval is sought, as

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<sup>181</sup> From the interview with the Hon. Prof. Louka Katseli, Chair of the Board of Directors of the National Bank of Greece, President of the Hellenic Bank Association, Professor of Economics at the University of Athens, and, inter alia, former Minister for the Economy, Competition and Maritime Affairs and Minister for Labour Affairs and Social Security and MP.

well as the extension of the Troika supervisory framework into the enhanced surveillance procedure of Eurozone MS even when a Eurozone MS is not under financial assistance. These provisions give a considerable boost in the ability of the supranational level to monitor and scrutinize key national policy areas.

Similar conclusions can be drawn in relation to specific EU institutions and EU-wide enhanced coordination measures. The EC experienced a considerable boost in its decision-making authority through the wide-reaching introduction of RQMV as a replacement of QMV, leading to a much easier adoption of EC acts by the CoM, and much harder rejection of them. In addition, the EC has increased ability to conduct onsite monitoring and enhanced surveillance, which, coupled with the introduction of RQMV, creates a substantial surge of authority by the EC, especially compared to the simultaneous apparent reduction in the power of the CoM.

A consequence of the above is the increasing depoliticisation of issues in the CoM, which now has considerably less room for political maneuvering. While this may be seen as increased efficiency, it has to be taken under consideration that most of the issues relevant to these processes concern key national policies, and primarily the budget, of MS, and are hence redistributive in character. Taking this into consideration, this increasing depoliticisation is considerably problematic, as electorally salient issues are increasingly determined by non-elected, technocratic actors. Obviously, the ability of the EC to review and request modifications to the budgets of Eurozone MS prior to their parliamentary approval also considerably increases its authority, this time vis-à-vis the national level. Finally, through its participation in the Troika, which has expanded its mandate to actions in cases beyond financial assistance programs, as well as the MAP, it has gained ability to influence both key and broader policies of Eurozone MS. Similar observations apply for the ECB. Finally, the ECJ seems to have experienced a de facto limited increase in its decision-making authority, even in areas that may be contrary to Treaty provisions.

What do these issues tell us in relation to the EU DD? It is clear that the crisis measures have provided for a considerably augmented ability of the supranational level to influence key national policy areas. What is more, this increase occurred in institutions which are largely, or exclusively, technocratic. The EC, the ECB and, at a much lesser degree, the CoM, can now affect key national policies with redistributive effects, which they were not able to influence before, in a more direct and binding, but more importantly in a permanent, way. In addition, this increase oftentimes lacked strong foundations in primary, or even secondary, EU legislation.

### 7.3. Indicator B: Parliamentary authority (EP and national Parliaments)

#### 7.3.1. European Parliament

In relation to the EU-wide financial assistance measures, there is no reference made to the EP whatsoever. This is striking, and quite democratically problematic, since the policy adjustment aspect of the financial assistance programs, as has been demonstrated in the sections above and will be further demonstrated in SECTION C, provide EU-level technocratic institutions with considerable ability to influence key national policy areas, mostly through the MoUs. This is not matched with a corresponding increase in the decision-making or even oversight capacity of the EP. Therefore, participation of representative institutions, and particularly the EP, has been argued to be a core deficiency in the implementation of the MoUs<sup>182</sup>. This lack of participation, particularly in relation to the MoU/MAP process, was discussed a number of times in the EP Conference of Presidents<sup>183</sup>, and it was decided that the EP report on the operations of the Troika<sup>184</sup> and REG 472/2013 could constitute a legal basis for an increase in the involvement of the EP in the MoU process, with a new Inter-Institutional Agreement or, at the very least, an EC-EP MoU or exchange of letters (European Parliament 2015a, 14-5 and 2015b, 12)<sup>185</sup>. However, it was also agreed that the EP's participation would be limited, with no input in the actual decision-making processes between the different institutions, and with actions including only hearings (both in camera and public) with relevant officials and actors, as well as EP plenary debates (European Parliament 2015c, 14-5)

The final confirmation of the above new framework came at the 21<sup>st</sup> January 2016 Conference of Presidents, approving, with modifications, the proposal on the specifics of this mechanism put forth in an undisclosed letter by the Chair of ECON to the EP President (European Parliament 2016a, 13-4). Pursuant to the above, an access-to-documents request was registered<sup>186</sup>, requesting the relevant documentation to the above process. The EP released<sup>187</sup> the aforementioned unpublished letter of ECON

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<sup>182</sup> The EP itself called for greater democratic legitimacy in its two Reports [Procedures 2013/2277(INI) and 2014/2007(INI)] on issues of the MoUs and the Troika (European Parliament 2014a and 2014c).

<sup>183</sup> 3<sup>rd</sup> September 2015, 22<sup>nd</sup> October 2015, 2<sup>nd</sup> December 2015 (European Parliament 2015a through 2015c).

<sup>184</sup> Procedure 2013/2277(INI) (European Parliament 2014a).

<sup>185</sup> It was also agreed that ECON lead the construction of the proposed framework, and that the EP Committees of Budgets (BUDG), Employment & Social Affairs (EMPL), and Regional Development (REGI) also be involved (European Parliament 2015c, 14-5).

<sup>186</sup> The process is outlined in section 4.3.2.

Chair to the EP President, which includes the various modalities of the EP’s input process on the financial assistance programmes (Gualtieri 2016).

In this unpublished letter, it is proposed that an ECON-based, 25-member Financial Assistance Working Group (FAWG) be established, tasked with “*monitoring of the implementation of financial assistance programmes supported by the ESM*” (Gualtieri 2015, 1). The EP Committees of BUDG, EMPL, REGI and CONT are all to participate with one representative each (Gualtieri 2015, 1-2). FAWG’s actions focus on organizing (Gualtieri 2015, 2):

- meetings between the Commission, ECB, IMF, ESM, and the Greek government (in camera or public to be determined by FAWG)
- exchange of views (in camera) with the Commission after each quarterly review of the program and prior to the publication of the review’s report,
- fact-finding missions, reporting to ECON,

without, however, “*attempting to take part directly in the decision-making itself or in the implementation of programmes by the institutions*” (Gualtieri 2015, 1). In addition to the above, ECON itself may, drawing on FAWG’s work, draw up reports or resolutions on financial assistance programs. More generally, ECON may also invite Troika and Council representatives for an economic dialogue in relation to pre-program countries. It is also suggested that relevant EP plenary debates be organized at least once a year. An Inter-Institutional Agreement is deemed necessary to “*lay out the modalities of the parliamentary scrutiny of programmes.*” The EP’s Research Service also confirmed that FAWG would operate for all Eurozone MS under financial assistance, with the possibility of extending its capacity to PPS MS as well (European Parliament 2016b).

The letter suggests that the institutional basis for the above are provisions relevant to Two-Pack REG 472/2013, and more specifically articles (Gualtieri 2015, 2):

- 7(1) par. 5: the Commission shall **orally** inform the EP relevant Committee on the MAP drafting progress,
- 7(4) par. 3: the Commission shall **orally** inform the EP relevant Committee on conclusions of MAP progress monitoring,
- 7(10): The EP may invite the Member State concerned and the Commission to exchange views on MAP progress,
- 18: The EP may invite representatives from the Commission and the Council in a dialogue on the application of this Regulation

Concurrent with the observations in relation to REG 472/2013, above legal foundations as well as the provisions included and are relevant to FAWG, are rather

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<sup>187</sup> It also released a letter by the Greek PM to the PMs/Presidents of Eurozone MS of 28 June 2015 requesting an extension of the 2<sup>nd</sup> Greek program, and another letter of the Greek PM of August 2015 to the EP President, requesting for greater involvement of the EP on the 3<sup>rd</sup> Greek ESM-based program (Hellenic Republic Prime Minister 2015a and 2015b).



thin. In terms of the EP, this is unfortunate, given that democratic legitimacy could actually be increased by active participation of the EP in MAPs. Firstly, in three of the above four provisions, only the EC is mentioned, and not the entire Troika, and the representation of the ESM is not provided for anywhere within this Regulation. Therefore, it is somewhat ambiguous how the FAWG is legally covered to interact and hold meetings with all Troika institutions and the ESM, and how it is legally entitled to organize an exchange of views between them and the MS concerned. Secondly, even in the case of the EC, the provisions include a one-way obligation of information to the EP. It is doubtful whether this covers the much broader and extensive process of exchange of views or dialogue between the EP and the EC. Thirdly, it is not at all clear from the REG that the EP can, in fact, legally monitor the implementation of financial assistance programs, as its authority is limited only to receiving information, without any potential for follow-up actions. In fact, the only element of the EP's monitoring framework which seems to be well-founded on the REG is in relation to pre-program Member States (presumably those under enhanced surveillance pursuant to the REG's article 2) and the dialogue with the CoM and EC.

Aside from observations related to measures of financial assistance, those that introduce enhanced coordination, include EP references, but the relevant provisions are so minimal in value and merits that the EP's participation is, de facto, quite little, especially considering the substantial augment of the EC and ECB policy-making capacity. Throughout the Six-Pack, reference is made to the need for the EP (and the national Parliaments) to be more actively involved in the new economic governance framework of the EU and Eurozone by engaging in a dialogue with the relevant institutional actors involved in these processes (European Parliament & Council of the European Union 2011e, 2 and 2011f, 9 and 2011g, 13 and 2011h, 32; Council of the European Union 2011h, 34). The input of the EP within these measures, which in the case of the SGP revisions (RECs 1175/2011 and 1177/2011) is included in a new, additional section (termed 'Economic Dialogue'), is almost entirely restricted to the ability of the EP to invite officials of the institutions involved in these processes, along with the potential to extend a similar invitation to the MS concerned, for a discussion or an exchange of views on relevant issues (European Parliament & Council of the European Union 2011e, 4 and 2011f, 11 and 2011g, 16 and 2011h, 32; Council of the European Union 2011h, 37).

Similar provisions are included in the Two-Pack. Despite the fact that the Two-Pack progressively increases the authority of the supranational level in key

national policy areas, the EP's influence is maintained at a minimal level, again, restricting it to inviting key relevant EU institutional actors (and the IMF for REG 472/2013) involved in either the MAP (i.e. MoU) or the supranational budgetary oversight processes for an exchange of views, with the MS being invited to participate (European Parliament & Council of the European Union 2013a, 5-6 and 8 and 2013b, 22-3).

It is clear that all the aforementioned provisions are rather disappointing in terms of representative input in the decision-making process within the EU after the crisis, especially in the governance structure of the EMU<sup>188</sup>. Despite the Lisbon Treaty reforms, it now seems that the EP has, once again, fallen considerably behind other supranational institutions. There is lack of EP participation, and even lack of EP oversight, throughout the EU-wide measures. This is important, especially when considering the substantial increase in the authority of supranational, technocratic institutions.

### 7.3.2. National Parliaments

The provisions on the input of national Parliaments in the supranational crisis measures are relatively constrained, similarly to the provisions outlined above in relation to the EP. However, this will have to be seen in a comparative perspective, as national Parliaments, contrary to the EP, derive their authority and power exclusively from the national level and are, hence, already capable of affecting most of these measures through the respective national legislative processes. Despite that fact, given the aforementioned increase in the ability of the supranational level (either in general or for specific institutional actors) to affect key national policy areas, the lack of a corresponding involvement by the national parliaments at the supranational level is a source of considerable democratic deficiencies.

In relation to EU-wide financial assistance measures, national parliaments are not referenced at all. In relation to EU-wide enhanced coordination measures, it is provisioned across most of the Six-Pack and Two-Pack that national Parliaments should be involved in the new economic governance framework, with the measures included in the relevant policy programmes, whether Convergence, Stability, MAP, etc., to be presented to them (European Parliament & Council of the European Union 2011g, 13 and 17 and 20 and 2011h, 25 and 2013a, 4). Further to this, there are some provisions relating to a discussion and economic dialogue between the national

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<sup>188</sup> This argument was also raised in the interview with Prof. Dimitris Chrysochoou, Professor of Theory and Institutions of European Integration..

parliaments and the relevant actors, with the Parliaments being able to invite key officials for interviews, in relation to the enhanced surveillance, EIP and MAP (European Parliament & Council of the European Union 2011h, 27 and 31 and 2013a, 4-5 and 8). Finally, in relation to the EIP and, more importantly the ‘debt break’ of the TSCG, it is provisioned that the authority and prerogatives of the national Parliaments are to be fully respected, although the provisions of the TSCG immediately before this stipulation seem to directly overpower such authority, as described further above (European Parliament & Council of the European Union 2011h, 27; European Council 2012a, 12). Also noteworthy is the complete lack of reference to the national Parliaments, and their prerogatives, from Two-Pack REG 473/2013, which provisions the budgetary oversight of Eurozone MS by the EC/EG.

From the above sections it is evident that the provisions relevant to the participation of representative institutions in the EU-wide crisis supranational measures, when examined either in relation to their volume or to their actual merits, are minimal, especially when compared to the augmenting of the decision-making capacity (relevant to the national level policies) of other EU institutional actors. The representative element is almost entirely absent from these measures. This is to the detriment of the EU DD, as most, if not all, of these measures, whether directly or indirectly, affect key national policy areas or include a substantial augment of decision-making capacity delegation from the national to the supranational level.

### 7.3.3. Interim Conclusion on Indicator B

Indicator B has its focus on the provisions relating to the role of the EP and national parliaments, and the resulting dynamic between them and the rest of the EU institutional actors. From the aforementioned analysis, and even from the length of the above section compared to that for Indicator A, it is evident that representative input throughout the EU-wide measures is minimal. The only real ability of the EP is restricted to interviewing and discussing with key actors involved in the relevant processes, but without any real decision-making capacity. When factoring in the considerable increase of the decision-making ability of other supranational actors, particularly of the EC and ECB, it is concluded that the EP has remained several steps behind and that its role is considerably small and, mostly, without any real policy impact.

Even in the case of financial assistance programs, one of the most controversial issues in relation to the EU DD precisely because of the absence of

representative input, the real applications of the provisions relevant to the EP are revealed by this investigation to fall short of any real impact in policy making. It has been argued that this serves both the more politically oriented institutions of the EU (primarily EUCO), in order for there to be the appearance of representative input, as well as the EP itself, which wants to appear involved but not in an active manner<sup>189</sup>. Similar observations can be made in relation to national parliaments.

#### **7.4. Indicator C: Processes of EU institutions**

Indicator C is focused on the existence of transparent, efficient and representative of multiple interests processes within the measures and during their adoption. None of these processes are explicitly referenced in any of the supranational crisis measures relevant to financial assistance mechanisms. In relation to EU-wide financial assistance measures, it is important to highlight the complete absence, both from the side of the mechanisms providing financial assistance and from the EU-based side corresponding to the MoUs (REG 472/2013) of any kind of institutional guideline or operating framework for the Troika and financial assistance process. There is no reference into who is to be involved, how the process unfolds, who is responsible for what, etc. There is also a complete lack of provisions relating to the participation of civil society. In addition, in practice most of the deliberations relevant to financial assistance programs take place behind closed doors. This incurs a considerably negative impact on the EU DD, as citizens do not know who is to be held accountable and for what.

In fact, it needs to be highlighted that as both the EFSF SA and the ESM are outside the EU framework, citizens do not have the same access rights as they do in relation to an EU institution. This is notwithstanding the fact that decisions taken in those international institutions are core to national policy and involve a wide variety of areas covered, as well as that, for example, the Guarantors of the EFSF SA that deliberate and approve the MoU and the granting of financial assistance are the EG or EWG, but are outside the EU framework. Therefore, while under the ECOFIN or EG configurations, a citizen could request any relevant documentation, which request is protected by relevant EU primary and secondary legislation (section 4.3.2) with very few exceptions under which the provision of the documents can be denied, under the EFSF SA framework, and albeit a meeting of the Guarantors is essentially an EG/EWG, there is no similar protection afforded.

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<sup>189</sup> From the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

Despite the above, in terms of EU-wide measures of enhanced coordination, there is a considerable amount of stipulations relevant to accountability and transparency. In addition, in many cases the participation of social partners is also provisioned. Moreover, Six-Pack DIR 2011/85/EU provides for the need of MS to ensure transparency and consistency across all their respective national processes relevant to the budgetary process (Council of the European Union 2011g 42 and 46-7). In REGs 1173/2011, 1174/2011 and 1176/2011 (EIP & SGP) the EP's involvement is also ensured in order to provide for increased transparency (European Parliament & Council of the European Union 2011e, 4 and 2011f, 11 and 2011h, 32). Transparency is also provisioned in relation to the requirements for independence of the national statistical authority of each EU MS, of their respective statistical processes, etc (European Parliament & Council of the European Union 2011g, 16).

Effectiveness is addressed in REG 1175/2011, where numerical rules are to be set in order to determine whether the EU MS have taken successful steps towards correcting their deficit or towards effectively addressing a MTBF deviation (European Parliament & Council of the European Union 2011g, 17 and 19 and 21-22). Finally, social partners and stakeholders involvement is provisioned in the European Semester, the EIP correction plan (in which the social partners are to be both involved but also respected by the CoM and EC), and the MAP for Eurozone MS (European Parliament & Council of the European Union 2011g, 13 and 15-6 and 2011h, 27 and 28 and 30 and 2013a, 8). The above measures do provide some safeguarding of proper, transparent and efficient processes, but, overall, and considering the substantial breadth that the crisis measures cover the performance in this indicator is rather disappointing, not least because most of the above are presented in a considerably broad and general form, with no clear limitations and structural elements, and provides no definitive obligation for EU institutions to endorse or fully apply the principles or input of these institutions/social partners in acts issued pursuant to this REG.

### **7.5. Indicator D: Direction of EU policies & EU Citizens Rights**

Finally, Indicator D concerns the direction of the measures and the successful protection of economic and social rights of EU citizens. There is no reference to any policy direction in the measures relevant to financial assistance mechanisms. However, the specific measures adopted within the framework of the financial assistance suffer from a strong neoliberal, Washington-consensus-based bias, which is more specifically analyzed in detail in SECTION C of the research. Overall, in

relation to protecting rights of citizens, results are less than impressive, and these programs have very little consideration of the impact of these measures on society<sup>190</sup>. The EP's Report on Employment and Social Aspects of the Role and Operations of the Troika noted that the structural conditionality “*threatened the EU's social objectives*”, more specifically finding that the measures have resulted in (European Commission 2014c):

- High numbers of unemployment, which, in combination with public and private sector pay cuts, threatens social protection and sustainability.
- Brain-drain and risk of long-term structural imbalances in the economy from high youth unemployment rates.
- Declining job quality, permanency and working standards.
- Cuts in social spending (e.g. pensions, social security, healthcare), which could setback the fight against poverty.
- Decreasing living standards for the middle class, leading to new forms of poverty.
- Reductions in social spending and pay cuts lead to increase of poverty.
- Reductions in healthcare spending, which have jeopardized quality and universal accessibility of the healthcare system

In essence, the EP found not only complete failure of EU institutions to protect established social rights of citizens, but also found that in many cases, through the Troika and the financial assistance programmes, EU institutions further adversely impacted the situation, not adequately protecting these rights<sup>191</sup>.

In terms of the enhanced economic coordination measures, those include some provisions aiming at safeguarding the EU's social-policy-based model. These provisions focus on including sustainable growth and employment-fostering policies in the European Semester and relevant measures (e.g. EIP, etc), and on considering the social and economic impact of measures taken to correct imbalances (whether EIP, SGP-EDP, etc).

However the above references are minimal and rather generic (European Parliament & Council of the European Union 2011e, 1-2 and 2011f, 8 and 2011g, 13 and 2011h, 25 and 27-30 and European Council 2012a, 9 and 17). The most concrete protection of EU citizens appears in Two-Pack REG 472/2013, whereby it is stipulated that, in addition to the above (growth/employment), collective bargaining agreements, wage regimes, etc should also be taken into account when drafting the MAP, and consideration should also be given in allowing funding for fundamental policies such as healthcare or education (European Parliament & Council of the

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<sup>190</sup> This argument was raised in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

<sup>191</sup> This argument was also raised in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

European Union 2013a, 6-7). As opposed to the above, the measures included in the TSCG, especially the debt-break, and the Euro Plus Pact, as well as most of the measures enhancing the surveillance and sanctions on EU/Eurozone MS which breach fiscal obligations, do demonstrate a considerable reinforcement of the ordoliberal structure and direction of the EU and, much more, of the Eurozone.

## 7.6. Conclusion

This is one of the two core evaluative Chapters of this research (the other being Chapters 9 and 10 for MS-specific supranational crisis measures). The aim is to evaluate the impact of the EU-wide supranational crisis measures, as those were outlined in Chapter 6 (conclusively in Table 6), on the EU DD and, more specifically, on each of the four empirical qualitative indicators referenced in Chapter 3. What is the result of the analysis?

The analysis relevant to Indicator A yielded a considerable surge of decision-making authority relevant to national policies, and especially to key policy areas such as the budget or budgetary process. This increase in the ability to influence policy was primarily in relation to the EC and ECB, i.e. the most technocratic of EU institutions. Furthermore, as this effect occurred both through the financial assistance and enhanced coordination measures, it is now permanent and not of an ad-hoc nature within the EU status quo. In fact, it appears that through the connection of MoU processes with EU-based processes, the latter ones acquire new characteristics, primarily that of conditionality. This, aside from potentially distorting the purpose of these processes, adds new attributes to them through which impact on national policy becomes more binding. Furthermore, the IMF seems to have acquired a permanent role within the EU, and Eurozone, framework. Therefore, policy-making that includes key national policy areas with redistributive effects, is moving increasingly away from political actors, even those at the supranational level and is progressively accumulated by highly technocratic supranational institutions, such as the EC and ECB, potentially distorting the very purpose of these institutions themselves.

So the supranational level has acquired the ability to influence more key national policies, and do this more directly. Has there been a matching increase in the ability of representative actors to do the same, or at least provide sufficient oversight (Indicator B)? The answer is rather negative and, combined with the above, yields a truly concerning mix in relation to democratic principles. The EP, as well as national parliaments, have been left considerably outside the entirety of EU-wide measures. Even if this is considered to be somewhat expected in relation to financial assistance

programs, as they are mixture of EU and international law, it brings the increase of the EP's authority after the Lisbon Treaty several steps back in relation to enhanced coordination measures that are entirely EU-based. In both of these cases the EP is completely marginalized. Even in the case of oversight in implementation of MoUs/MAPs of financial assistance programs, an area in which there have been repeated calls for representative input, through unpublished documentation acquired, it is clear that the role of the EP is still minimal.

So far, there has been established a considerable increase in the ability of supranational, technocratic actors to influence national policy, and a substantial stagnation or even reduction of the role of the EP and national parliaments. It may be the case that the principles of transparency and efficiency were, at least, applied (Indicator C). Once again, the analysis yields different results. The financial assistance process suffered from a complete lack of transparency as to who was involved and how the decision-making unfolded. As a result, citizens were completely unaware of how the decision-making process was conducted or even how it was actually conducted with adverse results in relation to accountability. Issues are somewhat improved in relation to enhanced coordination measures, where there are references in relation to the aforementioned principles, especially across the Six-Pack (EIP, MTBF, SGP) and the Two-Pack (MAP), with some transparency provisions ensured. However, even in this case, and partially because the Troika-based procedure was extended to issues beyond financial assistance, as well as because of the increase in the decision-making authority of technocratic actors, transparency is still questionable. For example, there is no explanation as to how the MAP process for an enhanced surveillance would actually work.

Finally, in terms of the direction of the measures (Indicator D), it is worth noting that, whilst no direct reference is made, the reinforced numerical fiscal rules, sanctions and monitoring, as well as the additional fiscal discipline framework in relation to enhanced coordination measures (e.g. TSCG debt-break) indicate that the overall ordoliberal framework of the EU, and especially of the Eurozone, has been rather reinforced. There are some references in relation to social protection, but those are minimal and often inefficiently generic.

What are the observations to be made relevant to the wider EU DD framework and debate? It is clear that, through the crisis, the unwillingness of MS to turn over greater decision-making capacity to EU institutions was surpassed in the name of necessary and quick action to counter the crisis. However, as was demonstrated above, these reforms are established permanently and are not temporary.



Representative input, which seems necessary given the increased ability to influence key national policies with redistributive effects on the part of technocratic institutions, has been considerably minimal. In addition, throughout the measures, transparency has decreased considerably, to the point of the citizens being unable to determine actually who makes the decisions, while the effectiveness of the measures themselves is questionable. So, the input and throughput aspects of the EU DD yield adverse results. How about the output? The direction of policies in relation to EU-wide coordination measures seems to largely reinforce the ordoliberal foundations of the EMU, with even stronger review and oversight, and with even more rules that ensure strict fiscal discipline and a fiscal policy geared towards surpluses.

## SECTION C: NATIONAL LEVEL & EU DEMOCRATIC DEFICIT

### Chapter 8: National Timeline

#### **8.1. Introduction**

This Chapter aims at presenting briefly the events that unfolded during the investigated interval (2008-2013) in the national level case of this research: Greece. Emphasis is given on political events that unfolded. Similarly to Chapter 5, while the analytical value of this Chapter is limited, the timeline adds important contextual information into the situations under which the crisis measures were assumed.

#### **8.2. 2009-2011: Deficit Issues and 1st Economic Adjustment Programme**

The turning point for Greece was the October 2009 snap elections<sup>192</sup>, and the victory of the then centre-left major political Party of PASOK, after two tumultuous terms (2004-2009) of the then major centre-right Party of New Democracy (Hellenic Ministry of the Interior 2009)<sup>193</sup>. In the elections, financial rhetoric received primary positioning in debates. The electoral platforms of the two major Parties were diametrically opposed. New Democracy proposed steep cutbacks and austerity, so as to proactively contain the adverse effects of the financial crisis, which had already reached Greece (Xrysogonos 2010, 17). The majority opposition Party PASOK provided an ambitious and optimistic programme, proposing that wage cuts and freezes were not the way to go<sup>194</sup> (PASOK 2009). More specifically, Table 7 below presents the main differences between the electoral platforms of the two major political Parties for the October 2009 elections

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<sup>192</sup> Presidential Decree 127/07-09-2009 (Hellenic Republic 2009).

<sup>193</sup> Wiretapping of government officials, catastrophic fires, alleged kickbacks to Greek politicians by SIEMENS, etc (Kyriakidis 2016, 8-9)






<sup>194</sup> On 12-09-2009 Mr. Papandreou stated: *“If today we freeze wages, we will freeze the market. If we raise taxes in the middle class, we will decrease its purchasing power, we will deepen the recession”* (NOIAZOMAI 2010).

**Table 7:** Differences in 10/2009 electoral platforms: New Democracy & PASOK (data compiled by author).

<b>New Democracy</b> October 2009 electoral platform (Eleftherotypia 2009).	<b>PASOK</b> October 2009 electoral platform (PASOK 2009, 10-86).
<ul style="list-style-type: none"> <li>▪ Freeze Public service recruitments for 2010 and restrict 1 recruitment per 2 departures until 2012.</li> <li>▪ Freeze wages, allowances and pensions in the Public sector for 2010</li> <li>▪ Reduce public employees available overtime and travel expenses by 30% for two years</li> <li>▪ Reduce MPs compensation and general government executives remuneration for two years</li> <li>▪ Liberalise restricted professions</li> <li>▪ Allow sectoral or firm employment collective agreements to overpower the general employment collective agreement.</li> <li>▪ Reduce the bodies of the Public sector</li> </ul>	<ul style="list-style-type: none"> <li>▪ Wage increases above inflation</li> <li>▪ Reduce tax burdens on middle/low incomes</li> <li>▪ Specific provisions to stop the pretense exploitation of the crisis to reduce employment</li> <li>▪ Increase the basic pension of farmers</li> <li>▪ Abolish provisions on increase of retirement ages and reduction of pensions</li> <li>▪ Low fares for public transportation</li> <li>▪ Make it impossible for amendments to be submitted after the discussion of the Bill in the relevant Parliamentary Committee has been concluded</li> </ul>

Given the difference between the electoral platforms, with New Democracy proposing cutbacks and PASOK increases, and considering the already unfavourable political climate towards New Democracy, PASOK, not so surprisingly, obtained the majority in Parliament and formed a government. The election results are presented in the following Table 8.

**Table 8:** October 2009 national election results (Parties in Parliament; Hellenic Ministry of the Interior 2009)

<b>Party</b>	<b>Seats</b>	<b>% Votes</b>
 PASOK ( <i>ΠΑΣΟΚ</i> )	160	43,92
 New Democracy ( <i>Νέα Δημοκρατία</i> )	91	33,47
 Greek Communist Party ( <i>ΚΚΕ</i> )	21	7,54
 Popular Orthodox Rally ( <i>ΛΑ.Ο.Σ.</i> )	15	5,63
 SYRIZA ( <i>ΣΥ.ΡΙΖ.Α.</i> )	13	4,60
<b>4 Parties in Parliament</b>	<b>300</b>	<b>89,53</b>

Almost immediately after assuming office, the then PM Giorgos Papandreou, followed a few days later by the then FinM Giorgos Papakonstantinou, announced that the previous government had underestimated the annual 2009 budget deficit of the country (6% GDP), and that it needed to be revised to almost double its former

value, reaching 12.5% GDP (PASOKwebTV 2009b; Ta Nea 2009)<sup>195</sup>. From that point on, all three major CRAs (Fitch, Standard & Poor's, and Moody's) kept consecutively degrading Greece's credit rating (Koenig 2009; Smith & Seager 2009; Brandimarte & Papachristou 2009; Winfrey 2010; Global Credit Research 2011; Georgiopoulos & Brandimarte 2011; Agencies 2011). As the revision of the deficit was one of the primary reasons for Greece resorting to financial assistance and has been a matter of extensive debate, it is useful to briefly examine it.

Normally, the deficit (as well as a number of other key statistical data) of an EU MS is determined at the EU level as follows<sup>196</sup>: For the ongoing fiscal year, data are sent to EUROSTAT first on late-March/April of that year, for the first estimate, and then again on late September/October of that year, for the second estimate. Naturally, as most expenses have not yet been made, the April estimate tends to be entirely based on projections, with the October estimate being based more on actual accounts. The half-finalized deficit is derived from statistics sent on April of the year following the year concerned.

In the case of Greece, the deficit was officially reported for the second estimate on the 2<sup>nd</sup> October 2009, i.e. two days before the national elections, by the New Democracy government, at approximately 6% GDP<sup>197</sup>. The issues that occurred in relation to the increased deficit did not concern, as often presented, so much the deviation of the revised figure from the original reported 2009 deficit, but rather the actual revision itself, and the fact that it had occurred immediately after the official deficit had already been announced<sup>198</sup>. This raised important issues of credibility and statistical accuracy, and questions in relation to the sufficiency of the insulation of the statistical authority from political pressures. These issues were the key concern, and not the magnitude of the difference the two figures, which were, in either case, projections, since even a deviation of such magnitude can be considered ordinary with large fluctuations from projection to projection being typical for EU MS statistical figures (especially for those relevant to the debt and deficit, where multiple national accounts and methods are involved)<sup>199</sup>. It is also worth highlighting that the FinM requested the General Secretary of the then General Secretariat of the Greek National

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<sup>195</sup> During April 2010, the 2009 deficit was again revised to 13,6%, and it was finally calculated at 15.4% GDP on November 2010, after close cooperation between ELSTAT and EUROSTAT (Hellenic Parliament 2012b, 38-9; Eurostat 2010, 1-2).

<sup>196</sup> Interview with Prof. Zoi Georganta, Professor of Econometrics and former ELSTAT Board Member.

<sup>197</sup> *ibid.*

<sup>198</sup> *ibid.*

<sup>199</sup> *ibid.*

Statistical Service (which, in 2010, became the independent authority ELSTAT) to report the revised deficit figure to EUROSTAT, but the General Secretary did not proceed with any action, expressing that this would seriously jeopardize the trust in Greek statistics, and the independence under which they are reported, and that it would be better to wait the next projection (October next year) to report any alteration, as was the normal process<sup>200</sup> (ELSTAT 2016). The term of the General Secretary was terminated and the FinM proceeded by himself with reporting the revised deficit figure<sup>201</sup> (Ta Nea 2009).

The November 2009 ECOFIN issued a statement including references on the problems of the Greek financial statistics, inviting the EC “to produce a report before the end of 2009” on this issue and to further “propose the appropriate measures to be taken in this situation” (Council of the European Union 2009d, 16). It is worth noting that these problems, such as the fact that some Ministries used a double-entry bookkeeping system and some did not, were known within Greece and ELSTAT<sup>202</sup>. The relevant report was issued by the EC on January 2010<sup>203</sup>, and reported several deficiencies, including methodological weaknesses, inappropriate governance structures, lack of independence of the statistical authority from the Ministry of Finance, etc. (European Commission 2010d, 4-5).

Aside from the process relating to the deficit, there have also been issues raised in relation to the figure of the deficit itself, and its final reported value of 15.4% GDP (footnote 195). Mr Samaras, the then leader of the New Democracy majority opposition and later PM (after the October 2012 elections), argued during June 2010 that artificial inflation of the deficit had occurred by the then PASOK government (Samaras 2010). During September 2011 a former Board Member of ELSTAT accused the President of ELSTAT for artificially inflating the fiscal deficit from 12% to 15,4%, thus enabling and/or facilitating the assumption of even harsher austerity measures (Kyriakopoulos 2011). It was supported by the member of ELSTAT<sup>204</sup> that the deficit was further unnecessarily burdened with an additional approximate 27 bn<sup>205</sup>. In fact, the ELSTAT Board Member supported that there were emails sent from

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<sup>200</sup> *ibid.*

<sup>201</sup> *ibid.*

<sup>202</sup> *ibid.*

<sup>203</sup> COM(2010) 1 final/08-01-2010 (European Commission 2010d, 4).

<sup>204</sup> Interview with Prof. Zoi Georganta, Professor of Econometrics and former ELSTAT Board Member.

<sup>205</sup> Including wrong classification of State-Owned Enterprises (SOEs) in the category of General Governments, hospital expenses that had not yet been paid, or even approved by the Court of Audit (which overviews and may not approve any order of payment made by the General Government),

the former EC Commissioner of Economic and Monetary Affairs Olli Rehn to the then FinM Giorgos Papakonstantinou, in which the Commissioner outlined which amounts were to be added to the deficit, including the cross currency swap<sup>206</sup>. It is also worth highlighting that the then President of ELSTAT – a personal choice of appointment by the then FinM – was an IMF employee for more than 25 years, doing exclusive work on IMF programme monitoring in African developing nations<sup>207</sup>. The Athens Bar Association also filed a lawsuit for the same issue (Athens Bar Association 2011)<sup>208</sup>.

In response to the growing pressure of the international markets, on February 2010, for the first time EUCO proclaimed the EU's readiness to provide financial assistance to a Eurozone MS via an international ad-hoc cooperation with the IMF (European Council 2010b). During this EUCO meeting, there was also a commitment from the Greek government “*to do whatever is necessary, including adopting additional measures*” in order to contain the situation (European Council 2010b).

Despite the above EUCO and Greek reassurances, the situation did not improve. Greece introduced austerity measures during February 2010 (Law 3833/2010) in an attempt to further calm financial markets, as well as the growing fears among EU, and especially Eurozone, MS, causing the first large wave of protests and demonstrations (Eleftherotypia 2010; Kostarelou 2010; Illmer 2010). This was, however, again not sufficient<sup>209</sup>. On the March 2010 Eurosummit the participation of the IMF in the financial assistance was solidified, and the issue of conditionality was introduced (European Council 2010d). This was yet another turning point for the EU, for the first time introducing the concept of conditionality to provision of financial assistance to a Eurozone MS. This Eurosummit can be argued

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amounts relevant to the 2000-1 cross-currency swap by Greece, etc (Georganta 2012a and 2012b; Hellenic Republic Special Prosecutor 2013, 3-4)

<sup>206</sup> *ibid.*

<sup>207</sup> *ibid.*

<sup>208</sup> This issue led to a Parliamentary Investigation Committee set up on February 2012 to investigate the relevant issues, which, in the majority opinion report (PASOK majority - a minority opinion was published by the Party of LAOS, while the rest of the political Parties either announced that they would not participate or withdrew; Opinion Post 2012) issued a month later, finding no artificial inflation of the deficit, no mistakes or inaccuracies the application of the prescribed methodology, and no interventions in the work of ELSTAT (Hellenic Parliament 2012b, 49-50). There was also a judicial Preliminary Investigation by two Financial Crimes Prosecutors (Athens Bar Association 2013). The relevant report concluded on January 2013, requesting the prosecution (felony) of three ELSTAT members: the then President and two department supervisors (Athens Bar Association 2013). The Prosecutor of the Athens Court of 1<sup>st</sup> Instance instructed a Preliminary Investigation to a Special Prosecutor, who, on July 2013, concluded that there were no issues related to false certifications or breach of duty by those members and filed the case (Hellenic Republic Special Prosecutor 2013, 1).

<sup>209</sup> Described as “*too little, too late*” in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

to be a core turning point, as it established the active participation of the IMF for the first time within the Eurozone; this is<sup>210</sup> a core issue in terms of both political economy but also democratic process within the EU/Eurozone.

Close to a month later, on 23<sup>rd</sup> April 2010, the then PM officially requested the activation of the financial support mechanism, through a nation-wide address<sup>211</sup> (PrimeMinisterGR 2010). The May 2010 EG confirmed the activation of the support mechanism, with a loan amounting to EUR 110 bn (at the time via pooled, bi-lateral Eurozone MS loans) combined with IMF financing<sup>212</sup>, subject to strong conditionality based on a programme which was “*approved by the Greek Council of Ministers on 2 May and endorsed by the Eurogroup on the basis of a Commission and ECB assessment*” (Eurogroup 2010b). The conditionality terms would be incorporated in CoM DEC 2010/320/EU under TFEU articles 126/136 and an MoU between Greece and the EC (representing Eurozone MS). A day after the EG Statement, the 1st MoU for Greece was concluded, and one day later the corresponding national Law 3845/2010 was submitted to Parliament, to be enacted on the 6<sup>th</sup> of May 2010 (Table 4; Hellenic Parliament 2010b and 2010i). A few days later, a modification to that Law would be introduced, to not require ratification by Parliament for any MoUs and loan agreements.

In terms of the IMF SBA, it is worth noting that the IMF had at the end of 2009 established four criteria for exceptional access decisions in which category Greece’s SBA was included (i.e. decision to grant assistance over 600% of quota cumulatively), one of which concerned the outcome of a Debt Sustainability Analysis yielding “*a high probability that the member’s public debt is sustainable in the medium term*” (International Monetary Fund 2009, 30-32; Schandler 2016, 3)<sup>213</sup>. However, in the case of Greece, as Dr. Miranda Xafa, former IMF Executive Board

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<sup>210</sup> This argument was raised in the interviews with the former ECJ judge and Prof. Dimitris Chrysochoou, Professor of Theory and Institutions of European Integration.

<sup>211</sup> “*It is a need, a national and imperative need, to request, officially as well, from our partners in the EU the activation of the support mechanism which we, together, created*” (PrimeMinisterGR 2010a).

<sup>212</sup> On the 9<sup>th</sup> of May 2010 the Executive Board of the IMF approved a Stand-By Arrangement (SBA), requested by Greece, with a duration until May 2013 (Hellenic Parliament 2010c, 107)

<sup>213</sup> The other criteria were: “*exceptional balance of payment pressure on the current account or capital account... prospects of gaining or regains access to private capital markets... (and) the policy program of the member provides a reasonably strong prospect of success, including not only the member’s adjustment plans but also its institutional and political capacity to deliver that adjustment*” (Schandler 2016, 3).

member suggests “*the Debt Sustainability Analysis was conducted but the Fund (IMF) could not certify that there was a high probability that the debt was sustainable.*”<sup>214</sup>

Hence, in order for the IMF to provide for Greek financial assistance and avoid contagion and possible severely adverse issues in relation to the Euro, considering the opposition of the EU and Eurozone MS to any debt restructuring of Greece’s debt, and considering that the IMF “*did not find that the outlook for Greece was compatible with a high probability of debt sustainability,*” a decision was approved by the Executive Board to amend the debt sustainability criterion in providing access even though when it is “*difficult to state categorically that there is a high probability that the debt is sustainable*” if there is “*a high risk of international systemic spillovers*” (Schandler 2016, v and 5-6).

Obviously, “*ex post, Greek sovereign debt proved to be unsustainable*” with a projected debt of 150% of GDP and an actual deficit of 177% of GDP in 2012, even with the 2012 PSI (Schandler 2016, 9). In January 2016, the IMF again modified the debt sustainability criterion, removing the concept of contagion, and providing that, when there is not a high likelihood of debt sustainability, then financing from sources other than the IMF must restore debt sustainability, or introduce measures towards this purpose (Schandler 2016, 25). As Dr. Miranda Xafa, former IMF Executive Board member suggests, if the case of Greece was repeated after this modification, and until the debt was deemed sustainable, there would be maturity extensions for the state concerned<sup>215</sup>.

The Greek request for assistance was portrayed as a measure of last resort. However, there have been indications that the agreement for resorting to EU/IMF lending had been decided much earlier, even before the February 2010 EUCO statement. From December 2009 (2 months after the elections), the then PM Mr Papandreou insisted that IMF intervention was not an option, and communications with the IMF were meant solely for technical assistance<sup>216</sup>, reiterating this position on February 2010<sup>217</sup>, only 2 months before the official request for assistance (Al. Nik. 2011). However, on May 2011 the then Managing Director of the IMF claimed that

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<sup>214</sup> From the interview with Dr. Miranda Xafa, inter alia, former member of the IMF’s Executive Board.

<sup>215</sup> *ibid.*

<sup>216</sup> On 11-12-2009: “*Of course, the scenarios for our resorting to the IMF do not exist. I am in contact with Strauss-Kahn, but in contact for me to discuss the general financial conditions, to use their (IMF’s) expertise*” (PrimeMinisterGR 2009).

<sup>217</sup> “*... and I, personally, requested from Dominic Strauss-Kahn (then IMF Managing Director)... technical assistance. So, it is Greece that has requested this technical support. We did not request the financial support, i.e. our entry in the IMF*” (PrimeMinisterGR 2010b).



resorting to IMF lending had already been prearranged from November/December 2009 (1 month after the elections), and that the Greek government worked closely with the IMF to that end 3-4 months prior to the official request<sup>218</sup>. Moreover, Mr Samaras, then leader of the New Democracy majority opposition and later PM (after the October 2012 elections), in one of his major speeches during May 2011, argued that resorting to the IMF had been pre-decided by the then PASOK government (Samaras 2011). Given the above, there are questions raised on whether the situation was as unforeseen as often portrayed, and whether democratic processes could have, perhaps, been more efficiently followed, given that there was possibly less urgency.

Right after the request of financial assistance and the MoU/relevant Greek Law, and for the next 2 years, major and consistent demonstrations took place, both in Athens but also across Greece, against the policies implemented and in relation to the policy drift they caused compared to the electoral platform of PASOK (Kyriakidis 2016, 5-7)<sup>219</sup>. Indicatively, the largest of these protests are presented below:

- On 3 May 2010, general strikes and demonstrations of substantial size took place against the austerity measures/MoU (Adedy 2010), primarily in Athens and outside Parliament (Kathimerini 2010a; The Telegraph 2010). The demonstration in Athens was one of the largest in the history of modern Greece, with the number of participants ranging from 20.000-60.000 (Police estimates) to reported 100.000-200.000 (Kopsini 2010; Ethnos 2010; To Vima 2010a; RT 2010; Reuters 2010). Indicative is the following partial list of participants:
  - Public employees,
  - faculty of all educational levels,
  - hospital doctors,
  - court employees,
  - Local Governments' employees,
  - Air Traffic Controllers,
  - public transportation employees,
  - ship and port employees,
  - taxi drivers,
  - banking sector employees,
  - Power Company employees,
  - lawyers,
  - engineers,
  - Mass media employees.
- On 25 May 2011, the Indignant movement (*Αγανακτισμένοι*) reached Greece with thousands gathering in major cities (Galanis 2011 and Ethnos 2011b).
- On 15 June 2011, massive demonstrations with thousands of protestors took place outside the Parliament on account of the Medium-Term Fiscal Strategy (MTFS) 2012-2015 (Law 3985/2011) discussed in Parliament (To Vima 2011g). Similar demonstrations take place all over Greece (Naftemporiki 2011).
- On 28 and 29 June 2011, a 48-hour strike across the public and private sectors took place, during the voting of Law 3985/2011 in Parliament (To Vima 2011h and 2011j and 2011k).

<sup>218</sup> In the French television channel *Canal+*, with the relevant segment being reportedly cut. It was aired on 03-05-2011 in Greece by a TV political satire/comedy show (news24.gr 2011a). The then IMF Director stated: "...we concluded in 15 days because we had worked for months beforehand with the Greek authorities and we did so underground. [...]" (Al. Nik. 2011 and News247 2011a).

<sup>219</sup> This policy drift was also highlighted in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

- On 10 September 2011, demonstrations (more than 20.000 reported) occurred, with some violent episodes, during the annual PM speech at the International Exposition of Thessaloniki (Vythoulkas 2011).
- On 28 October 2011, the customary, in-memoriam, anniversary military procession in Thessaloniki to commemorate the 28 October 1940 Greek decision to enter WWII by resisting the Italian forces was reportedly cancelled, for the first time since its institution (To Vima 2011m and 2011n). However, after the President of the Hellenic Republic and government officials left, thousands of people took over the street and some vehicles and personnel continued with the procession through the people, who were watching and cheering (Ethnos 1940; Akropolis 1940). Various similar situations developed across Greece<sup>220</sup>.

On July 2010, the then leader of New Democracy, at the time the majority opposition, gave the first of three key speeches in terms of the financial situation of the country and the MoUs, overall arguing for reducing taxation, restoring low pensions, placing primary focus on growth, escaping the prolonged recession that the direction of the country was geared towards, etc. (Samaras 2010). He argued that New Democracy would agree with the measures assumed only if they were accompanied by growth enhancing provisions and were less intense. Similar are the conclusions in regards to the second similar major speech almost a year later on May 2011.

Under the increasing political pressure because of the above, the then PM initiated discussions about proposing a referendum on June 2011, which would eventually be announced (but never officially proclaimed) a few months later on October 2011, before the relevant Law for the 2<sup>nd</sup> Greek program. There were major disagreements with the decision for a referendum. Within Greece there were issues raised with the decision to proclaim it in such a long time (close to 3 months) before it was to be conducted, as well as with the very decision to conduct a referendum, instead calling for elections, potentially leading the country to a prolonged division. Furthermore it was argued that a referendum for such a complicated issue would also be questionable outcome legitimacy (Kovaios 2011; To Vima 2011a). The entire array of opposition parties condemned the decision, counter-proposing elections (To Vima 2011b).

There were also objections raised outside Greece. The then EG President stated that the decision was taken without consultation with EU partners, and that should the Greek citizens vote no, this could potentially mean the default of the country. The French PM was reported suggesting “*that the Greek referendum to be held on Dec. 4 or Dec. 5 will determine Greece’s future in the euro*” (Fouquet 2011).

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<sup>220</sup> For example, in the customary Athens student procession, the main square in front of Parliament had been blocked off by riot police, resulting in students marching only in front of few officials, instead of the usual crowd cheering (Protohtema 2011). Many turned their head away from the officials (decorum is to turn the head towards the officials’ stand) while others marched with black scarves/handkerchiefs (Protohtema 2011; To Vima 2011m).

Even the US President seemed to object to the idea (To Vima 2011c). From information that surfaced later, it was reported that the German Chancellor and the then French President had agreed, already ahead of the G20 Cannes France meeting (3-4 November 2011 – G20 2014), that the referendum was to proceed only if the question was whether Greece would remain in the Eurozone or not (Financial Times 2014). It was also reported that there were discussions between the EC President and the New Democracy leader about the latter Party's participation in a national unity government in order to avoid the referendum, with potential technocrats considered as candidates (Financial Times 2014). Dr. Lucas Papademos, who would only a week after the G20 Cannes meeting go on to assume office as PM in charge of the 2011-2 cooperation government, was proposed by the then EC President (BBC 2011a; Financial Times 2014). This information raises serious concerns relevant to the influence of the supranational level, and at the same time of the intergovernmental level (i.e. of economically powerful Eurozone MS) on the national level of Eurozone MS under financial assistance.

During July 2011 the EC created a Task Force for Greece (TFGR). The TFGR's

*“...personnel in both Athens and Brussels, identifies and coordinates the technical assistance that Greece needs to help it deliver on its commitments in the context of its economic adjustment programme” (European Commission 2012f).*

The TFGR has no legal framework of operation, while its employees receive their remuneration from their home countries and, in some cases, from amounts withdrawn from the financial assistance provided to Greece (European Commission 2012f). The TFGR was established after the request of the Greek government, and expands beyond mere limited technical advisory roles, covering all of the following policy areas (European Commission 2012f, 25 and 2014v):

- Budget / taxes
- Financial sector
- Cohesion funds
- Agriculture
- Business environment
- Public procurement
- Labor market
- Public health
- Justice system
- Administrative reform
- Statistics
- Civil society
- Social Partners

A 2<sup>nd</sup> financial assistance programme for Greece in the amount of EUR 109 bn<sup>221</sup> was agreed on the July 2011 EuroSummit, including a PSI (later PSI+), as well as a number of other facilitations (grace periods, loans' maturity, etc; Council of the

<sup>221</sup> This included the undisbursed EUR 45 bn from May 2010 (Tsolis 2011).

European Union 2011k)<sup>222</sup>. The official request for additional financial assistance would come a few months later in February 2012 (Deutscher Bundestag 2012, 3)<sup>223</sup>.

### 8.3. 2011-2012: 2<sup>nd</sup> Economic Adjustment Programme

In November 2011, after the agreement on the 2<sup>nd</sup> programme and because of the political turmoil, it was agreed by the then two major political Parties (PASOK-New Democracy) to form a cooperation government that would lead the country to elections, but only after the new loan agreements/MoU were implemented (To Vima 2011d and 2011e). The then PM Giorgos Papandreou resigned, and the new government was agreed, consisting of PASOK (38 members), New Democracy (6 members) and LAOS<sup>224</sup> (ΛΑ.Ο.Σ – 4 members), with Dr. Lucas Papademos as the PM (General Secretariat of the Government 2014; News24.gr 2011b; Ethnos 2011a; Kroustalli 2011)<sup>225</sup>. Under the new cooperation government, Law 4046/2012, relevant to the 2<sup>nd</sup> MoU/Loan Agreements, was enacted. It is worth noting that after the voting on the above Law, 45 MPs in total from the Parties partaking in the cooperation governments (PASOK, New Democracy, LAOS) were expelled from the respective Party Caucuses for voting against the official Party lines (Hellenic Parliament 2012c, 5275-5299 and Stavropoulos 2012a). The PSI MoU, the 2<sup>nd</sup> MoU and the second set of Loan Agreements were signed on March 2012, along with the new EFF request to the IMF (Table 4). One of the most important elements of the 2<sup>nd</sup> programme, and one which was introduced for the first time across the EU, was the PSI. This was included in the July 2011 Eurosummit agreement and involved voluntary private participation ('haircut) relevant to Greek bonds.

### 8.5. 2012-2013: First post-2009 elections & Coalition government

The first elections conducted since October 2009 and the beginning of the crisis and EU-IMF financial assistance programmes were proclaimed on April and held in May 2012<sup>226</sup> (Hellenic Republic 2012p). The majority opposition of New Democracy was the frontrunner to assume office. The election results are presented in the following Table 9.

<sup>222</sup> The entire 2nd Greek program officially expired on 30<sup>th</sup> June 2015 (Kyriakidis 2016, 6).








<sup>223</sup> The then FinM sent a letter addressed to the then EG President, the then Commission for Economic and Financial Affairs, and the ECB President (Deutscher Bundestag 2012, 3).

<sup>224</sup> A conservative Party, placed in the right/nationalist end of the political spectrum, based on its focus on projecting national consciousness, supporting Patriotic Interventionism, Euroscepticism, etc (Kiouisis 2007; LAOS 2014).

<sup>225</sup> Resignations under PDs 107/11-11-2011, 108/11-11-2011 and new appointments under PDs 109/11-11-2011, 110/11-11-2011 (Hellenic Republic 2011j and 2011k and 2011l and 2011m).

<sup>226</sup> PD 40/11-04-2012 (Hellenic Republic 2012p).

**Table 9:** May 2012 national election results (Parties in Parliament; Hellenic Ministry of the Interior 2012a)

Party	Seats	% Votes
 New Democracy ( <i>Νέα Δημοκρατία</i> )	108	18,85
 SYRIZA ( <i>ΣΥ.ΡΙΖ.Α.</i> )	52	16,78
 PASOK ( <i>ΠΑΣΟΚ</i> )	41	13,18
 Independent Greeks ( <i>ΑΝ.ΕΛ.</i> )	33	10,61
 Greek Communist Party ( <i>ΚΚΕ</i> )	26	8,48
 Golden Dawn ( <i>Χρυσή Αυγή</i> )	21	6,97
 Democratic Left ( <i>ΔΗΜ.ΑΡ.</i> )	19	6,11
<b>7 Parties in Parliament</b>	<b>300</b>	<b>80,98</b>

The election outcome was indicative of the reaction of the citizens to the abrupt and extensive structural adjustment and measures implemented, with both major Greek political parties (until then) experiencing a considerable decrease in their electoral percentage. PASOK underwent a striking 70% approximate reduction from 2009<sup>227</sup>, mirroring the discontent of the electorate in the policies implemented, and New Democracy, albeit coming first, also experienced an approximate 44% drop<sup>228</sup> (Tables 8 & 9). On the opposite end, parties away from the centre of the political spectrum, advocating for an intensely anti-MoU electoral platform, obtained large percentages. The, until then smaller, party of SYRIZA, belonging to the left side of the political spectrum, was elected in second place behind New Democracy, obtaining a high percentage and an increase of approximately 114% compared to October 2009 (Tables 8 & 9). The extremist, right party of Golden Dawn, previously not in Parliament, also obtained a high percentage and managed to enter Parliament. The rise of this latter Party was of particular concern, given its methods and operation<sup>229</sup>. This demonstrates the frustration and disagreement of a major portion of the electorate with the policies

<sup>227</sup> From 43,92% of votes in October 2009 to 13,18% of votes in May 2012 (Tables 9 & 10).








<sup>228</sup> From 33,47% of votes in October 2009 to 18,85% of votes in May 2012 (Tables 9 & 10).

<sup>229</sup> Golden Dawn was originally the title of a nationalist-based magazine founded on December 1980, drawing on inspirations of the Metaxa junta of the 1930s and of the military junta regime of 1967-1974. The current Party leader was the leader of the youth wing of the National Political Movement (*Εθνική Πολιτική Ένωσης – ΕΠΕΝ*), a political party founded in 1984 by the 1967-74 junta leader Georgios Papadopoulos. In 1993 the group became a political party. The first participation in national elections for the party was in 2009, (0.29% votes – outside Parliament; BBC 2013b; Hellenic Ministry of the Interior 2009). There was a judicial examination initiated during 2013 on account of various violent incidents related to the Party's operation and members since its establishment, chiefly on account of the murder of a left-oriented, anti-fascist musician by a supporter of Golden Dawn in September 2013, who later confessed to the act (Kathimerini 2013a; Vythoulkas 2013; Hellenic Republic Special Prosecutor 2014, 122). In October 2014, the Court of Appeals Prosecutor proposed the indictment of all Golden Dawn MPs, among 70 Party members, for constituting and/or participating in a criminal organization (Hellenic Republic Prosecutor of the Athens Court of Appeals 2014, 401-609).

implemented. It is also potentially indicative of desperation with the then political *status quo*, with the electorate searching for new political party outlets. As a result of the above, the intensely, until then, bi-polar political party environment of Greece, with a considerably small number of Parties in Parliament (only four in the October 2009 elections; Table 8), was replaced by a multi-polar environment, and with an increase in the parties in parliament (seven in the May 2012 elections; Table 9).

The electoral result provided no Party with clear majority in Parliament and no government was formed by any Party or by the President's initiative (CoG article 37, §2,3; Hellenic Parliament 2008). The Parliament was dissolved within two days of the MPs being sworn in, and elections were held again on June 2012<sup>230</sup> (Chasapopoulos 2012a and 2012b; Stavropoulos 2012b). These were the last elections until the cut-off date of this research, and the results are presented in the following Table 10.

**Table 10:** June 2012 national election results (Parties in Parliament; Hellenic Ministry of the Interior 2012b)

Party	Seats	% Votes
 New Democracy ( <i>Νέα Δημοκρατία</i> )	129	29,66
 SYRIZA ( <i>ΣΥ.ΡΙΖ.Α.</i> )	71	26,89
 PASOK ( <i>ΠΑΣΟΚ</i> )	33	12,28
 Independent Greeks ( <i>ΑΝ.ΕΛ.</i> )	20	7,51
 Golden Dawn ( <i>Χρυσή Αυγή</i> )	18	6,92
 Greek Communist Party ( <i>ΚΚΕ</i> )	17	6,25
 Democratic Left ( <i>ΔΗΜ.ΑΡ.</i> )	12	4,50
<b>7 Parties in Parliament</b>	<b>300</b>	<b>94,01</b>

The left (SYRIZA) and extreme right (Golden Dawn) maintained their high percentages (Hellenic Ministry of the Interior 2012b). The unsure political scenery, as well as the uncertainty in relation to the inability to form a government, are probably among the main reasons for the substantial percentage boost of the two Parties that came first in the May 2012 elections (New Democracy and SYRIZA), and for the slight reduction in the percentages of the rest of the Parties.

Two days after the elections, a coalition government was formed between New Democracy, PASOK, and Democratic Left (*ΔΗΜΑΡ*)<sup>231</sup>. A year later, the coalition faced problems on account of the abrupt shutdown of the Greek Public Radio and TV

<sup>230</sup> PD 72/19-05-2012 (Hellenic Republic 2012q). In accordance with Article 53, §1 (Hellenic Parliament 2008a, 66), as well as Article 31, §1 of PD 96/05-06-2007, elections are held within 30 days from the dissolution of Parliament (Hellenic Republic 2007d, 2696).

<sup>231</sup> The Party, based on the left/center-left end of the political spectrum, was created on 27-06-2010, formed by Party members of Synaspismos (ΣΥΝ), who decided to depart (Dimokratiki Aristera 2014).

Broadcaster (ERT SA; To Vima 2013a). The shutdown, as well as the decision to immediately proceed with cutting the signal caused nation-wide unrest (Protothema 2013)<sup>232</sup>. The closure of the public broadcaster also caused major problems with the coalition government. The two centre-left/left Parties (PASOK and DIMAR) partaking in the government disagreed with the way the issue was dealt with (To Vima 2013a). The leader of Democratic Left, the smallest of the three Parties partaking in the coalition government, disagreed with the closure and pointed out the lack of coordination within this government, and on June 2013 departed from the government with the part (To Vima 2013d; Eleftherotypia 2013; Mpitsika 2013). A brief summative overview of the national-level events is presented in the following Table 9.

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<sup>232</sup> The President and the Director General of EBU sent a letter to the then PM on the same day of the shutdown, arguing against the closure of the Public broadcaster by the government, especially without any provision for a replacement, emphasizing the fact that, in any case, such decisions should be taken through deliberation and the appropriate legislative channels, including Parliament, and not in a single-sided manner only through the executive. They also emphasized the European aspect of democracy related to Public media, especially as a part of the EU's *acquis communautaire* (EBU 2013). The concerns raised by EBU were also echoed by the President of the EP as well as by Greek MPs (Kathimerini 2013d; European Commission 2014w; Filothea Belgium 2013)

**Table 11:** Condensed timeline of national-level events (data compiled by author)<sup>233</sup>

	Date	Event
2009	04-10	Elections — PASOK government
	09-10	BoG Governer announces 2009 deficit will exceed 12%
	16-10	PM 2009 deficit will be double, according to BoG
	21-10	FinM 2009 deficit will be double (6% -> 12,5%)
2010	05-03	General strike against austerity Law 3833/2010
	15-03	Law 3833/2010 enacted
	23-04	PM nationwide address: request financial assistance
	02-05	EG: agreement on Greek programme, conditionally, support EUR 110 bn
	03-05	1 <sup>st</sup> MoU signed between Greece and the EU
	06-05	1 <sup>st</sup> MoU Law 3845/2010 in force
	07-05	Modification to Law 3845/2010, in Law 3847/2010 during its voting
	08-05	GLF and Intercreditor Agreement signed
	09-05	IMF Executive Board approves SBA for Greece, after Greek request.
	11-05	Law 3847/2010 enacted.
	04-06	1 <sup>st</sup> MoU and GLF/Intercreditor Agreements deposited in Parliament
	2011	21-07
31-10		PM referendum at the 2 <sup>nd</sup> MoU/Loan Ageements
06-11		PM and New Democracy leaders agree to a cooperation government
09-11		PM G. Papandreou resigns
10-11		Coalition government (PASOK, New Democracy, LAOS) sworn in
2012	08-02	FinM Letter to ECB, EG, and EC requesting additional assistance
	12-02	2 <sup>nd</sup> MoU Law 4046/2012 (Loan Ageements – 2 <sup>nd</sup> MoU) enacted
	23-02	Law 4050/2012 (Greek Bondholder Act) for PSI - introduction of CACs
	01-03	PSI MoU signed
	01-03	Loan Ageements signed
	11-03	2 <sup>nd</sup> MoU signed
	06-05	Elections — No government with majority
	16-05	Transitional government sworn in
17-06	Elections — Coalition government (New Democracy, PASOK, Dem. Left)	
2013	11-06	ERT shuts down effective immediately —New Democracy initiative
	21-06	Dem. Left departs from the coalition government

<sup>233</sup> Source as in this Chapter.



## 8.6. Conclusion

Although the timelines provides for limited conclusions in relation to the impact of MS-specific supranational crisis measures on the EU DD, there are some issues to be raised. It is important to highlight that the policy drift in which every post-2009 elected Greek government until the cut-off date of this research succumbed was considerable enough to challenge the premises upon which legitimacy to these government was conferred. Platforms implemented were, in most cases and especially in relation to economic policy, the exact opposite of what was included in the electoral platforms of those political Parties<sup>234</sup>. This is even more important given that citizens repeatedly proclaimed their opposition to the policies implemented through mass demonstrations and strikes. Furthermore, there are issues raised in relation to the temporal dimension of the initial request for financial assistance, as well as with the 2009 deficit, indicating that democratic processes were not followed to the letter. In addition, from the events that unfolded, there was a considerable and apparent influence of the supranational level within the national level processes. The results of the above on Greece's political system are evident. It moved (quite abruptly too) from an intensely bi-Partisan political system to a multi-Party, cooperation-government-based one. It is also indicative that, upon disappointment with the two major center Parties (PASOK and New Democracy), and upon frustration with policies implemented, there was a considerable surge of parties of the left and extreme right.

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<sup>234</sup> From the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

## Chapter 9: Overview & Evaluation of National-level Measures

### 9.1. Introduction

The aim of this Chapter is to provide an overview and an evaluation of the impact of MS-specific (i.e. Greek) supranational crisis measures on the EU framework constructed in Chapter 3. As outlined in section 4.2 and Figure 1, these measures largely consist of the financial assistance programmes, and they are divided in the FAFAs or loan agreements, and the MoU and other relevant acts. The former are the specifics of the assistance provided, i.e. interest rates, amounts, disbursements, etc. The latter consist of the structural adjustment policies upon which the disbursement of financial assistance is conditional.

### 9.2. Brief Overview of MS-specific Measures

Greece, in its three financial assistance programs, has received a total of approximately EUR 236.2 billion (bn) from the EU and the IMF to date, broken down as in Tables 12 and 13.

**Table 12:** EU financial assistance to Greece (data compiled by author; amounts in EUR bn)<sup>235</sup>.

Total amount disbursed	Instrument	Amount disbursed	1st MoU	1st FAFA	Date out
204.2	GLF	52.9	03-05-2010	08-05-2010	11-03-2012
	EFSF SA	130.9	11-03-2012	01-03-2012	30-06-2015
	EFSM	7.16	17-07-2015		01-08-2015
	ESM <sup>236</sup>	20.4	19-08-2015	19-08-2015	TBC 2018

<sup>235</sup> Sources: Algemene Rekenkamer 2014; European Financial Stability Facility 2012a and 2015a and 2015d; European Stability Mechanism 2015b and 2015c; European Commission 2010a and 2012c and 2015d; Hellenic Parliament 2010d; PrimeMinisterGR 2010a, Deutscher Bundestag 2012; Hellenic Republic 2015; Council of the European Union 2015a, 2015b.

<sup>236</sup> Note that the agreement provides for financial assistance to Greece up to EUR 86 bn (ESM 2015d, 3 and 6).

**Table 13:** IMF financial assistance to Greece (data compiled by author; amounts in EUR bn)<sup>237</sup>.

Total amount disbursed	Instrument	Amount disbursed (approx.)	1st MoU Date	Date out
32 (2465% quota)	SBA <sup>238</sup>	20	03-05-2010	14-03-2012
	EFF <sup>239</sup>	12	09-03-2012	15-01-2016

### 9.2.1. 1<sup>st</sup> Financial Assistance Programme for Greece (GLF)

Greece was the first Eurozone MS to request financial assistance from the EU-IMF ad-hoc cooperation, announced to support, again, specifically Greece, on April 2010. However, there was no precedent of the EU providing financial assistance to a Eurozone MS, nor of its cooperation with the IMF in providing such assistance. As such, the Greek Loan Facility (GLF) consisted of bi-lateral loans between each of the Eurozone MS and Greece, conditional upon implementation of structural adjustment policies adopted by the Greek Council of Ministers after and EC – ECB assessment (Eurogroup 2010b). At the time of the GLF, as well as during the EFSM and EFSF SA frameworks, the policy conditionality attached to the financial assistance provided consisted of two parts: the MoU and a corresponding CoM EDP/TFEU article 136 DEC, with both reflecting the same measures to be implemented by the beneficiary MS (section 7.1.1).

The policy conditionality of the GLF was, in accordance with the Loan Facility Agreement, to be

*defined in a Council decision on the basis of Articles 126(9) and 136 of... the TFEU..., and the support granted to Greece is made dependent on compliance by Greece with the measures consistent with such decision and laid down in ... the MoU (Hellenic Parliament 2010a, 11).*

In pursuit of the above provision, CoM DEC 2010/320/EU was issued in May 2010 (Council of the European Union 2010d). This DEC provided for the connection of the EU-based EDP/TFEU article 136 process with the MoU conditionality under the GLF, with the DEC including almost all MoU policies (Council of the European Union 2010d). This is a landmark DEC in constituting the first EU-based legal instrument to include detailed policy measures and timetables conditionally linked to

<sup>237</sup> Sources: International Monetary Fund 2010a and 2010b and 2010c and 2012a and 2016a.

<sup>238</sup> Aimed mostly to providing short-term assistance to countries coping with crises and ensuing problems with balance of payments, with a duration of two (and a potentially third) years (IMF 2016b).

<sup>239</sup> Aimed at providing medium to long-term financial assistance to countries with serious payments imbalances, with a duration of three (and a potentially fourth) years (IMF 2016a).

the provision of financial assistance to a Eurozone MS. In-between 2010-2012, the above DEC 2010/320/EU/10-05-2010 was amended a number of times<sup>240</sup>, with the main amending act, which recast it, being 2011/734/EU/12-07-2011.

In relation to the international legal part of the GLF (loan agreement and MoU), on the EU's side it consisted of the Loan Facility Agreement between Greece and the rest of the Eurozone MS, of the Intercreditor Agreement between the Eurozone MS except Greece, and the MoU between the EC (acting on behalf of the Eurozone MS) and Greece; all were entered into in May 2010 (Hellenic Parliament 2010a). The Loan Facility included the specifics of the pooled bilateral loans from the Eurozone MS to Greece and the Intercreditor Agreement outlined the relationship between the Eurozone MS (except Greece) in relation to the loan and the agreement, including, among others, the first authorization to the EC to represent them in granting financial assistance to another Eurozone MS – in this case Greece – and also the first instance of policy conditionality monitoring by the EC in cooperation with the ECB (the IMF was added later) since the beginning of the crisis (Hellenic Parliament 2010e, 40-2).

### 9.2.2. 2<sup>nd</sup> Financial Assistance Programme for Greece (EFSF SA)

By the time of the 2<sup>nd</sup> Greek program, the EU had already established the EFSF SA. The 2<sup>nd</sup> Greek program was agreed on the July 2011 EuroSummit (Council of the European Union 2011k). The IMF participated through an EFF (and relevant MoU), with the remaining SBA cancelled, per the request of the Greek government (International Monetary Fund 2012a). In relation to the international aspect of the 2<sup>nd</sup> program (the EU-based aspect continued as amendments to DEC 2010/320/EU, referenced in footnote 178), on the side of the EU, this 2<sup>nd</sup> program consisted, again, of an MoU, but, opposite the GLF, of multiple FAFAs of various kinds (PSI<sup>241</sup>, bank recapitalization, bond interest facility, etc), and later a Master FAFA (Hellenic Republic 2012b, 297-344 and 339-435 and 483-527 and 577-622 and 1721-85; European Financial Stability Facility 2012a and 2012b and 2012c; Deutscher Bundestag 2012, 341-90). Within the Greek legal framework, this 2<sup>nd</sup> program was entered into the Greek *ordre public* through Laws 4046/2012, 4060/2012 and 4111/2013.

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<sup>240</sup> 2010/486/EU, 2011/57/EU, 2011/257/EU, 2011/734/EU, 2011/791/EU, 2012/211/EU, 2013/06/EU (Council of the European Union 2010c and 2011c and 2011d and 2011e and 2011f and 2012a and 2013a).

<sup>241</sup> PSI LM Facility Agreement last amended December 2012 (Hellenic Republic 2013a, 371-380).

In relation to the PSI of the 2<sup>nd</sup> program, within the July 2011 agreement there was also a private sector voluntary contribution agreement (PSI), and involved voluntary private participation for a projected 21% reduction (‘haircut’) on the Greek bonds’ Net Present Value (Council of the European Union 2011; IFF 2011). The round was never initiated<sup>242</sup>, and a reinforced PSI program, (PSI+), was agreed in the October 2011 Eurosummit, involving a 50% or more reduction in the Greek bonds’ nominal value, cutting an approximate projected EUR 100 bn from the country’s debt (Eurosummit 2011; To Vima 2011o)<sup>243</sup>. A separate MoU on the PSI+, setting out the details for the process, was signed on 01-03-2012 between the EC (on behalf of Eurozone MS) and Greece (European Commission 2012d, European Financial Stability Facility 2012a, 1). The conditionality was the MoU of the 2<sup>nd</sup> program. Within the PSI MoU, there were two letters of *a priori* commitment to implementation of the MoU, and the entire program, by both of the then leaders of PASOK and New Democracy annexed (European Commission 2012d, 7-end). These were the leaders of the two major Parties of Greece at the time, i.e. those who were most likely to win the elections. The letter by the then leader of New Democracy Antonis Samaras, who was elected PM a few months after the MoU was signed, is at partial contradiction with the electoral and policy platform of the Party, as expressed in key speeches of his at the time (Kyriakidis 2016, 5). The entire 2<sup>nd</sup> Greek program officially expired on June 30<sup>th</sup>, 2015 (Kyriakidis 2016, 6).

The three Tables below summarize the documentation for the MS-specific supranational crisis measures relevant to Greece, as presented above. Table 14 presents all the FAFAs or loan agreements between Greece and the EU. Table 15 presents the MoUs between Greece and the EU. Table 16 the MoUs between Greece and the IMF.

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<sup>242</sup> Inter alia, because the bond maturity was restricted to those ending on 2020, the coupons had high value, the deepening recession made the 21% ultimately insufficient for Greek recovery, etc. (Zettelmeyer et al. 2013).

<sup>243</sup> The legal implementation of PSI+ on the Greek side was challenging, as the majority of Greek bonds (more than 86% of eligible debt) had been issued under Greek law and lacked any Collective Action Clauses (CACs) that permit a modification of the bond, in terms of debt restructuring, if agreed to by a majority of the bondholders (e.g. 75%), which is then enforced on all bondholders. Hence, they required unanimity to be modified (Zettelmeyer et al. 2013, 11). This would be very difficultly achieved given the 50% nominal value reduction. However, the fact that these bonds had been issued under Greek law provided the opportunity for the modification of the bonds simply by passing a law (Zettelmeyer et al. 2013, 11). The relevant national Law 4050/2012 was enacted, retroactively introducing CACs to the Greek bonds issued under Greek law and allowing for the ‘haircut’ to proceed under the approval of a 2/3 majority of bondholders (Hellenic Republic 2012a, 1076).

**Table 14:** Greek FAFAs/loan agreements (data compiled by author; ranked by date)<sup>244</sup>.

Program	Date	Agreements	Relevant Law
1 <sup>st</sup> (GLF)	08-05-2010	Loan Facility	Pending since 04-06-2010
	08-05-2010	Intercreditor Agreement	
2 <sup>nd</sup> (EFSF SA)	01-03-2012	PSI LM Facility	4046/2012
	_ <sup>245</sup>	Co-Financing	
	01-03-2012	ECB Credit Enhancement Facility <sup>246</sup>	
	01-03-2012	Bond Interest Facility	
	01-03-2012	Bank Recapitalization Facility <sup>247</sup>	
	15-03-2012	Master FAFA	4060/2012
	12-12-2012	Master FAFA First Amendment	4111/2013
	12-12-2012	PSI Amendment	
	19-12-2014	Master FAFA Second Amendment <sup>248</sup>	None Found

**Table 15:** Greek EU MoUs (data compiled by author; ranked by date)<sup>249</sup>.

Program	Date	MoUs	Relevant Law
1 <sup>st</sup> (GLF)	03-05-2010	First Economic Adjustment Programme	3845/2010
	06-08-2010	First update	
	22-11-2010	Second update	
	23-02-2011	Third update	
	04-07-2011	Fourth update	
	31-10-2011	Fifth update <sup>250</sup>	
2 <sup>nd</sup> (EFSF SA)	01-03-2012	PSI MoU	None found <sup>251</sup>
	11-03-2012	Second Economic Adjustment Programme	4046/2012
	07-12-2012	First update	

<sup>244</sup> Sources: sections 9.2.1 and 9.2.2

<sup>245</sup> No date can be found anywhere for when this agreement was signed.

<sup>246</sup> Repaid in full by December 2012 (Hellenic Republic 2013a, 331)

<sup>247</sup> Never utilized. Availability period expired as of December 2012 (Hellenic Republic 2013, 331).

<sup>248</sup> EFSF SA (2015c, 1).

<sup>249</sup> Sources: sections 9.2.1 and 9.2.2;for Updates: International Monetary Fund 2010d and 2011b, 27-60 and 2011c, 41-89 and 2011d, 38-77 and 2012c, 62-145.

<sup>250</sup> Letter of Intent for this MoU bears the date 31-10-2011, while the next page has 22-10-2011 (International Monetary Fund 2011d).

<sup>251</sup> Law 4050/2012 introduced retrofit CACs to Greek bonds and was relevant to PSI, but does not mention this MoU anywhere (Hellenic Republic 2012d).

**Table 16:** Greek IMF MoUs (data compiled by author; ranked by date)<sup>252</sup>.

Program	Date	MoUs	Relevant Law
1 <sup>st</sup> (SBA)	03-05-2010	SBA Request & First MoU	3845/2010
	06-08-2010	First update	
	08-12-2010	Second update	
	28-02-2011	Third update	
	04-07-2011	Fourth update	
	30-11-2011	Fifth Update	
2 <sup>nd</sup> (EFF)	09-03-2012	EFF request & Second MoU	4046/2015
	21-12-2012	First update	
	20-05-2013	Second update <sup>253</sup>	
	17-07-2013	Third update	

### 9.3. Indicator A: Key national Policy areas, redistribution, delegation

It has already been argued in SECTION B above, that the EU, throughout the supranational crisis measures aimed at the EU level, has, overall, acquired considerable influence over key national policy areas with redistributive effects for the citizens of MS. It was also established that the overall level of delegation from the national to the EU level has been considerably increased. But how are the elements of this first EU DD evaluation indicator shaped in relation to the MS-specific measures?

Issues of affecting key national policy areas, and instances of considerable increases in the delegated authority of supranational institutions, are evident in the MoU process of Greece. Because of the vast magnitude of specific policies affected by the MoUs investigated, the policies are grouped under the following broad policy categories, with the specific policies of each category being outlined in detail in APPENDIX B:

- Budget
- Revenue
- Public Remuneration
- Public Administration
- Defence
- Energy
- Labor Market
- Healthcare
- Education
- Judiciary
- Tourism
- Transportation
- Banks
- Procurement
- R&D
- Privatization
- Legislation
- Social Security

It is already evident that the MoUs affected almost all, if not entirely all, the policies within the Greek public order. The financial assistance structural adjustment process

<sup>252</sup> Sources: sections 9.2.1 and 9.2.2; for Updates: International Monetary Fund 2010b, 1-30 and 2010d and 2011b, 1-26 and 2011c, 1-40 and 2011d, 1-37 and 2012c, 1-62 and 2013c.

<sup>253</sup> The text of this MoU was not found either on the EC's or the IMF's relevant webpages. The existence and date of this MoU are deduced from the subsequent MoUs (IMF 2013, 1; IMF 2014a, 1).

was, essentially, an end-to-end, fundamental restructuring of the entire mode of operation of the Greek state.

To further elaborate on this observation, each of the MoUs of Greece (until the cut-off date of this research) are forensically investigated and analyzed, in order to establish where each category is referenced. This is a considerable contribution of this research to the existing field, since, as outlined in section 2.3, most references to the MS-specific crisis measures do not include a specification of exactly which policies are affected by the MoUs, and where those are referenced. The following Table provides the page numbers of each MoU in which each of the above policy categories are affected.



**Table 17:** Detailed breakdown of Greek policy areas affected by the MoUs (data compiled by the author; numbers refer to MoU page numbers)<sup>254</sup>

	3/5/2010	6/8/2010	8/12/2010	28/2/2011	4/7/2011	30/11/2011	9/3/2012	13/12/2012	21/12/2012	17/7/2013
<b>Budget</b>	57, 59-60, 62-3, 66-7, 69, 71	4, 31, 37-9	34	30, 43	24, 44, 32, 43, 77-80	6-7, 19-20	8, 12-3, 26, 29, 52-3, 58, 76	194-5, 200-2, 225-6, 243, 251-2	21-2, 25-6, 28-30, 32, 34-5, 41, 44-5, 62, 70, 74, 79-83, 137-8	5, 14, 23-4
<b>Tax</b>	43-4, 51, 55, 57, 59-60, 62-5, 71	11, 32, 34, 48	9-11, 18, 30-3, 44, 52, 55-6	5, 7, 31, 50-51	6-9, 24-5, 38-9, 40, 45, 48, 77-80	5-8, 17, 22-3, 42-3, 45-6, 49, 59	9, 11, 28, 30, 33-4, 55-7, 76, 83-5	194-9, 201-2, 226-8, 233, 252	9, 17-8, 20-4, 34-5, 45, 46, 61, 74-8	5-7, 10-3, 27-9
<b>Remuneration</b>	41-2, 44, 48, 57, 60, 63-5, 67, 71, 78-81, 90	1-3, 5, 11, 39, 46	9, 10, 18, 30-3, 45-7, 51-3, 55-7	5, 10, 12, 15, 31-3, 43, 47, 51	5-6, 24, 38-40, 49-52, 77-80	5-8, 22, 42-3, 46-7, 49, 53-5	7-8, 29, 33-4, 42, 52-3, 61-3	201-4, 209, 238-9, 250-1	8, 18-9, 33, 41-2, 135-7	-
<b>Administration</b>	41-3, 48, 57, 60-1, 63-5, 68, 70-1, 78-81	5, 11, 34, 35-6, 46-7	10-2, 18, 30-3, 37-8, 44, 47, 53-4, 55-7	4-5, 15, 31-4, 43-7, 50-1, 55	4-5, 7-9, 17-9, 24-5, 27, 40, 49-50, 61-4, 69-70, 77-80,	5-10, 22-3, 42-3, 45-7, 49, 60, 64	7-8, 10-11, 13, 29, 33-4, 56-9, 61, 66-7	196-207, 209, 226-7, 250-2	18-9, 25-7, 30, 32-3, 41, 74-8, 80, 84-5, 89, 136-7	8-11, 13, 15, 26-7, 30
<b>Defense</b>	-	-	10, 18, 30-4, 56	44	24, 77-80	6-7	9, 52-3	204, 251-2	137	-
<b>Energy</b>	70, 83-4	42, 44	41, 49, 57	41, 50, 54, 56	17-19, 62-4, 69-70	18-9, 61-2, 65	84-7	231-2	114-8	5
<b>Labor</b>	49, 60-1, 68-9, 71, 82	1-2, 7-8, 34, 38, 41, 45-6, 48	8, 14-5, 18, 36-7, 40-1, 43, 49, 53-4, 56-7	6, 43, 12, 15, 31, 37, 39, 44, 47-8, 51-2	6, 17-9, 25, 51-2, 61, 62, 64-8	7-8, 16-9, 22-3, 42-3, 46, 49, 58-9, 60-3, 71-2	21-4, 33-4, 75-84, 86-7, 90	222-9, 233, 237-40	6, 7, 9, 32, 36-8, 104-11, 122-6, 130-2	18-21, 49
<b>Healthcare</b>	48, 67, 81-2	5, 40	9, 10, 30-3, 45-7, 52-3, 35, 52, 56-7	7, 31, 34, 44-6, 51, 55	6, 52-8, 77-80	6-8, 23, 42, 46, 49, 50-2	7-8, 29, 52-3, 62-9	200, 202, 210, 211-5, 250-2	20, 32, 43-4, 78-9, 89-98, 137-8	-
<b>Education</b>	69	-	50, 54, 56	38, 42, 48-7, 52, 54	64-5, 73-5	62-3, 69-70	29, 79, 90	216, 239-40	137	-
<b>Judiciary</b>	-	-	-	7, 31	48, 73-5	18-9, 46, 57, 61-2, 69-72	24-5, 30, 33-4, 90-1	228-30	112-4, 132-3	21
<b>Tourism</b>	-	-	39, 56	12, 38, 47, 52	68	62-4	-	-	-	-
<b>Transport</b>	82	-	3, 50-4, 56	33	17-9, 62-4, 69-70	18-9, 61-2, 45, 64	82-5	235-6	36, 119-21	-
<b>Social Welfare</b>	41-2, 70	46	9, 10, 30-3, 52, 56	50	5, 77-80	6-8, 23, 42, 46, 49	7-8, 12, 22, 29, 33-4, 52-3, 58, 62-3, 76	209, 251-2	20-1, 24, 30-1, 42-3, 138	9-10, 28
<b>Banks</b>	46-7, 50, 60, 66-7	7	12-4, 18, 36, 48, 53-4, 57	10-1, 15, 31, 44	13-4, 24, 60	22, 42-4, 56-7	10, 14-6, 19, 30, 33-4, 62-3, 70-2, 74	203-4, 217-21	11-7, 30, 32-5, 40, 48, 98-103	15-8, 25-6, 28
<b>R&amp;D</b>	69, 84	-	42	39, 48	70-1	66	87-8	-	-	-
<b>Procurement</b>	67, 78-9	-	38		49-50	48	60-1, 69	207-8	86-9	-
<b>Privatization</b>	57	8, 38, 46, 48	15, 18, 33, 40, 49, 57	9, 15, 31-2, 41, 44, 51, 53	13-5, 27, 46, 68	15, 22, 24, 42-5	19-21, 33-4, 52, 54-5, 58-4	194-5, 204, 236	10, 32, 39, 48, 71-3, 83, 129	22, 26
<b>Legislation</b>	44-5, 48, 57, 59-61, 66-8, 70, 72, 75-7	6-7, 8, 38, 46, 48, 52	13, 14, 18, 34, 36-9, 48, 53-4, 56-7	7, 15, 31, 37, 39, 47-8, 51	15, 23-4, 42, 46, 49, 66, 8	7-10, 16, 21-2, 42-3, 45-6, 48, 51-2, 59-60, 62-3, 61, 66	10-12, 15-6, 19-20, 25, 28-9, 30, 33-4, 53-6, 58, 60, 62-3, 66, 71-3, 75, 77-83, 86-8, 90-1	194-5, 202-8, 210, 216, 219, 222, 224-36, 238-40, 243, 252	7, 10, 30, 33-4, 36-46, 71-84, 107-26, 130-2, 135	5-7, 25-7

<sup>254</sup> Sources: International Monetary Fund 2010b and 2010d and 2011b and 2011c and 2011d and 2012c and 2013c. The PSI MoU is excluded, not involving any policy conditionality.

It is evident that from 2010 and until 2013, most policies of the Greek state were included in the MoUs. Not only that, but the same policies were included in multiple MoUs, thus indicating a continuously changing policy environment. This meant that citizens were under a constant state of disorientation and change across the three year adjustment period examined.

Implementation of policies within Greece from 2010 onwards, many of which key for the national level and most with redistributive effects, were decided, under the best case scenario, between the Greek executive and the Troika, with even the executive being transformed, on many occasions, to a mere facilitator<sup>255</sup>. From the information during the interview with Prof. Louka Katseli, former Minister of Economy, Competitiveness and Shipping, and former Minister of Employment and Social Security, it becomes clear that the negotiating process was very intense, and the Troika provided direct input to legislation even at the drafting stage<sup>256</sup>. In addition, similarly to the analysis of the EU-wide measures, the element of conditionality needs to be also be examined. Because of this element, the structural adjustment policies were not subject to discussion or deliberation. It was clearly stipulated that they constitute conditions for the provision of financial assistance, i.e. non-implementation meant zero funding. In relation to the EU-based legal instruments, the relevant CoM DEC 2010/320/EU of May 2010 (and hence all of its amendment and modifications issued under both the 1<sup>st</sup> and 2<sup>nd</sup> financial assistance program of Greece), the following is stipulated:

*The lenders have decided that their support shall be conditional on Greece respecting this Decision. In particular, Greece is expected to carry out the measures specified in this Decision in accordance with the calendar set out herein (Council of the European Union 2010d, 7).*

In relation to the internationally-based legal instruments, across the Greek MoUs<sup>257</sup> it is provisioned that:

*The lenders have decided that their support shall be conditional on Greece respecting this Decision. In particular, Greece is expected to carry out the measures specified in this Decision in accordance with the calendar set out herein (Council of the European Union 2010d, 7).*

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<sup>255</sup> This argument, related also more broadly to the entirety of the financial assistance programs (not just specifically Greece), was raised in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

<sup>256</sup> Interview with the Hon. Prof. Louka Katseli, inter alia, former Minister of Economy, Competitiveness and Shipping (2009-2011), and former Minister of Employment and Social Security (2010-2011).

<sup>257</sup> In the 1st Economic Adjustment Programme for Greece under the GLF (May 2010; Table 16), there is no such clause, but there is one in the Loan Facility Agreement of the GLF (Hellenic Parliament 2010a, 11).

Through this conditionality, the influence of supranational actors, whether of intergovernmental (e.g. EG) or purely supranational nature (e.g. EC) assumed a necessary or even obligatory character. However, especially in relation to the EU-based legal acts that included conditionality, it is worth highlighting that neither TFEU article 126 nor 136, the combination of which was used to issue the relevant CoM DEC for Greece, include the possibility of being used as including conditions upon which disbursement of financial assistance is provided. Through this process, it seems that these EU-based legal instruments assume a character that is otherwise not included anywhere within their relevant provisions, thus distorting their true purpose and augmenting their impact upon national policy by making them de facto obligatory. Consequently, the institutions relevant with the issuance and monitoring of these acts, namely the CoM and EC, undergo a considerable increase in their decision-making capacity and influence over policies at the national level.

These effects were substantially deteriorated by the fact that, when deciding on issues relevant to EDP (TFEU article 126), the CoM decides without the vote of the MS concerned (European Union 2012, 101). While this is provisioned in relevance to a breach of obligations by a MS, this also became applicable in deciding specific policies and specific timetables that the MS had to implement, in order to receive financial assistance. Not only was this exceeding the purpose and nature of the relevant TFEU articles, but it also resulted in the Eurozone MS under financial assistance, in this case Greece, being virtually unable to even participate in the voting of policies which were to be implemented by it. Even if it is considered that the Greek state, albeit still only through its executive, partook and negotiated the terms of the MoU, the EU-based equivalent of this instrument – the CoM TFEU articles 126/136 DEC – was decided officially without Greece's input. This constitutes a truly considerable augmenting of the supranational level authority in national level policies, and a truly alarming indication in relation to the democratic process.

A final observation in relation to key national policies must be offered in relation to the Loan Agreements/FAFAs and the attached opinion of the Legal Advisor to the State at the Ministry of Finance<sup>258</sup>, where Greece resigns from immunity of its public property. It is argued that there has been a legal tradition of preventing enforcement of agreement terms against assets of a state which are meant for public purposes. However, there is the exception where a state is able to resign from this immunity through a written act. In this particular case, given that the loan

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<sup>258</sup> The term Legal Advisor to the State at the MoF is an issue of debate as to whether it refers to a counselor of the Legal Council of the State or to an outside legal counsel, employed by the Finance Ministry (e.g. Deputy Minister of Finance 2013).

agreements are governed by English law, this resignation has been argued to be governed by the UK's State Immunity Act 1978 (Iatrelis 2012, 10; Xrysogonos 2010, 9; Marias 2010a, 2220-1). According to Article 13 of the Act, a state's property is immune<sup>259</sup> from any legal proceedings, except for when the state gives a written authorization that declares otherwise (United Kingdom 1978, 7). Within the EU framework, the Rome Convention on the Law Applicable to Contractual Obligations<sup>260</sup> stipulates that mandatory laws of a country are to be applied, when necessary, in regards to a contract, irrespective of the contract's designated law (Council of the European Union 1980, 3-4). In addition, the contract's designated law may not be applied if it runs contrary to the public policy (*ordre public*) of the forum (Council of the European Union 1980, 5).

By agreeing to resign from the above immunity, the Greek state waives its protection under the UK's State Immunity Act 1978. Even when considering the more broad protection of the Rome Convention, both in terms of mandatory laws and *ordre public* of the state, the resignation still applies. While it is provisioned within the Loan Agreements/FAFAs that this immunity is to be suspended except where mandatory law provides otherwise (e.g. European Financial Stability Facility 2012d, 39), the term mandatory law is not applicable within the Greek legal system<sup>261</sup>. Within the context of protection of public property against private entitlements, article 4(1) of Law 3068/2002 prevents claims on “*an object which has been tasked for the direct service of a specific public purpose*” (Hellenic Republic 2002, 4986). However, it is not clear if this falls within the term mandatory law.

Even as such, claims relating to this agreement would probably be adjudicated by English-law courts, which do not have to consider Greek legislation. Such a court decision would then be implemented within Greece via the Greek court system. While at this stage of the process the Greek legal order could be considered, Greek courts do not adjudicate on the merits of a case when implementing foreign court decisions. The decision on whether to implement the decision is based on it not running contrary to a Greek court decision for the same case, or to proper morals and public order<sup>262</sup>

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<sup>259</sup> Immunity applies to public property only. Private property of a state, i.e. in accordance with UK State Immunity Act Article 13, §4: “*property which is for the time being in use or intended for use for commercial purposes,*” can be the subject of judicial proceedings (United Kingdom 1978, 7).

<sup>260</sup> ref. no. 80/934/EEC/19-06-1980 as has been amended, mainly by REG (EC) 593/2008/17-06-2008 (Council of the European Union 1980 and 2008d).

<sup>261</sup> Potential explanations have included public order law and peremptory law (*ius/jus cogens*), the latter of which provides that no agreement to the contrary can prevent the application of certain laws (*ius/jus dispositivum*; Iatrelis 2012, 5).

<sup>262</sup> Articles 323 and 905 of the Greek Code of Civil Court Procedure

(Theofylaktou et al. 2010, 504 and 631-2). Hence the English-law court decision could potentially be enforced within the Greek state by Greek courts regardless of Greek legislation. Finally, aside from all the above, the protection afforded by the Rome Convention is also negated by the legal opinion of the Legal Advisor to the State at the Ministry of Finance, attached to the loan agreements, which in §5 a priori stipulates that:

*The enforcement...would not be contrary to mandatory provisions of Hellenic law, to the ordre public of the Beneficiary Member State, to international treaties or to generally accepted principles of international* (Hellenic Republic 2012b, 339 and 2012c, 1768 and 2013, 335; signed legal opinion in Charitaki 2012, 2).

This resignation from state immunity is considerably problematic for the democratic process, as the legitimacy of the executive to assume this action that not only binds any following governments, but also provides for the potential expropriation of property belonging to the Greek people, and is applicable for a duration that surpasses the agreeing government's term, is highly questionable. In addition, the Greek legal order does not provide for the possibility of the Greek state to resign from this type of immunity<sup>263</sup>, making the legitimacy of this resignation by the Greek executive even more debateable. As MEP Hon. Prof. Kostas Xrysogonos suggests in relation to the above opinions of the Legal Advisor “*they are completely unfounded, because in no case can there be execution (of claims) in relation to public property*”<sup>264</sup>. Resignation of immunity and national sovereignty, regardless of the borrower, is something democratically unacceptable. Factoring in the capabilities of execution of claims when the lender is a state, and not a private entity, as well the sheer consequences of such claims on the sovereignty of the borrower State, this term becomes almost incompatible with any democratic principle, or even principle of international law<sup>265</sup>.

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<sup>263</sup> This was also highlighted in the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

<sup>264</sup> From *ibid.*

<sup>265</sup> It can be argued that similar types of agreements are part of typical international lending practises (Iatrelis 2012). For example, in relation to the resignation of Greece from any immunity over its assets, it is argued that “*the same term, with basically the same wording is included in all the corresponding agreements that the State has signed before the MoU...*” (Iatrelis 2012, 11). However, this will have to be seen in a different context, as the lenders are not private entities but other states.

#### 9.4. Indicator B: Parliamentary authority (EP and national Parliaments)

The financial assistance programmes of Greece, until the cut-off date of this research, included virtually no EP participation whatsoever. The EP was completely excluded from the financial assistance process. Specifically in relation to the GLF, the temporal factor also needs to be taken into consideration. As the former IMF Executive Board member Dr. Miranda Xafa, suggests

*the Greek program was approved two days before the need of Greece to roll-over a bond amounting to approximately 10 bn, which the market would not voluntarily accept. So, either Greece would resort to an unordered default, if there were procedures such as going to the European Parliament for approval or for everyone to say their opinion, or it would have been as it happened; and I think it happened in the right way from this aspect.*<sup>266</sup>

However, from the overall application of the programmes, it is clear that the role of the EP was both ex ante, but also ex post facto, almost entirely non-existent. As the EP Report on the Employment and Social Aspects of the Role and Operations of the Troika<sup>267</sup> conclusively observes:

*...Parliament has been completely marginalised in all phases of the programmes: the preparatory phase, the development of mandates and the monitoring of the impact of the results achieved by the programmes and related measures (European Parliament 2014c).*

The more democratically damaging factor, however, is that this was also mostly the case in relation to the Greek parliament.

##### 9.4.1. Primary MoU/loan agreements Greek legislation

The first major issues in relation to Parliamentary input were raised in relation to the GLF and the 1<sup>st</sup> financial assistance program. The awkwardness with which the unprecedented situation was dealt with at the supranational level, also applied to the national level, especially in relation to where the Greek parliament fitted into the executive-Troika-CoM negotiations. Of the GLF, the only part included within the Greek ordre public was the MoU in Law 3845/2010. Whether the Law legally ratified the MoU is an issue of debate, as nowhere within it is such a provision directly referenced. However, the Law provides throughout its article 2 that regulatory Presidential Decrees (PDs)<sup>268</sup> may be issued to modify existing legislation and align it with the MoU, as this MoU is referenced by title in article 1(3) of this Law and attached as an Annex to it (Hellenic Republic 2010a, 1321-3). There is also ambiguity

<sup>266</sup> From the interview with Dr. Miranda Xafa, inter alia, former member of the IMF's Executive Board.

<sup>267</sup> Procedure 2014/2007(INI) (European Parliament 2014c).

<sup>268</sup> Regulatory PDs are issued by the President, after relevant legislative authorization (Law) and after, and within the limits of, a proposal by the relevant Minister (Hellenic Parliament 2008, 59).

as to the actual nature of the Law itself<sup>269</sup>. Regardless of the actual nature of the MoUs (international agreement, international ‘soft law’, etc), Law 3845/2010 was ratified as a regular Law, not as one ratifying any type of international legislation.

The key issue regarding Parliamentary input was raised in relation to authorization by the legislative to the executive. Article 1(4) of the Law included an authorization to the FinM to sign any MoU or loan agreement, or addendums thereof, and to implement the MoU annexed, with all of the relevant documents to be introduced to Parliament for ratification (Hellenic Republic 2010a, 1321). Despite this provision, one day after the Law was deposited in Parliament, Law 3847/2010 was deposited, originally pertaining only to pension provisions. During the discussion of this latter Law by the Plenum, the then FinM introduced a modification, whereby parliamentary ratification in Law 3845/2010 was no longer required (Hellenic Republic 2010b, 1410; Hellenic Parliament 2010c, 6882)<sup>270</sup>. This is key, as, given the extensive breadth of MoU policies (above), it effectively removed parliamentary input from almost all policies within the Greek state.

The way this modification was introduced combined with the very content of the modification, i.e. henceforth not requiring any loan agreements and MoUs to be ratified by Parliament, raised serious concerns. In accordance with the Constitution of Greece (CoG) Article 74(4), as well as with Article 87 of the Standing Orders of Parliament, modifications and amendments to Bills can only be debated if submitted 3 days prior to the Bill’s discussion in Parliament, a condition which was not satisfied in this case; the amendment was introduced during the actual voting process (Hellenic Parliament 2008, 85 and 2014, 68; Hellenic Parliament 2010c, 6882-6893). Furthermore, eliminating Parliamentary ratification for MoUs/loan agreements could constitute a potential breach of:

- CoG Article 28(2): Constitutional authorities (e.g. determining taxation rates throughout Greece) may be vested in agencies of international organizations by law, but such law should be ratified by 180/300 MPs (Hellenic Parliament 2008, 45-6),
- CoG Article 28(3): a law by 151/300 MPs can limit national sovereignty, but only under the principles, among others, of equality and reciprocity, and under the condition it does not harm the democratic foundations (Hellenic Parliament 2008, 45-6),
- If it is supported that the MoU or loan agreements are international conventions (e.g. Marias 2010b), then CoG Article 36, §2: International conventions which include

<sup>269</sup> E.g. Kasimatis (2010), Xrysogonos (2010), Manitakis (2011), Katrougkalos (2010), more generally Marias (2010a and 2010b), etc. Note that these academics also extensively debate the nature of the MoU itself (whether an international agreement, product of international ‘soft law’, etc), which, however, escapes the focus of this article.

<sup>270</sup> More specifically, the modification to Law 3845/2010 included in Law 3847/2010 was “*instead of the word ‘ratification’ the words ‘discussion and information. They (MoUs/loan agreements) are valid and executed from their signature’ are entered*” (Hellenic Republic 2010b, 1410)

economic, trade, or tax related issues which may impose burdens on Greek citizens individually have to be enacted in a law (Hellenic Parliament 2008, 53).

Legal issues aside, however, the fact that any MoUs/loan agreements decided by the executive in cooperation with supranational/international authorities would require Parliament ratification to enter into force ensured elementary representative oversight. The modification of this provision, as presented above, seems to provide the executive with a ‘blank cheque to, essentially, legislate. As was stated above, the measures included in the MoUs were to be implemented in return for financial assistance; there was no possibility for further debate, deliberation, etc. Furthermore, all relevant negotiations, even the ones within the CoM for the EU-based MoU equivalent DEC, took place behind closed doors. It is, therefore, impossible to discern exactly how the negotiation process unfolded. These elements, when combined, potentially provide the opportunity to the executive to introduce its own policies within the MoUs, and have them implemented with no deliberation, or even a typical parliamentary ratification, under the threat of non-disbursement of financial assistance. This seriously distorts the separation of powers within the national level, aside from considerably degrading (possibly to the point of essential elimination) of the role of the parliament in implementing policy within Greece.

In relation to the other parts of the GLF, namely the Intercreditor Agreement and the Loan Facility, those were never ratified by Parliament. They were submitted as a Bill much later in June 2010, but voting on the Bill never took place (Hellenic Parliament 2010c). It was argued that on account of the aforementioned modification by Law 3847/2010 eliminating the requirement of parliamentary ratification for MoUs/loan agreements, there was no need and, in fact, no authority for the parliament to ratify these two agreements (Plavoukou 2010; Staikouras 2010). However, it has been counter-argued that that the two agreements were signed three days prior to the entry into force of that specific provision of Law 3847/2010 repealing parliamentary input, and, as such, they should have been ratified in accordance with article 1 of Law 3845/2010 as in force during the signing, regardless of the fact that these agreements were deposited to Parliament almost a month (June 2010) after both of the above Laws entered in force (Marias 2010a).

It is worth noting that the entire GLF (MoU and the Loan/Intercreditor agreements), as well as their subsequent amendments, have been ratified by Parliaments of other Eurozone MS (e.g. Irish Parliament; House of the Oireachtas 2010a and 2010b and 2011 and 2012 and 2013). Again, the observation is made that democratic ‘double-standards’ apply in relation to MS acting as lenders and those



being borrowers. In the above example, the Irish Parliament was able to decide on issues relating to specific, and oftentimes key, policies of the Greek state, while the Greek parliament did not have this opportunity. Ironically, when Ireland was acting as a borrower receiving financial assistance, it encountered a similar problem vis-à-vis the German Bundestag, to which key, confidential details (e.g. 2% increase in VAT) of the Irish budget were provided before they were even given to the Irish Parliament (Smyth & Spiegel 2011).

Issues were also raised in relation to the 2<sup>nd</sup> financial assistance program for Greece. Despite the aforementioned provision not requiring Parliamentary ratification, the relevant MoUs/loan agreements for the 2<sup>nd</sup> program were ratified by Parliament. Law 4046/2012 included the relevant Loan Agreements, except the Master FAFAs, and the MoU, except the separate PSI MoU (Hellenic Republic 2012b). The Law stipulated that the FAFAs and the MoU, as annexed, are approved, provided authorizations to PM/FinM similar to those of Law 3845/2010, and stipulated that all of the above documents enter into force from the date they are signed, and are submitted to parliament for information only (Hellenic Republic 2012b, 291-2).

Law 4060/2012, approving of the Master FAFAs, and Law 4111/2013, approving the December 2012 amendments to the Master FAFAs, and the FAFAs PSI LM Facility and Bond Interest Facility, were both enacted through the Act of Legislative Content (ALCs) procedure (Hellenic Republic 2012c and 2013a). In accordance with CoG Article 44(1), ALCs are issued “*under extraordinary circumstances of an urgent and unforeseeable need,*” by the President, upon a proposal of the Cabinet (Hellenic Parliament 2008, 60). They have typical legal force equivalent to a regular Law. However, they need to be submitted to Parliament within 40 days of their publication and need to be ratified within 3 months of their submission. The ratification is not subject to modifications – the ALC submitted has to either be ratified as it is or rejected. If it is not submitted or not ratified within the above time limits, or if it is rejected, the ALC ceases to have legal force henceforth (Hellenic Parliament 2008, 60). In terms of authorizations, the same as in Law 4046/2012 apply in these two Laws too.

Although parliamentary approval was finally sought, the process was completed under considerable temporal duress. The first set of ratified loan agreements was enacted by Law 4046/2012, which also included the 2<sup>nd</sup> MoU; this Law numbered a total of 573 pages, and was submitted and voted on by Parliament within only just two days (Hellenic Republic 2012b; Hellenic Parliament 2012a). Given the size and policy impact of the Law and, more importantly, its paramount

importance for national interests, two days is a severely constrained amount of time for MPs to read, comment, and provide feedback.

Issues also exist in relation to the ALC process of Laws 4060/2012 and 4111/2013. ALCs are designed to provide the necessary latitude to the executive to pass legislation of an emergency nature in order to address an unforeseen situation<sup>271</sup>, where provisions are urgent, of limited policy impact, and, in either case, do not necessarily require, or are not fundamentally altered by, any further deliberation or debate. That is the reason why the ALC can either be ratified or rejected; there is no modification possible. While this instrument is useful in case of policy satisfying these conditions, in this case it was used to ratify international legislation, binding on the national level, affecting most of the policy areas within the Greek state, and which would definitely benefit by further deliberation and discussion in Parliament. This presents a challenge in terms of the purpose of the ALCs. It could be argued that ALCs were eventually used because of the emergency character and need for urgent ratification of these agreements. However, both of the relevant Laws were enacted across 2012-13, already two years into the crisis and after the signing of several other relevant MoUs/loan agreements. There is, hence, a contradiction arising from the characterization of a situation that has been recurrent, repeated and anticipated, as urgent and unforeseen<sup>272</sup>. It is clear from the above that the process utilized in relation to parliamentary input on the MoUs/loan agreements was minimal and, when existent, considerably insufficient or constrained by various temporal or legal issues.

#### 9.4.2. Secondary MoU/loan agreements Greek legislation

The argument could be made that, while the aforementioned primary MoU/loan agreement national legislation suffered from lack of representative input, the secondary legislation, implementing the measures included in the MoUs within the Greek public order, compensated for or, at the very least, matched this deficiency, as the parliament had full authority to deliberate and discuss specific policies. In relation to this argument, it needs to be emphasized that the MoUs leave very little room for maneuvering, often even including detailed timetables of the policy steps to

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<sup>271</sup> E.g. financial relief for houses damaged by a catastrophic fire (e.g. ALC of 29-08-2007 ratified by Law 3624/2007 – Hellenic Republic 2007a and 2007b).

<sup>272</sup> It needs to be noted that there is no other branch of government authorized to judge whether the characterization of a situation as unforeseen and emergency, is in fact true. Per settled case-law by the Council of the State (Supreme Administrative/Constitutional-type Court of Greece; e.g. Plenary 3636/1989, 3612/2002, 1250/2003), the evaluation of whether the situation, in accordance to which an ALC is issued, is a matter of emergency is not subject to judicial review. The authority to evaluate a situation as urgent and unforeseen lies with Parliament (i.e. whether to vote for or reject the ALC; Hellenic Parliament 2012d, 3).

be taken. Despite this fact, it is the case that the Greek parliament was considerably more involved in this process, than with the process relevant to the actual MoUs, although this has to be understood as somewhat expected in a democracy. Even in this case, however, democratic representative processes at the national level failed to be properly implemented, in the name of quick and urgent need to release financial assistance disbursements by proving satisfaction of conditionality through Laws.

This sub-section briefly presents the transference of MoU policies within the Greek *ordre public*. As it is not possible to present the entire breadth of legislation relating to the MoUs within this investigation, an indicative list of the most important acts is presented in Table 18 below. These is secondary legislation of high importance, i.e. that implements or introduced MoUs/loan agreements etc. Most of the Laws presented where introduced by the very urgent procedure provisioned in Article 76, §4 of the CoG, and Article 109 of the Standing Orders of parliament. The process allows only for a limited debate in the relevant Parliament Committee, as well as in the Plenum, setting for both a limit of one sitting, and for the latter an additional specific time limit (10 hours; Hellenic Parliament 2008, 86 and 2014a, 84-5). The comments provided next to each Law are only partially summative (the most important) and are always *inter alia* other policies, most of which implement MoU measures. In addition to the above, there is relevant secondary legislation that relates to MoU obligations that is not considered of high importance, i.e. that indirectly implements MoU policies enforcing specific MoU measures in various policy areas. These Laws have usually been passed through the regular and not the very urgent procedure, hence procedural details are not referenced, and are presented in Table 19 below.

**Table 18:** Secondary Greek legislation (high importance) relevant to MoU/loan agreements (data compiled by author)<sup>273</sup>

Law	Important provisions (inter alia)	Procedure	Duration (days) <sup>274</sup>	Length (pages) <sup>275</sup>
3845/2010	<ul style="list-style-type: none"> <li>▪ 1<sup>st</sup> MoU,</li> <li>▪ MoUs/loan agreements to be submitted to Parliament for ratification,</li> <li>▪ Increase taxes,</li> <li>▪ Public sector remuneration cuts,</li> </ul>	Very Urgent	2	72
3847/2010	<ul style="list-style-type: none"> <li>▪ Amendment to Law 3845/2010 = MoUs/loan agreements in Parliament only for information,</li> <li>▪ Public sector pensions' Christmas/Easter bonuses and leave allowance paid only if the retiree is &gt; 60 years and pension is &lt; EUR 2.500</li> </ul>	Very Urgent	2	2
3864/2010	<ul style="list-style-type: none"> <li>▪ Establishment of the Hellenic Financial Stability Fund<sup>276</sup></li> </ul>	Regular	13	8
3986/2011	<ul style="list-style-type: none"> <li>▪ Establishment of the Hellenic Republic Asset Development Fund SA<sup>277</sup> (right to use assets, including foreshores and beaches, for 99 years),</li> <li>▪ Labour reserve (“εργασιακή εφεδρεία”),<sup>278</sup></li> <li>▪ Extension of the 1/5 hiring/appointment ratio for Public sector to 31-12-2016</li> </ul>	Very Urgent	3	36
4024/2011	<ul style="list-style-type: none"> <li>▪ Pre-retirement availability (“προσυνταξιοδοτική διαθεσιμότητα”)<sup>279</sup>,</li> <li>▪ Cuts in Public sector Christmas/Easter bonuses and leave allowance,</li> <li>▪ Reduction of Public employees' lump sum amount (“εφάπαξ”) paid on retirement,</li> <li>▪ Evaluation of Public sector,</li> <li>▪ New tax scale</li> </ul>	Regular	19	36
4046/2012	<ul style="list-style-type: none"> <li>▪ 2<sup>nd</sup> MoU,</li> <li>▪ Authorizations for the FinM and BoG Governor to sign MoUs, updates-changes,</li> <li>▪ Provisions that Chapter E of MEF<sup>280</sup> and Chapter 4 of MoU<sup>281</sup> constitute rules of full legal effect and are of immediate application</li> </ul>	Very Urgent	2	128

<sup>273</sup> Sources: Hellenic Republic 2010a through 2010c and 2011a and 2011b and 2012b through 2012e and 2013a.

<sup>274</sup> Time between deposit and voting (regardless of time it took to publish in the GG).

<sup>275</sup> Font: Type = MgHelveticaUCPol, Size = 9 at 2 columns/page

<sup>276</sup> In the Report of the Parliament's Scientific Committee it is referenced that the MoU provides that its establishment is one of the conditions for Greece receiving financial assistance (Hellenic Parliament 2010f, 1-3).

<sup>277</sup> The aim of the Fund is to make use of the private property of the State so as to achieve the desired revenue. The assets are utilized preferably by selling.

<sup>278</sup> Employees receive 60% of the basic remuneration for 12/24 months.

<sup>279</sup> Employees receive 60% of their basic wage, without any additional allowances.

<sup>280</sup> Inter alia: labour market liberalization, reductions in nominal wages and contracts' duration and grace period, abolishment of tenure clauses, freezing wage maturity, 22% wage cut and 32% cut for youth <25 years (European Commission 2012a, 109-13).

4050/2012	<ul style="list-style-type: none"> <li>▪ PSI and retroactive CACs</li> </ul>	Very Urgent	2	4
4060/2012	<ul style="list-style-type: none"> <li>▪ Master FAFA ratification, FinM and BoG Governor authorizations for signature</li> </ul>	Regular	7	132
4093/2012	<ul style="list-style-type: none"> <li>▪ MTFS 2013-16,</li> <li>▪ Retirement provisions,</li> <li>▪ Public sector pension reductions,</li> <li>▪ Abolishment of Public sector employees' and retirees' Christmas/Easter bonuses and leave allowance,</li> <li>▪ Labour availability (<i>διαθεσιμότητα</i>)<sup>282</sup>,</li> <li>▪ Reduction of Public employees' lump sum allowance paid on retirement,</li> <li>▪ New wage bargaining system in the private sector,</li> <li>▪ New minimum wages for the private sector,</li> <li>▪ Criminal Code modifications,</li> <li>▪ Code of Administrative Judicial Procedure (<i>Κώδικας Διοικητικής Δικονομίας</i>) modifications</li> </ul>	Very Urgent	2	124
4111/2013	<ul style="list-style-type: none"> <li>▪ Approval of MFAFA, PSI, Bond Interest Facilities' Amendments and expenses</li> </ul>	Very Urgent	3	128

<sup>281</sup> Inter alia: ibid and, additionally, suspension of automatic wage increases (International Monetary Fund 2012a, 75-6).

<sup>282</sup> 8 months, ¾ of remuneration. Employment terminated if the employee is not transferred within 8 months.

**Table 19:** Secondary Greek legislation (not high importance) implementing MoU/loan agreement provisions (data compiled by author) <sup>283</sup>

Law	Important provisions (inter alia)
3846/2010	Private sector employment: increased flexibility/deregulation
3862/2010	FinM authorised to sign MoU (whether Greek or other) under EFSF SA
3863/2010	Public sector retirement regime modifications
3865/2010	Increase of retirement ages
3871/2010	Fundamental amendments to the basic State budget Law 2362/1995
3888/2010	Abolish and replace CBR
3891/2010	Restructuring of the Hellenic Railways Organisation SA ( <i>ΟΣΕ ΑΕ</i> )
3892/2010	E-prescribing (health system) framework implementation
3894/2010	Deviations from construction/environmental terms allowed in case of strategic investments.
3899/2010	State-Owned Enterprises remuneration caps/cuts.
3918/2011	Unification of most Public sector healthcare funds in one ( <i>ΕΟΠΥΥ</i> ).
3919/2011	Deregulation of restricted professions
3695/2011	Hellenic Loan and Consignment Fund SA split up
4002/2011	Closures/mergers/split-ups of SOEs by an MD
4013/2011	Establishment of a single public procurement authority
4014/2011	Legalization of unauthorised construction <sup>284</sup> for 40 years after paying a special fine.
4051/2012	Reduction of Public sector pensions retroactively.
4110/2013	New tax scale/brackets <sup>285</sup> from 2014 onwards.
4141/2013	Creation of the Centre for Auditing Tax-Payers of Large Wealth
4152/2013	Special tax ( <i>ΕΕΤΑ</i> ) on land property, collected via the electricity bill.
4172/2013	New Income Tax Code, labour availability for school guards, municipal police, specialised personnel of secondary education

<sup>283</sup> Sources: Hellenic Republic 2010d through 2010m and 2011c through 2011i and 2012f through 2012o and 2013b through 2013h.

<sup>284</sup> Buildings which have been established and raised in excess of either their Construction Permit or the terms and restrictions of construction for the property or without a Construction Permit.

<sup>285</sup> Inter alia, abolition of tax-free amounts.

The information presented above is evidence of the implementation of most, if not all, of MoU policies within the Greek legal order. Even in the case of secondary legislation, i.e. legislation relevant to the MoUs which went through parliamentary procedure, it is still clear that MoU policies were legislated to the letter. The parliament had little, or virtually no, ability to deliberate, given the conditional nature of the policies included in the MoUs. This was the case even in Laws that went through the regular legislative procedure, considerably limiting the decision-making ability of the legislature via procedural constraints, whereby great numbers of Bills were deposited, numbering oftentimes hundreds of pages and including numerous specifics and details for the entire restructuring of the state.

Indicative of not only the reduction of the ability of the national Parliament to affect national policies, but also of the disequilibrium between its decision-making authority vis-à-vis the executive, is the amount of ALCs issued. As above, ALCs are used by the executive in order to respond to an unforeseen and emergency situation, where, in either case, little or no Parliamentary deliberation is necessary. The legislature is, thus, more than somewhat constrained in terms of any disagreement or modifications to the ALC. This is complementary to the very purpose of the ALC process, which aimed at offering the ability to address emergency issues of an unforeseen nature.

During the MoUs period, and especially after 2011-12, when the structural adjustment intensified, the legal instrument of ALCs was stretched beyond its purpose. Table 16 below presents all ALCs introduced, and their corresponding ratification Laws (if applicable), from 2009 until 2013.

**Table 20:** Greek ALCs between 2007-2013 & MoU relevance (data compiled by author)<sup>286</sup>.

ALC	Law	Provisions (inter alia)	MoU
29-08-2007	3624/2007	Financial support for those devastated from fires.	×
No ALCs were found for 2008			-
25-05-2009	Not Found	Transfer of EP election lists to the President.	×
16-09-2009	3814/2010	VAT issues, readjustment of SSFs contributions, overdue debts to the State, suspension of auctions from credit institutions.	×
16-09-2009	Not Found	Measures to counter atmospheric pollution.	×
16-09-2009	Not Found	Social provisions for employees of Olympic Air.	×
13-10-2009	3817/2010	National Intelligence Service to be under the Minister of Citizen Protection.	×
29-10-2009	3819/2010	Suspension of regularizing land-use violations ( <i>ημινπαίθριοι χώροι</i> ).	×
02-11-2009	3831/2010	Readjustment of car circulation fees, abolition of the scrapping vehicles measure, etc.	×
26-05-2010	3866/2010	Suspension of the operation of the judicial services in Thessaloniki on account of incendiary device being activated.	×
04-01-2011	3949/2011	Suspension of auctions from credit institutions and other creditors.	×
08-01-2011	3945/2011	Suspension of the operation of the judicial services in Athens on account of incendiary device being activated.	×
09-05-2011	3995/2011	Conduct a census of the population.	×
25-08-2011	4021/2011	FinM covering debts of various municipalities, extend deadline to publicize financial statements for stock market credit institutions	×
14-09-2011	4031/2011	Increase in the amount of BoG guarantees to banks established in Greece in order to cover their credits.	×
16-12-2011	4047/2012	Provisions relative to the MTFS 2012-2015 (Law 3985/2011) and to the 2011 budget.	✓
31-12-2011	4047/2012	Provisions relative to the application of Law 4024/2011.	✓
14-03-2012	4060/2012	Approval of the MFAFA and relevant signature authorizations.	✓
14-03-2012	4080/2012	Postponement of the evaluation of the armed forces, Police and Port Authority-Coast Guard.	×
15-03-2012	4082/2012	Measures to restore damages incurred on account of episodes during 12-02-2012 in Athens city centre.	×
21-03-2012	4084/2012	Provisions relating to holding of illegal immigrants entering the country.	×
19-04-2012	4079/2012	Capital reinforcement of credit institutions.	×
30-04-2012	4079/2012	Provisions relating to the application of Laws 3864/2010 , 4046/2012, 4051/2012, 4071/2012.	✓
29-05-2012	4079/2012	Provisions relating to the publication of financial reports by credit institutions and their subsidiaries.	×
01-06-2012	4086/2012	Payment to court representatives, secretaries to electoral committees, etc.	×

<sup>286</sup> As found from the Government Gazette Search option (specific criteria) of the National Printing Office on 17-04-2014 (Hellenic National Printing Office 2014). For the ratifying Laws sources are: Hellenic Republic 2007b and 2010o through 2010s and 2011i and 2011r through 2011v and 2012c and 2012g and 2012k and 2012n and 2012r through 2012y and 2013a and 2013k through 2013t.



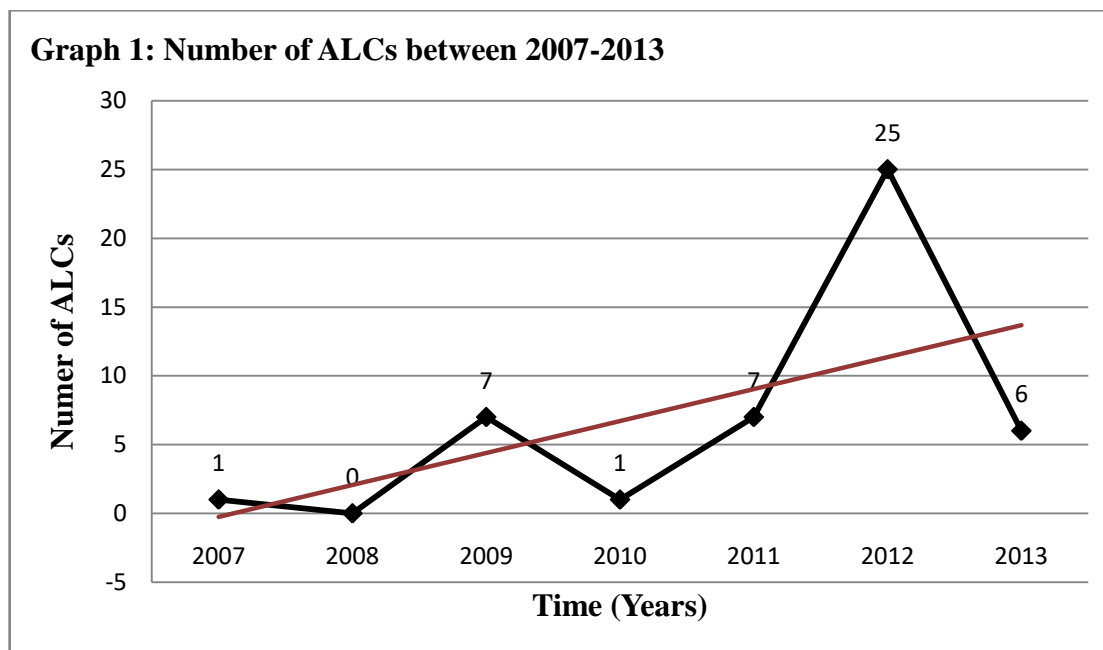
14-06-2012	4087/2012	Extension of the programme “Assistance at home” ( <i>Βοήθεια στο Σπίτι</i> ).	×
13-07-2012	4080/2012	Further postponement of the evaluation of the armed forces, Police and Port Authority-Coast Guard.	×
09-08-2012	4083/2012 <sup>287</sup>	Provisions relating to investment plans.	×
21-08-2012	4088/2012	Provisions relating to the transfer of officers of the Police.	×
05-09-2012	4089/2012	Provisions relating to the students’ transportation.	×
06-09-2012	4092/2012	Modification of the provisions relating to the HRADF.	✓
07-09-2012	4092/2012	Abolishment of minimum participation of the State in various SOEs (ports, Public Power Corporation, etc)	✓
03-10-2012	4116/2013	Extension of duration of the administration committee managing the liquidation of the labour force organisations.	✓
30-10-2012	4118/2013	Provisions relating to the Henri Dunant foundation	×
31-10-2012	4117/2013	Provisions relating to the new way of issuing construction permits / licenses <sup>288</sup> .	×
12-11-2012	Not Found	Provisions relating to the application of Law 4046/2012 and MTFS 2013-16 (Law 4093/2012).	✓
19-11-2012	Not Found	Provisions relating to the application of Law 4046/2012 and Law 4093/2012.	✓
05-12-2012	Not Found	Provisions relating to various Ministries.	✓
07-12-2012	Not Found	Provisions relating to the Parliament’s employees Assistance Fund and to the Greek bond exchange.	✓
12-12-2012	4111/2013	Approval of amendments to the Master FAFA, PSI LM, Bond Interest Facilities.	✓
18-12-2012	4128/2013	Provisions relating to economic development.	×
31-12-2012	4147/2013	Provisions relating to various Ministries.	✓
29-04-2013	4163/2013	Modifications to the ALC 30-10-2012, as ratified by Law 4118/2013.	✓
11-06-2013	Not Ratified <sup>289</sup>	Modifications in regards to the liquidation of assets of SOEs which have been shut down.	✓
28-06-2013	4206/2013	Extension of the deadline to submit a Statement of Assets (Law 3213/2003).	×
09-08-2013	4218/2013	Economic provisions.	×
11-09-2013	4211/2013	Provisions relating to the SOE Hellenic Defence Systems SA.	✓
11-10-2013	4227/2014	Further modifications to the ALC 30-10-2012 (Law 4118/2013), as amended by ALC 29-04-2013( Law 4163/2013).	✓

<sup>287</sup> This abolished the relevant ALC.

<sup>288</sup> Law 4030/2011 (Hellenic Republic 2011u).

<sup>289</sup> Hellenic Parliament 2014b.

The following **Graph 1** presents the above in a temporally-progressive graphical representation.



The above demonstrates that the use of ALCs increased substantially over the years during which Greece underwent structural reforms. Within the three-year period 2007 through 2010, there were a total of 8 ALCs issued, while between the three-year period 2011 through 2013 there were a total of 38 ALCs issued, which is an increase of approximately 375%. Of those 38 ALCs, almost half (17) concerned issues relevant to the MoUs. When analyzing the ALCs on their merits and substance, the comparison is even more striking. During the 2007-2010 interval, ALCs were only used for very specific incidents with very limited legal and socio-political aftermath (suspending the judicial operations of the courts on account of incendiary device, financial support for those suffering the consequences of catastrophic fires, etc)<sup>290</sup>. In comparison, most of the ALCs introduced in the period between 2011 and 2013 dealt with a wide variety of key national policy issues with large redistributive effects. For example, ALCs during 2012 included budgetary provisions, provisions spanning across the entire spectrum of various policy domains (and Ministries), closure of strategically important State-Owned Enterprises, modifications in tax, revenue, public administration, etc., issues. This clearly stretched the purpose of ALCs beyond proportion, and the usage of this legislative instrument for these purposes is quite

<sup>290</sup> This argument was also raised in the interview with Dr. Lina Papadopoulou, Associate Professor of Constitutional Law.

likely at odds with its true purpose<sup>291</sup>. As Dr. Lina Papadopoulos, Associate Professor of Constitutional Law, highlights,

*the ALCs became the subject of abuse...because they (mainly referring to the governments including and after PM Antonis Samaras) passed things in them which were not at all emergency [...] The ratification of the agreement (financial assistance) must, in my opinion, go through Parliament.*<sup>292</sup>

As MEP Hon. Prof. Kostas Xrysogonos further observes “*in most cases the ALCs are issued without the constitutionally-provisioned conditions for their issuance existing, but this cannot be an issue of judicial oversight (because there is no merit-based constitutional court in Greece)*<sup>293</sup> .

### **9.5. Indicator C: Processes of institutions**

The processes of institutions during the implementation of the financial assistance programmes of Greece were, at the very least, disappointing. This was both in relation to the supranational institutions partaking in the process, as well as to the national institutions. To begin with, the key institutional player in relation to the programmes, namely the Troika, lacked any official operating or institutional mandate. As such, and being an international, ad-hoc cooperation with authority to intervene in most, if not all, key national policies of the Greek state, there were no provisions relevant to transparency and efficiency, or any possibility for key stakeholders to be taken into consideration in the decision-making process. In fact, it is even uncertain exactly who the individuals that participated in the Troika during the negotiation or the review process were, how the negotiations and reviews were conducted, etc. In terms, then, of maintaining transparent processes, but also of ensuring accountability, the performance is rather poor. It is worth highlighting that two out of the three members of the Troika were EU institutions. However, given that these institutions were acting outside their EU mandate, the entire process was not bound by any of the EU safeguards for transparency, accountability, efficiency and stakeholder participation.

This lack of transparency also extended to the utilisation of the financial assistance provided, prompting a widespread belief across the EU that the bailout are rescue packages, given to assist some Eurozone MS in debt, i.e. that the German or Austrian or French taxpayers are bailing out Greek or Irish citizens. This was

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<sup>291</sup> This argument was also raised in the interviews with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law, and with *ibid*.

<sup>292</sup> From the interview with Dr. Lina Papadopoulos, Associate Professor of Constitutional Law.

<sup>293</sup> From the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law

reinforced by the perception that the waste of these countries, particularly Greece, which was applied towards EU or national funds, still continues to apply in the financial assistance (barrel without a bottom, bottom-less pit, etc; e.g. Bloomberg 2012). However, it is estimated (though no certainty exists, exactly because of the lack of transparency on the way the financial assistance was utilized) that approximately 90% of the Greek financial assistance was not actually used for budget support or to meet social needs, but went towards servicing the accumulated foreign debt and providing for the recapitalization of banks, i.e. “*the European authorities are effectively lending Greece money so Greece can repay the money it borrowed from them*” (Attac 2013a and 2013b; Mouzakis 2015; Fontevecchia 2012; Blodget 2010; Alderman & Ewing 2012). As the Chair of the Board of Directors of the National Bank of Greece and President of the Hellenic Bank Association Hon. Prof. Louka Katseli highlights “*87% of them (financial assistance loans) was to repay debt. Only 11% went in the Greek budget. They were debt to repay debt*”<sup>294</sup>.

What is often not mentioned, however, is that the sector being repaid is the same financial sector who irresponsibly lent to Greece<sup>295</sup> the amounts it irresponsibly borrowed, thus applying predatory lending practices. In essence, the so-called ‘bailouts’ are meant to save the banking and financial sectors, which were over-exposed to Greek debt (Attac 2013a). The loans are not so much to save Greece, but to salvage the banking sector of the Eurozone (whether German<sup>296</sup>, French, Greek, Austrian, etc) from collapsing (e.g. for Germany see Thomson 2013, 8-10). Hence, the bailouts are not about German taxpayers bailing out Greek taxpayers, but about German and Greek taxpayers bailing out German, Austrian, Irish, Greek, Spanish, etc., banks; the latter through financial assistance, and the former through austerity, (Schultz & Wittrock 2011). As Maduro et al. (2012a) suggest,

*to the extent the crisis in Europe is described as a sovereign debt crisis, this is, in large part, of a result of states bailing out financial institutions, fearing the contagion effects of financial institutions failure. To a good extent the sovereign debt crisis is just a knock-on crisis to the 2008 financial crisis... (5).*

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<sup>294</sup> Interview with the Hon. Prof. Louka Katseli, Chair of the Board of Directors of the National Bank of Greece, President of the Hellenic Bank Association, Professor of Economics at the University of Athens, and, inter alia, former Minister for the Economy, Competition and Maritime Affairs and Minister for Labour Affairs and Social Security and MP.

<sup>295</sup> “*By December 2009... German banks had amassed claims of \$704 billion on Greece, Ireland, Italy, Portugal and Spain, much more than the German banks’ aggregate capital*” (Bloomberg 2012).

<sup>296</sup> Note that Germany’s Central Bank (Bundesbank) enjoys an advantageous position vis-à-vis Greek debt. That is “*if Greece reneged on its debt, the losses would be shared among all euro-area countries [...] much of the risk sitting on German banks’ balance sheets shifted to the taxpayers of the entire currency union*” (Bloomberg 2012).

In fact, a principal reason for not addressing debt restructuring in the GLF was because of the extensive exposure of primarily German, but also French, banks to Greek financial assets. Specifically, according to Prof. Louka Katseli, EU banks unloaded approximately EUR 130 bn worth of Greek bonds either to Greek banks, pension funds or hedge funds, and only after this happened, the issue of potential restructuring was discussed during the summer of 2012<sup>297</sup>.

In relation to the lack of transparency, given the aforementioned information relevant to the legislative aspects of the MoU/loan agreement implementation, there was minimal to no stakeholder input. The efficiency of the implementation of the programme, because of lack of ownership by the Greek government, unwillingness to implement measures with political cost, lack of social support for these far-reaching, fundamental alterations of most policies of the Greek state, etc, was, at best mediocre. The same transparency issues that were presented for the Troika apply also to the Greek government. Given the above, it is even uncertain who exactly is to be held accountable for authoring the program. The only indications as to the authorship of the entire programme came from two statements; one from the EG and one from the Eurosummit. The first one, released by the EG in May 2010, provides that:

*...(the programme) has been negotiated with the Greek authorities by the Commission and the IMF, in liaison with the ECB. [...] The main elements of policy conditionality...will be enshrined in a Council Decision under Articles 126 and 136 TFEU...and further detailed in a Memorandum of Understanding, to be concluded between the Greek authorities and the Commission on behalf of euro area Member States (Eurogroup 2010b).*

From the above it is not at all clear who authored the programme, nor is the process of negotiation between Greece and the Troika delineated. Furthermore, the ECOFIN DEC under the process of articles 126/136 are taken without the vote of the EU MS concerned (in this case Greece). In the case of the MoU the same confusion exists, whereby no further details are provided in terms of the specific authors of the programme. The second statement originated from the October 2011 Eurosummit. It provides that:

*the ownership of the programme is Greek and its implementation is the responsibility of the Greek authorities. [...] the Commission, in cooperation with the other Troika partners, will establish ...a monitoring capacity on the ground (Eurosummit 2011, 4).*

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<sup>297</sup> Interview with the Hon. Prof. Louka Katseli, inter alia, former Minister of Economy, Competitiveness and Shipping (2009-2011), and former Minister of Employment and Social Security (2010-2011).

This is in accordance with the disclaimer existent in the Memorandum of Specific Economic Policy Conditionality of the 2<sup>nd</sup> Economic Adjustment Programme for Greece. In addition, the statements within these latter documents establish not only the monitoring capacity of the Troika but also the commitment of the Greek government to consult with the Troika in regards to policies that fall within the scope of the MoUs. Again, there is no clear indication as to the authorship of the programme. From the aforementioned elements, it is impossible to determine who authored the programme, and so if they were in the legitimate position to do so, and it is evidently difficult to even determine which actor is to be held accountable in terms of its implementation.

### **9.6. Indicator D: Direction of policies & Citizens Rights**

It has been established throughout the sections above that supranational actors have exerted considerable influence over key national policy areas of Greece through the financial assistance programs. But what is the overall direction of the policies implemented, and how did they reshape the Greek political order? Already from the fact that the IMF participated in the financial assistance through the Troika, it is evident that the measures would be underlined by a considerable neoliberal foundation. Overall, the measures provisioned intense liberalization of the labour market, flexible and not collective employment agreements, aggressive privatizations, steep pay cuts in Public sector employees, intense internal devaluation (reduction of labor costs), and reduction of state influence in the market, etc. Table 21 below presents all the modifications to Greek legislation and included in the MoUs, and their relationship with the most conclusive description of the principles of neoliberalism, namely the Washington consensus policies (the policy categories are derived from Birdsall et. al. 2010)<sup>298</sup>. The policies included in the consensus are the closest to a policy-implementation definition of neoliberalism. It is not the aim of the Table to evaluate the actual policies, namely to present that most, if not all, were geared towards the same direction.

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<sup>298</sup> Although these principles were already widely accepted by the 60s and 70s, it was not until the 1990s that they became official guidelines for the direction of finance in Western, developed nations and their organizations (such as the IMF), turning them into de facto global financial principles (supra footnote 42).

**Table 21:** Direction of Greek MoUs policies & relevant laws (data compiled by author)<sup>299</sup>.

Washington -consensus	Law	Article	Modification introduced	
Fiscal Discipline	4063/2012	3	Ratification of the TSCG, which included the obligations for participating MS to introduce an automatic correction mechanism upon deviation from budgetary targets	
	4270/2014	38-9	Correction mechanism for deviation from the MTBF targets	
	3871/2010	9	Annual State Budget to include the maximum limits of expenses, and a maximum amount of lending for which the Parliament will authorize the Minister of Finance to assume, representing the Greek State.	
		11	The Minister for Finance submits the State Budget with, among others, a statement that the annual balance sheet is in line with MTFS or its update, for the relevant fiscal year.	
	3871/2010	38	Every body of the General Government is required to submit a monthly report to the relevant Ministry with the financial data of expenses, revenues, financing and debt. The Minister for Finance can impose sanctions to bodies that do not comply with these provisions.	
	3899/2010	1		
	Speaker's Decision 16074/31-12-2010		Establishment of the Parliament Budget Office (PBO), which is responsible for monitoring the execution of the State budget.	
	3833/2010	1	Remunerations/salaries of Public employees are decreased by 12%.	
	3845/2010	3	With retroactive effect from 01-01-2010 in relation to Public employees: <ul style="list-style-type: none"> <li>▪ Remuneration/ salary reduction is further decreased by 8% to a total of 20%.</li> <li>▪ Christmas bonus is set to EUR 500</li> <li>▪ Easter bonus and leave allowance is set to EUR 250</li> <li>▪ The aforementioned bonuses/allowance are only paid if remuneration/salary does not exceed EUR 3.000/per month.</li> <li>▪ These provisions overpower any other general or specific provision or clause or term of a collective employment agreement.</li> </ul>	
	3847/2010	Single	Christmas and Easter bonuses/leave allowance for retired Public employees, are only paid if the beneficiary has exceeded the 60 <sup>th</sup> year of age, and if the total amount of the monthly pension paid does not exceed EUR 2.500. If that is the case, the beneficiary receives EUR 400 as Christmas bonus, EUR 200 as Easter bonus, and EUR 200 as leave allowance. This overpowers any other general or specific provision or clause or term of a collective employment agreement, arbitration award or individual employment contract or agreement.	
	3899/2010	3	Public employee remuneration increase freeze is extended to 2011.	
	3833/2010	11	From 01-01-2011 until 31-12-2016, the hiring ratio for Public employees 1 appointment every 5 departures.	
	3986/2011	37		
	4093/2012	1 <sup>300</sup>		

<sup>299</sup> Sources: Hellenic Republic 2010a and 2010b and 2010g and 2010i and 2010m and 2010t through 2010v and 2011a and 2011b and 2011d and 2011h and 2012e and 2012f and 2012h and 2012j and 2012n and 2013b and 2013d and 2013e and 2014a.

<sup>300</sup> Case 1, sub-paragraph Z.5, paragraph Z, Article 1

Fiscal Discipline	3865/2010	3	From 01-01-2015 and onwards the basic pension is set to EUR 360/per month.
	3986/2011	44	All Public employees who are retiring on or after 01-01-2010, have their lump sum pension allowance (εφάπαξ βοήθημα) reduced by 37.67% for retirement until 31-12-2010, and by 42.67% for retirement on or after 01-01-2011.
	4024/2011	2	
	4093/2012	1 <sup>301</sup>	
	4024/2011	33	Public employees, are automatically dismissed from their position with: <ul style="list-style-type: none"> <li>▪ the completion of at least 35 years of service and</li> <li>▪ the completion of at least the 55<sup>th</sup> year of age,</li> </ul> so long as the completion of those two take place until 31-12-2013. These employees are placed in availability on account of upcoming retirement (pre-retirement labor reserve – “προσυνταξιοδοτική διαθεσιμότητα”) <sup>302</sup> . The employees in pre-retirement availability receive 60% of their basic remuneration, without any additional wages, remuneration, or allowances, and the vacant permanent positions are automatically abolished 1 month after the entry into force of Law 4024/2011.
	4051/2012	1	From 01-01-2012 onwards, pension of Public employees which exceed EUR 1.300, are reduced by 12%.
	4093/2012	1 <sup>303</sup>	Christmas and Easter bonuses, and leave allowance of Public employees are abolished effective from 01-01-2013.
4093/2012	1 <sup>304</sup>	Until the end of the period of the MoUs, the minimum wage and salary of all employees of the private sector is for employees over 25 years old EUR 586,08, and for employees under 25 years old EUR 510,95	
Broaden Tax Base/Tax Reform	4093/2012	1 <sup>305</sup>	The CBR is repealed and cancelled, and is replaced with the Tax Code for Transaction Mapping.
	3842/2010	1	Tax-free amount is set to EUR 12.000, Receipts of 10% for up to EUR 12.000, Receipts of 30% for over EUR 12.000
	4024/2011	38	<ul style="list-style-type: none"> <li>▪ Tax-free income amount decrease from EUR 12.000 to EUR 5.000.</li> <li>▪ Tax rate increase of up to EUR 12.000 from 0% to 10%, of up to EUR 22.000 from 14% to 24%, of up to EUR 32.000 from 32% to 35%,</li> </ul>
	4110/2013	1	<ul style="list-style-type: none"> <li>▪ Abolish tax-free amount income,</li> <li>▪ Tax rate increase of up to EUR 25.000, 22% (up to EUR 21.000 = discount of EUR 2.100), up to EUR 42.000, 32% tax (up to EUR 2.100 discount and EUR 100/EUR 1000 additional income), above EUR 42.000, 42% tax – (same discount as bracket below)</li> </ul>
	3842/2010	6	Businesses, corporations, enterprises, etc (whether PLC, S.A., etc) are taxed 10% less (25% from 2010, as opposed to 35% in 1994).

<sup>301</sup> Subparagraph IA.5

<sup>302</sup> Note that under CoS Plenary Ruling 3354/2013 (met on 18-01-2013 and decision published on 27-09-2013), the CoS ruled this provision to be unconstitutional.

<sup>303</sup> Subparagraph IA.11

<sup>304</sup> Subparagraph Γ.1

<sup>305</sup> Element 1, sub-paragraph E.1, paragraph E, Article 1.



Broaden Tax Base/Tax Reform	3833/2010	22	Regular VAT rate is increased from 18% in 2000 to a final 23% from 2011 onwards. Likewise, the exceptions of decreased VAT rate (meats, fish, vegetables, coffee, tea, cereal, etc) is increased from 8% in 2000 to a final 13% from 2011 onwards.
		12	
	3845/2010	4	
	3899/2010	4	
	3888/2010	17	Increase in circulation fees of motor vehicles, exponentially increasing according to the displacement of the car (e.g.. 1.072-1.357 displacement in 2001 the annual circulation fee was EUR 73,37 as opposed to EUR 120 from 2010 onwards).
	3842/2010	29	From 2010 onwards a tax is imposed on all natural and legal persons in regards to their real-estate property, with exemptions.
	3845/2010	4	<ul style="list-style-type: none"> <li>▪ Excise tax on cigarettes raised by 2%</li> <li>▪ Excise tax on alcohol products raised to almost double its value</li> <li>▪ Excise tax on gasoline raise by EUR 60/1.000 ltrs (and by EUR 30/1000 ltrs in kerosene, diesel and biodiesel)</li> </ul>
	4152/2013	1 <sup>306</sup>	Extraordinary special duty in constructed surfaces of properties which receive electricity (“ <i>Έκτακτο Ειδικό Τέλος Ακινήτων – EETA</i> ”). The duty is included in and is paid with the electricity bill, and is calculated using criteria pertaining only to the relevant property (constructed area, age of the building, etc).
4172/2013	1-72	Introduction of an entirely new Income Tax Code (“ <i>Κώδικας Φορολογίας Εισοδήματος</i> ”)	
Deregulation of labor market	3846/2010	2	Introduction of restricted full-time employment, whereby the employee and employer can agree that the former will work full-time only a restricted number of days per week (or weeks per month, or months per year). This can be imposed instead of employee’s contract termination, in case the business activities are constrained, for a maximum of 9 months in the same calendar year, and only after the employer has deliberated with legal representatives of the employees.
	3865/2010	3	All retirement ages for Public employees raised (e.g. 58 years for women and 60 for men to with 65 years for men/women).
	3899/2010	17	Whereas before, after 2 months of employment under a contract of indefinite duration, the termination of the contract by the employer was subject to warning and severance pay (their values depending on the respective duration of employment), it is now stipulated that this employment contract constitutes a trial period employment for the first 12 months from its entry into force, and can be terminated without any warning and without any severance pay to the employee.
	4024/2011	37	In case of multiple Employment Collective Agreements, the more favorable towards the employee is applied. Additional paragraph stipulates that for the duration of the MTFs, in case of concurrence the Business Employment Collective Agreement prevails over the Sector Employment Collective Agreements (it is the opposite that is normally the case, i.e. the Sector Agreement prevails over the Business one <sup>307</sup> ).
	4093/2012	1 <sup>308</sup>	The National General Collective Employment Agreements determines the minimum wage terms of employment, which apply for all private-sector employees across the State, but this applies <b>only</b> for those employed by employers belonging to contracting parties in the these National Agreements.

<sup>306</sup> Sub-paragraph A.7

<sup>307</sup> employment Collective Agreements ranking = National > Sector > Business > National Inter-Professional > Local Inter-Professional

<sup>308</sup> case 2<sup>a</sup>, subp-paragraph IA.11, paragraph IA, Article 1.

Deregulation of labor market	3919/2011	1-10	<ul style="list-style-type: none"> <li>▪ Deregulation of restricted professions lifting of restrictions/barriers 4 months after the entry into force of this Law (restriction on professions, geographic limitations, limitations on the provisions of certain goods, limitations on company forms when exercising certain activities, lowest price limitations)</li> <li>▪ Limitations which do not fall in the above, can also be lifted after a PD issued after a suggestion by the Cabinet, within 4 months after this Law enters into force.</li> <li>▪ Limitations are maintained in the cases below, and can also be maintained after a PD, issued after an opinion issued by the Cabinet, after the agreement of the Hellenic Competition Commission (E.A.), in respect to a specific profession, if               <ul style="list-style-type: none"> <li>✓ Under this restriction an overriding reason of public interest is served, and</li> <li>✓ this restriction is appropriate and necessary means of this profession's convenience and, in terms of intensity of intervention in the sphere of economic freedom, is in reasonable proportion to the importance of the objective to serve an overriding reason of public interest, and</li> <li>✓ this restriction does not introduce directly or indirectly discriminatory provisions in terms of nationality or in regards companies' registered office/headquarters.</li> </ul> </li> </ul> <p>Restricted professions that are exempted from the above, and maintain limitations, are the following: notaries, lawyers, engineers, certified accountants, road freight, and pharmacists</p>
	4152/2013	1 <sup>309</sup>	
Privatizations	3871/2010	11	Annual State Budget is to be submitted with, among others, a report of the General Director of Public Property, which presents the outcomes of any uses / utilizations of the property of the State.
	3986/2011	1	Establishment of the Hellenic Republic Asset Development Fund S.A. (Ταμείο Αξιοποίησης Περιουσίας του Δημοσίου Α.Ε. – Τ.Α.Ι.Π.Ε.Α. Α.Ε.). The aim of the Fund is to make use of the private property of the State, as well as assets of LEPL or SOEs, according to the existing market conditions and under complete transparency, so as to achieve the desired targets of revenue. The Fund operates according to public interest, but is a completely independent S.A. and is not a part of the Public sector.
	4038/2012	7	
	3986/2011	2	The asset or right, which was ceded or transferred to the Fund, in accordance with the provisions above, cannot be re-transferred to the previous owner or beneficiary, in any way whatsoever. Said previous owner or beneficiary remains as the one responsible for the administration and management of the asset or right, under the legal instructions of the Fund and without remuneration, and is required to maintain it appropriate for its intended purpose, in accordance with the instructions given to them by the Fund, and is burdened with any costs which arise from his aforementioned obligations
	4111/2013	8	
	3986/2011	5	The assets are utilized by all appropriate means, preferably with selling the asset as a first choice.
	4038/2012	7	
	3986/2011	14	To utilize public property, the direct allocation of rights to use the foreshore/beach, to the owner of the investment, is allowed for 50 years (may be extended to a total of 99 years) against a price. The utilization must not impede the free and uninterrupted access of individuals to the foreshore and beach.
	4092/2012	3	
	3986/2011	19 & 25	Notwithstanding Articles 953 & 954 of the Civil Code, it is allowed to institute a surface right <sup>310</sup> (δικαίωμα επιφανείας) on public real-estate, for a period from 5 years minimum to a maximum of 99 years, in return for a price.

<sup>309</sup> sub-paragraph E.1, paragraph E, Article 1. This amendment pertains only to L2), adding that the Hellenic Competition Commission is to provide an agreement for the PD to be issued.

<sup>310</sup> According to Article 18, Law 3986/2011, a surface right is the right to raise buildings on the ground of real-estate which, at the time of the constitution of the right, is public, and is the right to exercise on the building raised the authorities of ownership.

Secure Property rights	3842/2010	52	The Real-Estate Property Database is introduced, which includes all real-estate assets of every natural and legal person.
	3843/2010	5	It is allowed, after paying a special fine, to maintain, for a period of 40 years, semi-outdoor spaces (Ημιωπαιθριοι Χώροι), as well as spaces located in the basement, ground floor or other level of a building, which are included in the approved building permit, but have now been transformed to spaces of primary use in excess of the terms and construction restrictions (except for buildings which are in streams, habitats, public real-estate by the sea, archeological sites and forests or reforestation areas).
	4014/2011	24	Sanctions imposed for buildings, with their main body completed by 28-07-2011, which have been established and raised in excess of either their construction permit or the terms/restrictions of construction of the property or have been built without a construction permit, are suspended for 40 years, after paying a Unified Special Fine (Ενιαίο Ειδικό Πρόστιμο). Any case files that concern offenses under the provisions for Illegal Construction, if still outstanding, are filed.
Interest rate liberalization	Not Applicable – EU/Eurozone participation		
Trade liberalization			
Liberalize foreign direct investment inflow			
Competitive exchange rate			

As is evident from the detailed analysis of most of the MoU measures and their corresponding Greek legislation, the neo/ordo liberal direction of the policies is clear. The policy paradigm followed an intense liberalization of restricted professions, deregulation of labour market bargaining and employment procedures, considerable reductions in public employee wages and pensions, extensive privatizations, and extensive and successive alteration in the taxation framework resulting in raising taxes, reducing or eliminating tax free amounts, and broadening the tax base (indirect excise taxes, etc).

## 9.7. Conclusion

The conclusions to be drawn in relation to the national level evaluation and the Greek case overall support the conclusion drawn from the supranational evaluation of Chapter 7. Greece was the first Eurozone MS ever to request financial assistance and, thus, in a way, is the reason for the EU-IMF ad-hoc cooperation within the Eurozone. As evident from Tables 4 and 12, Greece has utilized every mechanism of financial assistance since the beginning of the Eurozone crisis, from the ad-hoc, bi-lateral GLF with each Eurozone MS to the permanent ESM. The amounts it has borrowed surpasses EUR 235 billion within 6 years, with the IMF's assistance amounting to an astonishing 2465% of Greece's quota. This translates to permanent oversight from the Troika, even after the end of the financial assistance program, within the context of PPS/PPM for decades to come. It is clear that policy in Greece, at least insofar as sovereignty and democratic due process at the national level, has been semi-officially suspended. As MEP Hon. Prof. Kostas Xrysogonos suggests “*the essence is that Greece has de facto been deprived of its national sovereignty, at least in relation to economic affairs*”<sup>311</sup>.

From the GLF to the EFSF SA assistance programmes, it was clear that the strict and conditional character of the measures included in the MoUs, and their corresponding EU-based process (at the time CoM EDP/TFEU article 136 DEC) would be difficultly compatible with principles of the national-level democratic process. The prolonging of this situation only deteriorated this incompatibility even further. The list of policy areas affected by the MoUs, and the extent and repetitiveness with which these areas were affected until the cut-off date of this research (demonstrated in Table 17), has considerably negatively affected the democratic process within Greece and has meant a tremendous surge of influence over key national policy areas by supranational actors, particularly the EC, ECB and

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<sup>311</sup> From the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

CoM/EG. Even from the strictly legal perspective, the legal foundation of the EU-based MoU process, i.e. the CoM relevant DEC is somewhat thin and even perhaps at odds with EU Treaty provisions, since the CoM was never expected to decide in such specificity over so many policy areas of a MS, and with this DEC having almost an obligatory character on account of the conditionality element.

It is also worth highlighting that the areas affected accounted for most, if not all, of the policy within the Greek state, and entailed considerable and continuous changes to Greek legislation and policy paradigm (Table 17). As such, not only were most areas of the Greek state changed since 2010, but they kept constantly changing for the years to come. This resulted not only in the frustration of the citizenry, due to the obvious lack of legitimacy and accountability, but also in their overall policy (not political, as in Chapter 8) disorientation, as policies were changed on a monthly basis. From the above, it is evident that, in relation to Indicator A, supranational institutions, and particularly the EC/ECB, have acquired considerable decision-making capacity in relation to key national level policy areas, which they did not have before (at least in terms of Eurozone MS). What is more, the influence over these policy areas is for a considerably prolonged duration.

Similar conclusions are drawn in relation to Indicator B, i.e. parliamentary process. In this case also, there is an overall marginalization of the representative institutions in relation to the measures adopted. In most cases, parliamentary approval was sidestepped, and when it was sought, the conditions under which the process unfolded resulted in inefficiencies and distortions of parliamentary procedures. An excellent example is the ratification of FAFAs and loan agreements through the ALC process (section 9.4.1 and Table 20), which clearly distorted and was beyond the purpose of this legislative process, depriving the parliament of expressing any real opinion or conducting any meaningful deliberation over the documents at hand. In most other cases, the legislation that did go through parliament, was under the very urgent legislative procedure, leaving only two days for MPs to study, deliberate and vote on Bills that were in excess of 150 pages each (Tables 18 and 19). Furthermore, the element of conditionality and the logic of necessity on account of impeding financial constraints, further negatively impacted the above effects.

Despite the above, perhaps one of the most problematic elements in terms of impact of the MS-specific measures of Greece on the EU DD were the processes included in Indicator C. The analysis yields that the process under which the negotiations took place over the structural adjustment policies were, almost exclusively, behind closed doors, with the inability of citizens to be aware of who

makes these decisions (is it the Greek executive, the Troika, certain MPs, etc) or how. In fact, the very formation of the Troika was only officially (but still rather informally) established in 2013, still, however, lacking an official mandate, structure, etc. Transparency was surprisingly low, especially when considering the amount and force of the impact on national level policies.

Finally, in evaluating Indicator D, the neoliberal (in the broad sense, i.e. including the sub-category of ordoliberalism for this specific case) character of the measures, taking into account the participation of the IMF to the program, is evident. To further establish that, it was demonstrated that most policies implemented in pursuance of MoU prescriptions followed, many times to the letter, the Washington – consensus-based policy guidelines (Table 21). This, as highlighted by the EP, resulted in considerable lack of protection for EU citizens social rights (especially those related to employment agreement, private sector wages, living standards, etc), which is a compounding effect on the potential contradiction of the role assumed by EU actors, and especially the EC, within the process of financial assistance.

An excellent example of all the above is the process of abolishing collective bargaining agreements in Greece, as was narrated during the interview with Prof. Louka Katseli, former Minister of Economy, Competitiveness and Shipping, and former Minister of Employment and Social Security<sup>s</sup>. It had already been agreed with her predecessor that “*collective bargaining, the minimum wage, the extension of sectoral collective agreements were to be practically abolished and that the arbitration system was to be changed.*” However, the then Minister argued that the abolition of collective t agreements would be to the detriment of the economy (e.g. across-the-board wage reductions, causing recessionary effects and not succeeding in boosting employment) and, with the written agreement of social partners, proceeded with a Bill that would provide some flexibility in terms of employment agreements, by introducing the concept of “*a firm-level collective agreement*”<sup>312</sup> that would allow for contractual flexibility at the firm level without abolishing sectoral agreements altogether, (this became Law 3899/2010; Hellenic Republic 2010m). However, a few months later and during the next review, the Minister was notified by the then FinM, Giorgos Papakonstantinou, that the Troika insisted on abolishing collective sectoral agreements. It became clear that some Greek big companies who were unfavorable towards the process of the aforementioned Law, also favored their abolition. When the Minister refused to sign the abolition, her term in the Ministry of Labour Affairs

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<sup>312</sup> Companies could opt, after discussion with their employees, for this type of agreement rather than the sectoral agreement.

and Social Security was ended one month later, after a Cabinet reshuffle (Agrolampos 2011).

So what does the analysis in relation to the MS-specific measures provide in relation to the EU DD? Similarly to the observations relevant to the EU-wide measures, MS-specific measures during the crisis have considerably reinforced the EU DD. Through these measures, the actual authority and increase in decision-making capability of supranational institutions is demonstrated in reality. This impedes on the proper democratic process within the MS concerned (in this case Greece), as the legitimacy of these actors, and particularly the EC and the ECB, to take policy decisions that have redistributive, direct effects and are electorally salient is considerably low. This process is, in addition to the above, plagued by a complete lack of transparency or civil society participation, and its efficiency is questionable at best, especially in the case of Greece. This results in the inability of citizens to properly hold accountable those who make policy decisions. Again, both the input and throughput aspects of the EU DD have been considerably reinforced to the detriment of democratic process at the national level.

The output approach has also been negatively affected. It is clear that the measures implemented suffer from a considerable neoliberal bias, which, in combination with the almost complete disregard for social protection and rights of citizens, constitutes a substantially one-sided character to the policies implemented. Indirect accountability through the national level was also inefficient at best, as legislation was essentially agreed between the Troika and the executive of the MS (because of either impeding or emergency financial conditions) with little ability of the legislative or the judiciary to really exercise their full role. In conclusion, the MS-specific measures, yield, similarly to the EU-wide measures, considerable deficiencies in relation to the democratic process and have definitely exacerbated the EU DD.

## Chapter 10: Comparative National Level Analysis

### **10.1. Introduction**

The aim of this Chapter is to place the national level case of this research, namely Greece, in a comparative perspective, i.e. to determine whether the conclusions drawn in terms of the impact of the MS-specific measures on the EU DD are part of larger patterns or demonstrate any similarities or differences with other cases where similar measures were applied. To investigate this issue, the additional case of Ireland is examined. As also outlined in section 4.2.2, Ireland is chosen as it was the first Eurozone MS to suffer from the late-2000s financial crisis upon its transference from the USA to EU, and it was also one of the two first that exited its financial assistance program. In fact, it is, essentially, the first to exit a full financial assistance program, as the other one of the two was Spain, which received assistance only for restructuring its banking sector and, thus, had a limited MoU/FAFA. Finally, of the Eurozone MS under financial assistance, Ireland is the one closest to Greece in terms of the indicators referenced as part of the reason for choosing Greece as the primary MS-specific case (APPENDIX A).

The Chapter unfolds as follows. A brief timeline of the crisis specific to Ireland is presented, followed by a section analyzing in detail the measures assumed, again, specifically for Ireland. The section that follows outlines the similarities, differences, and conclusions to be drawn from a comparative analysis between Greece and Ireland, and the Chapter concludes with broader issues that were raised from the comparison presented in relation to the impact of MS-specific measures on the EU DD.

### **10.2. Brief timeline of the Irish crisis**

As presented in section 5.3, Ireland was actually the first Eurozone MS affected from the financial crisis. A main reason was the very nature of the late-2000s financial crisis in the USA as a property ‘bubble,’ which also affected the weaknesses of the Irish economy<sup>313</sup>, i.e. the Irish property ‘bubble’ (Fitzgerald 2014, 8)<sup>314</sup>. In a period when Ireland was known as ‘Celtic Tiger,’ Irish real estate prices kept increasing<sup>315</sup> substantially from the late 1990s until 2007, peaking in 2006

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<sup>313</sup> For example, the problem of sub-prime mortgages in the USA was similar to the obviously declining lending standards that allowed the rapid expansion of the banks’ loan books in Ireland (Eichengreen 2015, 2).

<sup>314</sup> The causes behind the Spanish crisis were similar (Fitzgerald 2014, 8).

<sup>315</sup> It is indicative that in November 2005, the Irish Central Bank admitted “*that estimates of overvaluation of 20% to 60% in the Irish residential property market existed*” (Kennard & Hanne 2015, 86).



(Kennard & Hanne 2015, 85). The expansion of the Irish economy during these years was astonishing, with household lending from 2003 to 2007 being among the highest in the Eurozone, also leading to warnings of a potential medium-term collapse from the IMF (Kennard & Hanne 2015, 86; Eichengreen 2015, 3). This was also made possible by “*the relaxed and weak Irish regulatory supervision of the financial sector*” (Kennard & Hanne 2015, 86). When this ‘bubble’ burst, the Irish banking crisis began, as “*Irish banks faced mounting losses on a scale that exposed them to a collapse of confidence*” (Kennard & Hanne 2015, 86; Eichengreen 2015, 1). Given the fact that most of the banking sector was Irish-owned and had a large share of business in Ireland, the “*collapse in the domestic housing market led to the collapse in the domestic banking system*” (Fitzgerald 2014, 10). Finally, the Irish banking sector itself was considerably leveraged, with claims peaking at 400% GDP during 2007-2008 (Eichengreen 2015, 1).

In September 2008, the Irish government moved to guarantee all Irish banks’ loans and deposits – approximately EUR 400 bn<sup>316</sup> – among growing fears of a domino effect from the USA credit crunch and a potential bank run, initially for two years<sup>317</sup> (Pop 2013; Murray-Brown & Dennis 2008; Eichengreen 2015, 6). However, this move further adversely impacted the Irish economy, which could not sustain to cover this amount (BBC 2016). Ireland became the first Eurozone MS to impose austerity measures in an attempt to counter the deteriorating lending situation of the state in the international markets, initiating, a wave of protests by thousands of people (The Irish Times 2008; The Irish Examiner 2008; Little 2008). There were protests against budget cuts across February and March 2009, with demonstrators reaching more than 100.000, while the unemployment rate reached its highest point since 1996 (11%; Bloomberg 2011; RTE 2009a and 2009b; BBC 2009 and 2016; The Irish Times 2009). In December 2008 a bank recapitalisation programme was announced, while in January 2009, the Anglo Irish Bank, one of the largest banks in Ireland was fully nationalized<sup>318</sup> (Irish Minister for Finance 2010, 1). It is worth noting that, because the recapitalization process of this bank was included in the Irish deficit for that year, the figure reached an impressive 32% of GDP for 2010 (Whelan 2013, 14).

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<sup>316</sup> There are indications that the Irish government might have underestimated the true breadth of the issues in the banking sector and might have “*believed the assurances of the Irish Central Bank that the banks were fundamentally sound and were merely suffering from a short-term liquidity problem,*” and that such an extensive state guarantee would not substantially affect the financial position of the state (Whelan 2013, 13).

<sup>317</sup> Throughout this period, banks relied on ECB credit (Eichengreen 2015, 6).

<sup>318</sup> Total capital injections for this bank alone reached EUR 29.3 bn or over 18% of Irish GDP (European Commission 2011d, 13).

Because of the above, Irish banks almost exclusively depended on ECB credit, particularly Emergency Liquidity Assistance, resulting in concerns on the part of the ECB (Eichengreen 2015, 6). Indicatively, the amount of credit that the guaranteed banks received from the ECB increased by 105% within just four months in 2010<sup>319</sup> (Whelan 2013, 15). As the amounts of credit continuously flowing into the Irish banks from the ECB were considerable, the then President of the ECB warned the Irish government in November 2010 that further support was conditional upon the request of financial assistance from the EU-IMF cooperation (Trichet 2010, 1-2). In other words, the Irish banks would be cut-off from credit unless a financial assistance programme was requested. The Irish FinM replied two days later that Ireland would request assistance and would enter into an EU-IMF financial assistance programme (Irish Minister for Finance 2010, 2-3). The request was officially made in early December 2010 for an EU-IMF financial assistance at the amount of EUR 85 bn, which, in combination with the withdrawal from the government of the minor coalition Green Party led to a call for snap elections by the then Taoiseach (BBC 2016; RTE 2011).

The early elections took place on February 2011, and resulted in a truly unseen defeat for the ruling party of Fianna Fáil experiencing a considerable electoral percentage reduction of more than 24% (loss of 58/165 MP seats) since the last Irish elections in 2007 (Trinity College Dublin 2011). The until-then majority opposition party of Fine Gael formed a coalition government with the Labour Party in a bid to renegotiate the terms of the financial assistance program (Taggart 2011; BBC 2016). The primary electoral commitments revolved around lowering the interest rate of the assistance loans<sup>320</sup>, which was eventually achieved by the new, incoming government “*in parallel with an amendment of the terms of the Greek bailout in July of 2011,*” and containing the reduction on the minimum wage, which was also achieved in July 2011 (Coutts 2014, 2; Whelan 2013, 20). Despite these renegotiations however, the new Fine Gael/Labour government failed to renegotiate any core elements of the programme, continuing to implement fiscal consolidation measures (Whelan 2013, 20).

In late-May 2012, Ireland held a referendum to introduce an amendment<sup>321</sup> to the Constitution in order to allow for the Irish government to ratify the TSCG, which

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<sup>319</sup> EUR 36 bn in April 2010 to EUR 74 bn in September 2010 (Whelan 2013, 15).

<sup>320</sup> This was a central issue in relation to Ireland’s financial assistance program, with the 5.8% interest rate being “*considered punitive*” (Coutts 2014, 2).

<sup>321</sup> 30<sup>th</sup> amendment to the Constitution of Ireland, adding a subsection 10 to section 4, article 29: “*The State may ratify the Treaty on Stability, Coordination and Governance in the Economic and Monetary*

resulted in a 60.29% in favor and 39.71% against (Piedrafta 2014, 330-1). Pursuant to the amendment, the Fiscal Responsibility Bill of 2012 introduced the actual provisions of the TSCG into national law (330-1)<sup>322</sup>. It is worth noting that

*during the reading (of the Bill), only a few independent deputies insisted that the Bill would damage democratic legitimacy and accountability, dismembering the welfare state with the excuse of ‘balancing the books,’ increasing the powers of technocrats and enshrining neoliberal policies in law, which would constrain future governments wanting to implement different economic policies (Piedrafta 2014, 330).*

Finally, Ireland, similarly, but perhaps less intensely, to other Eurozone MS, underwent substantial protests against austerity measures and the MoUs, the most important of which are referenced below:

- During September 2010, some of the largest demonstrations took place in Ireland against the Troika, with participants estimated at 100.000 (The Journal 2009).
- In March 2012, demonstrations in Ireland take place with an estimated participation of 10.000 demonstrators (The Irish Examiner 2012).
- In October 2012, Irish farmers demonstrate against measures included in the upcoming budget, reaching as high as 20.000 protestors (RTE 2012).
- Another major other protest occurred during February 2013 in Ireland, when more than 100.000 people “took part in demonstrations across the country today, in protest at the country’s continued bank debt burden” (SIPTU 2013).

Ireland exited its financial assistance program on December 2013, and will be under PPS until at least 2031 (European Commission 2016c).

### **10.3. Brief overview of Ireland-specific supranational measures**

As outlined in Table 4, Ireland has received financial assistance from the EFSM and EFSF SA on the side of the EU, and from the EFF on the side of the IMF. The MoU had been approved through an Ireland-specific EFSM DEC, continuing to be in force for the EFSF SA financial assistance program also, presenting no need for further issuing an EDP/TFEU article 126 DEC that incorporates MoU measures (as was the case with Greece; Council of the European Union 2011a). The following Table 22 conclusively presents the programme documents (FAFAs and EU/IMF MoUs) of the Irish financial assistance programme

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*Union done at Brussels on the 2nd day of March 2012. No provision of this Constitution invalidates laws enacted, acts done or measures adopted by the State that are necessitated by the obligations of the State under that Treaty or prevents laws enacted, acts done or measures adopted by bodies competent under that Treaty from having the force of law in the State”*

<sup>322</sup> Provisions relating to the numerical limitations set to consider a budget balanced/in-surplus, and to the automatic correction mechanism/debt rule (Piedrafta 2014, 330-1).

**Table 22:** Irish program documents (FAFAs/EU-IMF MoUs; data compiled by author)<sup>323</sup>

Type	Date	Agreements
EU Loan Agreements	07-12-2010	CoM DEC 2011/77/EU (EFSM)
	22-12-2010	Loan Facility Agreement
	27-10-2011	First FAFAs
	09-12-2011	Second FAFAs
	30-12-2012	Master FAFAs
	26-06-2013	Amendment to Master, First, Second FAFAs
EU MoUs	28-11-2010	Ireland MoU on Specific Economic Policy Conditionality
	07-12-2010	CoM DEC 2011/77/EU (EFSM)
	08-12-2010	Ireland Economic Adjustment Program
	18-05-2011	First Update
	28-07-2011	Second Update
	28-11-2011	Third Update
	06-03-2012	Fourth Update
	25-06-2012	Fifth Update
	13-09-2012	Sixth Update
	00 <sup>324</sup> -01-2013	Seventh Update
	12-03-2013	Eighth Update
	03-06-2013	Ninth Update
IMF MoUs	03-12-2010	EFF request & First MoU
	18-05-2011	First Update
	28-07-2011	Second Update
	28-11-2011	Third Update
	10-02-2012	Fourth Update
	30-05-2012	Fifth Update
	20-08-2012	Sixth Update
	29-11-2012	Seventh Update
	12-03-2013	Eighth Update
	03-06-2013	Ninth Update
	29-11-2013	EFF termination and last disbursement/review

In relation to ratification within the Irish legal order, the MoUs relevant to the financial assistance program of Ireland were not actually ratified into any Law that incorporated it within the Irish public order. As the MoU did not constitute an international but rather only a political agreement, it was deemed that there was no

<sup>323</sup> Sources: Council of the European Union 2011a; European Financial Stability Facility 2012d and 2013b; International Monetary Fund 2010f and 2011e and 2012d through 2012g and 2013d through 2013f; European Commission 2011d; Ireland 2011a and 2011b.

<sup>324</sup> Date is referred as “[xx] January 2013” (International Monetary Fund 2012g, 27).

obligation for its ratification in accordance with the Irish Constitution (Coutts 2014, 57). However, the then government party brought forth the agreement as a motion to the Irish parliament for the deal struck between the Irish government and the Troika on the financial assistance program, which motion carried (Coutts 2014, 57). The motion was introduced in Parliament on 15 December 2010, even though this was not legal requirement for the MoU to have effect. The IMF decided to postpone the approval of the MoU until after the outcome of the debate and motion, “*in deference to Ireland’s parliamentary process*” (Coutts 2014, 57; International Monetary Fund 2010e). As the Irish Department of Finance (2013) informs, “*...following each review, the updated programme documents were laid before the... (Parliament) once finalized*” (3).

#### 10.4. Comparison with Greece

It is worth noting that the MoU accompanying the financial assistance program was, essentially, a previous adjustment programme constructed by the Irish government to tackle the financial instability in 2010 (to be implemented from 2011-2014 and termed the National Recovery Plan), of which the measures were accepted by the Troika to be included in the MoU with no important alterations (Fitzgerald 2014, 9; Coutts 2014, 56). In fact, during the debate in the Irish Parliament for the MoU in December 2010, the then FinM argued that

*the programme builds on the bank-rescue policies that have been implemented by the Government over the past two and a half years and on the national recovery plan announced in November, 2010 [...] In other words, the national recovery plan is effectively embedded in the programme [...] some have suggested that control has been taken out of the Government’s hands. This is not the case*” (Coutts 2014, 56).

As Fitzgerald (2014) concludes, “*thus, it was the Irish government’s plan, rather than a plan imposed from the outside*” (9). This amicable cooperation with the Troika continued throughout subsequent modifications to the MoU (Fitzgerald 2014, 10). This designates that the Irish government had a strong ownership of the adjustment program, as well as that the measures included were decided following a normal legislature rather than an ad-hoc emergency procedure.

The above is in contrast to Greece, whereby very few of the measures included in the MoU were also measures of the electoral platform of the Greek governments, and of its plan. This resulted in ownership of the Greek program, both of the citizens but, primarily of the government itself, being considerably reduced compared to Ireland, constructing a sense that the MoU included measures that were imposed by the Troika and the lender MS. This further adversely impacted the

implementation of the program, and led to unwillingness to transfer the MoU and relevant provisions of Greek laws into actual policy, resulting in considerable delays and inefficiencies in satisfying the conditionality (which can be argued to be one of the main reasons for Greece being the only one still in financial assistance, having requested a third assistance program until 2018; Table 12)<sup>325</sup>. As the Governor of the Bank of Greece Hon. Prof. Ioannis Stournaras suggests, the fact that Greece has remained the last Eurozone MS in a financial assistance programme “*is owed...in the lack of courage of Greek governments to be done with the program, and in a very restricted conceptualization of political cost*”<sup>326</sup>. Furthermore, because of the emergency character of the Greek program, even in the case where measures were acceptable, lack of civil society participation and adequate information led to considerable objections to the measures from citizens, as well as often leading to the implementation of measures that were either misaligned with or mis-designed for Greek society and the public order, leading to even further delays and difficulties both in relation to ownership but also to effectiveness and implementation.

In addition to the above, the Irish progress, contrary to Greece (as well as Spain), was slow and steady, and involved projecting smaller targets and then over-performing, which “*was rewarded with a steady fall in bond yields*” (Fitzgerald 2014, 10; Whelan 2013, 20). Despite the overly optimistic projections of the EU and IMF (and its underestimation of fiscal multipliers), “*the Irish authorities were fully committed to the goal of rapid fiscal consolidation [...] (and) the Troika may in fact have exercised something of a moderating influence*” (Eichengreen 2015, 10).

In terms of the measures imposed, it is worth noting that in Ireland the adjustment had an adverse impact on the income of high earners. As Fitzgerald (2014) observes (12):

- between 2007-2010, the number of individuals earning more than EUR 100.000 was reduced by 15%,
- between 2007-2010, the income of individuals earning more than EUR 100.000 was reduced by 8% ,
- between 2009-2014, the income of the richest 10% of the population was reduced by 15.5%,

and also that the distribution of income was not severely disrupted by the structural adjustment process, compared to the pre-MoU period. In contrast, in Greece wages

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<sup>325</sup> This argument was also raised in the interview with Dr. Lina Papadopoulou, Associate Professor of Constitutional Law.

<sup>326</sup> From the interview with the Hon. Prof. Ioannis Stournaras, Governor of the Bank of Greece, Professor of Economics and, inter alia, former FinM.

across the board were reduce by 30% and pensions across the board by 50% (Katseli 2016, 19).

Similarly to Greece, a major part of the MoU was devoted to reducing the public wage bill, freezing public recruitment and increasing pension contributions (Coutts 2014, 3). However, opposite the continuous one-sidedness of the way measures were implemented in Greece, i.e. the government in implementing these measures in the case of Greece, the Irish government drafted an agreement with the Public sector, termed as the Public Service Agreement 2010-2014 or Croke Park Agreement, which included a number of substitute measures to wage reductions or compulsory redundancies, such as redeployment flexibility, hiring freezes, and increased productivity (Ireland 2010; Irish Department of Public Expenditure and Reform 2010, Coutts 2014, 3).

In terms of bank recapitalization,

*controversy centered on whether to impose losses on the holders of EUR 19 billion of senior unsecured and unguaranteed debt. The IMF initially favored a haircut of roughly 50 per cent, a proposal which gained the Irish government's full support. But the ECB opposed this approach on the grounds that it might disrupt the flow of wholesale funding to other Eurozone banks. Again the ECB's position prevailed (Eichengreen 2015, 7).*

The prevailing ECB opinion resulted in a substantially unbalanced distribution of bank recapitalization and, in turn, in undermining support for the financial assistance programme among Irish citizens. It is worth noting that “*the Irish population was burdened with by far the largest national bank bail-out of the entire euro zone. Between 2008 and 2010, EUR 76.5 billion of public funds were moved directly<sup>327</sup> or indirectly to Irish financial institutions*” (Attac 2013). In addition, the front-loaded character and quick pace of asset sales to deleverage the Irish banking system (as opposed to options in Greece and Spain), resulted in considerable asset depreciation and higher “*cost of the Irish taxpayer,*” thus also reducing public support for the assistance programme (Eichengreen 2015, 10-1).

## 10.5. Conclusion

The aim of this Chapter was to provide a summative standpoint of the financial assistance programme for Ireland, in order to provide a comparative analysis with Greece. What are the conclusions that can be drawn? Firstly, the national debate focused, similarly to Greece, around the urgent need to resort to EU-IMF lending because of financial and lending difficulties that rendered the Irish state's position in

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<sup>327</sup> The direct capital injections (without accounting for Irish government guarantees, etc) reached EUR 46.3 bn or 29% of GDP until February 2011 (European Commission 2011d, 13).

the market unsustainable. However, the very nature of the crisis in Ireland or Spain was different from that in Greece. As Prof. Louka Katseli, former Minister of Economy, Competitiveness and Shipping, and former Minister of Employment and Social Security highlights in relation to the different types of crises across the Eurozone, “*Ireland, Spain and partly Portugal and Cyprus faced banking crises that evolved into systemic crises. In Greece a sovereign debt crisis became a banking crisis*”<sup>328</sup>.

In addition, the problems of the Irish economy were far from including the extensive and numerous rigidities and concerns that the Greek economy included<sup>329</sup>. Thus, the problem was contained considerably more quickly and was, in either case, of less magnitude compared to Greece. The fact that the Irish crisis had a monetary component (banks) that amounted, essentially, to half or more of the problem also contributed to the containment being quicker than in Greece, of which the major problems were structural as well as economic imbalances in the real economy. As the Governor of the Bank of Greece Hon. Prof. Ioannis Stournaras observes “*I think that (having) a fiscal (problem) is worse (than a banking problem)*”<sup>330</sup>. Concordantly, the Chair of the Board of Directors of the National Bank of Greece and President of the Hellenic Bank Association Hon. Prof. Louka Katseli suggests that “*no program (of financial assistance) was such a program as was ours*”<sup>331</sup>.

Secondly, and relevant to the above, Ireland managed to successfully complete and exit its one financial assistance program on schedule (3 years), while Greece completed two programs, and is currently undergoing its third until 2018. This is, of course, on account of the aforementioned structural issues in the real economy of Greece, which have not only taken considerably more time to be addressed but have also affected the lives of citizens much more directly (hence support for the program is considerably decreased). Naturally, the failure to exit financial assistance after the first Greek program (GLF) must be seen in light of the truly novel and unforeseen situation and measures assumed to counter it during the first months of the crisis. In addition, other issues that may have burdened the Greece’s budget (debt) have to be

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<sup>328</sup> Interview with the Hon. Prof. Louka Katseli, inter alia, former Minister of Economy, Competitiveness and Shipping (2009-2011), and former Minister of Employment and Social Security (2010-2011).

<sup>329</sup> From the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

<sup>330</sup> From the interview with the Hon. Prof. Ioannis Stournaras, Governor of the Bank of Greece, Professor of Economics and, inter alia, former FinM.

<sup>331</sup> Interview with the Hon. Prof. Louka Katseli, inter alia, former Minister of Economy, Competitiveness and Shipping (2009-2011), and former Minister of Employment and Social Security (2010-2011)..



considered, chief among them the adverse conditions, both in trade and defense<sup>332</sup>, of neighboring with Turkey. This increased competition in these areas can be argued to have increased the public debt to the amount that, were this factor absent, the Greek problem would be as contained as, for example, was in the case of Portugal<sup>333</sup>. As MEP Hon. Prof. Kostas Xrysogonos observed “*the Greek economy is in its own class size, because the Greek economy has all the structural problems of the rest of Mediterranean economies, plus the big problem of neighboring with Turkey*”<sup>334</sup>.

Even in the case of similar measures, however, it seems that the Irish government went to greater lengths to ensure societal participation in the programme, thus achieving more support for the structural adjustment reforms (in turn raising the rate and speed of their successful implementation), whereas in Greece this was not achieved, with societal actors continuously opposing changes that were seen as simply imposed by external actors. The example of substitute measures in terms of the Public sector’s wage cuts is indicative of this. In this case, while the Irish government came to a compromise with the Public sector in introducing some instead of other reforms, the Greek government continuously insisted on successive waves of wage reductions, even decreasing support for further reforms. Despite these observations, it needs to be highlighted that the entirety of the measures as a whole were of the same, intensely neoliberal direction. In the case of Ireland, the status quo was closer to these principles compared to Greece, and thus adjustment was, consequently, considerably less forceful.

In either case, relevant to the reforms more generally, those were introduced in the Irish legal order much more quickly and with more to-the-point parliamentary proceedings, whereas the Greek legal order and legislature suffered through multiple usage of various legal instruments, most of which were stretched disproportionately to accommodate the nature of the MoUs. This also reduced support for the program, in this case not only for citizens but also for MPs, who also saw the program as something imposed from abroad.

Thirdly, and contingent on the support for the program, a major difference between Greece and Ireland is that, in the case of Ireland, the MoU was essentially the Irish government’s National Reform Programme. This increases the rate of successful

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<sup>332</sup> It is worth noting that Greece has greatest government expenditure on defense among all EU MS between 2005-2014 (standing an average of 2,7% of GDP), and by far the largest among Eurozone MS that have received financial assistance as a percentage of GDP, contrary to Ireland which has the lowest (Cyprus 1.7, Portugal: 1.3, Spain:1, Ireland: 0.4; Eurostat 2016f).

<sup>333</sup> From the interview with Prof. Kostas Xrysogonos, MEP and Professor of Constitutional Law.

<sup>334</sup> *ibid.*

reform implementation considerably, as the political order created and supports these reforms, at least compared to Greece, whereby the MoU contained mostly estranged provisions to both the public but also to the political order. This made the ownership of the program, in this case both by the public but, more importantly, by the political realm that has to lead with and implement the reforms, virtually impossible. Congruent with the above is the fact that the political opposition in Ireland had very few and specific objections to the assistance program. There was minimal opposition to most of the reforms introduced, and, more importantly, to the nature and need of the program. In the case of Greece, however, from 2010 and onwards, the political opposition has continuously argued for the fundamental alteration or even abolition of parts or of the entirety of the program (particularly the MoUs). This translates to little political unity around the overall purpose of the program<sup>335</sup>, compared to Ireland.

The aforementioned observations relate to comparisons between the elements of the financial assistance programmes of Ireland and Greece. But what of the programmes themselves? In this case, few differences exist. The MoUs were still the formation of the strict conditionality under which financial assistance was provided, i.e. the Irish state had to implement the reforms. In relation to EU-based instruments, in the case of Ireland, the EFSM-based DEC offers somewhat more legitimacy in terms of being designed for this specific purpose, as opposed to the EDP/TFEU article 136 DEC relevant to EFSF SA assistance for Greece, which was not provisioned for outlining policies upon which financial assistance is conditional. Overall, issues relating to domestic legislation were much simpler in Ireland compared to Greece, thus creating less public opposition. It needs to be highlighted, however, that the Greek parliament and government were much more consistent with representative democratic principles, as, even under legally ambiguous usage of some legal instruments, almost all MoUs and FAFAs/loan agreements were ratified through parliament, compared to Ireland. This potentially designates that the model of representative democracy was more consistently applied and adhered to in Greece than in Ireland in this respect.

What conclusions can, thus, be drawn from the above in relation to the impact of the MS-specific supranational crisis measures on the EU DD? In terms of key national policy areas, redistribution and delegation (Indicator A), it is clear that issues are, essentially, similar. Given the less intense structural adjustment of Ireland, as well

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<sup>335</sup> The lack of political unity behind the overall purpose and aims of the financial assistance programs in Greece as a contributing factor to the lack of ownership and inefficient implementation was also raised in the interview with Prof. Dimitris Chrysochoou, Professor of Theory and Institutions of European Integration.

as the fact that the MoU consisted mostly of policies that were the political platform of the government even before resorting to EU-IMF financial assistance, the effect of supranational actors was less in Ireland than in Greece. In terms of parliamentary input (Indicator B), Greece seems to perform considerably better than Ireland, although, again, similar issues apply to both. The EP was equally not involved in any aspect of either program, although it has made relevant improvements after the cut-off date of this research (section 7.3.1), which, it needs to be stressed, were on account of requests by the Greek government. In relation to the national Parliaments, Greece also seems to outperform Ireland. Virtually all relevant programme documentation were, in one way or another, passed through the Greek parliament. In Ireland, this was the case only in the initial MoU. In relation to the processes of relevant institutions (Indicator C), similar conclusions apply to Ireland as well as Greece. However, again, considering that the Irish government's pre-existing plan was essentially transformed into the MoU created better conditions in terms of accountability and transparency. Finally, in relation to Indicator D, i.e. the direction of policies and the rights of citizens, it needs to be emphasized that the measures were largely of the same, intensely neoliberal nature, in both cases. However, the two factors contributing to a considerably reduced adjustment intensity and breadth in Ireland were the fact that a major part of the problem was restricted to the monetary realm (and not the real economy as in Greece), and that the Irish state was much closer to the neoliberal paradigm compared to Greece.

## Chapter 11: Conclusion

It was the aim of this investigation to analyze one of the most important issues prevalent in the global political realm during recent years: the Eurozone crisis and its impact on the EU's DD. This has been a key issue and debate in EU politics throughout the crisis. The research question was: **How have the Eurozone crisis supranational measures, both EU-wide and MS-specific, impacted the EU's Democratic Deficit?** The independent variable was set as the supranational crisis measures assumed, and the dependent variable as the impact on the EU DD. The relevant issues are focused at both the national and supranational levels.

The analysis was separated along the above two levels. Measures were categorized to those that were EU-wide (e.g. Six-Pack) and those that were MS-specific (e.g. financial assistance programmes). In relation to the former those measures were further sub-categorized into measures aiming at providing financial assistance to Eurozone/EU MS (e.g. EFSF SA, ESM, etc) and measures aiming at enhancing and further strengthening coordination between Eurozone/EU MS (e.g. Six-Pack, Two-Pack, etc). In relation to the latter, those are mostly related to the financial assistance programmes, and were further sub-categorized into the loan agreements or FAFAs (e.g. setting interest rates, disbursements, etc), and the MoUs and relevant EU-based counterparts (e.g. EDP or TFEU article 136 DEC's, etc.). These two categories, along with their sub-categorizations, constitute the overall operationalization of the independent variable, more specifically delineated in Chapter 6 for the EU-wide measures and Chapters 9-10 for the MS-specific measures.

Next, the dependent variable, i.e. impact of the measures on the EU DD, is operationalized as an empirical evaluative framework of four indicators. Why is that? Throughout the relevant literature examined in Chapter 2, there was found no evidence of an existing framework for consistently and systematically evaluating the impact of EU measures on the democratic process. Most of the relevant scholarship focuses on one or more concepts of democracy, broadly defined, and the way it is impacted by some of the measures in question. Hence, there is room for further contributing a single empirical and consistent framework for this evaluation.

To construct this framework, an appropriate starting point is the EU DD literature. Although scarcely referenced across the existing scholarship relevant to the Eurozone crisis, the EU DD literature offers great insights and contributions to examining democratic process specifically within the EU, taking also into consideration its two-level policy field (national-supranational). This literature is separated across input, output and throughput. However, while offering excellent

theoretical contributions, the insights offered are, as existent, unfit for serving as a comprehensive evaluative framework, although they offer ample foundations upon which such a framework can be built. Utilizing additive theory, these theoretical approaches are reformed into an empirical, evaluative framework. Albeit theoretically different, from an empirical point of view, all three approaches analyze the same concerns in relation to the EU DD. The difference arises in the answers to those questions. In this case, as the aim is to empirically evaluate the impact of the measures, the questions to which scholars from all three EU DD approaches agree are utilized, without also incorporating the differing answers that each one provides. This is done through a careful analysis of the literature, and cautious application of the additive theory model, which, in any case, has been applied to considerably more different theoretical approaches than input, output and throughput, in constructing an empirical framework. Through this process, an empirical, evaluative framework of the impact of supranational measures (any measures) on the EU DD is constructed in Chapter 3. This serves as the operationalization of the dependent variable.

In relation to the research question in hand, the temporal limitations of the research were set from 2008 to 2013. 2008 was arguably the beginning of the financial crisis in the USA, and its transference to the Eurozone (Chapter 5; Ireland), whereas by the end of 2013 two Eurozone MS (Ireland and Spain) exited their financial assistance programmes, prompting arguments of success of said programmes. If it is, then, admitted by the EU that the above two Euro MS exiting the programmes constitute the first in a number of successful programme completions, thus marking the end of a circle of instability, this should be possible to constitute an indicator for setting the end of an analysis of this type. Furthermore, 2013 marked the last instance when a Eurozone MS resorted to EU-IMF financial assistance (Cyprus). Finally, by the end of 2013, almost all important legislation relating to the restructuring of the EU and Eurozone framework had already been proposed and enacted.

The aforementioned observations constitute the foundations of the research, more extensively delineated in Chapter 4. But why is this an important issue at all, and what does this research contribute to the broader academic field? In relation to the importance of the issue, on the one hand, it could be argued that all the measures, whether EU-wide or MS-specific, have gone through all the appropriate democratic processes. Intergovernmental, international Treaties have been duly ratified, in accordance with each MS' constitutional procedures. EU REGs, DECs, OPs, PROPs, etc, have all gone through the regular EU legislative process; the same process as a

great number of other similar acts undergo every day in the EU. MS-specific measures, i.e. financial assistance programs were within the remits of proper democratic process in their transposition into national policy. Therefore, the argument could be put forth as to why would any of these issues be considered undemocratic at all.

On the other hand, the argument could also be made that the nature and obligatory character of these measures, as well as the lack of any representative input in relevant provisions, indicates a democratic deficit. EU-wide measures lack almost any kind of representative input. The Troika and the structural adjustment provisions included in the financial assistance programmes could be presented as essentially imposed upon Eurozone MS in financial trouble, which, in either case, had little or no financial room to object to any of the conditions. National procedures in relation to these measures were stretched beyond proportion to accommodate the necessary character of these measures. In addition, the EU largely failed to protect EU citizens social and economic rights. Finally, the international character of the many of the measures is disappointing for the EU, and the IMF's participation raised serious concerns.

The aforementioned elements suggest that this issue might not be as straightforward as it is often thought, and that there is much nuance to be analyzed in terms of the way in which these measures impacted the EU DD. For example, it may be that the MoUs did not adversely impact the EU DD, but rather that their conditional nature did, through the interlink between them and the EU-based MAPs (as demonstrated throughout sections 7.2.1, 7.2.5, 7.6). So, it is important to identify and properly evaluate where and in relevance to which provisions these measures impact the EU DD, and how. This is important in order to properly identify how democracy within the EU has changed after the crisis, and how (in what areas and measures) it should be improved if needed. In other words, the importance lies mainly not on if (although this is a key point too) but on how these measures have impacted the EU DD.

In relation to the contributions of this research, firstly, the introduction of single empirical framework for evaluating the impact of any EU measure(s) on the EU DD, which is entirely founded on the EU DD relevant literature constitutes a novelty. This offers a consistent and systematic way of evaluation, which can be used at both the national and supranational levels. A second contribution is the forensic and detailed analysis of the supranational crisis measures. As established across Chapter 2, there is ample room to contribute with more specificity into what exactly the

supranational crisis measures were, and how they are legally formed and political negotiated. A third contribution is the evaluation of these measures utilizing the empirical framework established in Chapter 3. This is the first such evaluation across the relevant scholarship, and even when not factoring in the novelty of the empirical framework, it is the first time that provisions of these measures are so forensically and meticulously evaluated against a comprehensive set of standards of the democratic process. In other words, this research settles in a definitive manner how the crisis measures impacted the entire EU DD (and not for example one or a few specific concepts of democratic process). Finally, an evaluation of both the national and supranational levels is assumed, in providing for a conclusive overview of how the measures impacted not only one or the other but both levels.

In terms of structure, the research was divided across three Sections (and the Introduction and Conclusion). Section A included all the fundamentals of the research (literature review, methods, EU DD empirical framework construction, etc). It is worth highlighting that the research employed the following methods: document analysis, requests for unpublished documentation from EU institutions, semi-structured elite interviewing. Section B concerned the evaluation of the impact of EU-wide measures on the EU DD. Section C of the research aims to analyze the impact of MS-specific measures on the EU DD. For these specific measures, a choice was made to investigate the measures implemented in one case in detail, rather than investigating one specific measure for all cases. The focus is on financial assistance and relevant structural adjustment programs. Greece is chosen as the primary case for this investigation, with Ireland serving as a comparative case for the conclusion drawn in relation to Greece. This is in order to establish whether there is, indeed, a pattern in relation to the impact of supranational crisis measures for specific Eurozone MS on that national level.

What were the results of the analysis. Throughout Section B, a detailed evaluation of the impact of the provisions of each EU-wide supranational crisis measure (conclusively presented in Table 6 and Chapter 6) on the EU DD was undertaken. The outcome of the EU-wide measures analysis, presented in Chapter 7, was unfavourable in relation to this impact. It was found that across these measures, EU supranational actors, and in particular the EC, ECB, ECJ and even CoM, now enjoy considerably augmented ability to affect key national policy areas with redistributive effects, many times in partial conflict or excess of their mandate. A key issue here was the ability of these actors to undertake duties that were outside the EU legal framework (in relation to the sub-category of EU-wide measures aiming at

providing financial assistance). In terms of the specifics for each actor, it was established that the EC and ECB acquired increased influence over key national policy areas, but mainly of a review-based and increased surveillance nature. The CoM, while appearing having lost some of its ‘political manoeuvring’ capacity, has acquired the ability to issue increasingly binding legislative acts in relation to compliance of EU/Eurozone MS with the rules. This appears as an EU-integration paradox, as both supranational integration as well as intergovernmental methods coexist at the same time.

Perhaps the most important issue in relevance to the ability of supranational actors to affect key national policy areas has been the ability of the EG to monitor Eurozone MS budgets. This is a decisive step forward towards increased political integration. In relation to the other indicators, the participation of the EP across these measures is alarmingly minimal to virtually non-existent, which is a major setback in terms of democratic process, especially given the considerable increase in the decision-making capacity of the other supranational actors. In terms of institutional processes, these measures do introduce some increased efficiency, but include little room for inclusion of societal actors and participation of civil society. Finally, the direction of the policies introduced have a clear neoliberal character, if not only by considerably reinforcing the ordoliberal foundations of EMU.

Overall, and across the four indicators of the EU DD empirical framework, the impact of the EU-wide measures was found to be largely negative. The increase in the ability of supranational actors to influence key policy areas with redistributive effects was not matched by an equivalent increase in a similar ability of representative institutions (whether national or supranational). This, eventually, resulted in the de facto decrease of these institutions’ decision-making and oversight ability, and the progressive transfer of authority even on key redistributive areas away from majoritarian and into technocratic processes. Furthermore, most of the processes established, especially in relation to the operation of the Troika (either in financial assistance programs or, more generally, the Two-Pack/MAP framework), lack transparency and, thus, accountability on the part of the electorate is almost impossible. Stakeholders had minimal participation, and the direction of policies, far from guaranteeing social and economic rights of EU citizens, introduce even more fiscal rules and close oversight, in an apparent reinforcement of the ordoliberal nature of the EMU.

In relation to the impact of MS-specific measures, the conclusions drawn are similar, as presented in Section C across Chapters 9 and 10. Influence of supranational



actors in key national policy areas takes place through the MoU process, in which there is little and, in many cases quite distorted, parliamentary input. An emergency character was invoked in most cases, and parliamentary and other relevant procedures were essentially put on hold. The analysis from Greece yields disconcerting outcomes in relation to the influence of the Troika in domestic national policies that covered virtually all policy areas of the Greek state. Observation relating to transparency were similar to those referenced in Section B above, with citizens not being aware who decides on policy and how, while stakeholder participation was non-existent. Finally, the measures implemented in Greece were proven to have a clear neoliberal character, oftentimes running opposite fundamental social and economic rights.

The comparative aspect in relation to Ireland does provide that, in some cases, the Greek case was unique, especially in relation to the problems it faced prior to the crisis, to the form of the state prior to the crisis, as well as to implementation to the structural adjustment. However, it is worth noting that representative processes were found to be adhered to much closer in the Greek rather than in the Irish case, and the influence in policy was much deeper and extended. Therefore, democratic process worked efficiently in Greece, which raised several issues in relation to supranational influence and other MoU-relevant factors that may not have come to light in other Eurozone MS. In addition, the direction of the measures was essentially identical. The major difference with the Irish case, in accordance with the analysis in Chapter 10, was the participation of stakeholder in the MoU process. In Greece, as opposed to Ireland, stakeholder were kept mostly outside of policy-making, which, in turn, made the actual implementation of the program much more difficult. However, again, the structural adjustment in Greece was considerably deeper and affected much more extensively established rights and prerogatives of citizens (i.e. the real economy) that in the case of Ireland.

What is to be concluded in relation to democracy? It is clear that, in terms of both output, input and throughput, the outcome is negative on the EU DD. An increasing number of key policies with redistributive effects have been moving away from representative institutions and majoritarian politics. The unidirectional character of the EMU has been reinforced, and all this has been happening under the auspices of EU institutions. The legitimacy of actors who take decisions has become increasingly questionable, and accountability is progressively harder to implement. The crisis measures have reinforced, and in fact further advanced, the EU DD, regardless of the specific approach taken. Citizen input is withering and representative institutions have shrinking authority (input), processes are becoming more complicated, less

transparent and move further from citizens (throughput), while the EU supranational level has acquired permanent and, in most cases, direct influence over key national redistributive policies of MS (output, arguing that based on this not happening, further input is unnecessary). From this process, the influence of key state actors, primarily Germany, has indeed been reinforced, while at the same time the technocratic authority of EU institutions, particularly of the EC and ECB, have also increased. As Prof. Dimitris Chrysochoou aptly concludes, the crisis

*has essentially led, beyond any financial consequences..., (to) an asymmetry... in addressing of the two exceptionally important issues: on the one hand, the future of European economic governance, and, on the other hand, of political integration. Because, at this moment, it seems that there have been important steps... in the field of further integration of economic governance, which, however, have not been matched with corresponding steps in the field of political and social integration*<sup>336</sup>

The question to be asked then, is whether the EU is a well-functioning democracy, or whether the EU DD has turned it into the scenery of the Melian Dialogue, where the Athenians highlight that “*δίκαια μὲν ἐν τῷ ἀνθρωπεύῳ λόγῳ ἀπὸ τῆς ἴσης ἀνάγκης κρίνεται, δυνατὰ δὲ οἱ πρὸχοντες πράσσουσι καὶ οἱ ἀσθενεῖς ζυγωροῦσιν*,”<sup>337</sup> i.e. the just is an issue only between those with equal power; but the powerful do what they can and the weak concede<sup>338</sup>.

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<sup>336</sup> From the interview with Prof. Dimitris Chrysochoou, Professor of Theory and Institutions of European Integration.

<sup>337</sup> From Thucydides, *The Peloponnesian War*, Book 5, Chapter 89.

<sup>338</sup> This quote was referenced in the interview with the Hon. Prof. Louka Katseli, inter alia, former Minister of Economy, Competitiveness and Shipping (2009-2011), and former Minister of Employment and Social Security (2010-2011) .

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## APPENDIX A: Intensity of Greece's Structural Adjustment (Statistical Tables)

**Table 23:** EU MS people at risk of poverty or social exclusion (% of total population; ranked by average 2008-2013; Eurostat 2016a)

EU MS	Year						Average 2008-2013
	2008	2009	2010	2011	2012	2013	
Bulgaria	44,8	46,2	49,2	49,1	49,3	48,0	47,8
Romania	44,2	43,1	41,4	40,3	41,7	40,4	41,9
Latvia	34,2	37,9	38,2	40,1	36,2	35,1	37,0
Croatia	-	-	31,1	32,6	32,6	29,9	31,6
Lithuania	28,3	29,6	34,0	33,1	32,5	30,8	31,4
Hungary	28,2	29,6	29,9	31,5	33,5	34,8	31,3
<b>Greece</b>	28,1	27,6	27,7	31,0	34,6	35,7	<b>30,8</b>
Poland	30,5	27,8	27,8	27,2	26,7	25,8	27,6
Ireland	23,7	25,7	27,3	29,4	30,0	29,5	27,6
Italy	25,5	24,9	25,0	28,1	29,9	28,5	27,0
Spain	23,8	24,7	26,1	26,7	27,2	27,3	26,0
Portugal	26,0	24,9	25,3	24,4	25,3	27,5	25,6
Cyprus	23,3	23,5	24,6	24,6	27,1	27,8	25,2
United Kingdom	23,2	22,0	23,2	22,7	24,1	24,8	23,3
Estonia	21,8	23,4	21,7	23,1	23,4	23,5	22,8
Malta	20,1	20,3	21,2	22,1	23,1	24,0	21,8
Belgium	20,8	20,2	20,8	21,0	21,6	20,8	20,9
Slovakia	20,6	19,6	20,6	20,6	20,5	19,8	20,3
Germany	20,1	20,0	19,7	19,9	19,6	20,3	19,9
Austria	20,6	19,1	18,9	19,2	18,5	18,8	19,2
Slovenia	18,5	17,1	18,3	19,3	19,6	20,4	18,9
France	18,5	18,5	19,2	19,3	19,1	18,1	18,8
Denmark	16,3	17,6	18,3	17,6	17,5	18,3	17,6
Luxembourg	15,5	17,8	17,1	16,8	18,4	19,0	17,4
Finland	17,4	16,9	16,9	17,9	17,2	16,0	17,1
Sweden	14,9	15,9	15,0	16,1	15,6	16,4	15,7
Netherlands	14,9	15,1	15,1	15,7	15,0	15,9	15,3
Czech Republic	15,3	14,0	14,4	15,3	15,4	14,6	14,8

**Table 24:** EU MS GDP (amounts in EUR bn, except when indicated otherwise; ranked by % change 2008-2013; Eurostat 2016b)

EU MS	Year						% change 2008-2013
	2008	2009	2010	2011	2012	2013	
Greece	241.990,4	237.534,2	226.031,4	207.028,9	191.203,9	180.389,0	-25,5%
Croatia	48.129,8	45.090,7	45.004,3	44.708,6	43.933,7	43.487,1	-9,6%
Spain	1.116.207,0	1.079.034,0	1.080.913,0	1.070.413,0	1.042.872,0	1.031.272,0	-7,6%
Latvia	24.317,9	18.731,2	17.772,4	20.144,2	21.982,7	22.805,2	-6,2%
Hungary	107.503,1	93.670,7	98.198,4	100.704,5	98.972,8	101.273,3	-5,8%
Slovenia	37.951,2	36.166,2	36.252,4	36.896,3	35.988,3	35.907,5	-5,4%
Portugal	178.872,6	175.448,2	179.929,8	176.166,6	168.398,0	170.269,3	-4,8%
Ireland	187.547,2	169.431,7	166.157,5	173.940,0	174.844,2	179.447,7	-4,3%
Cyprus	18.822,0	18.482,3	19.117,7	19.547,1	19.468,9	18.064,6	-4,0%
Czech Republic	160.961,5	148.357,4	156.369,7	163.583,2	160.706,6	156.932,6	-2,5%
Italy	1.632.150,8	1.572.878,3	1.604.514,5	1.637.462,9	1.613.265,0	1.604.477,9	-1,7%
Romania	142.396,3	120.409,2	126.746,4	133.305,9	133.511,4	144.253,5	1,3%
Netherlands	639.163,0	617.540,0	631.512,0	642.929,0	645.164,0	650.857,0	1,8%
Finland	193.711,0	181.029,0	187.100,0	196.869,0	199.793,0	203.338,0	5,0%
Denmark	241.087,3	230.213,3	241.516,9	246.074,7	252.915,2	255.235,4	5,9%
France	1.995.850,0	1.939.017,0	1.998.481,0	2.059.284,0	2.086.929,0	2.116.565,0	6,0%
Lithuania	32.696,3	26.934,8	28.027,7	31.263,1	33.334,7	34.962,2	6,9%
United Kingdom	1.908.370,2	1.667.594,9	1.813.331,2	1.866.018,3	2.053.612,8	2.042.895,0	7,0%
Poland	363.691,8	314.689,4	361.744,3	380.176,9	389.273,3	394.601,8	8,5%
Germany	2.561.740,0	2.460.280,0	2.580.060,0	2.703.120,0	2.754.860,0	2.820.820,0	10,1%
Austria	291.930,4	286.188,4	294.627,5	308.630,3	317.055,8	322.878,3	10,6%
Slovakia	65.839,8	63.818,5	67.387,1	70.443,5	72.420,0	73.835,1	12,1%
Bulgaria	37.373,3	37.245,0	37.723,8	40.955,1	41.693,3	41.911,8	12,1%
Estonia	16.517,3	14.145,9	14.718,5	16.667,6	18.006,0	19.014,9	15,1%
Luxembourg	37.647,4	36.268,2	39.525,5	42.226,9	43.574,1	46.541,1	23,6%
Sweden	352.317,1	309.678,7	369.076,6	404.945,5	423.340,7	435.752,1	23,7%
Malta	6.128,7	6.138,6	6.599,5	6.879,4	7.217,9	7.650,1	24,8%



**Table 25:** EU MS Overall Unemployment Rate (% of population; ranked by average 2008-2013; Eurostat 2016c)

EU MS	Year						Average 2008-2013	Difference 2008-2013
	2008	2009	2010	2011	2012	2013		
Spain	11,3	17,9	19,9	21,4	24,8	26,1	20,2	14,8
Greece	7,8	9,6	12,7	17,9	24,5	27,5	16,7	19,7
Latvia	7,7	17,5	19,5	16,2	15,0	11,9	14,6	4,2
Slovakia	9,6	12,1	14,5	13,7	14,0	14,2	13,0	4,6
Lithuania	5,8	13,8	17,8	15,4	13,4	11,8	13,0	6,0
Portugal	8,8	10,7	12,0	12,9	15,8	16,4	12,8	7,6
Croatia	8,6	9,2	11,7	13,7	16,0	17,3	12,8	8,7
Ireland	6,4	12,0	13,9	14,7	14,7	13,1	12,5	6,7
Estonia	5,5	13,5	16,7	12,3	10,0	8,6	11,1	3,1
Hungary	7,8	10,0	11,2	11,0	11,0	10,2	10,2	2,4
Bulgaria	5,6	6,8	10,3	11,3	12,3	13,0	9,9	7,4
France	7,4	9,1	9,3	9,2	9,8	10,3	9,2	2,9
Poland	7,1	8,1	9,7	9,7	10,1	10,3	9,2	3,2
Italy	6,7	7,7	8,4	8,4	10,7	12,1	9,0	5,4
Cyprus	3,7	5,4	6,3	7,9	11,9	15,9	8,5	12,2
Sweden	6,2	8,3	8,6	7,8	8,0	8,0	7,8	1,8
Finland	6,4	8,2	8,4	7,8	7,7	8,2	7,8	1,8
Slovenia	4,4	5,9	7,3	8,2	8,9	10,1	7,5	5,7
United Kingdom	5,6	7,6	7,8	8,1	7,9	7,6	7,4	2,0
Romania	5,6	6,5	7,0	7,2	6,8	7,1	6,7	1,5
Czech Republic	4,4	6,7	7,3	6,7	7,0	7,0	6,5	2,6
Denmark	3,4	6,0	7,5	7,6	7,5	7,0	6,5	3,6
Malta	6,0	6,9	6,9	6,4	6,3	6,4	6,5	0,4
Germany	7,4	7,6	7,0	5,8	5,4	5,2	6,4	-2,2
Netherlands	3,7	4,4	5,0	5,0	5,8	7,3	5,2	3,6
Luxembourg	4,9	5,1	4,6	4,8	5,1	5,9	5,1	1,0
Austria	4,1	5,3	4,8	4,6	4,9	5,4	4,9	1,3

**Table 26:** EU MS Youth (less than 25 years old) Unemployment Rate (% of population; ranked by average 2008-2013; Eurostat 2016c)

EU MS	Year						Average 2008-2013	Difference 2008-2013
	2008	2009	2010	2011	2012	2013		
Spain	24,5	37,7	41,5	46,2	52,9	55,5	43,1	31,0
Greece	21,9	25,7	33,0	44,7	55,3	58,3	39,8	36,4
Croatia	23,7	25,2	32,4	36,7	42,1	50,0	35,0	26,3
Slovakia	19,3	27,6	33,9	33,7	34,0	33,7	30,4	14,4
Portugal	21,6	25,3	28,2	30,2	38,0	38,1	30,2	16,5
Italy	21,2	25,3	27,9	29,2	35,3	40,0	29,8	18,8
Latvia	13,6	33,3	36,2	31,0	28,5	23,2	27,6	9,6
Lithuania	13,3	29,6	35,7	32,6	26,7	21,9	26,6	8,6
Hungary	19,5	26,4	26,4	26,0	28,2	26,6	25,5	7,1
Ireland	13,3	24,0	27,6	29,1	30,4	26,8	25,2	13,5
Poland	17,2	20,6	23,7	25,8	26,5	27,3	23,5	10,1
Sweden	20,2	25,0	24,8	22,8	23,7	23,6	23,4	3,4
France	19,0	23,6	23,3	22,7	24,4	24,9	23,0	5,9
Estonia	12,0	27,4	32,9	22,4	20,9	18,7	22,4	6,7
Bulgaria	11,9	15,1	21,9	25,0	28,1	28,4	21,7	16,5
Romania	17,6	20,0	22,1	23,9	22,6	23,7	21,7	6,1
Cyprus	9,0	13,8	16,6	22,4	27,7	38,9	21,4	29,9
Finland	16,5	21,5	21,4	20,1	19,0	19,9	19,7	3,4
United Kingdom	15,0	19,1	19,9	21,3	21,2	20,7	19,5	5,7
Czech Republic	9,9	16,6	18,3	18,1	19,5	18,9	16,9	9,0
Luxembourg	17,3	16,5	15,8	16,4	18,0	16,9	16,8	-0,4
Slovenia	10,4	13,6	14,7	15,7	20,6	21,6	16,1	11,2
Malta	11,7	14,5	13,2	13,3	14,1	13,0	13,3	1,3
Denmark	8,0	11,8	13,9	14,2	14,1	13,0	12,5	5,0
Netherlands	8,6	10,2	11,1	10,0	11,7	13,2	10,8	4,6
Austria	8,5	10,7	9,5	8,9	9,4	9,7	9,5	1,2
Germany	10,4	11,1	9,8	8,5	8,0	7,8	9,3	-2,6

**Table 27:** EU MS General Government Debt (% GDP; ranked by average 2008-2013 Eurostat 2016d)

EU MS	Year						Average 2008-2013
	2008	2009	2010	2011	2012	2013	
Greece	109,4	126,7	146,2	172,1	159,6	177,7	148,6
Italy	102,4	112,5	115,4	116,5	123,3	129	116,5
Portugal	71,7	83,6	96,2	111,4	126,2	129	103,0
Ireland	42,4	61,8	86,8	109,1	120,1	120	90,0
France	68,1	79	81,7	85,2	89,6	92,4	82,7
Austria	68,5	79,7	82,4	82,2	81,6	80,8	79,2
Hungary	71,6	78	80,6	80,8	78,3	76,8	77,7
Germany	64,9	72,4	81	78,3	79,6	77,2	75,6
United Kingdom	51,7	65,7	76,6	81,8	85,3	86,2	74,6
Malta	62,7	67,8	67,6	69,9	67,5	68,6	67,4
Cyprus	45,1	53,9	56,3	65,8	79,3	102,5	67,2
Spain	39,4	52,7	60,1	69,5	85,4	93,7	66,8
Netherlands	54,5	56,5	59	61,7	66,4	67,9	61,0
Croatia	39,6	49	58,3	65,2	70,7	82,2	60,8
Poland	46,6	49,8	53,3	54,4	54	56	52,4
Finland	32,7	41,7	47,1	48,5	52,9	55,5	46,4
Slovenia	21,8	34,6	38,4	46,6	53,9	71	44,4
Slovakia	28,2	36	40,8	43,3	52,4	55	42,6
Denmark	33,4	40,4	42,9	46,4	45,2	44,7	42,2
Czech Republic	28,7	34,1	38,2	39,9	44,7	45,1	38,5
Sweden	36,8	40,4	37,6	36,9	37,2	39,8	38,1
Latvia	18,7	36,6	47,5	42,8	41,4	39,1	37,7
Lithuania	14,6	29	36,2	37,2	39,8	38,8	32,6
Romania	13,2	23,2	29,9	34,2	37,4	38	29,3
Luxembourg	15,1	16	20,1	19,1	22	23,3	19,3
Bulgaria	13	13,7	15,5	15,3	16,8	17,1	15,2
Estonia	4,5	7	6,6	5,9	9,5	9,9	7,2

**Table 28:** EU MS General Government Deficit/Surplus (% GDP; ranked by average 2008-2013; Eurostat 2016e)

EU MS	Year						Average 2008-2013
	2008	2009	2010	2011	2012	2013	
Ireland	-7	-13,8	-32,3	-12,6	-8	-5,7	-13,2
Greece	-10,2	-15,2	-11,2	-10,2	-8,8	-13	-11,4
Spain	-4,4	-11	-9,4	-9,6	-10,4	-6,9	-8,6
United Kingdom	-5	-10,7	-9,6	-7,7	-8,3	-5,6	-7,8
Portugal	-3,8	-9,8	-11,2	-7,4	-5,7	-4,8	-7,1
Slovenia	-1,4	-5,9	-5,6	-6,7	-4,1	-15	-6,5
Lithuania	-3,1	-9,1	-6,9	-8,9	-3,1	-2,6	-5,6
Croatia	-2,8	-6	-6,2	-7,8	-5,3	-5,3	-5,6
Romania	-5,5	-9,5	-6,9	-5,4	-3,7	-2,1	-5,5
France	-3,2	-7,2	-6,8	-5,1	-4,8	-4	-5,2
Poland	-3,6	-7,3	-7,5	-4,9	-3,7	-4	-5,2
Slovakia	-2,3	-7,9	-7,5	-4,1	-4,3	-2,7	-4,8
Latvia	-4,1	-9,1	-8,5	-3,4	-0,8	-0,9	-4,5
Cyprus	0,9	-5,5	-4,8	-5,7	-5,8	-4,9	-4,3
Hungary	-3,6	-4,6	-4,5	-5,5	-2,3	-2,6	-3,9
Italy	-2,7	-5,3	-4,2	-3,5	-2,9	-2,9	-3,6
Netherlands	0,2	-5,4	-5	-4,3	-3,9	-2,4	-3,5
Czech Republic	-2,1	-5,5	-4,4	-2,7	-3,9	-1,3	-3,3
Malta	-4,2	-3,3	-3,2	-2,6	-3,5	-2,6	-3,2
Austria	-1,4	-5,3	-4,4	-2,6	-2,2	-1,3	-2,9
Denmark	3,2	-2,8	-2,7	-2,1	-3,5	-1,1	-1,5
Germany	-0,2	-3,2	-4,2	-1	-0,1	-0,1	-1,5
Bulgaria	1,6	-4,1	-3,2	-2	-0,3	-0,4	-1,4
Finland	4,2	-2,5	-2,6	-1	-2,2	-2,6	-1,1
Estonia	-2,7	-2,2	0,2	1,2	-0,3	-0,2	-0,7
Sweden	2	-0,7	0	-0,1	-0,9	-1,4	-0,2
Luxembourg	3,4	-0,7	-0,7	0,5	0,3	0,8	0,6

## APPENDIX B: Categorization (grouping) of policies affected by Greek MoUs into larger policy categories

- **Budget:** Alterations in the state/local government/state enterprises' budget, Arrears.
- **Revenue:** VAT, Wage taxation, Regular/excise /luxury/green taxes, Presumptive taxation, Levies, Gaming/environmental/telecommunications'/concessions' licenses, Real estate taxes, Fines for unauthorised construction, Customs' changes, Tax collection systems, Solidarity tax.
- **Public Remuneration:** Remuneration and pension reform / cuts, Public wage bill / cuts, SOEs wage changes.
- **Public Administration:** Public employment policy (staff reductions, labour reserve, mobility scheme, reviews, etc), Revenue administration reform (closure of offices, staffing plans, object and number of audits), State-Owned Enterprises (SOEs) & Public entities policies (restructuring, price controls, closures, etc), Statistical overhaul (rules and obligations, agencies' restructuring, etc), Local government restructuring / reform.
- **Defence:** Defence / military spending (ex. equipment).
- **Energy:** Electricity and gas policies, tariffs, etc, Electricity and gas agencies' changes, Liberalisation, Renewable energy.
- **Labour Market:** Liberalise restricted professions, Reorganise / alter private sector workplace (minimum wage / wage agreements / wage controls, collective agreement regime, overtime, employment protection laws, part-time vs full-time contracts, list of heavy and arduous professions, etc), Alterations in business environment (setting-up / resolution of companies, enterprise licensing, etc), Policies on competition, Public works / investments (simplification of processes, etc), Car circulation fees, Digital Dividend, Unemployment (benefits, time schedules), Imports / Exports policy.
- **Healthcare:** Health funds, Hospital Restructuring (accounting, pricing, etc), Pharmaceuticals (ex. generics / off-patent over brand), Hospital staff regime.
- **Education:** Franchised diplomas and professional qualifications (validation, etc).
- **Judiciary:** Tax administration disputes system alterations, Trial fees.
- **Tourism:** Tourism sector/coaches' changes.
- **Transportation:** Road freight/haulage, Railway sector reforms/ liberalisation, Buses, coaches, limousines, trucking industry, taxis, ferries, ports.
- **Banks:** Loans, Mergers/acquisitions/resolutions, BoG (payroll, structure, role, etc).
- **Procurement:** Any type of public procurement, (hospitals, public works, etc).
- **R&D:** Research & Development in the private, scientific or industrial sectors.
- **Privatisation:** Concessions, sales, tenders of real estate, airports, ports, gaming, buildings, banks, utilities, etc, Allocation privatising revenue.
- **Legislation:** Adopt new legislation, Repeal / alter old legislation, Creation of new agencies, offices, Secretary General positions, etc.
- **Social Security:** Social benefits/ programmes, Social Security Funds, Unemployment benefits, List of disabilities.