Preprint:

Blazsek, V. (2017) Sovereign Debt-Ceiling Rules in the Spanish and Hungarian Constitutions and Their Interplay with the Relevant EU Laws. [Preprint - SSRN]

SOVEREIGN DEBT-CEILING RULES IN THE SPANISH AND HUNGARIAN CONSTITUTIONS AND THEIR INTERPLAY WITH THE RELEVANT EU LAWS

Virág Blazsek*

Central European University, Department of Legal Studies

Hungary

blazsek_virag@phd.ceu.edu

Abstract

The paper builds upon the findings of Julia Black (2010) about the constitutional dimension of managing the financial crisis, and applies those findings to the context of Spain and Hungary. In particular it focuses on one of the recent quintessential EU agenda items, the constitutional debt-ceiling rules, and answers the question; how these rules interplay with the forming EU rescue mechanism for failing banks. It interprets the Spanish and Hungarian developments not only as a response to the requirements set out on a supranational level, but also as part of the post-crisis architecture of economic governance and the forming bank union. Either it is a Eurozone country like Spain or a non-Eurozone country like Hungary, these new constitutional provisions contribute to the strengthening of the EU and support the creation of a common economic policy. The sooner this happens the better it will enhance the global competitiveness of the EU.

Key Words: Eurozone, European Stability Mechanism, financial crisis, sovereign debt, bank bailouts

INTRODUCTION

Bank bailouts have been one of the main reasons for the drastic increase of sovereign insolvencies as a consequence of the 2007 financial crisis. Governments bailed out banks failing under their supervision in order to protect the stability of their financial sector, to avoid bank runs, protect the savings deposited at those banks, the interests of investors and creditors, and, indirectly, to maintain the value of the Euro (European Commission, 2010, p. 24). But bank bailouts were mostly paid from money that governments borrowed (predominantly from other European countries and their banks) and covered from central budget revenues, in other works: from taxpayers' money. From late 2009 Ireland, Portugal and Greece began to have problems with financing their debts. This has led to a sovereign debt crisis. One of the key lessons of the above events the EU has deducted is that the monetary union cannot be successfully maintained without an economic union in the long run (Tirado, 2013a, p. 1, Lamfalussy, 2014, 160). At the moment there is a monetary union - at least for Eurozone member states - the setting of central bank interest

*Virág Blazsek, Doctoral Student, Department of Legal Studies, Central European University, Budapest, Hungary. Email: blazsek_virag@phd.ceu.edu or blazsek@gmail.com. Thanks to Tibor Tajti (Central European University) for helpful comments.

rates and monetary easing is in the sole domain of the European Central Bank, while there is no fiscal union; taxation and government expenditure remain mostly under the control of national governments, within the balanced budget limits imposed by the Stability and Growth Pact - an umbrella term for several EU laws - aiming fiscal stability and the implementation of a fiscal and a full economic union in the long run. Sustainable, sound and transparent public finances are a key factor in being able to establish an economic union. Therefore, the EU and its member states have responded with extensive regulatory measures. One of them has been the introduction of constitutional debt-ceiling rules, which are limitations imposed on political decision-making bodies and require at least the consent of the parliament in case of excessive spending from the state budget. This road also leads to reshaping the concept of monetary sovereignty, the structure of central banking and the methods of supervision and regulation of the financial sector (Lastra, 2015, p. 4).

The paper analyses how these rules have been implemented in Spain and in Hungary, and how they interplay with the existing regulatory framework of the EU. Spain and Hungary are in the focus of this paper, because they represent a Eurozone and a non-Eurozone country respectively, both of them have been heavily hit by the financial crisis, therefore their regulatory systems have been extensively tested in the past years, these two countries both introduced debt-ceiling provisions in their Constitutions in 2011-2012, and they have chosen somewhat different debt-ceiling methods. Still, the findings of this paper stand for both countries.

THEORY

Unprecedented state intervention in the financial sector and the increase of state debt

As a consequence of the 2007 financial crisis there has been an unprecedented amount of state intervention in the financial sector. In order to protect state interests threatened by the instability of the financial sector the US, the EU and its member states injected more than 4,89 trillion USD (Black,2010, p. 2) directly into financial institutions. In the UK an executive decision-making type of management of the crisis has developed (Black, 2010, p. 24 and 37). In spite of the different legal environment a similar tendency has taken place in Spain and in Hungary too. In all of these countries the executive branch of the state have strengthened significantly. In the UK there are several legal constraints on the government, such as the notice of the Parliament, the prior authorization of the Treasury, the Financial Services Authority and the Bank of England, the possibility of judicial review or, - through the administration of the EU state aid and competition law rules - the prior authorisation of the European Commission (Black, 2010, p. 35, 37-38 and 40). Also, the Stability and Growth Pact includes a target as to the level of the state debt: the gross public debt should be below 60% of the GDP. There has been a debate about the introduction of a state debt cap too (Sajid Javid, 2011 and Intergenerational Foundation, 2013) but there is not such cap in the UK at the moment.

Sovereign indebtedness has been increasing without parallel in the past decade. The EU average of gross state debt is around 86% of the GDP (88% in the UK, 99% in Spain and 76% in Hungary). At the moment there is ongoing Excessive Deficit Procedure against 16 of the 28 EU member states including the UK and Spain. After nine years of ongoing scrutiny the Excessive Deficit Procedure against Hungary was ended in 2014 (European Commission, 2014). The next section focuses on the existing legal framework of the EU aiming financial stability, because this is the legal environment the selected jurisdictions - Spain and Hungary - and their constitutional debt-ceiling rules operate in. It is a most dynamically changing area, not only because of the need for economic stabilisation, but also because of a continuous and accelerated evolution towards a fiscal, banking and economic union in the EU.

Financial stability rules in the EU and the limitation of public money spending

Financial stability rules in the EU

The area of financial stability rules is a dynamically changing area in the EU. There is not a uniform EU legal framework; different rules apply as to Eurozone and non-Eurozone member states, plus, a multi-speed approach has been adopted in order to respond differences among EU member states, therefore, further fault-lines exist in the regulation among member states. The laws related to this legal framework are only partly EU law; there are also complementing intergovernmental treaties.[1] Additionally, there are separate rules for the "business as usual" periods and crisis situations. Furthermore, one can note a multi-layered characteristic of the institutional structure too: the Council, the Commission, the Parliament and the European Central Bank all take part in the policy making, the implementation and the supervision together.

The initial declaration of the extensive regulatory responses to the financial crisis was the "Europe 2020" growth strategy (European Commission, 2010),the following legal documents all refer to this political action plan for 2010-2020 at first place. The crisis environment it was elaborated in highly affected its content: this action plan aims to reach a sustainable social-economic system, even for the expense of economic growth (European Commission, 2010, p. 3). This latter characteristic is of utmost importance.[2] The two main pillars of the strategy are the stability and reform of the financial sector and found, transparent and sustainable public finances and budgetary consolidation (European Commission, 2010, p. 25-27). Bank bailouts are in the crossroads on these two pillars as being one of the consequences of an unstable financial sector and an impediment of transparency of public finances. This strategy was created for the entire EU, which created a basic regulatory issue: how to accommodate both Eurozone and non-Eurozone member states in the system?[3] As it has been underlined above, the economic and monetary union go hand in hand. But the monetary union - the Eurozone - is limited to 19 of the 28 EU member states.[4] This discrepancy is a consequence of the multi-speed EU, and it has led to a banking union which does not cover the whole EU. The economies of the EU member states are highly interdependent (European Commission, 2010, p. 5). This has been one of the main reasons for the severe effects of the crisis and public spending on failing banks (European Commission, 2010, p. 8). Crisis-related governmental financial support measures were labelled as unprecedented and justified, but also as temporary and unsustainable in the long run(Europe 2020, point 4, 24).[5] Still,

[1] An important example is the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (in force as of 1 April 2014 for 25 signatories). Despite being an international treaty outside the EU legal framework, all treaty provisions function as an extension to existing EU regulations.

[2] This thought is also reflected in the paper, The Crisis of the Euro as a Eurocrisis: A Polyhedral View of the Problem. Tirado, I.(2013).

[3] The solution has been that non-Eurozone member states have been left out from the fiscal and banking union in the first circle.

[4]A lists of member states using the euro and not using the euro and an interactive map is available at https://www.ecb.europa.eu/euro/intro/html/map.en.html (last accessed on 27 October 2015).

[5] "Liquidity was provided to the financial sector in an unprecedented way. Governments gave massive support to banks, either through guarantees, recapitalization or through "cleaning" of balance sheets from impaired assets; other

in the short run, "given remaining uncertainties about the economic outlook and fragilities in the financial sector, support measures should only be withdrawn once the economic recovery can be regarded as self-sustaining and once financial stability has been restored." (European Council, 2009) - In other words, future bank rescue packages are not excluded.

The first building block of the EU financial stability is the Stability and Growth Pact (ESM Treaty, 2012, preamble (4)).[6] This is the "business as usual" dimension of the post-crisis architecture of the legal framework. The process of bringing the deficits to below 3% of GDP and State debt below 60% of the GDP and having a declining trend of State debt (with some special provisions as to structural debts), have been a cornerstone of the pact in combination with a gradual withdrawal of temporary crisis support and fiscal consolidation (European Commission, 2010, p. 26). Lack of sufficient agreement the next major building block of financial stability came into existence in the form of an intergovernmental treaty, the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union.[7] Though it is not part of the EU law, some of its important provisions have been already implemented in EU law in the form of regulations.[8] The third, crisis-related building block is needed not only to make a possible, future crisis management smoother, but also to manage the measures already taken in response to the financial crisis. In this crisis-related regulation one can find both *ex ante* and *ex post* rules. Besides a strengthened supervision of the capitalization and lending activity of the banking sector and the financial market coordinated by the European Central Bank, the European Stability Mechanism (ESM Treaty, 2012) has been designed in the form of a separate institution operating under international law (European Council, 2011). This body manages the emergency fund that has been created by and for Eurozone countries that temporarily cannot borrow money on the financial markets or need money for the recapitalisation of their failing banks. The ESM builds upon the international lending and monitoring best practice of the International Monetary Fund (IMF) too (By-Laws of the ESM, 2012, p. 9 and 11).[9] This permanent bailout mechanism can offer much more economic liquidity assistance as compared to the IMF. This can contribute to the control and efficient management of state debts. But it is only available for the Eurozone member states, what might cause discrepancies and tensions within the EU as the political and economic integration continues.

---

sectors of the economy were supported under the temporary, and exceptional, framework for State aid. All these actions were, and still are, justified. But they cannot stay there permanently. High levels of public debt cannot be sustained indefinitely."(Europe 2020, point 4, pg. 24).

[6]See the detailed regulations in **Article 136** (applicable only for Eurozone member states), **121 (6)** and **126(14)** of the Treaty on the Functioning of the EU and the **Protocol on the excessive deficit procedure** annexed to the Treaty, **Regulation 1175/2011** amending Regulation 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, **Regulation 1177/2011** amending Regulation 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure and **Regulation 1173/2011** on the effective enforcement of budgetary surveillance in the euro area. Additionally **Directive 2011/85/EU** on the requirements for budgetary frameworks of the Member States is also relevant.

[7]This treaty is also called the European Fiscal Compact. It is in force as of 1 April 2014 for 25 signatories (Czech Republic, the United Kingdom, and Croatia are not parties to this treaty).

[8]These two regulations are also called the "two-pack" and they are applicable only for Eurozone member states: first, the **Regulation 473/2013**: On common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area and, second, the **Regulation 472/2013**: On the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability.

[9] See also the paper, Reprofiling Sovereign Debt (Buchheit, Lee C. and Gulati, G. Mitu and Tirado, Ignacio, November 30, 2014). Available at SSRN: http://ssrn.com/abstract=2532158 or http://dx.doi.org/10.2139/ssrn.2532158. This paper mentions some important, undesirable aspects of the usage of funds during the Eurozone debt crisis.

The limitation of public money spending in the EU

The primary state debt limiting rules can be found in Article 126(1) of the Treaty on the Functioning of the EU: "Member States shall avoid excessive government deficits."[10] Article 1 of the Protocol No. 12 of the Treaty on the Excessive Deficit Procedure defines the "reference values" referred to in Article 126(2) of the Treaty as well: the planned or actual government deficit shall not exceed 3 % of the GDP and gross government debt[11] shall not exceed the 60 % of the GDP. These obligatory targets are applicable to both Eurozone and non-Eurozone EU member states. As to Eurozone member states Article 136 of the Treaty stipulates additional coordination and surveillance of budgetary discipline.

METHODS

Debt-ceiling rules in a comparative context

Fiscal policy is "the use of government spending and taxation to influence the economy." (Weil, The Concise Encyclopedia of Economics, 2008). Besides Spain and Hungary several EU member states have introduced debt-ceiling in their Constitutions, for example Germany and Poland. These stipulations fit in the above mentioned framework of the EU Treaty and the regulations and directives of the Stability and Growth Pact. The Spanish Constitution makes express reference to the EU (Articles 135.2 and 135.3 of the Spanish Constitution),[12] but not to the specific EU regulations and directives or the Fiscal Compact. The relevant provisions of the Hungarian Constitution neither make any reference to EU law nor mention the EU as such, though Hungary is equally bound by the provisions of the EU Treaty, by the Stability and Growth Pact, the regulations and the directive mentioned in footnote 6.

Sovereign debt-ceiling in Spain

Spain has been heavily hit by the financial crisis, several financial institutions were bailed out by the government. The country responded to the crisis with extensive regulation. Besides the reform of Constitution (Article 135, 2011) which established a limit on public debt and strengthened its payment guarantees, profound changes have taken place in many laws.[13] Spain provided the fourth biggest paid-in capital (9.52 billion EUR) for the ESM and its government

---

[10] Article 121(6) authorises the European Parliament and the Council to enact regulations in order to advance economic convergence within the EU.

[11]Article 2 of the Treaty defines debt: it "means total gross debt at nominal value outstanding at the end of the year and consolidated between and within the sectors of general government as defined in the first indent."

[12] Article 135.2: "The State and the autonomous communities may not incur a structural deficit that exceeds the limits established by the *European Union* for their member states. An Organic Law shall determine the maximum structural deficit the state and the autonomous communities may have, in relation to its gross domestic product. Local authorities must submit a balanced budget." Article 135.3: "The State and the regions must be authorized by law in order to issue Public Debt bonds or to contract loans. Loans to meet payment on the interest and capital of the State's Public Debt shall always be deemed to be included in budget expenditure and their payment shall have absolute priority. These appropriations may not be subject to amendment or modification as long as they conform to the terms of issue. The volume of public debt of all the public administrations in relation to the State' gross domestic product may not exceed the benchmark established by the *Treaty on the Functioning of the European Union*."

[13]Namely, 69 decree-laws were adopted during 2007-2011.

received a loan of 41.3 billion EUR specifically for bank recapitalisation) in late 2013 (ESM Factsheet, 2015).

Article 135(1) of the Spanish Constitution prioritises the principle of budgetary stability and promotes legality by requiring prior authorisation by law before the State can undertake financial responsibility. Article 135(3) declares absolute priority for paying state debt and declares that public debt shall not exceed the EU reference value (at the moment 60 % of the GDP). There is not a concrete numeric limit in the Constitution, but a reference is made to the EU rules. However, Article 135(4) sets an exception: in case of "natural disasters, economic recession or extraordinary emergency situations that are either beyond the control of the State or significantly impair the financial situation or the economic or social sustainability of the State" the limits of the structural deficit and public debt may be exceeded.

In accordance with Article 135(5) of the Constitution the Organic Law No. 2/2012 of 27 April 2012 was enacted about the public debt limit. It aims a sustainable fiscal policy (Article 4(2)), breaks down and shares the state debt limit among the central administration, the autonomous communities and local governments. Article 11 deals with structural state deficit and Article 13 deals with state debt.It made a reference to the EU Treaty and its Protocol No. 12, mentioned above (60 % of the GDP). It also determined the distribution of the limits of deficit and debt among the different public administrations, and the responsibility of each public administration body in case of breach of budgetary stability objectives. This decentralised method means that the autonomous communities take part in the implementation of the principle of stability in their rules and budgetary decisions too. Article 13(1) shares the state debt limit (60% of the GDP) among the central administration (44% of the GDP), the autonomous communities (13% of the GDP) and local governments (3% of the GDP). Article 14 gives an absolute priority to the payment of state debts.

Sustainability, preventive and corrective measures and transparency are the most important characteristics of the implementation of debt-ceiling rules in Spain. However, there is an important limit of the legal efficiency of the new Spanish constitutional rules is that Structural deficit limits set forth in Article 135.2. (quoted in footnote 12) will enter in force only in 2020, because Spain claimed that it could not comply with the relevant EU regulations earlier. This postponement (transitional period) is not only expressed in the Constitution but also in the Organic Law No. 2/2012 of 27 April 2012. Still, the new debt-ceiling provisions express the strong commitment of Spain and the autonomous communities to respect the debt targets of the EU. The Spanish constitutional debt-ceiling model goes (or will go as from 2020) beyond the German debt-ceiling model, because this latter was confined to a ceiling on the deficit, but not on public debt.

Spain is obliged by the provisions of the Stability and Growth Pact, and also of its stricter version, the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union.[14] At the moment Spain is involved in an Excessive Deficit Procedure, therefore stricter reporting requirements apply, such as quarterly reporting instead of half-yearly reporting. Beyond the rules applicable to all EU member states two important additional, Eurozone-specific regulations apply to Spain which deal with the monitoring and assessment of draft budgetary plans and the strengthening of the economic and budgetary surveillance of member states (European Parliament and European Council, 2013).

Spain included debt-ceiling rules in its Constitution and enacted several laws and decrees to support the effective implementation and enforcement of those rules. In accordance with its

[14]Signed on 2 March 2012 and entered into force on 1 January 2013. As of 1 April 2014, it had been ratified and entered into force for all 25 signatories.

decentralised state administration it broke down the state debt limit (60% of the GDP) among the central administration, the autonomous communities and the local governments. By underlining the absolute priority of paying its debts the state has sent a clear message to its investors and creditors, but, in the same time, postponing the effectiveness of some of the most important new constitutional provisions to 2020 diminished the strength of this message. As the 2015 Country Report of Spain (European Commission, 2015)concluded, the overall high stock of public debt poses risks for growth and financial stability (European Commission, 2015, p. 1). Given the high degree of decentralisation in Spain, a combined effort by all levels of administration is a key element of a successful fiscal consolidation (European Commission, 2015, p. 38).

Sovereign debt-ceiling in the Hungary

Hungary has been heavily affected by the financial and economic crisis. The IMF and the EU provided a financial stabilization package of 20 billion EUR for Hungary in 2008, which was paid back in 2010, but since 2011 there has been still a „standby agreement" with IMF and EU (providing a "safety net"). State debt has been traditionally high, over 57% of the GDP in 2003 and it reached 80% of the GDP by 2011. From 2012 gross state debt has increased gradually to 76%. After nine years of scrutiny the ongoing Excessive Deficit Procedure against Hungary was ended. At the moment the Public Budget Balance is -2,5% (in Spain it is 4,5%) and it is decreasing, and the Gross Public Debt is 75% and it is decreasing (in Spain it is 99,3%) (Eurostat, 2014).

On 1 January 2012 a new Constitution entered in force with new debt-ceiling rules in Hungary. In the same time, there have been strong and frequent governmental interventions in the economy (CESifo Group, 2012)[15] that have influenced investors' confidence in an adverse way. Articles 36-44 deal with Public Finances. The previous Constitution did not contain similar provisions.[16] The new Constitution aims a sustainable balanced and transparent budget management (Varnay, 2011).Articles 36 and 37 include the most relevant provisions as to public debt-ceiling.

Articles 36(4) and (5) of the Constitution stipulates that the parliament may not adopt an act on the central budget as a result of which state debt would exceed 50% of the GDP. As long as state debt exceeds this 50% limit, the parliament may only adopt an act on the central budget which provides for state debt reduction in proportion to the GDP. This model is similar to the German constitutional debt control. In Germany the debt break does not cap the aggregate debt, but the idea behind it is that if the government does not generate huge deficits every year, the national debt won't grow in the long run (Randazzo, 2013). In accordance with Article 36(1) of the Constitution the act on the annual central budget for 2013 already included the planned amount of the gross state debt (73,7%) reduced as compared to the previous year (74,6%). However, the factual gross state debt was 76,8% of the GDP in 2013 (Eurostat, 2014).

The Public Finances chapter of the new Constitution - similarly to the Spanish Constitution - includes the principles of legality and transparency. Article 37(2) stipulates that only in case of exceptions based on the above mentioned Article 36(6) may such borrowing or financial commitment be undertaken which would allow the state debt to exceed 50% of the GDP. Though

[15] Moody's downgraded Hungarian government bonds below investment grade on 25 November 2011, which was followed by a downgrade by Standard & Poor's on 22 December 2011.

[16] Act 75 of 2008 on economical state administration and budgetary responsibility (in Hungarian: "a takarékos állami gazdálkodásról és a költségvetési felelősségről") and its Article 3 introduced statutory limits on public debt from 2009, but there was not constitutional debt-ceiling before 2012 in Hungary.

the Excessive Deficit Procedure against Hungary was ended after nine years in 2014, there is extensive scrutiny and reporting to the European Commission as Hungary is bound by all relevant EU financial stability laws mentioned earlier except for those with apply only to Eurozone member states. Similarly to Article 135(4) of the Spanish Constitution the Hungarian Constitution also allows only exceptional derogation from the provisions of Articles 36(4)-(6) during a special legal order.[17] The high level of government debt remains an important source of vulnerability in Hungary (Country Report Hungary, 2015, p. 1), therefore the new constitutional debt-ceiling rules represent a positive regulatory direction in terms of strengthening the country's commitment to comply with the relevant EU and constitutional provisions. Hungary's public debt is below the EU average, but there is a need for sustaining fiscal consolidation and pursuing growth-friendly economic policies (Country Report Hungary, 2015, p. 12).

FINDINGS

The paper compares and analyses the debt-ceiling rules laid down in Article 135 of the Spanish Constitution as amended in 2011 and Articles 36 and 37 of the Hungarian Constitution in force as from 2012 and argues that either it is a Euro-zone country like Spain or a non-Euro-zone country like Hungary, the new constitutional provisions directly contribute to a greater fiscal discipline and indirectly to the strengthening of the EU and hereby support the creation of a common economic policy. Though these constitutional provisions have been criticized in both countries for the lack of prior, usual consultation and their vague and uncertain or too rigid language respectively, one can also note several common, positive features of them, such as the focus on balanced, transparent and sustainable budget management, a commitment to respecting the limit of the structural deficit established by the EU and limiting the playfield of the legislature and the executive to engage in excessive public money spending. Though these rules are still too recent, it is possible to identify some of their advantages, such as the maximalization of State spending or the additional democratic control by requiring the prior parliamentary authorization of state spending. Constitutions should not hinder governmental measures, but they should protect financial stability, as the crisis has shown how utmost importance this bears for the economy and the whole society. Constitutional debt-ceiling rules can decrease democratic deficit from which many EU member states suffer. They also contribute to a greater transparency and accountability of public finances.

DISCUSSION

The paper applies a comparative legal analysis to the constitutional debt-ceiling provisions of the Spanish and Hungarian Constitutions. It proposes a theoretical explanation of sovereign debt-ceiling rules. The Spanish and Hungarian constitutional developments are not only responses to the requirements set out on a supranational level, but also form part of the post-crisis architecture of economic governance and the forming bank union in the EU. Constitutional debt-ceiling rules are very important and beneficial, because authorities and courts of the member states are provided with an authorisation to call governments to account as to public money spending. If debt-ceiling rules are clear and they are taken seriously, they can support the fiscal healing of an indebted state. However, one can note that policy decisions, such as the strength of austerity measures, the

[17] Special legal order means State of National Crisis and State of Emergency, State of Preventive Defence, Unexpected Attack, State of Danger (Articles 48-54 of the constitution).

prioritisation of improving macroeconomic indices or of the stimulation of the real economy influence importantly the tendencies how the level of state indebtedness changes and how efficiently constitutional debt-ceiling rules are transplanted in practice.

CONCLUSIONS

Building on the findings of Julia Black (2010) as to the constitutional dimension of the financial crisis the paper interprets the Spanish and Hungarian constitutional developments not only as a response to the requirements set out on a supranational level, but also as part of the post-crisis architecture of economic governance, the forming fiscal and bank union in the EU. The creation of a permanent, supranational rescue mechanism for failing banks and the new, constitutional sovereign debt-ceiling rules both contribute to the creation of a common economic policy in the EU.

IMPLICATIONS

The monetary union cannot be successfully maintained without an economic union in the long run. It is in the best interest of the EU member states to maintain and strengthen the EU. The new constitutional debt-ceiling provisions contribute to the economic convergence of member states and to the strengthening of the EU. The sooner this happens the better it will enhance the global competitiveness of the EU.

References[18]

Hungary, *Act 204 of 2012 on the Central Budget of Hungary for 2013* (in Hungarian: "2012. évi CCIV. törvény Magyarország 2013. Évi Központi Költségvetéséről") (18.12.2012) Available from: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200204.TV

Black, J. (2010) Managing the Financial Crisis - The Constitutional Dimension, *LSE Law, Society and Economy Working Papers*, No. 12/2010, 3.6.2010 Available from: www.lse.ac.uk/collections/law/wps/wps.htm or http://ssrn.com/abstract=1619784

Buchheit, Lee C., Gulati, G. Mitu and Tirado, I., (2014) *Reprofiling Sovereign Debt* (30 November 2014) Available from: http://ssrn.com/abstract=2532158 or http://dx.doi.org/10.2139/ssrn.2532158

European Stability Mechanism (2014) *By-Laws of the European Stability Mechanism* (8 December 2014) Available from: http://www.esm.europa.eu/about/legal-documents/index.htm

European Commission (2010) *Communication from the Commission Europe 2020, A strategy for smart, sustainable and inclusive growth*, Brussels (3.3.2010). Available from: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF

European Council (2009) *Conclusions adopted by the European Council* (10-11.12.2009) Available from: https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/111877.pdf

[18] All online sources were last accessed on 30 October 2015.

European Council (2011) *Conclusions of the European Council adopted on 25 March 2011 on the establishment of a European stability mechanism*, revised version, Available from: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/120296.pdf

Spain, *Constitución Española* (the Constitution of Spain) (27.12.1978) as modified on Aug. 27, 1992, official (Spanish Senate) Available from: http://www.senado.es/web/conocersenado/normas/constitucion/index.html or
http://www.boe.es/boe/dias/2011/09/27/pdfs/BOE-A-2011-15210.pdf

Contiades, X. (edit.) (2013) *Constitutions in the Global Financial Crisis, A comparative Analysis.* Ringe, Huber.

European Council, *Council Recommendation on the National Reform Programme 2014 of Spain and delivering a Council opinion on the Stability Programme of Spain* (8.7.2014.) [OJ C 247, 29.7.2014] Available from: http://ec.europa.eu/europe2020/pdf/csr2014/csr2014_council_spain_en.pdf

European Council, *Council Recommendation on the 2015 National Reform Programme of Spain and delivering a Council opinion on the 2015 Stability Programme of Spain* (14.7.2015.) OJ 2015/C 272/13 18.8.2015 Available from: http://ec.europa.eu/europe2020/pdf/csr2015/csr2015_council_spain_en.pdf

Spain, *Country Report of Spain, Including an In-Depth Review on the prevention and correction of macroeconomic imbalances* (2015) (26.02.2015) Available from: http://ec.europa.eu/europe2020/pdf/csr2015/cr2015_spain_en.pdf

ESM Factsheet (2015) Available from: http://www.esm.europa.eu/publications/factsheet/index.htm

Hungary, *The Fundamental Law of Hungary* (The Constitution of Hungary) (2011) (25 April 2011), The English translation of the consolidated version of the Fundamental Law as on 1 October 2013 Available from: http://www.kormany.hu/download/e/02/00000/The%20New%20
Fundamental%20Law%20of%20Hungary.pdf

Eurostat (2014) *Government Financial Statistics* Available from: http://ec.europa.eu/eurostat/tgm/table.do?tab=table&plugin=1&language=en&pcode=teina225 and http://ec.europa.eu/eurostat/web/government-finance-statistics/statistics-illustrated

Intergenerational Foundation. (2013) Should the UK introduce a debt ceiling? 15 October 2013. Available from: http://www.if.org.uk/archives/4379/should-the-uk-introduce-a-debt-ceiling

Javid, S. (2011) Westminster needs a debt ceiling, too - Putting a limit on state profligacy would help Britain escape the borrow-and-spend trap, *The Telegraph*, online edition, 2 August 2011. Available from: http://www.telegraph.co.uk/news/worldnews/us-politics/8677520/Westminster-needs-a-debt-ceiling-too.html

Lamfalussy, A. (2014)*The Wise Man of the Euro*(in Hungarian “Az euró bölcsője”) Christophe Lamfalussy, Ivo Maes, Sabine Péters (editors), Lannoo Publishers/Mathias Corvinus Collegium - Tihanyi Alapítvány.

Lastra R. M. (2015) *International Financial and Monetary. Law* Oxford University Press.

Spain, La Ley Orgánica 2/2012 sobre el control del endeudamiento, limitando el volumen de la deuda pública (27 April 2012) [BOE No. 103 30 April 2012] Available from: http://www.congreso.es/constitucion/ficheros/leyes_espa/lo_002_2012.pdf

Spain, Ley Orgánica 9/2013 del control de la deuda comercial en el sector público (20 December 2013) Available from: http://www.boe.es/diario_boe/txt.php?id=BOE-A-2013-13425&lang=en

European Commission (2012) *Occasional Papers 118* (October 2012) The Financial Sector Adjustment Programme for Spain Available from: http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp118_en.pdf

Randazzo, A. (2013) *A Debt Ceiling Lesson from Europe, After decades of over spending, European nations are now being forced to adopt serious debt control measures* (3 February 2013) Available from: https://reason.com/archives/2013/02/03/a-debt-ceiling-lesson-from-europe

European Council, *Recommendation on the 2015 National Reform Programme of Hungary and delivering a Council opinion on the 2015 Convergence Programme of Hungary* (14.7.2015.) [OJ 2015/C 272/20] Available from: http://ec.europa.eu/europe2020/pdf/csr2015/csr2015_council_hungary_en.pdf

European Council, *Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies* (7.7.1997.) [OJ L 209, 2.8.1997] Available from: http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31997R1466

European Parliament and European Council, *Regulation (EU) No. 1176/2011 on the prevention and correction of macroeconomic imbalances*, (16.11.2011.) [OJ L 306, 23.11.2011] Available from: http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32011R1176

European Parliament and European Council (2013) *Regulation 472/2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability* [Official Journal L 140/1 (21.5.2013.)]Available from: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:140:0001:0010:EN:PDF

European Parliament and European Council (2013) *Regulation 473/2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area* [Official Journal OJ L 140/11 (21.5.2013.)]Available from: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0473&from=EN

European Council (1997) *Resolution of the European Council on the Stability and Growth Pact* Amsterdam [Official Journal C 236 of 02.08.1997 (17.06.1997.)] Available from: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1412156825485&uri=URISERV:l25021

Stability and Growth Pact, Official Documents, Available from: http://ec.europa.eu/economy_finance/economic_governance/sgp/index_en.htm

Tirado, I. (2013a) The Crisis of the Euro as a Eurocrisis: A Polyhedral View of the Problem (25 October 2013). Available from: http://ssrn.com/abstract=2360182 or http://dx.doi.org/10.2139/ssrn.2360182

Treaty Establishing the European Stability Mechanism (2.2.2012), consolidated version, Available from: http://www.esm.europa.eu/about/legal-documents/ESM%20Treaty.htm

European Union, *Treaty on the Functioning of the European Union,* consolidated version [OJ C 326/49 26.10.2012]Available from: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=hu

European Union, *Treaty on Stability, Coordination and Governance in the Economic and Monetary Union* [Official Journal C 326/47 (26.10.2012)] Available from: http://www.consilium.europa.eu/register/en/content/out/?&typ=ENTRY&i=ADV&DOC_ID=ST-10083-2012-INIT

Varnay, E. (2011) Public Finances in the Constitution, the Debt-break (in Hungarian: "Közpénzügyek az Alkotmányban, Az Adósságfék") (11 May 2011) In: Conference on the Economic Policy and Financial-Regulatory Tools of By-passing the Debt Trap (in Hungarian: „Az adósságcsapda kikerülésének gazdaságpolitikai és közpénzügy-szabályozási eszközei") Available from: http://mta.hu/data/cikk/12/72/66/cikk_127266/Varnai_elUadas_2011_05_11.pdf

Weil, David N. The Concise Encyclopedia of Economics (2008) Library of Economics and Liberty Available from: http://www.econlib.org/library/Enc/FiscalPolicy.html