



PRESIDENZA DEL CONSIGLIO DEI MINISTRI

DIPARTIMENTO PER LE POLITICHE EUROPEE

IL MINISTRO PER GLI AFFARI EUROPEI

Una *politeia* per un'Europa diversa, più forte e più equa

With a courtesy translation in English

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*Non esiste cosa più difficile a trattare,
né più dubbia a riuscire,
né più pericolosa a maneggiare,
che farsi capo e introdurre nuovi ordini,
perché lo introduttore ha per nemici
tutti quelli che degli ordini vecchi fanno bene,
e ha tepidi defensori
tutti quelli che degli ordini nuovi farebbono bene.*

(Niccolò Machiavelli, *Il Principe*, 1513)

1. Diagnosi e possibili soluzioni

L'Europa unita trova il suo fondamento nel principio affermatosi nella convivenza civile tra i popoli che se si muovono le merci non si muovono le armi. L'esperienza dell'abbattimento delle barriere doganali vissuta dal Trattato di Roma in poi è stata altamente positiva per la pace e il benessere delle popolazioni europee.

Il Governo italiano riconosce che il mercato comune, di cui l'euro è parte indispensabile, è componente essenziale del suo modello di sviluppo, ma ritiene che l'assetto istituzionale dell'Unione Europea e le politiche seguite non corrispondano pienamente agli scopi concordati nei Trattati. La crisi finanziaria globale esplosa nel 2008 ha mostrato i limiti delle istituzioni create soprattutto dal 1992 in poi e le conseguenze insoddisfacenti delle politiche seguite. Anche l'accelerazione dei flussi immigratori illeciti ha mostrato analoghi limiti istituzionali nelle scelte e ha creato uno stato di tensione intraeuropeo pericoloso per il futuro dell'Unione.

Il Governo italiano intende trovare una forma di collaborazione con i 27 Stati membri per studiare e risolvere le debolezze istituzionali e politiche che si riflettono in un saggio di crescita reale permanentemente inferiore al resto del mondo sviluppato, con sacche territoriali elevate di disoccupazione.

Nell'ultimo biennio si è registrata una modesta ripresa produttiva, con l'inflazione sempre sotto controllo, ma la crescita reale dell'Unione continua ad essere più bassa del resto del mondo. Essa è il risultato soprattutto dell'iniziativa privata sostenuta da una politica monetaria generosa nelle quantità e nei tassi e dell'attuazione di riforme che hanno migliorato l'efficienza generale dei sistemi economici nazionali, ma non ha inciso in modo significativo sulla disoccupazione, soprattutto nelle aree geografiche in difficoltà, creando malessere sociale e incidendo sugli equilibri politici nazionali. Una diffusa valutazione è che nell'UE vi sia stata e tuttora vi sia una carenza di politica della domanda aggregata, legata alla decisione presa a Maastricht di lasciare la

politica fiscale nella piena responsabilità degli Stati membri, sottoponendola però a vincoli parametrici (sul deficit di bilancio e sul rapporto debito pubblico/PIL).

A seguito di modifiche nelle politiche commerciali che hanno preso avvio negli Stati Uniti, la ripresa è già in via di attenuazione, denotando l'assenza di scelte dell'Unione che contrastino questa tendenza agendo sulla domanda aggregata europea, anche per evitare il ricorso a ritorsioni.

L'architettura economica dell'Unione è fondata sulla libera competizione di mercato, nel cui ambito agisce un gruppo di 19 paesi che accettano la moneta comune. Tutti però sono tenuti al rispetto dei due parametri fiscali. Per agevolare l'adesione di paesi, come l'Italia, desiderosi di entrare nell'euro fin dall'inizio, fu introdotta la "clausola della convergenza". I paesi che all'epoca della decisione già superavano il 60% nel rapporto debito pubblico/PIL avrebbero dovuto crescere a saggi più elevati degli altri per validare la solvibilità del loro debito sovrano. Ciò sarebbe potuto accadere se i paesi eccedentari avessero espanso la domanda aggregata – una necessità che la bassa crescita media sperimentata negli anni 1990 ha reso più pressante – ma il rispetto dei due parametri fiscali restrittivi ha imposto politiche deflattive, peggiorando la sostenibilità del loro debito. La risposta dell'UE fu che occorresse affrontare il problema con le "riforme", ossia si procedesse con politiche dell'offerta per modificare i coefficienti delle funzioni di comportamento degli operatori privati (lavoro e capitale) e pubblici (amministrazione statale) e per rendere meno pesante l'onere sul bilancio pubblico della rete di *welfare*, in contrasto con gli obiettivi dei Trattati. La risposta più ovvia sarebbe stata l'attuazione di investimenti ma, al di fuori di alcuni interventi settoriali di un certo rilievo, è mancata un' incisiva politica della domanda aggregata europea.

L'Italia accettò questa politica deflattiva, ma chiese e usufruì di "flessibilità" nell'applicazione dei vincoli fiscali parametrici, incontrando in alcuni settori una forte resistenza nell'attuazione delle riforme volte a modernizzare il sistema economico e quello amministrativo. Di seguito recepì anche la direttiva di *fiscal compact*, secondo cui occorresse puntare all'azzeramento del disavanzo di bilancio pubblico. Si è così reso più stringente il circolo vizioso tra i bisogni di una maggiore crescita e il rispetto degli accordi sui vincoli fiscali. L'effetto è stato un minore saggio reale di sviluppo e di inflazione e una maggiore disoccupazione, alla cui origine vi è un problema irrisolto di coordinamento tra politica monetaria e politica fiscale la cui soluzione tentata è stata quella di porre vincoli alla seconda, subordinandola alla prima, invece di usarla per perseguire schemi di crescita capaci di cambiare la prospettiva dell'Unione Europea. Questa situazione ha il suo epicentro nella paralisi fiscale dei paesi con eccesso di debito pubblico e nel mancato riciclo sulla domanda dei rilevanti avanzi di bilancia corrente estera da parte di paesi, come l'Olanda e la Germania.

Fin dall'avvio dell'UE venne riconosciuto e di seguito ribadito che una politica comune degli investimenti di interesse generale degli Stati membri fosse auspicabile perché

aveva contemporaneamente effetti sull'efficienza del mercato (l'offerta) e sulla domanda aggregata. Fu deciso di stanziare a questo fine parte dell'esiguo bilancio dell'Unione Europea e di indicare la Banca Europea degli Investimenti (BEI) come principale strumento di finanziamento fuori bilancio, ma sono state sistematicamente rifiutate altre forme più funzionali come gli *eurobond*.

La BEI ha svolto un ottimo lavoro, pur con i vincoli posti alla sua leva finanziaria e alla dotazione di capitale proprio. La definizione di un piano europeo per lo sviluppo in comune di infrastrutture strategiche (TEN-T), originariamente ispirato dal Commissario Karel Van Miert, e più recentemente sostanziatosi in un quadro più ampio nel Piano Juncker, ha prodotto effetti limitati dal punto di vista degli impulsi esogeni di cui la domanda aggregata europea ha bisogno per uscire dallo stato permanente di sotto occupazione interna e di minore crescita reale rispetto al resto del mondo industrializzato.

L'accordo di Lisbona del 2000, volto a creare una *knowledge based economy*, un'economia basata sulla conoscenza, fu un'altra importante apertura verso una politica selettiva della domanda con implicazioni coerenti sulle condizioni dell'offerta, i cui effetti furono neutralizzati da un coordinamento troppo debole con le richieste di riforme slegate dalle politiche fiscali nazionali; il risultato fu una prevalenza delle seconde sulle prime, una condizione ancora presente nell'attuale *governance* dell'Unione.

Il processo di de-globalizzazione in atto irrompe in questa situazione già insoddisfacente, toccando una delle forze trainanti della crescita europea, la manifattura (l'altra sono le costruzioni) e, in particolare, quella orientata verso le esportazioni di prodotti sensibili al prezzo, sulle quali l'aumento delle tariffe doganali e le barriere non tariffarie incidono pesantemente. Gli enti pubblici e privati di ricerca avanzano previsioni di una caduta generalizzata del saggio di crescita reale, per ora stimata in lieve misura, in una situazione in cui l'inflazione, avendo raggiunto il tetto del 2% programmato, induce la politica monetaria ad avviare un'azione di rientro nella normalità che coinvolge i tassi dell'interesse e le quantità di base monetaria.

L'istanza di delineare una politica della domanda riprende perciò un vigore che l'attuale interpretazione politica delle possibilità di azione dell'architettura istituzionale europea non consente di definire nei modi e nei tempi necessari. La discussione e definizione di una rinnovata chiave interpretativa dei Trattati consentirebbe di mettere all'ordine del giorno la soluzione di questo problema prima delle elezioni europee della primavera 2019, incidendo inizialmente sulle aspettative in un momento delicato per la coesione europea.

La posizione dell'Italia è che la politica economica debba essere orientata alla crescita, concentrando le iniziative dove necessario secondo un approccio comune, anche apportando correzioni all'architettura istituzionale europea. In breve, non limitarsi alla fissazione di regole di *governance*, ossia a un tipico approccio tecnico al problema,

ma orientarsi verso un approccio politico, ossia una *politeia*, una visione concordata per il perseguimento del bene comune europeo.

Per una nuova politica economica basta rendere espliciti gli strumenti da attivare per raggiungere gli obiettivi indicati nei Trattati esistenti, mentre per le modifiche di architettura istituzionale occorrono nuovi accordi, anche se più difficili da attuare. Si inizi quindi dalle prime e le seconde verranno di conseguenza.

2. L'architettura istituzionale europea: obiettivi e strumenti

Dopo aver indicato nell'art. 2 i valori su cui si fonda l'Unione, il Trattato sull'Unione Europea elenca nell'art. 3 gli obiettivi perseguiti con l'accordo:

- *promuovere la pace, i suoi valori e il benessere dei suoi popoli senza frontiere interne;*
- *offrire ai suoi cittadini uno spazio di libertà, sicurezza e giustizia;*
- *adoperarsi per lo sviluppo sostenibile dell'Europa, basato su una crescita economica equilibrata e sulla stabilità dei prezzi,*
- *su un'economia sociale di mercato fortemente competitiva, che mira alla piena occupazione e al progresso sociale,*
- *e su un elevato livello di tutela e di miglioramento della qualità dell'ambiente;*
- *promuovere il progresso scientifico ed economico;*
- *combattere l'esclusione sociale e le discriminazioni;*
- *promuovere la giustizia e la protezione sociale,*
- *la parità tra donne e uomini,*
- *la solidarietà tra le generazioni*
- *e la tutela dei diritti del minore,*
- *la coesione economica, sociale e territoriale, e la solidarietà tra gli Stati membri;*
- *rispettare la ricchezza della sua diversità culturale e linguistica;*
- *vigilare sulla salvaguardia e sullo sviluppo del patrimonio culturale.*

Esiste un forte contrasto tra la giusta ambizione degli obiettivi espressi nel Trattato e gli strumenti messi a disposizione per realizzarli. Un'elementare principio di logica matematica indica che per il raggiungimento di ciascun obiettivo è necessario indicare uno strumento, meglio anche più d'uno per garantire il successo.

Il Trattato avverte questa lacuna e indica i modi in cui queste scelte vanno fatte; l'art. 3^{ter} prevede le seguenti caratteristiche:

- i. *La delimitazione delle competenze si fonda sul principio di attribuzione. L'esercizio delle competenze dell'Unione si fonda sui principi di sussidiarietà e proporzionalità.*
- ii. *In virtù del principio di attribuzione, l'Unione agisce esclusivamente nei limiti delle competenze che le sono attribuiti dagli Stati membri (omissis).*

- iii. *In virtù del principio di sussidiarietà, nei settori che non sono di sua competenza esclusiva l'Unione interviene soltanto se e in quanto gli obiettivi dell'azione prevista non possono essere conseguiti in misura sufficiente dagli Stati membri (omissis).*
- iv. *In virtù del principio di proporzionalità, il contenuto e la forma dell'azione dell'Unione si limitano a quanto necessario per il conseguimento degli obiettivi dei trattati.*

La peculiarità dell'architettura istituzionale europea è non essere retta da uno Stato, che poco si raccorda con il riferimento frequente alle idee federaliste del Gruppo di intellettuali che ha dato vita al Manifesto di Ventotene. Si è reso interprete di questa situazione uno dei più attivi protagonisti della moneta unica, il Presidente della Repubblica italiana Carlo Azeglio Ciampi, che ha ripetutamente detto che l'architettura europea era affetta da "zoppia", mancava di unione politica, della messa in comune delle sorti dei cittadini dell'Unione. Un principio elementare per la sopravvivenza legale, non solo economica, di una moneta comune.

Il Parlamento è privo di iniziativa legislativa e opera da co-legislatore del Consiglio dei Capi di Stato e di Governo per le proposte avanzate dalla Commissione. Perciò la definizione dei modi/strumenti non tiene sempre conto dei problemi e delle urgenze nascenti dalle vicende interne ed esterne vissute dall'Unione, ma dagli equilibri politici vigenti nel momento in cui essi vengono decisi. Questo dà luogo a incertezze nell'efficacia della mediazione svolta dal Parlamento e dal Consiglio e, talvolta, all'insorgere di necessità che richiedono successive, ulteriori, mediazioni politiche, causando tempi decisionali non coincidenti con la moderna dinamica degli eventi.

Queste peculiarità hanno indotto e inducono a togliere discrezionalità alle scelte, tipiche della politica, stabilendo indicatori matematico-statistici. I casi tipici sono i parametri fissati nell'*Addendum* al Trattato di Maastricht per entrare nell'Eurosistema e i complessi calcoli che li accompagnano dopo l'introduzione dell'accordo di *fiscal compact*.

Gli ideatori dell'accordo di Maastricht sostennero che l'architettura decisa fosse il "campo di gioco" (*playing field*) per realizzare gli obiettivi di crescita reale e benessere sociale, come testimonia la popolarità iniziale dell'idea di un'Europa "patria comune", dove l'euro aveva lo specifico compito di propiziare l'avvento (la *money first* di Jenkins e Delors), in linea con le idee iniziali di progressiva integrazione di Monnet e Schuman. Vi era coscienza delle profonde diversità allora esistenti tra i paesi firmatari, che si sono accresciute con l'ingresso dei paesi liberatisi dal vincolo sovietico, ma si riteneva che criteri così rigidi avrebbero costretto le economie dei paesi membri a convergere. Queste aspettative non si sono realizzate per alcuni paesi membri, nonostante la flessibilità nell'applicazione; la qualità e rigidità delle regole ha finito per minare gli obiettivi finali della convergenza economica complessiva, ostacolando l'unificazione politica.

Affinché questa unione si possa realizzare in futuro, è necessario educare i giovani, oltre che istruirli, dando vita a una scuola europea di ogni ordine e grado nella quale trovi spazio una comune cultura, mantenendo viva la coscienza dell'immenso patrimonio culturale di cui dispongono tutti i paesi membri, come stabilisce il Trattato.

Fatta l'Europa si devono fare gli europei.

Il perno essenziale è la scuola, come testimonia il successo presso i giovani, gli abitanti dell'Europa futura, del progetto Erasmus.

Poiché questa strada richiede tempo per raggiungere l'obiettivo dell'unificazione politica, per far funzionare l'accordo, in particolare rendere irreversibile l'euro, è necessaria una strategia alternativa (di *second best*) che, rinviando i pur necessari problemi riguardanti l'integrazione dell'architettura istituzionale dell'Unione, si deve concentrare nell'interpretazione degli accordi per attuare una politica monetaria e fiscale che consenta la convergenza delle condizioni di vita dei cittadini europei per rivitalizzare il consenso necessario per l'Unione Europea e l'euro.

Va riconosciuto che un qualche progresso nella dimensione strumentale dell'azione economica europea è stato registrato negli ultimi tempi, in particolare nell'azione della BCE e negli interventi di contrasto degli effetti delle crisi finanziarie, ma l'attivazione di nuovi strumenti è avvenuta con tempi inadeguati alle urgenze da fronteggiare ed è stata sottoposta ai vincoli tipici dell'azione comunitaria (le condizionalità) piuttosto che al raggiungimento degli obiettivi statuiti dagli accordi raggiunti a Maastricht nel 1992 e ribaditi nel 2007 nell'accordo di Lisbona.

Occorre soprattutto affrontare l'inversione della funzione di comportamento tipica della politica fiscale, quella di essere al servizio della crescita del reddito e dell'occupazione, mentre ha finito con l'essere subordinata all'istanza della stabilità monetaria; sono ancora pressanti le richieste affinché si approfondisca questo orientamento, come testimonia la richiesta di dare vita a un Ministro europeo per il coordinamento delle politiche fiscali nazionali in funzione del buon funzionamento dell'euro e come garanzia dell'attuazione delle riforme richieste.

Il dibattito sul tipo di politica che dovesse essere condotta nell'Unione si sviluppò fin dalla prima fase dell'avvio della moneta comune e prevalse la decisione che sarebbe dovuta essere orientata al governo dell'offerta. La gran parte degli economisti chiese che venisse integrata con interventi sulla domanda aggregata, ponendo una specifica attenzione per le aree arretrate, come richiedeva la natura di area monetaria non ottimale dell'eurozona, ossia di un'area caratterizzata da profonde diversità strutturali nella crescita della produttività. L'unica concessione a questa istanza fu il rilevante intervento a favore degli investimenti agricoli, che ha dato buoni frutti, e la politica di coesione, la cui attuazione tuttavia è sottoposta a vincoli burocratici che ne ostacolano l'efficacia; il suo peso è cresciuto sul bilancio europeo, anche se le risorse

restano inadeguate agli obiettivi perseguiti e sarebbero necessarie ulteriori riforme operative. Ad esempio, occorrerebbe valutare la compatibilità degli interventi che conducono le imprese a delocalizzare; l'aiuto dovrebbe essere autorizzato solo se ha un effetto incentivante rispetto all'intera economia dell'UE, ossia se conduce a nuovi e diversi investimenti aggiuntivi rispetto a quelli spontanei del mercato.

Trascorso un quarto di secolo dall'avvio del mercato unico e quasi un quinto dall'introduzione dell'euro si può affermare che l'obiettivo della stabilità monetaria è stato approssimato, anche se in certi momenti con grande fatica; ma è altrettanto chiaro che la stabilità finanziaria è lungi dall'essere approssimata e sono stati sacrificati gli obiettivi di crescita reale, occupazione e benessere materiale e sociale. Sebbene le politiche a sostegno dell'euro abbiano avuto successo, ciò è avvenuto a scapito di una elevata percentuale di cittadini europei che mostrano d'aver perso fiducia nel futuro dell'alleanza europea.

I motivi del mancato raggiungimento di un saggio di crescita reale comparabile con quello del resto del mondo sono stati oggetto di continue dispute teoriche e pratiche che si collocano ai due estremi: quello dell'insufficiente applicazione della politica delle riforme (o dell'offerta) e quello dell'assenza di una politica della domanda. La prima interpretazione riceve più consensi da parte dei gruppi dirigenti.

La teoria economica e l'evidenza empirica non sono in condizione di dirimere la vertenza. Procedendo in direzione della prevalenza della politica dell'offerta l'UE non sarebbe in condizione di invertire la tendenza alla perdita di consenso presso gli elettori, rischiando di arrivare alle elezioni europee del 2019 nella situazione in cui si è trovata l'Italia con le elezioni del 4 marzo, inducendo i votanti a negare l'utilità di procedere verso l'unione politica.

Il Governo italiano chiede la costituzione di un Gruppo di alto livello che coinvolga gli Stati membri e la Commissione europea ponendosi una scadenza precisa per discutere tali questioni e pervenire alla definizione di un documento da presentare al prossimo Consiglio in merito ai passi da compiere per migliorare il benessere di tutti i cittadini europei. Non sarà certo la soluzione di tutti i problemi irrisolti, tuttavia aiuterà a persuadere l'opinione pubblica che le promesse di crescita formulate nel Rapporto Delors-Cecchini del 1988 saranno mantenute, in maniera simile alle prime conquiste dell'unificazione europea (CEE e CE).

In particolare, il Governo italiano richiede uno specifico impegno sugli investimenti capaci di creare economie esterne alle imprese e benessere sociale, come strumento indispensabile per una maggiore crescita del reddito e dell'occupazione.

3. Una più efficace politica monetaria

Una moneta unica è indispensabile per il buon funzionamento di un mercato unico. Essa svolge un ruolo determinante nello sviluppo delle economie *export-led*, trainate dalle esportazioni, come la gran parte di quelle europee.

L'euro è diventato la seconda moneta negli scambi mondiali reali e finanziari.

La BCE dispone degli strumenti necessari per agire come le principali banche centrali del mondo, ma non nelle forme adeguate. I suoi poteri non sono integrati, come altrove, da quelli di altre istituzioni dello Stato, una condizione di cui l'UE non può disporre. I poteri di intervento sul cambio estero dell'euro e quelli di svolgere funzioni da prestatore di ultima istanza (*lender of last resort*) sono stati attivati da pressioni derivanti da eventi straordinari e dall'abilità del Presidente, ma non sono espressamente previsti nel suo Statuto. La BCE ritiene d'aver operato sul cambio estero e di aver agito contro la speculazione nella misura necessaria sulla base di regole di comportamento che essa stessa si è data o sono state concordate nei consessi internazionali ai quali partecipa.

In materia di cambi, i poteri di usare il canale estero sono stati delegati alla BCE dal Consiglio europeo, che ha potere di revocarli, possibilità di cui si deve tenere conto per una politica monetaria capace di affrontare ogni contingenza economica e politica. L'azione della BCE patisce delle restrizioni poste all'esercizio della sovranità fiscale nazionale a causa dell'approccio in materia seguito dalla politica economica dell'Unione Europea. Ciò implica la duplice conseguenza di negare l'importanza di un'azione sulla domanda aggregata nel raggiungimento di una stabilità monetaria e finanziaria e di sottovalutare l'impatto in termini di deflazione reale e di stabilità delle banche.

Per quanto concerne l'esercizio della funzione di *lender of last resort*, la BCE è vincolata dalla proibizione di creare base monetaria attraverso il canale Tesoro e da altri condizionamenti, ai quali essa aggiunge quello di sottoporre i suoi interventi a vincoli sull'esercizio della sovranità fiscale nazionale in linea con l'impostazione della politica economica dell'Unione. Se i poteri di intervento contro la speculazione fossero veramente pieni, gli *spread* tra rendimenti dei titoli sovrani si dovrebbero azzerare.

La BCE opera peraltro in un contesto di regole carenti in materia di commercio internazionale. Quando nel 1971 è crollato il regime di Bretton Woods, non si è provveduto a integrare lo Statuto del WTO con la regola che, per partecipare agli scambi mondiali, ogni paese avrebbe dovuto praticare il medesimo regime di cambio. Perciò gli interventi in materia da parte della BCE devono anche perseguire uno scopo compensativo degli effetti che derivano dalla lacuna di questa regola che consente ai paesi aderenti di praticare il regime di cambio desiderato, dando vita a mutevolezze del quadro valutario internazionale. Se la BCE non tiene debito conto di questa situazione, incombe sulla politica fiscale degli Stati membri il bisogno di

controbilanciare gli effetti negativi derivanti dagli andamenti della competitività internazionale alterati dai movimenti dei cambi. In materia manca un'approfondita riflessione.

Molto più delicato da trattare sul piano della politica monetaria è lo svolgimento degli interventi da *lender of last resort* se si vuole che lo strumento risponda veramente all'istanza di essere non solo *whatever it takes*, ma anche operi *in time*, ossia nella dimensione e nei tempi necessari per fronteggiare la speculazione. A seguito della crisi finanziaria mondiale del 2008, la BCE si trovò impreparata a fronteggiare la situazione e la speculazione conseguente, in quanto si riteneva che essa non disponesse dei poteri necessari. I fatti confermarono il contrario. Occorsero però anni prima di trovare un modo per tamponare la crisi, anche se non per risolverla. I vincoli di quantità, di proporzionalità tra paesi membri (la *capital key* che immette base monetaria anche dove non è necessario, come acquistando titoli di Stato olandesi e tedeschi) e di qualità delle attività finanziarie oggetto di intervento sono il risultato dello Statuto posto a base della sua azione. Sarebbe pertanto necessaria una razionalizzazione dei poteri sul piano istituzionale per fronteggiare i futuri attacchi speculativi in maniera più tempestiva ed efficiente.

Se lo squilibrio che la BCE deve affrontare è di liquidità, nascente da attacchi speculativi o problemi di breve periodo di alcuni debiti sovrani, il potere di intervento illimitato e non vincolato nell'esercizio della funzione di *lender of last resort* non solo non richiederebbe una creazione aggiuntiva di base monetaria, ma ridurrebbe anche gli *spread*, perché la speculazione non avrebbe spazi di guadagno. Non vi sarà mai competizione corretta (*fair competition*) nell'eurozona finché le imprese di un paese avranno un costo del danaro permanentemente più elevato rispetto a quelle di un altro paese per motivi diversi dalle loro specifiche inefficienze, ma derivanti semplicemente dall'essere uno Stato membro la cui denominazione del debito sovrano non è nella moneta che esso crea ed è quindi esposta al rischio sovrano.

Se, invece, lo squilibrio è strutturale, occorrono strumenti diversi dal semplice esercizio delle funzioni anti speculative perché questi sarebbero inefficaci e servirebbero solo per guadagnare tempo al fine di attivare strumenti che l'esperienza pluridecennale del Fondo Monetario Internazionale ha usato con effetti positivi in alcuni casi, ma deflazionistici in altri. L'UE già si avvale di questi strumenti, come fatto nella sistemazione della crisi greca. Anche in questo caso, tuttavia, i piani di rientro non devono passare dalla deflazione, con gravi effetti interni ai paesi interessati ed effetti esterni che sfociano in una situazione in cui si poggia il peso dell'aggiustamento degli squilibri sul vicino (*beggar-thy-neighbor*).

La proposta in discussione di creare un fondo europeo per gli interventi, comunque lo si chiami, non risponde a siffatta esigenza perché, oltre a disporre di risorse insufficienti, ha il duplice difetto di riproporre la parametrizzazione degli interventi, invece di valutare caso per caso secondo una visione politica comune. Essa inoltre

ripropone i difetti della condizionalità restrittiva per la politica fiscale dei paesi che a esso ricorreranno, rendendo il meccanismo rigido nell'applicazione e con effetti deflazionistici. Se l'operatività di questo nuovo Fondo rinuncia alla mediazione politica istituzionale attualmente esercitata dalla BCE e dalla Commissione europea si avrebbe un peggioramento delle condizioni esistenti, già insoddisfacenti.

Poiché si è giustamente valutato che non è possibile l'insolvenza (*default*) di un debito sovrano di un paese membro dell'eurosistema, per non correre rischi di una sua dissoluzione, occorre creare un meccanismo che non abbia implicazioni deflazionistiche, muovendo secondo le linee decise per la soluzione data alle crisi bancarie. Non si vede ragione perché i depositi bancari siano tutelati e i titoli sovrani non lo siano.

Per la stessa ragione, se all'interno dell'eurozona si consente di mantenere elevati saldi attivi di parte corrente di alcune bilance estere, come presentano da tempo quelle dell'Olanda e della Germania, e ora anche dell'Italia, la rinuncia a potenziare per questa via la domanda intraeuropea, privando i paesi in difficoltà di beneficiare di una spinta esogena alla loro domanda aggregata e accrescendo il costo degli aggiustamenti fiscali necessari per ottenere assistenza. Non imporre l'espansione della domanda interna dei paesi in avanzo di bilancia corrente estera, in deroga ove necessario ai vincoli fiscali, incrina anche per questa via la stabilità dell'euro.

Come pure, se la BCE interviene su basi di proporzionalità delle quote di partecipazione all'eurosistema (la *capital key* già ricordata) per evitare sospetti di parzialità, invece di interventi mirati a rafforzare i punti deboli del mercato e a contrastare la speculazione dove essa si presenta, si sposta il peso degli interventi sulla politica fiscale locale, che resta ancor più vincolante nel caso di squilibri nei bilanci statali e nel debito pubblico oggetto degli attacchi speculativi. La politica fiscale degli Stati membri non può essere posta al servizio della stabilità dell'euro, sottraendole la funzione indispensabile di mantenere l'economia dell'intera eurozona sulla strada della crescita invece di indurre una biforcazione dell'itinerario tra chi rientra nei due parametri fiscali e chi non riesce a farlo. Il sistema rischia per questo di spaccarsi, come voci autorevoli hanno suggerito di fare per scelta governata e non per incidente di percorso.

La ragione principale di questa conseguenza è un vizio di origine nella costruzione dell'eurosistema: quello di non aver sistemato prima gli eccessi di debito pubblico rispetto al PIL, invece di introdurre il criterio di convergenza verso il parametro del 60%. Si è così creata una situazione in cui, chi è in eccesso rispetto al limite, deve ricorrere a politiche restrittive, pena l'esposizione alla speculazione e l'emergere degli *spread* tra i propri titoli sovrani e quelli di riferimento (*benchmark*). Di conseguenza, il costo del danaro si differenzia tra paesi membri anche in misura rilevante, divaricando ulteriormente le *performance* economiche e sociali dell'eurozona e

alterando le condizioni di competizione corretta tra imprese. Non si vede ragione per non porre oggi rimedio all'omissione di allora.

4. Una più incisiva politica fiscale

La politica dell'offerta o delle riforme punta a un miglioramento dei parametri delle funzioni di comportamento degli operatori pubblici e privati europei, da cui dovrebbe scaturire maggiore produttività e nuovo sviluppo. Vi è un'ampia letteratura e una vasta esperienza pratica, che il caso europeo assevera, che questa politica sia necessaria ma non sufficiente a riportare l'economia europea ai livelli di crescita degli altri paesi industrializzati. Occorre integrarla con un governo della domanda aggregata per compensare i difetti del mercato – quali la competizione imperfetta, i vincoli alla circolazione delle persone e delle cose, le profonde differenze tributarie tra paesi membri ecc.. – che non si riesce per qualche motivo a correggere e che impediscono a esso di perseguire la piena occupazione e il benessere sociale. La politica fiscale è parimenti indispensabile come la politica monetaria e quella delle riforme, e si deve sviluppare con queste in modo complementare.

In linea di principio l'offerta non crea la propria domanda, la quale, per evitare il ristagno, deve essere sottoposta a impulsi esogeni finalizzati allo scopo da parte delle autorità di politica economica. Una creazione monetaria a basso costo può incidere positivamente se l'elasticità ai tassi dell'interesse degli investimenti e, in certa misura, dei consumi presenta valori soddisfacenti; l'effetto sulla crescita reale di questa elasticità è stato sempre modesto se non accompagnato da una maggiore domanda.

La politica monetaria espansiva consente di spingere i consumi a credito; poiché la concessione è condizionata (o dovrebbe) al merito di credito, ossia alla capacità di rimborso del debitore per non determinare crisi bancarie, il sistema opera in direzione pro-ciclica, rendendo ancor più necessaria la politica fiscale.

Gli impulsi esogeni alla domanda aggregata, oltre a non essere politicamente graditi da alcuni paesi membri, non possono essere attivati a causa dell'esiguità del bilancio europeo; esso, infatti, crea un circuito endogeno: tanto si dà, tanto si prende, solo con piccole differenze tra paesi contribuenti o percipienti netti, con effetti significativi a livello settoriale, come ad esempio la politica in atto nel settore agropastorale e della pesca.

Lo strumento principale di una politica della domanda coerente con quella dell'offerta a livello UE è quella degli investimenti infrastrutturali di interesse comune. Lo stesso vale per gli investimenti di interesse nazionale.

Se l'UE non intende, né può decidere a causa di vincoli politici, una guida fattiva di questi investimenti debbono farlo tempestivamente i paesi membri, nella speranza che lo facciano tenendo conto dei bisogni comuni. In taluni casi, anche per gli

investimenti si impone l'applicazione del principio di sussidiarietà previsto dal Trattato. L'attuazione a livello nazionale di una politica fiscale centrata sugli investimenti richiede tre condizioni: *i.* un'esatta conoscenza dei moltiplicatori della spesa di questo tipo, *ii.* una diversa considerazione temporale dei due parametri fiscali e *iii.* una diversa registrazione contabile rispetto a quella vigente. Nessun esercizio è stato fatto per evidenziare la portata della prima condizione per la domiciliazione corretta degli investimenti; poco è stato fatto per passare da una concezione statica a una dinamica dei parametri fiscali; e le spese relative vengono incluse nel disavanzo di bilancio complessivo, mentre sono pertinenti a un'altra più appropriata contabilità, quella patrimoniale. Solo una quota parte di questa spesa, pari all'ammortamento del bene investito, dovrebbe confluire nel conto entrate e spese dello Stato, come parte rilevante del disavanzo corrente di bilancio.

Anche gli investimenti previsti dalla strategia di Lisbona del 2000 di creare una *knowledge based society* andrebbero rilanciati; il loro impatto, insieme a quello degli investimenti tradizionali, contribuirebbe ad aumentare il gettito tributario a livello nazionale che consentirebbe di fronteggiare con mezzi non inflazionistici una più efficace politica di inclusione e di rilancio dell'attività produttiva senza violare gli accordi europei di bilancio e indebitamento pubblici. Non deve perciò valere il principio di una considerazione dei vincoli dei parametri fiscali come obiettivo statico, ma come risultato degli effetti di crescita dovuti a impulsi esogeni, ossia come variabile dipendente dalla combinazione tra azione spontanea del mercato e politica economica.

A tal fine non è necessaria una modifica del Trattato, perché, come si è già indicato, è sufficiente una più attenta interpretazione degli accordi di Maastricht, peraltro già praticata in casi nazionali, come quello seguito per agevolare l'unificazione tedesca e altri casi come quelli affrontati nel corso della recente Grande Recessione.

Siffatta impostazione comporta che l'iniziativa sulla domanda aggregata deve essere guidata dalla regola aurea di un sistema di crescita stabile: la percentuale di disavanzo del bilancio non deve essere superiore al saggio di crescita nominale del PIL che ne risulta. Se si pone a carico dell'applicazione di questa regola il principio di produrre avanzi di bilancio per ridurre il rapporto debito pubblico/PIL con effetti deflazionistici, la divaricazione degli itinerari di sviluppo dei paesi che si trovano al di sotto della soglia del 60% del rapporto debito pubblico/PIL e di quelli che si trovano al di sopra comporta conseguenze pericolose per la stabilità dell'euro e la coesione socio-politica.

5. Perché una politica fiscale a livello europeo è indispensabile per una più efficace politica monetaria e una stabilità socio-politica dell'UE?

L'esigenza di un coordinamento delle politiche fiscali nazionali per garantire l'efficacia della politica monetaria è avvertita non solo sul piano teorico, ma anche per la stretta dipendenza tra bilancio pubblico e stabilità monetaria, bancaria e finanziaria.

Ottenere il coordinamento ponendo vincoli ai poteri di intervento fiscale degli Stati membri, come deciso a Maastricht e rafforzato in sede di attuazione degli accordi (ultimo quello che va sotto il nome di *fiscal compact*), priva l'UE di uno strumento indispensabile per correggere gli andamenti spontanei del mercato; questo, come noto, non è in condizione di garantire spontaneamente la stabilità monetaria e finanziaria necessaria, nonché il pieno impiego, fondamenti di un'organizzazione del bene comune operante su basi democratiche¹.

L'impostazione da parte dell'UE in presenza di squilibri di bilancio e di debito pubblico è di indifferenza sul tipo di aggiustamento, ossia se avviene riducendo le spese o aumentando le entrate. La logica politica e l'esperienza pratica indicano che l'aggiustamento avviene sovente dal lato delle entrate tributarie, meno resistenti delle spese. Qualunque sia l'aggiustamento, gli effetti operano sempre in direzione opposta alla reflazione dell'economia.

Solo una combinazione coerente di politiche dell'offerta e della domanda può evitare che l'economia europea e la stessa stabilità socio-politica entri in un processo involutivo o, se è già dentro, come ora probabile, ne esca.

I molti canali che inducono una minore crescita del reddito e dell'occupazione, spingono i paesi a chiudersi in un'assurda difesa della sovranità nazionale nella speranza che questa sia la soluzione, come accaduto per la Brexit. Ai problemi tradizionali si è aggiunta la necessità di affrontare gli effetti del processo di de-globalizzazione in corso, che richiedono una più attiva politica fiscale senza ricorrere a inefficaci ritorsioni come l'innalzamento di barriere tariffarie e non tariffarie nei confronti dei paesi che lo hanno deciso. L'Unione Europea non deve accettare passivamente questi effetti, ma reagire con un'adeguata politica fiscale.

Anche per affrontare i problemi dell'immigrazione è necessaria l'attivazione di una politica fiscale. Se l'UE non intende farlo, ne consegue una perdita di consenso da parte della popolazione che si sente svantaggiata dalla discrasia tra obiettivi condivisi di assistenza umanitaria e strumenti insufficienti attivati. Se non agisce una politica fiscale comune per l'immigrazione, non resta altro che chiudere le frontiere marittime e terrestri, rinunciando a difendere i valori di solidarietà umana che l'Europa aveva elaborato sul piano teorico e attuato sul piano politico nel corso dei secoli. È la cecità

¹ Lo studio allegato di Jan A. Kregel, Direttore della Ricerca al Levy Economics Institute of Bard College, formalizza su basi scientifiche il funzionamento dell'eurozona con vincoli fiscali statici e dinamici.

fiscale e non la negazione della dignità umana che determina lo scontro intraeuropeo sull'immigrazione.

La libera circolazione di fondi a breve termine e di capitali in presenza di cambi fissi e diversità strutturali all'interno dell'eurozona richiede l'attivazione di una politica fiscale adeguata, per evitare una concentrazione della base monetaria creata nelle aree economicamente più forti, come testimoniano i saldi del Target2. Questi sbilanci alimentano sfiducia nei paesi indebitati e inducono attacchi speculativi, con effetti sul costo del denaro e, per questa via, sulla competizione tra Stati membri e sul conseguente benessere sociale.

Vi è inoltre il grave problema delle diversità profonde di trattamento tributario. Un'azione di contrasto monetario non condizionato fiscalmente sarebbe più efficace se venisse definita una politica impositiva europea coerente con le esigenze di una corretta competizione. Una politica tributaria standardizzata a livello europeo contribuirebbe a stimolare un più corretto e più equo sviluppo economico e sociale, dando vita a una politica dell'offerta migliore della politica dell'austerità.

Tra aiuti di Stato e diversità fiscali vi è uno stretto nesso, ma il controllo dei primi non è lo strumento più indicato per promuovere l'armonizzazione delle seconde. Un'iniziativa legislativa specifica può contribuire a uniformare nell'Unione Europea l'imposta sulle società e, più in generale, sull'attività produttiva. Mantenere un'impostazione nazionale dell'imposizione fiscale conduce a gravi distorsioni nel funzionamento del mercato comune. L'obiettivo della concorrenza deve restare quello del perseguimento dell'efficienza produttiva e allocativa, e il controllo degli effetti causati dagli aiuti di Stato resta un importante strumento per raggiungerla. La politica comunitaria degli aiuti di Stato non ha ancora caratteristiche ottimali e il processo di riforma iniziato nel 2012 andrebbe completato e, in parte, ripensato². Per esempio, la generalizzata estensione della copertura dei regolamenti di esenzione può condurre a un eccesso di aiuti distorsivi nell'Unione Europea. Sarebbe perciò opportuno re-introdurre la prassi delle notificazioni alla Commissione di tutti gli aiuti non solo di quelli che conducono a una riallocazione dell'offerta intraeuropea. L'impatto degli aiuti di Stato sulla concorrenza va pertanto esaminato alla luce dei possibili effetti positivi sulla crescita e il benessere collettivo e non comparire semplicemente nella fase finale del processo di valutazione e pesato in prevalenza rispetto all'effetto sulla concorrenza.

Se i timori dei paesi membri creditori che ostacolano la definizione di una politica fiscale fossero dovuti al rischio temuto da alcuni paesi di doversi accollare il debito

² Si veda a questo proposito lo studio sulla concorrenza nell'Unione Europea preparato da Alberto Heimler, professore di economia alla Scuola Nazionale dell'Amministrazione e già direttore della Direzione Studi e Affari Internazionali dell'Autorità Garante della Concorrenza e del Mercato, che completa il quadro della problematica qui esaminata dal punto di vista della competizione.

altrui, esistono le soluzioni tecniche per garantire che ciò non avvenga. Si tratta di attivarle in pratica effettuando scelte politiche, come quelle di concordare un piano di rimborsi a lunghissima scadenza e ai tassi ufficiali praticati, fornendo una garanzia della BCE fino al rientro nel parametro del 60% rispetto al PIL, in contropartita di una ipoteca sul gettito fiscale futuro o di proprietà pubbliche in caso di mancato rimborso di una o più rate. Ossia decidere quello che si sarebbe dovuto fare prima dell'avvio dell'euro. Ovviamente tra le clausole di un siffatto accordo vi sarebbe anche quella che il disavanzo di bilancio pubblico si collochi in modo dinamico entro la regola indicata di coerenza rispetto al saggio di crescita nominale del PIL e quindi non comporti un nuovo superamento del rapporto debito pubblico/PIL.

La conclusione è che una definizione di una politica fiscale attiva a livello europeo, coerente con quelle dei paesi membri, è assolutamente indispensabile. La strada maestra sarebbe passare dal completamento dell'unione politica e la ridefinizione dell'architettura istituzionale dell'Unione Europea. Tuttavia, i tempi impongono un'azione immediata che non approfondisca i vincoli, ma accresca le opportunità.

Se per rispettare il livello e i precari equilibri del bilancio europeo non possono essere dedicate risorse per affrontare i problemi della piena occupazione e dell'emigrazione la loro soluzione risulta affetta da aporia, irrisolvibilità del problema, e antinomia, impossibilità di disfarsene, divenendo causa di disgregazione dell'UE.

Poiché si deve partire dagli investimenti è sufficiente un'interpretazione degli accordi vigenti che abbracci molte delle finalità indicate, esplicitando una visione di come organizzare il bene comune.

Il Governo italiano assumerà tutte le iniziative utili per dare vita a un Gruppo di lavoro ad alto livello, composto dai rappresentanti degli Stati membri, del Parlamento e della Commissione, che esamini la rispondenza dell'architettura istituzionale europea vigente e della politica economica con gli obiettivi di crescita nella stabilità e di piena occupazione esplicitamente previsti nei Trattati. Il Gruppo di lavoro ha lo scopo di sottoporre al Consiglio europeo, prima delle prossime elezioni, suggerimenti utili a perseguire il bene comune, la politeia che manca al futuro dell'Unione e alla coesione tra gli Stati membri.

Courtesy translation

A *Politeia* for a different, stronger and fairer Europe

*There is nothing more difficult to undertake,
more perilous to conduct,
or more uncertain to succeed,
than to introduce a new order of things.
For the initiator has the enmity
of all who would profit by the preservation of the old institutions
and merely lukewarm defenders
in those who would gain by the new ones.*

(Niccolò Machiavelli, *The Prince*, 1513)

1. *Diagnosis and possible solutions*

Europe's unity draws upon the principle underlying civil coexistence among peoples – namely, whereby goods circulate, weapons shall not. The abolition of customs barriers as from the Treaty of Rome has remarkably benefited European populations' peace and well-being.

The Italian Government acknowledges the Euro as an indispensable element of the EU Single Market and a key component of its development model. Nonetheless, the Italian Government considers the current institutional framework of the European Union and the policies so far carried out insufficient to ensure full implementation of the objectives agreed upon in the European Treaties. The 2008 global financial crisis provided ample evidence of the weakness and limits of the institutions created notably since 1992, and has revealed the unsatisfactory consequences of the policies that have been implemented. Furthermore, the acceleration of illicit immigration flows has showed analogous limits within institutional decision making, and has triggered intra-European tensions that prove dangerous for the future of the Union.

The Italian Government intends to identify formulas of collaboration with the 27 Member Countries to study and remedy the institutional and political weaknesses that result in a permanently lower real growth rate than in the rest of the developed world, with pockets of heavy unemployment at territorial level.

Despite the modest recovery in production experienced over the last two years in condition of stable prices, the growth rates of real income for EU citizens are lower than in the rest of the world. Recovery is primarily the result of private sector initiatives supported by expansionary monetary policy both quantitatively and in

terms of interest rates, and by the implementation of reforms that have improved the overall efficiency of national economic systems. Nonetheless, these reforms have failed to reduce unemployment significantly, most notably in the slower growing regions of the Union, and have instead triggered social malaise and political volatility at the national level. There is widespread belief that the Maastricht decision to make fiscal policy the sole responsibility of individual Member States within the constraints on government budget deficits and debt-to-GDP ratios has restricted governments' ability to use aggregate demand as a tool of domestic policy.

The current recovery is already under threat by the changes in trade policy of the United States, and again reveals the need for an autonomous economic policy at EU level capable of responding through support of aggregate demand also to avoid resort to damaging trade retaliations.

The EU economic architecture is based on competition in a European free market place. The adoption of the common currency by nineteen countries in the Eurozone prevents beggar-my-neighbor nominal exchange rate competition. Yet, despite real differences in domestic productivity, all are required to comply with the two fiscal policy constraints. To facilitate the accession of countries, such as Italy, wishing to join the Eurosystem from the very beginning, criteria such as the "convergence clause" were then introduced. Consequently, countries exceeding the 60% of debt-to-GDP ratio would have been required to grow at even higher rates than other members of the Eurozone in order to ensure the solvency of their outstanding sovereign debts. This could have occurred if countries exceeding the agreed public debt limits had been able to expand aggregate demands to support domestic growth (a necessity which the low average growth experienced in the 1990s made more pressing). However, compliance with the two fiscal constraints imposed deflationary policies that induced the deterioration of debt sustainability. The response to this dilemma at the EU level was to call for more structural "reforms" – i.e., supply-side policies to change the behavioral incentives of both private (labor and capital) and public agents (national governments), and reductions in the welfare burden on government budgets, in contrast with the aims outlined in the various EU Treaties. The most obvious response to the need for more active fiscal policies would have been the implementation of new public investments but, aside from some noteworthy sectoral interventions, an incisive European-level aggregate demand policy was not implemented.

Italy accepted this deflationary policy, but requested and was granted "flexibility" in the application of fiscal constraints, while strong resistance was encountered, within some sectors, in the implementation of the reforms aimed at modernizing economic and administrative systems. Subsequently Italy approved the Fiscal Compact directive, which required Countries to seek a zero budget deficit, deepening the vicious circle between the needs for greater growth, on one side, and compliance with fiscal constraints, on the other. The result was lower real rates of domestic growth

and inflation, accompanied by higher unemployment, stemming from the unsolved issue of coordination between European-level monetary policy and domestic fiscal policy. The attempted solution consisted in placing constraints on the latter subordinating it to the former, instead of using fiscal policy to pursue growth patterns capable of changing the perspective of the European Union. The epicenter of this conundrum lies in the fiscal paralysis of countries with excessive public debts and in countries (e.g. Netherland and Germany) failing to recycle the significant current account surpluses of trade balances on the demand side.

Since its creation, the European Union acknowledged and reiterated the importance for all Member States that a common investment policy be implemented for it would have a positive impact both on market efficiency (supply-side) and real growth (demand-side). To this end, the EU proposed the allocation of a share of its modest budget and designated the European Investment Bank (EIB) as the main European off-balance-sheet financing instrument, while systematically rejecting more functional forms such as Eurobonds.

The EIB has performed an excellent job, despite the constraints placed on its financial leverage and own-capital resources. The establishment of a European strategic infrastructure development plan (TEN-T), originally inspired by Commissioner Karel Van Miert, and more recently endowed with a broader framework within the Juncker Plan, has produced a positive but limited support to the EU aggregate demand that is needed to emerge from conditions of permanent underemployment and lower real growth versus the rest of the industrialized world.

The 2000 Lisbon Agreement, aimed at creating a knowledge-based society, took another important step towards a selective demand policy and entailed relevant effects on supply conditions, neutralized by the excessively poor coordination with required reforms, disconnected from national fiscal policies. As a result, the latter prevailed over the former, as still occurs within European Union's current governance.

The current de-globalization process is taking place in this situation of unsatisfactory internal policy coordination, and is producing a negative impact on one of the driving forces of European growth, i.e., manufacturing – the construction sector being the other – and primarily of price-sensitive exports, heavily impacted by the proposed and implemented increases in tariffs and non-tariff barriers. Both public and private research institutions are predicting a general fall in the real growth rate – now estimated to be modest – in a situation in which the return to inflation to the 2% ceiling is inducing monetary policy to a return to more normal conditions of higher interest rates and lower monetary base creation.

Hence, the renewed calls for a reconsideration of the EU demand policy. They are supported by the momentum of current political movements to envisage possible actions to be undertaken since the prevailing European institutional architecture does not allow implementing the necessary measures in a timely manner. A renewed

interpretation compliant with the Treaties would enable Europe to propose a solution to this problem which could be placed on the agenda before European elections in Spring 2019, providing a positive influence on expectations in a delicate moment for European cohesion.

Italy's view is that economic policy must be growth-oriented, concentrating initiatives where necessary via a common approach, and introducing changes and adjustments to the European institutional architecture; in short, going beyond merely establishing governance rules (a typical technical approach to the problem) so as to foster a political approach – namely, a *Politeia*, a jointly agreed vision pursuing the European common good.

A new economic policy requires clear definition of the instruments to be activated to achieve the objectives laid down in the existing Treaties, while the implementation of changes to the EU institutional architecture would be more difficult to attain in a timely manner. We thus suggest starting from the former to facilitate an eventual solution for the latter.

2. *The institutional architecture of the European Union: aims and instruments*

After laying down the values on which the Union is founded (Art. 2), the EU Treaty lists (Art. 3) the aims pursued with the agreement, and states:

- *The Union's aim is to promote peace, its values and the well-being of its peoples.*
- *The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.*
- *The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.*
- *It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.*
- *It shall promote economic, social and territorial cohesion, and solidarity among Member States.*
- *It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.*

A large gap exists between the laudable aims laid down in the Treaty and the tools made available to attain them. An elementary principle of mathematical logic dictates that each aim should be pursued by a specific *ad-hoc* instrument – of course, having more than one instrument would be a better option – so as to ensure success. The Treaty acknowledges such a gap and requires (Art. 3b) that the choices undertaken fulfill the following conditions:

- I. *The Union shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein. The exercise of Union competences shall be based on the principles of subsidiarity and proportionality.*
- II. *The Union shall act only within the limits of the powers conferred upon it by its Member States (omissis).*
- III. *By virtue of the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall take action only if and in so far the objectives of the proposed action cannot be achieved by the Member States (omissis).*
- IV. *By virtue of the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.*

The distinctive feature of the European institutional architecture is that it is not governed by a single sovereign State, only weakly linked with the frequent reference to the federalist ideas of the intellectuals of the Ventotene Manifesto. Carlo Azeglio Ciampi, tenth President of the Italian Republic and extremely active supporter of the adoption of a single currency, repeatedly underlined the “lameness” of the European institutional architecture, lacking a political union capable of responding to the needs of the Union’s citizens. This is an elementary principle for ensuring the not merely economic survival of a single currency.

The European Parliament lacks law-making initiative and acts as co-legislator with the Council of Heads of State and Government for proposals put forward by the Commission. Therefore, the modes and instruments that emerge from this process do not always take into account the issues and emergencies arising from internal and external exigencies facing the Union; conversely, they result from the balance of political forces at the time in which they are established. Uncertainty thus arises as to the effectiveness of responses from the Parliament and the Council and, at times, as to the need for successive, further political intermediation, causing the time required for decision-making to fail to coincide with the dynamics of current events.

These distinctive features have induced and continue to induce limited discretionality in taking decisions that is typical of politics and lead to their substitution by mathematical-statistical indicators. Typical instances are the numerical fiscal constraints (called *parameters*) set out in the Addendum to the Treaty of Maastricht as requirements for adhesion to the Eurosystem, and the complex calculations applied following the introduction of the Fiscal Compact agreement.

The authors of the Maastricht Treaty argued the architecture therein established provided the playing field to achieve the real growth and social well-being goals pursued, as highlighted by the initial popularity accompanying the idea of a "common homeland" Europe, where the Euro was specifically entrusted with propitiating its advent ("*money first*", as Jenkins and Delors stated), in line with Monnet and Schuman's initial ideas of progressive integration. Subsequently, awareness arose as to the profound differences between signatory countries, exacerbated by the accession of States with an economic structure modeled by the Soviet Union. Yet there was a common belief such rigid criteria would force Member Countries' economies to converge. As a matter of fact, expectations were not fulfilled notwithstanding the implementation flexibility granted to some Member States. The quality and rigidity of rules in the end undermined the ultimate objectives of overall economic convergence, hampering the objective of political unification.

For such political union to be implemented in the future, it is necessary to adequately train young people, as well as educate them, by developing a common European education system in which a common culture can be found, keeping alive the awareness of the gigantic cultural heritage all Member Countries possess, as established by the Treaty.

Europe has been made; it is now time to make the Europeans.

Education is the key instrument, as highlighted by the success of the Erasmus project among young people, namely the citizens of future Europe.

As time is needed for this path to complete the aim of political unification, in order to make the agreement work, and notably to make the Euro irreversible, a second-best alternative strategy is required to defer problems linked to the adaptation and integration of the EU institutional architecture. The focus should thus be on the interpretation of agreements to implement a monetary and fiscal policy that enables for convergence of European citizens' living conditions and revitalized consensus necessary to safeguard the European Union and the Euro.

It is worth acknowledging some progress has been made in recent times in the adaptation of European economic policy onto the EU level of activity, notably within the ECB action and the interventions aimed at countering the effects induced by financial crises. Nevertheless, the activation timing of the implementation of the new instruments proved inadequate to the urgent challenges to be faced, and was subject

to typical EU action constraints (called *conditionalities*) rather than being focused on the objectives pursued by the agreements reached in Maastricht in 1992 and reiterated in the 2007 Lisbon Treaty.

Initially, it would be necessary to re-establish the typical role played by fiscal policy (i.e., designed to achieve income and employment growth objective) since at present it is subordinated to monetary stability. Pressing requests arise for this approach to be implemented as highlighted by the suggestion to create a European Minister to coordinate national fiscal policies in order to ensure the proper functioning of the Euro, and guarantee implementation of the required reforms.

A debate arose on the type of policy to be implemented from the first phase of the launch of the single currency, and emphasis on supply measures prevailed. Most economists demanded that such policy be integrated with appropriate measures on aggregate demand, specifically focusing on the lagging regions – as required by the non-optimal monetary nature of the Eurozone, characterized by profound structural differences at the level of productivity growth. The sole concession to these requests was the remarkable – and fruitful – measures undertaken in favor of agricultural investments, and Cohesion Policy, respectively, although the latter is subject to bureaucratic and economic constraints that often hamper its effective implementation. While the weight of Cohesion Policy's in the European budget has grown, its resources remain inadequate to the objectives pursued, and further operational reforms are required. For instance, it would be necessary to assess the compatibility of all the interventions that lead companies to relocate; and aid should be authorized only where it has an incentive effect on the whole EU economy, i.e. as long as it leads to new and different additional investments compared to the investments spontaneously triggered by the market.

After a quarter of a century has elapsed since the start of the Single Market and almost a fifth since the introduction of the Euro, it seems incontrovertible that the monetary stability objective has by now been approximated, although it has at times required remarkable flexibility and effort. However, it is equally clear that the financial stability objective is far from having been achieved, and as a result the aims of real growth, employment and economic and social well-being have been sacrificed. While policies in support of the Euro have been a success, it has been at the cost of a large percentage of European citizens losing confidence in the future of the European alliance.

The reasons for failing to attain a real growth rate comparable with that of the rest of the world have fueled constant theoretical and practical disputes focusing, on one extreme, on insufficient application of the policy of reforms (or supply-side policy), and, on the other extreme, on the absence of an aggregate demand policy, with ruling groups expressing major consensus on the former.

Economic theory and empirical evidence are not in a condition to settle this dispute. If the emphasis on supply-side policy prevails, the EU may not be able to reverse the loss-of-consensus trend prevailing amongst its voters, entailing the risk of reaching the 2019 European elections in the same situation Italy experienced on the 4 March 2018 elections, with voters denying the benefit of continuing along the path of political union.

The Government of Italy therefore calls for the launch of a high-level working group involving Member States and the Commission, with a strict deadline to debate these issues and come up with a document to be presented to the next European Council on practical steps to be taken to enhance the well-being of all European citizens. It would certainly not be the solution to all of the unsolved problems, yet it will help persuade the public opinion that the promises of growth made in the 1988 Delors-Cecchini Report will be fulfilled, in the same way as the initial steps of European unification (EEC, EC).

Italy, in particular, calls for specific commitment to supporting investments generating external economies of scale and fostering social well-being, as an indispensable tool for higher growth at income and employment level.

3. A more effective monetary union

A single currency is essential to ensure proper functioning of a single market. A single currency plays a decisive role in the development of export-led economies, such as most of those in the European Union.

The Euro has become the second currency of global real and financial exchanges.

The ECB is endowed with the necessary tools to act on a par with the main central banks of the world, although with less-than-adequate formal powers. Unlike other major countries, ECB actions are not coordinated with measures undertaken by other national institutions. The powers to manage the Euro foreign exchange rate have been delegated to the ECB by the European Council, and the authority to perform as lender of last resort was activated by the pressure of extraordinary events and the ability of the President, but is not expressly provided in its Statute. The ECB deems it has operated on foreign exchange and countered speculation, to the extent necessary, in compliance with rules either introduced by the ECB itself or agreed upon within the international fora in which it partakes.

As far as exchange is concerned, the powers to use the foreign channel have been delegated to the ECB by the European Council, which is also entitled to revoke them – it is worth keeping such possibility into account to ensure a monetary policy capable of dealing with every economic and political contingency. The ECB's action undergoes the restrictions placed on the exercise of national fiscal sovereignty as a result of the approach adopted by the economic policy of the Union. This entails the twofold

“contraindication” of denying the importance of acting on aggregate demand in attaining monetary and financial stability, and of underestimating the impact both on real deflation and banks’ stability.

As regards the exercise of the lender-of-last-resort function, the ECB is constrained by the ban on creating a monetary base through the Treasury channel and by other restraints, to which it adds submitting its interventions to restrictions on the exercise of national fiscal sovereignty, in line with the economic policy of the Union. If the ECB anti-speculation powers were effectively full, then spreads between sovereign bond yields should be equal to zero.

The ECB furthermore lacks a sufficiently well-articulated approach to international trade policy. When the Bretton Woods regime collapsed in 1971, the WTO Statute was not supplemented with an *ad-hoc* rule prescribing that all countries apply the same exchange rate regime in order to provide a level playing field for world trade. Therefore, ECB policy measures should also seek to offset the effects of the rule which allows countries to apply the divergent exchange rate regime which provides a source for a volatile international currency framework. Should the ECB fail to take account of such situation, Member States’ fiscal policies will necessarily have to offset the negative effects of the ensuing international competitiveness trends, altered by foreign exchange fluctuations which originate outside domestic productive conditions. An in-depth reflection on the issue is still absent.

A much more delicate issue to be addressed in terms of monetary policy concerns the development of the lender-of-last-resort function if it is to truly ensure not only “*whatever it takes*” but also to operate *in time* – i.e., in the appropriate sectors and with adequate timing to counter speculation. Following the 2008 global financial crisis, the ECB found itself unprepared and without the necessary powers to cope with the global waves of destabilizing speculation. As a result, several years were required to find the acceptable instruments under its Statute to buffer the crisis, although they failed to fully counter its negative effects. The constraints related to quantity and proportionality between Member Countries (the “capital key” that introduces a monetary base even whereby it is not necessary – e.g., buying Dutch and German government bonds), as well as quality of financial assets, result from the required compatibility with the Statute underlying the ECB action. Hence, rationalization of the related institutional powers would be required to face future speculative attacks in a more timely and efficient manner.

If the ECB is to face liquidity imbalance (induced by speculative attacks or short-term issues related to some sovereign debts), the unlimited and unrestricted power to exercise the lender-of-last-resort function would not only require creation of additional monetary base, it would also reduce spreads, as speculation would be thwarted. There will never be fair competition in the Eurozone as long as the enterprises of some countries are required to bear a permanently higher cost of

money than the enterprises based in other countries, due to reasons other than their own inefficiency, but simply resulting from being a Member State whose sovereign debt is not denominated in the currency it creates and then exposed to sovereign risk. Conversely, whereby the imbalance is of a structural nature, tools are needed other than the mere exercise of anti-speculation market interventions, as these would be ineffective and would only help gain time to activate tools which the International Monetary Fund (IMF) has used for several decades, with positive effects in some cases and deflationary outcomes in others. The EU has already relied on such tools – e.g. in settling the Greek crisis. Even in this case, however, the recovery plans must not allow for deflation, with serious internal effects for countries directly concerned, and external effects resulting in *beggar-thy-neighbor* policies.

The proposal to establish one European fund for such interventions (however named) does not fulfill this need. Besides providing insufficient resources, it has the flaw of repositing common numerical specification of policy measures instead of providing assessments on a-case-by-case basis consistent with a common political vision. The proposal furthermore replicates the restrictive conditionality defects that would impact the fiscal policies of countries accessing such a Fund, introducing rigidity in application and inducing deflationary effects. If the operation of such a Fund reduces the institutional political mediation currently exercised by the ECB and the European Commission, presently unsatisfactory conditions could even be exacerbated.

Since the default of a sovereign debt of a member of the Eurosystem is considered impossible, the aim to avert dissolution risks requires a mechanism that avoids deflationary effects, moving along the lines adopted to remedy banking crises. There is no reason why bank deposits should be protected while sovereign bonds are not.

For the same reason, if maintaining significant current account surpluses is enabled within the Eurozone (e.g., Holland and Germany, and now also Italy), failing to strengthen the intra-European demand in such way would prevent lagging countries benefiting from an exogenous push to their aggregate demand and increase the cost of fiscal adjustments necessary to obtain aid. On the other hand, failing to impose the expansion of domestic demand in countries with current account surpluses on foreign trade, as a means of derogation from fiscal constraints, threatens the stability of the Euro.

Furthermore, if the ECB intervention is based on proportionality of representation in the Eurosystem (the abovementioned “capital key”) to avoid suspicions of partiality – rather than via interventions aimed at remedying the weaknesses of its market and countering possible speculation – the weight of policy measures on national fiscal policy is then shifted, proving even more binding in the case of imbalances within State budgets and public debts subject to speculative attacks. Member States’ fiscal policy cannot be placed solely at the service of the stability of the Euro, thus depriving it of the essential function of keeping the economy of the whole Eurozone on the road

to growth and inducing a split of the route between countries that comply with the two fiscal parameters and those that fail to do so. The system thus tends to bifurcate, as authoritative voices suggested, as a result of a policy choice, not by accident.

The main reason for such consequence stems from the fundamental flaw underlying the Eurosystem – i.e., it failed to first settle the issue of divergent debt-to-GDP ratios by focusing on the means to convergence towards the 60% parameter. When debt-to-GDP ratios exceed the 60% limit, countries are obliged to resort to restrictive policies, with obvious risks of exposure to speculation and spreads between their own sovereign bonds and benchmark bonds. Consequently, the cost of money may significantly differ between Member Countries, further differentiating economic and social performances in the Eurozone and altering fair competition between enterprises. There is no reason why today we should not remedy the omission made in the past.

4. A more incisive fiscal policy

The supply-side “reform” policies aim at improving the behavioral incentives of European public and private operators, which are presumed to give rise to higher productivity and new growth. Widespread literature and extensive practical experience on the European case indicate this policy is necessary yet not sufficient to bring the European economy back to the levels of growth of the other industrialized countries. It is therefore required to integrate such policies with aggregate demand governance to compensate for market failures due to flawed competition, constraints on the circulation of people and goods, major tax differences between Member Countries, etc., which for multiple reasons cannot be remedied and hinder full employment and social well-being. Since fiscal policy is as essential to economic performance as monetary and reform policies, complementarity and coordination of both should be ensured.

In principle, supply does not create its own demand, which requires *ad-hoc* exogenous impulses from economic policy authorities to avoid stagnation. A low-interest-rate monetary policy can induce positive effects if the interest elasticity of investments and, to a certain extent, of consumption shows satisfactory values. The effect of elasticity on real growth has always proved modest when not accompanied by greater demand.

An expansive monetary policy enables debt financed consumption; as lending is (or should be) based on creditworthiness – i.e., borrower’s repayment capacity to prevent banking crises – the incentives of a private banking system will be pro-cyclical, making fiscal policy even more necessary.

Besides not being politically acceptable by some Member Countries, it is difficult to generate exogenous demand because of the small size of the European budget – i.e.,

so much we give, so much we take, with only small differences between net payers and net recipients, and significant impacts at sectoral level (e.g. agriculture and fisheries policy).

The main instrument for a demand policy consistent with a supply policy at EU level relies on common interest infrastructural investments. The same applies to national interest investments.

If the EU does not intend to undertake an active lead on such investments – and may not take timely decisions due to political constraints – Member Countries must then do so, in the hope they will – in doing so – adequately take common needs into account. In some instances, also investments imply proper application of the subsidiarity principle prescribed by the Treaty. Implementing an investment-friendly fiscal policy at the national level requires that three conditions be fulfilled, namely: i. precise knowledge of such type of expense multipliers; ii. distinct temporal assessments of the two fiscal parameters; iii. and a different accounting of related expenses. Conversely, to date no exercise has been performed to highlight the extent of the first condition for correct location of investments; little action has been undertaken for the EU to grow from a static concept to a dynamic concept of fiscal parameters; and the related expenses presently fall within the calculation of the overall current deficit, albeit they are pertinent to another more appropriate accounting – i.e., assets in a balance sheet. Only a share of such expenditure equal to the depreciation of the invested asset should flow into the current account budget, as the relevant part of the current public budget deficit.

Investments as envisaged by the 2000 Lisbon Strategy to create a knowledge-based society should be relaunched; their impact, along with the effects resulting from traditional investments, would contribute to increasing tax revenues at the national level, allowing countries to address a more effective inclusion policy by means of non-inflationary tools, and revitalize production without violating the EU agreements that regulate budget and public debt issues. Consequently, the constraints imposed by the fiscal parameters must not be considered as a static objective, rather as the result of growth effects fostered by a mix of endogenous and exogenous stimuli – i.e., a variable depending on the combination of spontaneous market action and economic policy. Amendments to the Treaty would not be required to achieve this result; rather, the EU needs ensure a more careful interpretation of the agreements resulting from the Maastricht Treaty, already applied within national instances – e.g., to foster the German unification process, and during the recent Great Recession.

Such an approach entails that the aggregate demand initiative be guided by the golden rule for a stable growing economic system – namely, the budget deficit percentage shall not exceed the resulting nominal GDP growth rate. If this rule underlies the principle of producing budget surpluses to reduce the debt-to-GDP ratio, with deflationary effects, the gap between the development paths of countries

below the 60% limit set on the debt-to-GDP ratio and countries above such limit has dangerous implications for the stability of the Euro and EU socio-political cohesion.

5. Why is a EU fiscal policy essential for a more effective monetary policy and the socio-political stability of the Union?

The need for coordination of national fiscal policies to ensure monetary policy effectiveness is identified not only at the theoretical level, but also in light of the close link between public budget, on one side, and monetary, banking and financial stability, on the other.

Obtaining a coordination effect by placing constraints on Member States' fiscal powers, as established in Maastricht and reinforced in the implementation of the related agreements (lastly the so-called Fiscal Compact) deprives the EU of an indispensable tool for correcting spontaneous market trends; as known, this fails to spontaneously guarantee the required monetary and financial stability, as well as full employment – namely, the foundations for a common good organisation operating on a democratic basis¹.

The EU's approach to budgetary imbalances and public debt is indifferent to the type of adjustment brought – i.e., regardless of whether adjustments are made either by reducing expenditure or by increasing revenue. Political logic and practical experience indicate adjustments are often made to tax revenues, which are less resistant to change than expenditure. Whatever the adjustment, the ensuing effects always fail to produce reflation.

Only a coherent combination of supply and demand policies can prevent the European economy and its socio-political stability from entering an involutionary process, or whereby they are already undergoing such process – as likely by now – can enable for their exit.

Multiple channels leading to lower income and employment growth push countries to absurd defense of national sovereignty in the hope this will be the solution, as for Brexit. Besides traditional problems, the need has arisen to tackle the effects of the ongoing de-globalization process, which require a more active fiscal policy without resorting to ineffective retaliation actions such as the raising of tariff and non-tariff barriers imposed on the countries that undertook such a process. The EU should not passively accept this impact, but rather respond by implementing an adequate fiscal policy.

¹ The annexed study by Prof. Jan A. Kregel, Director for research at the Levy Economics Institute of Bard College, is aimed at providing a formal scheme on the functioning of the Eurosystem economy under static and dynamic fiscal parameters.

Activating an adequate fiscal policy is also necessary to tackle immigration issues. If the EU is not willing to do so, loss of consensus will result within the segments of population that feel disadvantaged by the discrepancy between the shared objectives of humanitarian assistance pursued and the insufficient instruments that are actually implemented. If no common fiscal policy is activated on immigration, all that remains is to close maritime and terrestrial borders, renouncing the defence of the values of human solidarity Europe has developed at a theoretical level and implemented at a political level over the centuries. It is fiscal blindness and not the denial of human dignity that determines the current intra-European conflict on immigration.

Free circulation of short-term funds and capital in the presence of fixed exchange rates and structural diversity in productivity (*dualism*) within the Eurozone requires activating adequate fiscal policy to prevent monetary base concentration in economically stronger areas, as revealed by data on Target2 imbalances. Such imbalances trigger further mistrust in countries recording public debts, and induce speculative attacks with effects on the cost of money and, as such, on competition between Member Countries and their social welfare.

Marked differences within tax treatments also pose a serious discriminating issue among Member Countries. A monetary action free from tax discrimination would prove more effective if a European taxation policy were defined consistently with fair competition requirements. A standardized tax policy would help stimulate fairer and more equal socio-economic development, resulting in a supply policy that outsmarts austerity policy.

A close link exists between State Aid and fiscal disparities; yet control on the former is not the most appropriate instrument to harmonize the latter. Only a specific legislative initiative can contribute to standardizing the corporate tax and, more generally, the tax on productive activities in the European Union. Maintaining country-specific tax approaches triggers severe distortions in the functioning of the common market. The objective of competition is the pursuit of (productive and allocative) efficiency, and control on State Aid effects is an important tool to achieve it.

The EU State Aid policy is still not an optimal tool, and the reform process set up in 2012 should be completed and partly redesigned². For instance, the general extension of block exemption regulations' coverage can lead to an excess of distortionary aid in the European Union. From this point of view, it might be appropriate to reintroduce the practice of notifications to the Commission for all types of aid, not only when the latter implies some reallocation of intra-EU supply. Therefore, the impact of State Aid

² In this regard, please refer to the study on competition in the European Union by Alberto Heimler, Professor of Economics at the *Scuola Nazionale dell'Amministrazione* and former Director for Research and International Affairs at the Italian Competition Authority, which completes the overview hereby provided on the regulation of European markets from a competitive perspective.

on competition should be assessed in light of its possible positive effects on growth and collective well-being rather than merely turn up in the final phase of the evaluation process and be primarily weighed against effects on competition.

If creditor Member States' worries hindering the definition of a fiscal policy resulted from countries fearing the risk of having to bear the debts of other countries, adequate technical solutions can guarantee this will not happen. It is now necessary to activate such solutions concretely by making policy choices such as agreeing upon a very long-term repayment plan and at official rates, providing for the ECB guarantee to restore the 60% parameter (GDP), in exchange of a mortgage on future tax revenue or individual public assets in the event of non-repayment of one or more installments. That means deciding what should have been done before the Euro was launched. Of course, such an agreement would require that the public deficit be dynamically placed within the stated rule of consistency with the nominal GDP growth rate, and therefore not result in renewed breach of the debt-to-GDP ratio.

In conclusion, defining an active fiscal policy at European level, consistent with the needs of Member Countries, is absolutely essential. The "main road" would include completing the EU political union and redefining its institutional architecture. However, present times require immediate action such to increase opportunities, rather than exacerbate current constraints.

If respecting the level and precarious balance of the European budget implies that resources cannot be dedicated to tackling the problems of full employment and migration, their solution is then affected by *aporia* – illogical contradictions that prevent solving the problem – and *antinomy* – impossibility to set ourselves free from them, causing EU disintegration.

As the European Union needs start from investments, it will be sufficient to interpret the agreements currently in force such to embrace several of the aims therein set out, and clearly illustrate how to organize the European common good.

The Italian Government will undertake all the necessary steps to set up a high-level working group, composed of representatives from EU Member States, the Parliament and the European Commission, aimed at assessing the compliance of the current EU institutional architecture and economic policy with the objectives of growth under condition of price stability and full employment explicitly set out in the Treaties. The working group will identify suggestions to be submitted to the European Council, prior to next European elections, in order to pursue the common good, namely the Politeia that lacks in the future of the European Union and within the cohesion of its Member States.

Annexes

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Growth and the Single Currency: the Fiscal Policy Paradox

The Single Currency and Exchange Rate Stability

The Single European Currency, originally proposed in the Werner Report issued in 1970, was finally introduced in 1999 in support of the Single European Act (1987). The Werner proposals were formulated in the context of the Bretton Woods global fixed exchange rate system that was in the midst of disintegration by the time the Report was published. Despite the difficulties encountered with various serpentine tunnel systems of exchange rate management after the demise of Bretton Woods, the EEC persisted in its intention to introduce the equivalent of an irreversible fixed rate system via a single currency, issued by a supra-national monetary authority in a world of floating exchange rates. The Single Currency was thus novel in two respects, the adoption of an irreversible internal fixed exchange rate system in the presence of an international system of floating rates, thereby eliminating exchange rate adjustment for individual member states' trading relations with the rest of the world¹, and a currency issued by an institution without any direct linkage to a national government or government balance sheet,² thereby eliminating direct coordination between creation of liquidity and government fiscal policy. Indeed, this

¹ Diverse exchange rate systems remain part of the EU with some countries holding exemptions from the presumption to introduce the Euro and others retaining their national currencies with fixed/flexible rates relative to the Euro and flexible rates vis a vis the rest of the world. This simultaneous maintenance of fixed and flexible rates for non-Euro and for Euro zone countries was not envisaged in the initial discussions of the single currency. It has produced the concept of variable velocity or concentric convergence in which member states can choose the speed at which they introduce the various requirements for membership.

² While most central banks have restrictions on their ability to finance government expenditures directly, they are all subject to some degree of representative democratic political control, despite the claims of central bank independence. It is also commonly accepted that coordination between monetary and fiscal policy is an essential element of the efficiency of economic policy. The ECB was created in the Maastricht Treaty and is only subject to the conditions in EU Treaties and the power granted to it by the European Commission, not the European Parliament.

problem was solved by making fiscal policy subservient to the single currency via the Protocol to Section 104 of the Maastricht Treaty.

However, the elimination of bilateral exchange rates for national currencies did not eliminate the impact of exchange rates on the performance of individual countries via variations in the rate of the single currency vis-a-vis the other, floating, currencies of international trading partners. Instead it made the impact of exchange rate variations of the single currency uniform across member states that were far from having achieved economic convergence, and thus variable in terms of the impact on domestic production conditions due to differences in the domestic production structure and the structure of external trade of the member states. Just as a uniform monetary policy had a differential impact cross countries depending on their particular economic conditions, uniform exchange rate changes had differential impact across countries that was largely independent of domestic economic conditions. Thus changes in investor preferences for US dollar denominated holdings, or changes in global capital flows, could produce positive or negative impacts on external balances independently of domestic policy requirements.

Internal Adjustment to External Imbalances

While the single currency eliminated national exchange rate adjustments as a remedy to correct trade imbalances among member states and non-EU trading partners, it shifted policy to internal adjustments via relative domestic wage and price adjustments with Eurozone and non-Eurozone trading partners. However, these adjustments would have a differential impact on relative competitiveness within and without the Eurozone, making their impact difficult to determine.

In addition, emphasis on adjustment in domestic wages and prices created the potential for a deflationary bias similar to that prevalent in the pre-war gold standard in which deficit countries were under greater pressure and incentive to adjust via measures to reduce relative prices and activity relative to the surplus countries and to their trading partners in the rest of the world.

While variation in the external value of the single currency could provide aggregate adjustment of the Eurozone external balance as a whole, the impact of these changes would not have an equal impact across all members of the Eurozone, while the enabling Protocol provided no formal fiscal policy mechanism to redistribute or offset this impact on productive and social conditions in individual countries.

At the same time, the redenomination of the sovereign debt of national governments in a currency issued independently of national member governments' budgets or national central bank policy, sharply constrained the ability to finance domestic adjustment policies to offset the differential impact of the exchange rate of the single currency. In essence, government financing of domestic fiscal policy expenditures became formally identical to that of any private institution. Financing of expenditures had to be covered by fiscal revenues or by borrowing from the domestic or foreign private sector or by sale of assets to the domestic private or external sector. If government used borrowing to finance a shortfall of fiscal revenues then to meet debt service on the sovereign debt thus created would require governments to generate tax receipts greater than expenditures, engage in additional borrowing (debt roll over), or sell public assets.

And just as different private borrowers have different credit risks and face different risk-adjusted borrowing rates, "sovereign" borrowers should have different credit risks determined by the ability of governments to raise revenue as determined by conditions of the domestic economy and institutions. However, after the introduction of the single currency the fact that government borrowing was denominated in the liability of an external central bank appears to have led private lenders to overlook these national risk differentials in the first 10 years of the euro's existence. Thus countries with higher borrowing and debt stocks were little penalized by the market imposing higher borrowing rates leading to an allocation of private sector liquidity within the Eurozone which reinforced economic imbalances and contributed to the European financial crisis after the collapse of US financial markets.

This market anomaly allowed many individual governments to access private market financial support at attractive interest rates to implement domestic income support measures to avoid the implementation of wage/price adjustment mechanisms compatible with the new single currency system. However, when this private sector market anomaly disappeared after the 2008 financial crisis, and economic conditions made it difficult for governments to generate higher fiscal revenues to replace the withdrawal of private financing, maintaining the financial stability of government and private financial institutions required financial support at the EU level in the form of the creation of the ESFS, subsequently replaced by the ESM, the extension of IMF program support, and eventually the direct intervention in government securities markets by the ECB to "do what it takes"

to prevent a destructive financial collapse of government bond markets and private financial institutions. The necessity of an EU level response to the crisis should have made it obvious that the existing framework of fiscal policy management at the national level was incompatible with the new system.

Early Recognition of Impact of Monetary Policy and Fiscal Constraints

Many commentators had already noted the difficulty created by a monetary policy managed by a central institution that was independent of fiscal policies managed at the national level and subject to aggregate constraints. Wynne Godley³ had very early noted that the Maastricht Treaty explicitly outlined monetary arrangements, but provided no response to the question: “how is the rest of economic policy to be run? As the Treaty proposes no new institutions other than a European bank, its sponsors must suppose that nothing more is needed. But this could only be correct if modern economies were self-adjusting systems that didn’t need any management at all.” He also pointed out that “the Maastricht criteria for the establishment of ‘convergence’ were far too narrowly conceived. To fulfil the conditions necessary for a successful currency union it is not nearly enough that member countries agree to follow simple rules on budgetary policy ... They need to reach a degree of structural homogeneity such that shocks to the system as a whole do not normally affect component regions in drastically different ways”⁴ noting that “if Europe is not to have a full-scale budget of its own ... you will still have, by default, a physical stance of its own made up of the individual budgets of component states. The danger, then, is that the budgetary restraint to which governments are individually committed will impart a disinflationary bias that locks Europe as a whole into a depression it is powerless to lift. The useful comparison can be made with the US. ... The analogy is useful because United States does so obviously need a federal budget as well as a federal bank, and the activities of the two authorities have to be coordinated. If there is a recession remedial (expansionary) fiscal policy at the federal level is the only proper response; it is inconceivable that corrective action should be left to component states, which have neither the perspective nor the coordinating machinery to do the job. If there is a federal budget there must obviously be a

³ Wynne Godley, *Derailed*, London Review of Books, Vol. 15 No. 16 · 19 August 1993, page 9.

⁴ Wynne Godley, ‘Derailed’, London Review of Books, Vol. 15 No. 16, 19 August 1993, page 9.

legislative and executive apparatus that executes it, and is democratically accountable for it.”⁵

Prominent members of the Bundesbank had also noted this mismatch between monetary policy imposed on the level of the EU and fiscal policy left to decisions of member states within the constraints in support of the single currency. Otmar Issing, a member of the German Bundesbank and eventual chief economist of the ECB, noted in a review of the Maastricht process that “historical experience shows that national territories and monetary territories normally coincide. . . . the relevant legislation, as a rule, defines monetary sovereignty in relation to a national territory. . . . In contrast to the normal rule, the Maastricht Treaty implies a clear discrepancy between the intentionally rather modest political integration and monetary integration.”⁶

The 2009 Financial Crisis and Extraordinary Fiscal Policy

The experience of the 2009 financial crisis highlighted this difference between a EU level monetary policy and fiscal policy decisions left to the decisions of the member states, but independent of the differential conditions that the single currency and exchange rate produce in economic performance, differences that would normally be met by fiscal policy measures appropriate to individual conditions but which were constrained by the conditions to support the single currency. Even if the earlier critiques were ignored, the most recent experience should have suggested the need for an alternative mechanism of financial support for government policies to respond to macroeconomic imbalances that were compatible with the concern to avoid government default and maintain the integrity of the euro.

Instead the response was to strengthen the constraints on individual government’s domestic expenditure policies to the support the stability of their fiscal balance and thus to the stability of the Euro, rather than the stability of the macro economy. However, this simply reinforced the recessionary bias that was already implicit in the relation of the new single currency and its issuance by a central bank without a political/institutional base and

⁵ Wynne Godley, London Observer, August 31, 1997, p. 24.

⁶ Otmar Issing, “Europe: Political Union through Common Money?” Occasional Paper 98. London: Institute of Economic Affairs, 1966.

made it more difficult to offset the impact on domestic economic conditions of international changes in exchange rates.

Reinforcing Fiscal Constraints Reduce Flexibility in Crisis Response

While the formal specification of these constraints on government expenditure contained in the Protocol to section 104c(2) of the Maastricht Treaty and subsequent reinforcements in the Stability and Growth Pact in response to the crisis, e.g. the Six pack (2011), the two pack (2013), plus Title III of the Fiscal Stability Treaty (the Fiscal Compact) that are considered necessary conditions for the stability and success of the euro were introduced in order to improve coordination of national fiscal policies, they also reduced the flexibility of national governments in responding to financial crisis and intra-EU imbalances created by the single currency in a global floating exchange rate system. This mismatch in monetary and fiscal policy decisions, the former at the EU level, and the latter at the national level, and the mismatch in the flexibility of monetary policy management relative to the increasingly rigid fiscal policy objectives, create potential financial instability in the euro area and undermines the operation of monetary policy.

Fiscal Stability and Financial Fragility

Minsky's analysis of financial fragility may provide a guide to the paradox of measures to support euro stability leading to national financial instability. The extensions of the prior fiscal constraints in the recently introduced Fiscal compact imply that most governments should always have financing profiles that generate fiscal balance or surplus. The fiscal compact is the equivalent of a policy of imposing what Minsky defined as hedge financing as a common EU policy. That is, always having more than sufficient resources to meet financial commitments without recourse to external financing. In Minsky's approach this financial profile should provide extreme financial stability as governments will always have the resources to finance their expenditure commitments on current expenditures and on debt service.

However, this condition contains a paradox, and a virtual impossibility theorem for countries that currently have debt and deficit ratios above the SGP limits, as this requires

not only budget balance, but a rising fiscal surplus that can only be achieved through a combination of higher growth and taxation. Since governments cannot produce this growth through appropriate demand management policies, it must come from either domestic consumption and investment or from net foreign demand. But increased domestic expenditures cannot be generated by reducing government expenditures or raising taxes to generate the required fiscal surplus, since this only reduces domestic demand. Improving the external account can no longer be achieved by exchange rate adjustment but must involve domestic wage and price adjustment, which also exerts a negative impact on domestic incomes and investment incentives. Further, these adjustments must be relative to major trading partners who may also be engaged in domestic price adjustments, making the required adjustments even greater.

Fiscal Stability, Financial Fragility: the Fiscal Policy Paradox

As noted, for Minsky, financial stability is similar to the requirements of the SGP Fiscal Compact: hedge financing for the government. This requires that tax yields are greater than expenditure by a margin ($T > G$) to provide for debt reduction. But as noted, higher tax yields in the absence of fiscal measures to produce higher growth require the private sector to increase tax payments, which can only be done by reducing private expenditure. Thus, the ability of the private sector to increase tax payments and repay debt requires the private sector to spend less than its income. Thus, if households net save ($Y - C > 0$) and firms earn net profits > 0 , this means that for the combined private sector, saving should exceed investment ($S > I$). But this contradicts the condition for macroeconomic equilibrium for a closed system to maintain output levels: $0 = (S - I) + (T - G)$. So for the compact conditions to hold, $S < I$ and the private sector must finance its deficit expenditure by increasing its indebtedness, increasing private sector financial fragility. In a closed system, the public and private sectors cannot both be engaged in hedge financing at the same time. Figure 1 shows the Minskyan financial profiles for the private sector compared to the government sector.

Figure 1

Private Sector

- 1 Hedge: $S > I$

But macroeconomic balance requires $0 = (S - I) + (T - G)$:

so if $T > G$ then $S < I$ and:

- 2 Speculative: some more debt or:
- 3 Ponzi: $S < I$ more debt, sell assets

Sovereign

- 1 Hedge: $T > G$

so if $S > I$ then $T < G$ and:

- 2 Speculative: some more debt or:
- 3 Ponzi: $G > T$ more debt, asset sales

For a closed system figure 1 shows that it is not possible for both sectors to employ hedge finance as would be required for financial stability. One sector has to be in deficit if the other is in surplus. The only way that both can be in surplus is if the measures indicated line lines 2 or 3 are implemented, increasing indebtedness or divesting assets, neither of which are sustainable processes for the private sector and constrained by the Fiscal compact conditions. These same relations can be shown in a graphic representation of the national accounts for a closed economic system.

From the aggregate income identity we know that national income is determined by the aggregate of private and government expenditure. We also know that aggregate expenditure is determined by household decisions to consume, business sector investment, and government expenditures net of taxes. It is usually assumed that the household sector is a net saver, spending less than income (although the recent use of appreciating real estate values to finance consumption calls this in question), while the business sector is a net borrower, spending on investment more than it earns in profits (although this clearly has not been the case in the United States in the recent period!). But, irrespective of the balance between the expenditure decisions of households and firms, in a closed economy the combined private sector cannot save on net more than the net deficit of the government sector. While we all know (perhaps from personal experience?) that any individual economic unit can spend more than it earns, this is not true for the aggregate economy as a whole without some adjustment in another sector or in the level of income. This is the basis for the argument given above and is based on the national accounting definition of income and expenditure:

$$Y = C + I + (G - T) \text{ where}$$

Y is national income, C is consumption expenditure, I investment expenditure, G government expenditure and T taxation of income

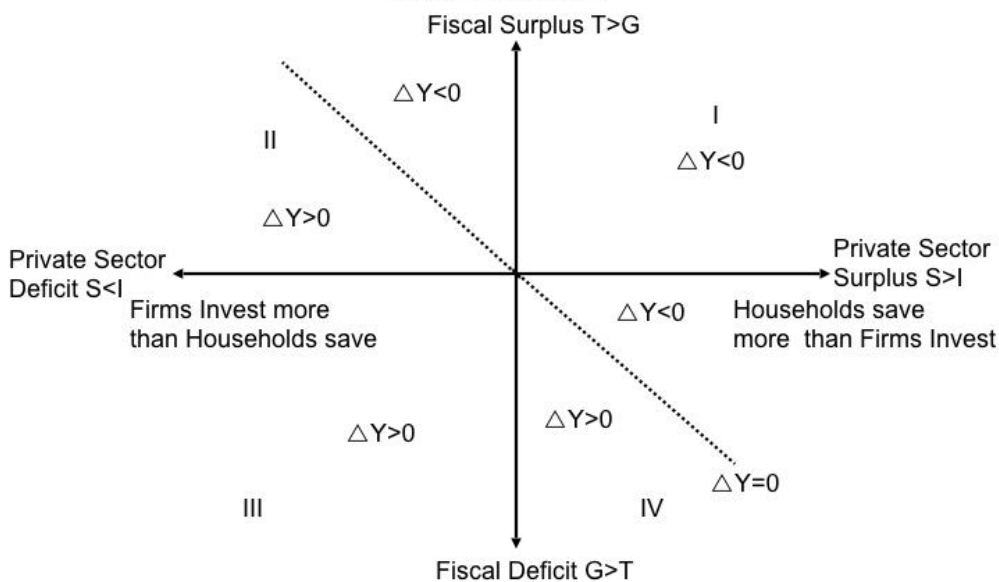
Since $C = Y - S$ so $Y = (Y - S) + I + (G - T)$

This means that the net position of any given sector will be conditioned on the behavior of the other if income is not to adjust to restore the balance, for example, $(S - I) = (G - T)$.

In Graph 1 the private sector financial balance ($S-I$) is represented on the horizontal axis, positions on the right of the origin indicate that on balance household saving exceeds firms' decisions to investment and households are acquiring financing assets with those savings. On the left of the origin firms are investing more than households are willing to save. The vertical axis represents the government balance, above the origin the government receives taxes in excess of its expenditure, while below it is in deficit and must be issuing liabilities to cover the gap between expenditures and tax yields.

Graph 1

Government & Private Sector Financial Balances



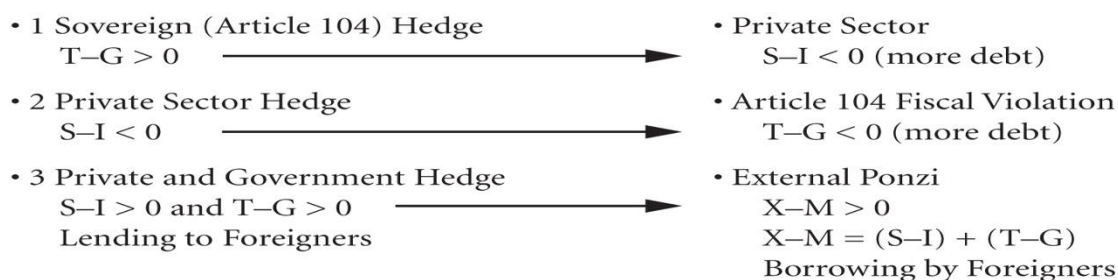
The dotted line shows all the possible combinations of government and private sector balances for a given level of income. For any combination not represented on this line, income will adjust. For example, in the first quadrant which shows combinations of fiscal surplus and private sector surplus expenditures are less than income and thus income will decline. On the other hand, in the third quadrant the opposite occurs and income will be increasing. For the second and fourth quadrants the behaviour of income depends on the relative balance of surpluses and deficit positions. When surplus positions exceed deficits income will decline and vice versa as indicated on the graph. Thus the above mentioned

paradox. It is impossible for the government to run a hedge financing scheme without sacrificing growth unless the private sector increases its indebtedness. But it will only be willing to do this if it expects income and profits in the future to justify the higher expenditure. But, as was learned in the Great Depression of the 1930s and the 2000s, this is unlikely to occur without an exogenous boost to activity, which normally can only come from higher government expenditures via fiscal policy. If the government must run a surplus that is sufficient to eliminate its excess debt over time, then the result will simply be to substitute private debt for government debt, or for national incomes to fall producing a permanent condition of stagnation. Both these conditions create fragility for households, who are forced to borrow to meet debt service and for firms, as lower growth means reduced revenues available to meet their financial commitments with a clear impact on non-performing loans of the financial system.

Is there a way out of this paradox and perpetual economic underperformance as the price for stability of government debts and the success of the euro? Yes, the answer is to be found in the external sector. For an open economy macroeconomic equilibrium in the level of income requires $0 = (S-I) + (T-G) - (X-M)$. It is possible for the private and public sectors to be in surplus ($S > I$ and $T > G$) if and only if there is a current account surplus ($X > M$) sufficiently large to compensate. This means that the Fiscal Compact conditions can only be met with an external surplus sufficiently large to offset the savings of the government and the private sector. At the EU level this means that since some countries will only require fiscal balance, while excess debt countries will require surpluses, that the euro can only survive if the EU as a whole has an external surplus. But this means that the financial fragility, deficit spending, and increasing indebtedness are shifted to the rest of the world; in current conditions to the United States; but current US policy is to take active measures to eliminate its role as global debtor of last resort.

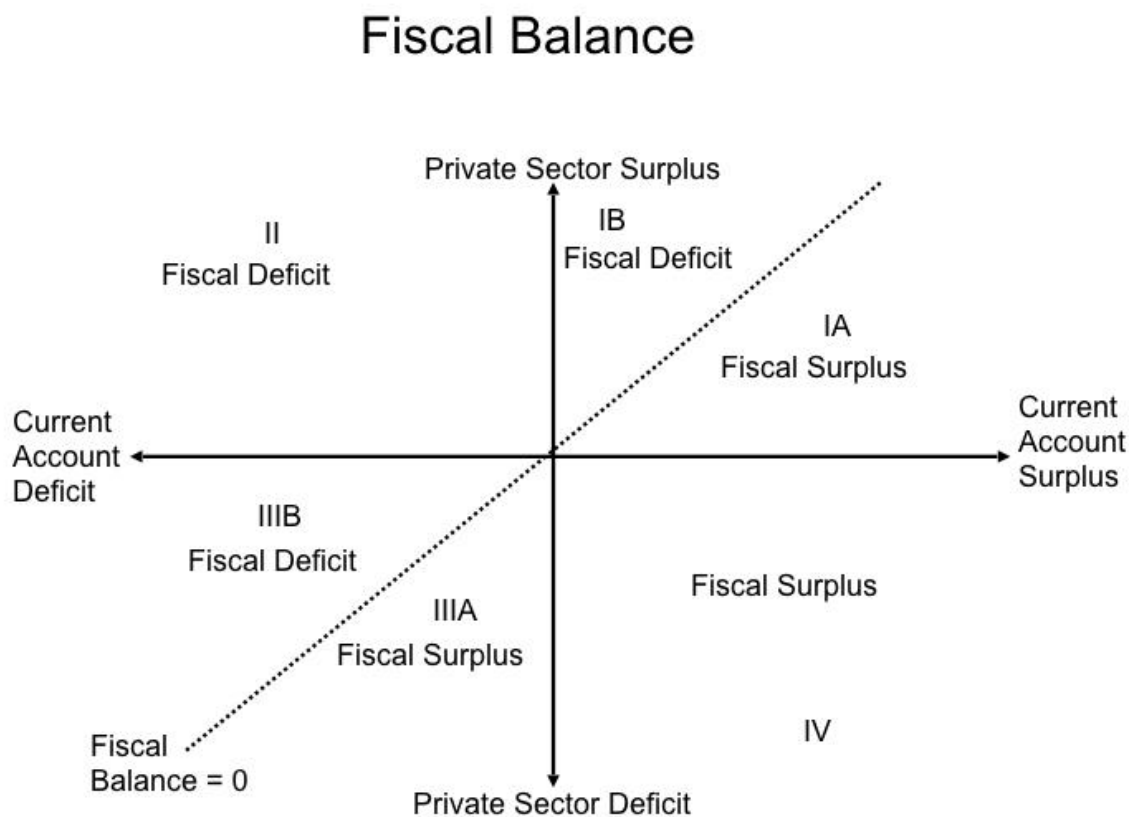
Figure 2 summarizes these arguments.

Figure 2



These relations can be presented graphically by transforming Graph 1 above following a suggestion of Robert Parenteau⁷ to include the external account balance. In Graph 2 represents three balances, but only two dimensions so the graph is normalized on the basis of balance in one of the three sectors to show the compatible positions of the other two. To present the role of the Fiscal compact this graph is normalized around the 45 degree line through the origin which shows the combination of private sector and external sector positions compatible with government fiscal balance ($T-G=0$).

Graph 2



The vertical axis shows the financial position of the combined private sector, with a saving surplus represented by a positive sign (above the horizontal line) and a deficit position of increasing debt a negative sign (below the horizontal line). The horizontal axis shows a current account surplus as a positive sign (to the right of the vertical line) and a

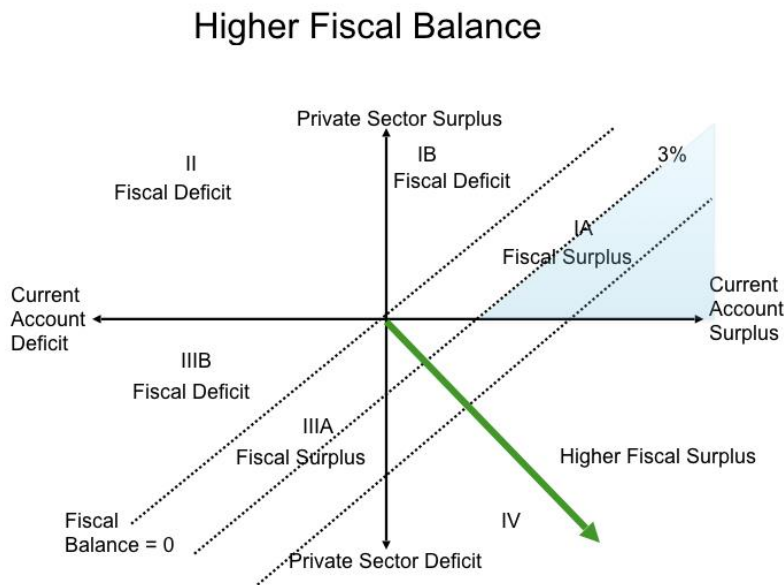
⁷ Parenteau, R. 2010. "Minsky and the Eurozone Predicament: Transcending the Dismal Science." Presented at the 19th Annual Hyman P. Minsky Conference, "After the Crisis—Planning a New Financial Structure," New York, N.Y., April 15.

deficit as a negative sign (to the left of the vertical line). The graph is thus a handy way of identifying the private and external sector positions that are compatible with the Fiscal compact pledge of a balanced government budget.

Starting from the origin, both the private sector and the foreign sector are in balance $S-I=0$ and $X-M=0$, so the government is also in balance: $T-G=0$. As noted, on any point along the 45-degree line, the government budget is fully funded. However, the private sector can only net save and have a hedge profile along with the government in quadrant IA, in which the external surplus exceeds the private sector surplus. In quadrant IB, the current account is not sufficiently large to offset private saving, and the government is in deficit.

To represent the compact's requirement for a fiscal surplus, or for a country with an excess debt position, the 45-degree line would be shifted downward to the right as in Graph 3.

Graph 3

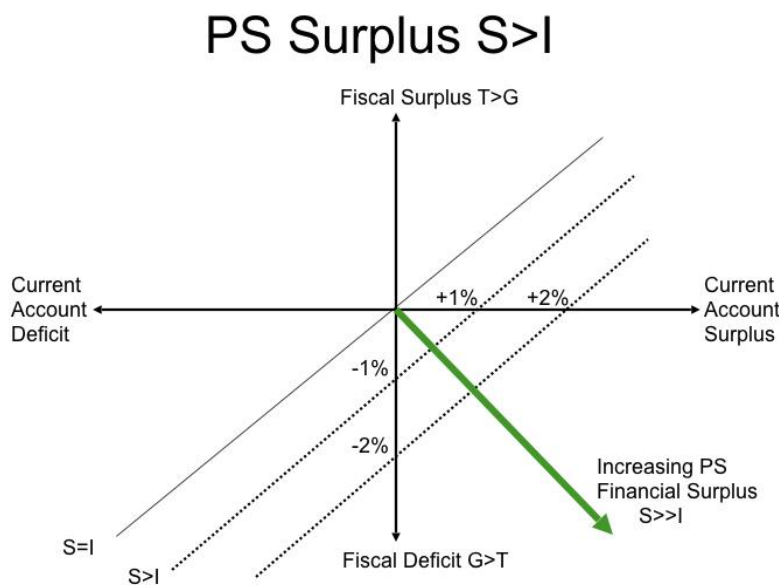


It also shows the area in quadrant IV compatible with a fiscal surplus requires an increase in private sector indebtedness matched by a higher current account surplus. For positions in quadrant IA the external surplus must be sufficiently large to offset a private sector surplus. The shaded area in the graph provides a representation of the conditions that could be required for countries such as Italy and Greece, which have very large debt ratios, under say a 3% fiscal surplus target. For these countries, given the condition of household

balance sheets it is unlikely that they can borrow to meet expenditure in excess of income, so that Quadrant IV is not a viable solution.

The graph can also be normalized on private sector equilibrium as in Graph 4, with the 45-degree line showing the conditions in the other two sectors, given $S=I$ balance. Unless the private sector is able to finance expenditure via deficit spending, the Fiscal compact viable positions lie in quadrant IA, with a current account surplus sufficient to offset the combined net saving of the government and the private sector. If uncertainty, or monetary restriction leads the private sector to increase saving, as shown along the green arrow, the current account balance must be even higher in order to allow a fiscal surplus. Of course, the crucial question is whether the external sector can be expanded by the amounts required to support equilibrium.

Graph 4



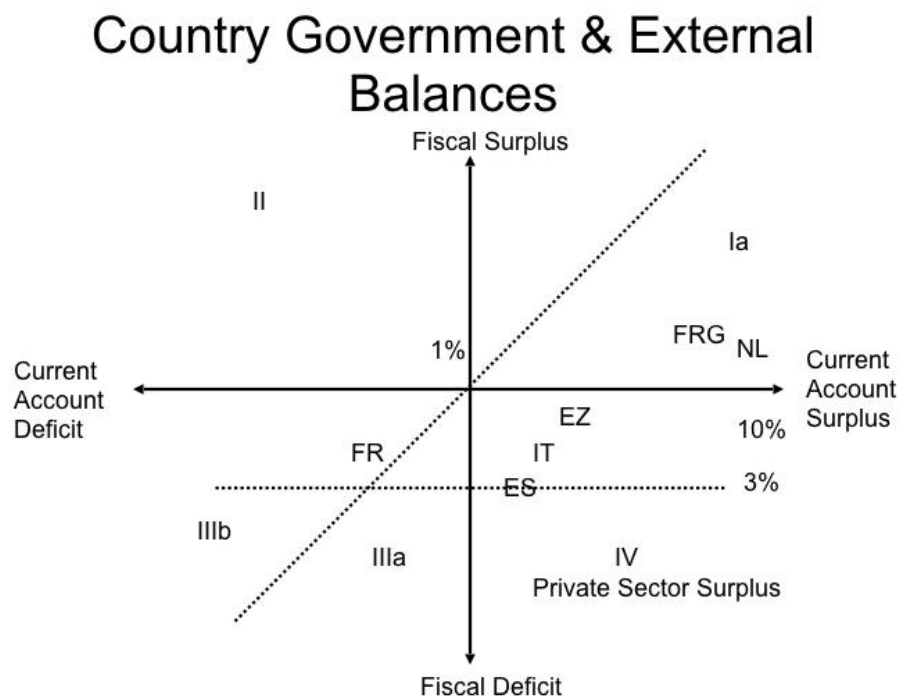
These diagrams suggest that the ability to obtain an external surplus is crucial to the ability of the private and government sectors to meet the fiscal targets. Since the external account is the mirror image of the net balance of the private and government sectors of its foreign trading partners, domestic adjustment to allow debtors to fully repay creditors can only occur with the cooperation of the debtors' trading partners. However, the differential combination of the three sectoral balances will have an impact on country growth performance.

The Balance positions of major Eurozone countries

The positions of the major Eurozone economies are presented on Graph 5. Of the major countries represented in the diagram, all have growth rates above 2%, save Italy and France. Both countries are constrained by their ability to improve their growth performance, first because they cannot rely on exchange rate adjustment, second internal wage and price adjustment would just reduce their domestic demand performance, and third they are stymied by the fact that the other major Eurozone economies are practicing much higher current account surpluses. The remaining possibility is internal demand stimulus, but this is prevented by the limits on government expenditures. Thus, low growth creates increased financial stability as incomes are not sufficient to service financial liabilities and produce the growth of nonperforming loans in the financial system.

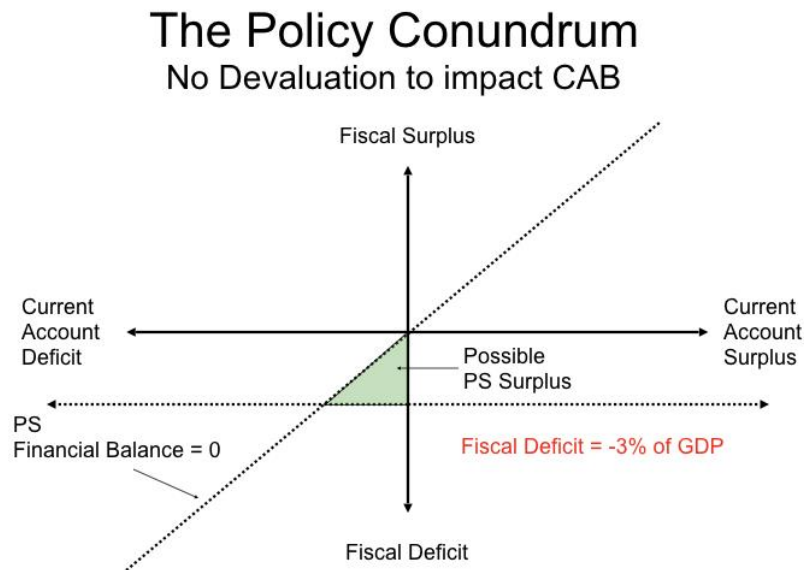
Note that Germany and the Netherlands are the only countries in Quadrant IA, (indeed Germany maintains a surplus with all its EZ trading partners). France is the only country with an external deficit, while the remaining countries are situated in Quadrant IV with fiscal deficits within the 3% limits, offset by private sector surpluses, that is private sector expenditure that does not support domestic demand.

Graph 5



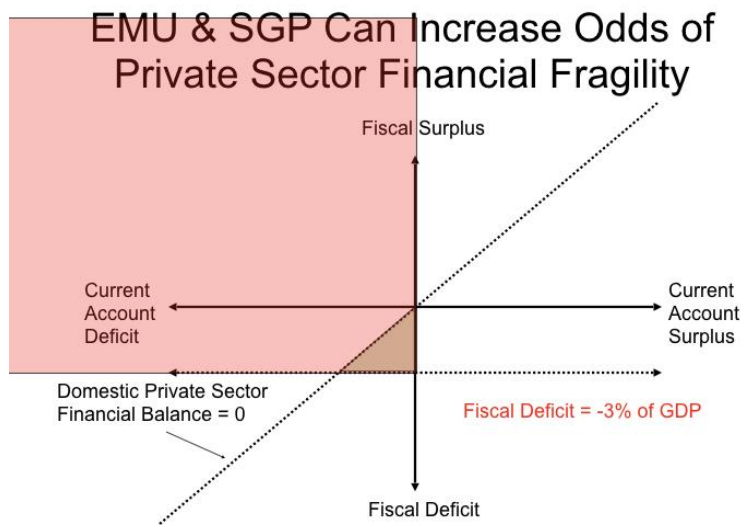
The paradox is even stronger in Eurozone economies that do not show current account surpluses. This includes France and Belgium as well as most of the smaller member states. For these countries the constraint of the -3% fiscal constraint and an external deficit means that they can only achieve a position of private sector hedge financing by operating in the small green triangle in Graph 6.

Graph 6



The position facing small EU periphery countries that seek to expand by means of domestic demand and investment above domestic savings would produce conditions such as shaded area in Graph 7. Here increasing private sector deficits will be compatible with higher external deficits and an improved fiscal position. This again highlights the fact that government stability only comes with an increase in private sector indebtedness in the absence of the ability to access external demand by selling into external markets.

Graph 7



Can the Euro Survive without External Surpluses?

This leaves external demand as the only solution to survival of the euro, given the insistence on fiscal balance. But without the ability to improve external competitiveness through exchange rate adjustment, internal depreciation through wage reductions or productivity increases in advance of wage increases will be required. However, this is also a policy that reduces domestic demand, offsetting the benefits of higher foreign demand. And here is the paradox: all the policies proposed to increase growth of incomes and generate fiscal surpluses ultimately have a negative impact on income growth. Keynes called it the paradox of saving; here, it is the paradox of euro survival. Historically, deflations have produced financial crises just as easily as inflations. While Germany pleads for more political control and integration, the EU may disintegrate through political reaction to prolonged stagnation.

Is the Eurozone a Ponzi Scheme?

But is this solution financially stable? In the 1940s, the United States considered a policy of supporting domestic demand through a permanent current account surplus. Evsey Domar showed that a stable share of export surplus to GDP was feasible and stable on one condition: the rate of increase of the outstanding foreign lending was greater or equal to the interest rate charged on the loans. But on reflection, note that this is the definition of a Ponzi scheme! And the reduction in efficiency wages and/or currency depreciation required to

keep the surplus would dampen domestic demand, producing stagnation. The survival of the euro based on a permanent export surplus seems to require the permanent maintenance of a Ponzi scheme or stagflation to keep imports from growing more rapidly than exports.

Thus, given the inability to improve external competitiveness in the short term, it is impossible to have both the private and fiscal balances in surplus. If the public sector is to remain within the 3% deficit limit, the private sector will have to be in deficit. As shown clearly in the graph, this can only occur if a country has a current account surplus. It is thus clear that if a country has a debt to GDP position higher than 60% it can only comply with the convergence conditions if it manages to situate itself in Quadrant IA. But this is precisely the adjustment conundrum raised by the fiscal and debt constraints for this means that there must be other member states that are in Quadrants II and III within the deficit limit of 3%.

Just as it is inappropriate to extend the analysis of the household budget constraint to the economy as a whole, it is also inappropriate to extend it to the analysis of national solvency in the international context. Indeed, it may be the case that the policies of foreign governments are a major determinant of domestic performance. This was the conclusion that Keynes came to in his work on German postwar reparations. Germany could repay the Allies only if the Allies were willing to boost their consumption of German goods. The solution that was eventually adopted – increasing short-term private lending to Germany rather than increasing imports of German goods – laid the basis for both the 1929 US stock market crash and the rise of fascism in Germany.

The Impact of Relative Wage and Price Adjustment in Place of Exchange rate Adjustments

It is also important to note the limitations on wage and prices adjustments, they must be relative to those of a country's major trading partners. Consider the policies introduced by the German government after reunification in 1990. Wage growth was slowed below the growth in productivity and unit labor costs fell and inflation dropped below that in the rest of the eurozone. The impact was the same as if Germany had depreciated its currency, and is equivalent to an implicit subsidy for exporters, and a tax on imported consumption goods. Interest rates set by the ECB on the basis of average EU inflation rates in the presence of lower German inflation produced a higher relative real interest rate in Germany and thus an incentive to private saving. As a result of these policies, Germany's government deficit fell and its external surplus rose, boosting the German savings rate, leading to a private sector surplus and an external surplus – a position in Quadrant IA. With a lowered

government deficit, the external position had to more than offset it, or the growth rate would have fallen – which is in fact what occurred. The result is growth in German GDP in excess of the growth of consumption and a rising German savings rate. It should be obvious that this result is independent of whether or not Germany was more parsimonious than Italians or Greeks, either ethnically or culturally. The German private sector was were simply responding to policy incentives introduced in order to pay for reunification.

But within a monetary union such as the euro, this domestic policy means that Germany has to be a net lender to the rest of the world, and in particular to the rest of the European Union, to the extent that it has a positive external balance within the EU, which is in fact the case. And this is precisely what happened in the 2000s. German banks lent to private and government borrowers in the periphery in order to allow them to run deficits and buy imports, many of them from Germany. The result, Italian, Greek, Portuguese fiscal and external deficits, which produced a rate of growth of income below the rate of growth of consumption, a low savings ratio, and a rising debt ratio. It is thus not surprising that some of the largest exposures to peripheral borrowers such as Greece were German (and French) banks. But, if the borrowers are insolvent, then the loans on German and French bank balance sheets were impaired and could not be redeemed without the creation of the EFSF/EFS to purchase the loans.

But this does not mean that those countries with weaker fiscal balances and external debt are more profligate than Germans are parsimonious. It is the policy mix that makes them so, not any inherent cultural characteristic. The real cost of a potential default will be borne by the lending banks.

As already noted, unless there is cooperation to increase flexibility in terms of domestic policy, there is nothing that the highly indebted EZ countries can do to change its behavior. Italy cannot adjust its exchange rate if it wants to remain in the eurozone. It could attempt to reduce real wage growth to below the rate of productivity growth, but this would have to be at a rate higher than that practiced in Germany and would cause a reduction not only in demand and employment but also in saving. It would also reduce saving in Germany, since its growth rate would also fall due to a declining net external surplus. Germany can only continue its behavior by finding export markets external to the eurozone, which is what occurred as Germany increased exports to China. But, given the new US policy, this is going to be more and more difficult. The bottom line is that highly indebted countries will not be

able to repay outstanding debts through fiscal austerity, nor by expanding its external surplus -- the solution lies in fiscal policy coordination in the EU and in the global economy, not in the Fiscal compact. Highly indebted countries can grow their way out of debt, they cannot export their way out of debt by domestic depreciation and raising exports. But to do this requires a reform of the conditions on fiscal policy in the EU to support and share domestic growth and employment.

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Regulatory reform and competition: Some challenges facing the European Union

1. Introduction

A competitive environment provides the incentives to respond to market signals (i.e. produce more/less, increase/reduce prices, create new products, adopt new processes, enter in/exit from the market, etc.) and, in the process, disciplines the creation and the strengthening of market power. The hope of achieving a strong market position is the best incentive for entrepreneurs to start an activity, while the signals that the market conveys are a source of information for buyers and sellers to react. In the process, existing profit margins are competed away and eventually new ones are created.

Contrary to what first year of college economic textbooks teach us, competition is rarely taken place between firms selling exactly the same product, i.e. gasoline, but operates mainly through differentiation. As Steve Jobs once said, “you can't look at the competition and say you're going to do it better; you have to look at the competition and say you're going to do it differently¹”. This is a universal truth not simply associated to high technology. Indeed two pizza parlors that sell exactly the same pizza do not exist in the world! By differentiating their offers, firms try to achieve the loyalty of their customers, creating in the process investment and employment opportunities. This is why the entry into the pizza market should not be blocked, unnecessarily limited or be subject to some sort of standardization. The same is true in almost all markets and for almost all products. So why is the economy full of regulations aimed at restricting competition, blocking entry or limiting the expansion of existing businesses?

Most of the times there are good general interest reasons for restricting competition by regulation, i.e. information asymmetries, externalities, natural monopolies, non competitive markets. Sometimes such reasons are overstretched, protecting incumbents more than necessary. Some other times existing regulations may have been justified in the past (once they were introduced), but innovation or technical progress may have made them obsolete.

Regulatory reform is difficult. There are indeed quite powerful forces in the economy, both private and public, that pursue the objective of promoting unjustified restrictive regulations and maintaining them in place, the main reason being stopping new opportunities from even having a chance, so that the market power of incumbents is maintained high without much effort.

The market power resulting from protectionist regulation is not always reflected in high profits only. Sometimes market power is shared with employees, leading to high wages, some other times with suppliers, leading to high purchase prices for productive inputs. In other words protectionism is very often, if not always, associated with inefficiency. This is very negative for competition, because it expands the number of stakeholders of the protection. They all can join forces to maintain the regulations, lobbying and arguing in their favor. They can be opposed only by consumers that as a result pay higher prices or receive lower quality or by taxpayers burdened by extra taxes to cover up unjustified losses of State owned enterprises. The problem is that consumers or taxpayers are not

¹ See <http://www.goodreads.com/quotes/4101971-you-can-t-look-at-the-competition-and-say-you-re-going>.

aware of what is going on and in any case are not very vocal because they individually gain very little if protections are lifted, while beneficiaries lose quite substantially.

The problem with regulations, including regulations that restrict competition, is that they all respond to legitimate general interest concerns and it becomes very difficult to identify the fine line where a regulation becomes restrictive. In regulation the issue is always a matter of degree and it is very often the case that some sort of regulation is necessary even in fully liberalized markets. As a result in many jurisdictions, in order to make sure that regulations remain competition friendly, a system of controls have been developed to make sure that only unjustified restrictive regulations are eliminated so as not to block beneficial developments.

The European Union was able to tackle some of these issues quite effectively, promoting the single market, an area where the free movement of goods services, capital and people is assured and as a result all domestic regulations are banned from impeding market access, going much beyond non-discrimination principles. The creation of the EU single market was accompanied by antitrust rules, making sure that competition is not distorted by private practices aimed at artificially blocking market developments favorable to consumers, and by State Aid rules, blocking anticompetitive subsidies.

The objective of the single market is to make sure that market access is not unjustifiably blocked or made more difficult. Introducing regulations only when they are strictly necessary and making sure that they are proportionate to the objectives pursued is the responsibility of Member States. In other words, while citizens welfare is the final objective of the Treaty, promoting the single market does not necessarily maximize citizens welfare by itself. Complementary domestic policies not only are required as well, but they are the most important. One of the exceptions is antitrust enforcement, which I will not address in this paper, where the influence of academic research (especially originated in the US) has led to the adoption of a standard of competition analogous to what it would be in a domestic economy, i.e. achieving productive and allocative efficiency.

Looking at European internal market rules in this perspective leads to a different understanding on their relevance and their capacity to be adapted to specific sectors and practices. In this paper after a brief description of the objectives pursued by the EU Treaties with respect of the creation of the single market, I will look, with a few examples, at how domestic policies should integrate the EU ones and how EU rules should be interpreted. Finally, I will address State aid control, a policy area where, because State aid control remains a Commission monopoly, there has been an effort to incorporate in the regulations and in the individual decisions the final objective of promoting productive and allocative efficiency. However optimality is far from being achieved.

2. The European Single Market

The European Union was set up in 1957 to guarantee the free movement of goods, services, capital and people within the Union. This meant that it dismantled not only all trade barriers that impeded free movement directly, but also all regulatory provisions and practices that achieved the same result indirectly. It did not happen by chance. It was the clear intention of the founding fathers of the Union to set up an efficient institutional structure that was meant to be effective and resist in time. All the features of the European system are necessary for the Union to work properly and continue to do so after Sixty years since its establishment. This is why all the regional agreements

that have been created in recent years imitating the EU model², having left out features wrongly considered marginal and not important, were usually unable to deliver similar results³.

The most important element of the European Treaties is that they originate from a visionary construction: economic integration as a solution to wars and destructions. This idea was not a new one and was already flashed out a few years earlier when the French foreign (and prime) minister Robert Schuman suggested the creation of the Economic Community for Steel and Coal (ECSC) on May 9 1950 as a way to prevent further war between France and Germany. According to the Schuman Declaration of the time the aim of the ECSC was to “make war between France and Germany not only merely unthinkable but materially impossible”⁴.

The high profile objective of the European Community has influenced the type of instruments that were put in place in the Treaty - the creation of an area where the free movement of goods, services, capital and people was guaranteed – and the type of rights and obligations that the Treaty created. Indeed, unique among international Treaties, the provisions of the EU Treaty were not directed towards Member States only, but created rights for individuals and firms that could be affirmed in Court. As a result, the respect of the Treaty was not left to the sole action of the European Commission and of the Member States governments (top down approach) that for example led to the liberalization of public utility markets in the EU, but also to the judicial initiatives of all European citizens and firms (bottom up approach) when their rights originating in the Treaty provisions were not fully recognized by other private parties and, more importantly, by Governments themselves. This meant that private citizens and firms, if they believed that a piece of legislation or an administrative decision by a Member State violated their rights under the Treaty, including of course the free movement provisions, could bring that Member State to Court and that rule or practice could be ignored as if it did not exist, i.e. allowing what it prohibited.

The results achieved in the Union go much beyond what is prescribed by the Treaty and/or by the action of the European institutions, because every Member State could add to it. For every European policy initiative there is an active role played by Member States that most of the times goes beyond the simple transposition into domestic legislation of EU rules. Very often Member States have to create new institutions, for example independent regulators, for implementing community rules. Sometimes, for benefitting the most from Community rules, an industry, at the initiative of a Member State, has to be restructured horizontally and/or vertically. For example Member States, even beyond what the EU prescribed, had to make sure that the former electricity incumbent monopolists divest generators and/or the electricity grid in order to create a competitive electricity market. Some other time the role of the European rules is limited to some aspects of more complex procedures, for example in public procurement the EU main concern is adjudication (so as to open up domestic procurement markets to foreign suppliers), while Member States are fully responsible for execution and sanctioning and of course for the quality of what they purchase.

All this means that the effectiveness of the European rules is very much dependent on the quality of the action Member States take at the national level. The role of Member States is even more important

² Many of such agreements were created in the developing world, such as for example the Mercado Commun do Sul (Mercosur), the Andean Community, the Common Market for Eastern and Southern Africa (COMESA), the Caribbean Community (CARICOM), the West African Economic and Monetary Union (WAEMU), the Economic Community of West African States (ECOWAS) and the South African Development Community (SADC), to name a few.

³ See on this Heimler, A. and Jenny, F. (2013) “Competition law and policy in developing countries: national and regional enforcement”, in Lewis, D. (Ed) *Building New Competition Law Regimes*, Edward Elgar

⁴ The text of the Schuman Declaration can be found at http://europa.eu/about-eu/basic-information/symbols/europe-day/schuman-declaration/index_en.htm

than simply being complementary to EU policy, considering that the regulation of many activities, especially in the service sector, remains domestic in character.

Free movement and the principle of mutual recognition

The aim of the European Treaties is to create an economically integrated Union where, among other objectives to be pursued, competition is not artificially distorted. As a result a number of instruments have been introduced that address different types of distortions. The core of the Treaty is represented by the rules that promote the free movement of goods, services, capital and people. They make sure that Member States do not create even unwillingly artificial barriers to entry for goods, services, capital and people from other Member States and in this way do not restrict competition in an unjustified way. In addition the State aid provisions make sure, at least in principle, that Member States do not subsidize firms in the absence of some form of market failure. Finally the EU antitrust rules provide a check on the market power of firms and make sure that it is not artificially maintained or increased.

As for Single Market rules, not only the introduction of trade related instruments negatively affecting intra European trade is prohibited by the Treaty, but every public regulation that impedes the free movement of goods, services, capital and people is prohibited unless justified by the objective of attaining other general interests strictly defined. In this environment antitrust rules were originally introduced to make sure that firms would not reintroduce privately the restraints of trade that the European Treaty had eliminated. State Aid control was introduced to make sure that Member States do not favor their own firms through unjustified subsidies. As a result of the introduction of this rich portfolio of instruments in the European Treaties, direct and indirect protectionism within the EU was banned. For example, reserving public procurement to local companies only - i.e. banning suppliers from other Member States - is prohibited, irrespective of the objective pursued. Or even granting a legitimate aid only to local companies is prohibited when it would exclude non local companies that would qualify.

Even more subtle forms of protectionism are made almost impossible. Indeed the European Commission, the guardian of the Treaty, and the European Courts have coherently and strategically promoted an application of the Treaty as extensive as possible, blocking all State measures at all levels of Government that negatively affected intra European trade directly and indirectly. This meant prohibiting legislative and regulatory provisions independently from their explicit intention to provide an obstacle to enter a market for firms from other Member States. It was sufficient that the provision had that effect. In particular, a regulatory restraint that blocked a product freely available in another Member State was prohibited if such a restraint was not properly justified by linking it to the attainment of general interests objectives strictly defined (safety, defense, health and security). As a result, the concept of discrimination that the European Courts developed through their case law was not simply that a regulatory provision be respected by everyone regardless of nationality, but that if the sale of a product/service is allowed in one Member State, it should be allowed in all, unless some general interests strictly defined are negatively affected.

This principle of mutual recognition, established by the Court of Justice back in 1979 with the *Cassis de Dijon* judgment⁵, clarifies that free movement should not be interpreted simply as prohibiting direct and indirect discrimination on the basis of nationality. Mutual recognition has a much wider definition and in particular it promotes competition among domestic regulations of different Member States. The rule states that if a product is authorized to be sold in one Member State it should not be blocked by some restrictive regulation existing in some other Member State, unless such a restriction

⁵ Judgment of the European Court of Justice of 20 February 1979 in case 120/78, *Rewe-Zentral AG and Bundesmonopolverwaltung*, Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:61978CJ0120&from=en>.

can be justified in order to attain other general interest objectives strictly defined. Although mutual recognition was originally developed to promote the free movement of goods, it is now widely applied to services as well and, for example, is at the basis of the mutual recognition of university degrees within the EU so as to allow the free movement of professionals. In other words not only products or services of other Member States cannot be discriminated directly or indirectly, but also firms desiring to establish themselves anywhere in the Union cannot be blocked by discriminatory rules or practices.

The principle of free movement is quite powerful. For example in a case launched by the Commission against Greece in 1998, the Commission was concerned that a Greek law (that was in existence for decades) that imposed that an optician shop be owned by a qualified optician who in turn could operate only one shop was against the principle of allowing the free establishment of a company. The issue here is that the Greek law was not discriminatory, since domestic and out of State opticians were treated equally. However the law was considered by the Court of Justice to be in contrast with the free movement provisions unless Greece was able to justify it with respect of the attainment of some safety or health considerations. And indeed the Greek government defended the provision by arguing that it was necessary for public health. Instead, according to the Court, “(P)ublic health could be protected by guaranteeing that certain actions will be carried out by qualified, salaried opticians or under their supervision” and, furthermore, that ownership of the shop by an optician was not necessary⁶.

Without any political decision or discussion, a domestic law was considered contrary to the Treaty simply as a result of a legal procedure. The same happened to thousands existing rules and regulations, making the regulatory structure of all Member States compliant with the Treaty. Furthermore all new regulations and regulations of every Member State are by necessity compliant so as not having them scrapped.

Based on a 60 years experience, an internal market case has to have a number of characteristics: 1) the regulation of a given market has to differ among Member States; 2) such differences have to be considered unjustified by a tribunal, often by the European Courts; 3) the free movement coherent solution is easy to identify and does not require the exercise of ex-post controls.

In other words it is clear from the EU experience that a Tribunal is not well equipped to exercise ex-post control (making sure that a judgment is properly interpreted) or to fine-tune a judgment that has been already taken (adapting it to changed circumstances). I will provide an example that shows the limitations associated with a judicial approach to the EU internal market.

The Italian code for disciplining traffic on public roads provides that only automobiles are allowed to tow trailers. Motorbikes cannot do so in Italy, while they are allowed to tow a trailer in most other EU Member States. The provision that did not allow motorbikes on Italian roads was allegedly thought to be an illegitimate quantitative restriction of imports (even if also Italian producers of tow trailers were affected by the ban⁷) and was brought in front of the Court of Justice.

The Italian provision is clearly non discriminatory in the sense that it affects equally all producers (both Italian and foreign) selling a motorbike in Italy and all consumers driving a motor bike in Italy. However the Court argued that “in the absence of harmonization of national legislation, obstacles to the free movement of goods which are the consequence of applying, to goods coming from other

⁶ Commission v Greece, Judgment of the Court, 21 April 2005 in Case C-140/03, available at: <http://curia.europa.eu/juris/showPdf.jsf?text=&docid=58138&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=8972>.

⁷ In general a quantitative restriction of imports is meant to protect a domestic producer. In this case also domestic producers were hurt and by the way they were probably hurt even more than foreign producers (who at least have a local market where to sell their trailers and entry into the market may be easier than if someone has to sell all its production abroad).

Member States where they are lawfully manufactured and marketed, rules that lay down requirements to be met by such goods constitute measures of equivalent effect to quantitative restrictions even if those rules apply to all products alike”. Italy justified the restriction by saying that the prohibition originated from road safety considerations, considering the specific contour of its national territory. The Court agreed that road safety could indeed represent “an overriding reason relating to the public interest capable of justifying a hindrance to the free movement of goods”.

However the Court had also to ascertain that the measure was proportionate to the objective it meant to achieve. Here the Court suggested that in the absence of harmonization of traffic rules, “(A)lthough it is possible ... to envisage that measures other than the prohibition (of motorbikes with trailers) could guarantee a certain level of road safety, the fact remains that Member States cannot be denied the possibility of attaining an objective such as road safety by the introduction of general and simple rules which will be easily understood and applied by drivers and easily managed and supervised by the competent authorities”⁸.

In other words by this judgment the Court stops short of becoming a traffic regulator and rightly so. The Court simply says that the prohibition of tow trailers for motorbikes in Italy may not be necessary, but that such a prohibition is easy to understand and to implement. A Court is not well positioned to change rules when the decision is a maybe, not a clear yes and no.

Indeed, judicial review is effective for ensuring some regulatory convergence in sectors where full harmonization through legislation is not considered appropriate. Nonetheless the role of Member States in devising and implementing rules that are not contrary to the Treaty provisions remains of the outmost importance. However, the internal market rules are to be applied by a judge only when there are differences between regulations existing in different Member States. Indeed a judge could never apply the internal market rules to eliminate unjustified regulation existing in all Member States.

For example, had tow trailers not be allowed to circulate in any Member State, there would be no discrimination in place and no violation of internal market rules, even though the rule may nonetheless be unjustified.

The internal market rules don't lead to optimal policy choices. They just make sure that trade (defined in a very broad sense) is not restricted.

3. Free movement objectives and domestic policies

The European Commission very quickly understood that the Treaty provisions by themselves could not achieve full harmonization of regulation across the Union because in some areas the technicalities of regulation were quite complex and furthermore the domestic legal provisions over which to achieve convergence were quite numerous, not just yes or no, like in the case of motorbike tow trailers. The Commission had to identify the optimal rules over which to harmonize.

Take for example public procurement provisions, one of the first areas where the Commission initiated an action for achieving convergence of adjudication procedures in Member States. Here the issue is how to open up to competition from outsiders domestic public procurement markets. There are many ways by which a public administration could make successful entry by outsiders more difficult: 1) lack of proper advertisement of the bid to outsiders; 2) lack of transparency on the standard for adjudication; 3) narrow product definition; 4) widespread renegotiations after adjudication, limiting such an opportunity only to insiders, i.e. being much stricter when the bid was adjudicated to outsiders. On all these issues judicial review would be very ineffective in the absence

⁸ Judgment of the Court, 10 February 2009, in Case C-110/05, available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=72844&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=11543>.

of a best-practice benchmark to use as a common reference standard. In such a case, only explicit harmonization can achieve convergence. This is why the Commission intervened with harmonization directives already in the 1970s (the first directive for the procurement of public works was issued in 1971 and for the procurement of supplies in 1976).

Today public procurement Directives impose on Member States a common framework on how the bidding process, for contracts above a given threshold, should be advertised, organized and carried out. However the Directives are concerned only with the bidding and the adjudication process (above a given threshold), leaving the planning, the execution, the sanctioning and the ex-post controls to national governments to regulate (including adjudication below the threshold), unless for example there are excessive cost increases after adjudication. Renegotiations, although they may be justified in the case of unforeseen circumstances having occurred, may suggest that the process of adjudication was a screen to keep foreign players out (since only domestic suppliers knew that the price could be increased afterwards and so could make a very aggressive bid).

There are differences in objectives between the Community and national governments. While a domestic legislation on public procurement would have as its objectives the pursuit of value for money or, in other words, the effectiveness of the purchasing activities of public Administration in achieving the desired quality at minimum cost, the first recital of the new European directive on public procurement suggests that the objective to be achieved is simply the opening up of domestic procurement markets: “The award of public contracts by or on behalf of Member States authorities has to comply with the principles of the Treaty on the Functioning of the European Union, and in particular the free movement of goods, freedom of establishment and the freedom to provide services as well as the principles deriving therefrom, such as equal treatment, non-discrimination, mutual recognition, proportionality and transparency”⁹.

While achieving value for money and the opening up of procurement markets are fully compatible objectives, simply opening up procurement markets to foreign competition is not sufficient for achieving value for money. A different instrument has to be used for that purpose. For example guaranteeing the quality in a service procurement throughout the contract period can be assured only by introducing a system of incentives compatible with that objective. Competition in the adjudication process does not achieve that objective. As Albano, Heimler and Ponti (2014)¹⁰ discuss, one possibility is to introduce incentives for good quality provisions, for example extending the length of a service contract in response of a high quality performance. Of course the process is incentive compatible, only if the possibility is allowed for in the procurement contract, i.e. the possibility is well known ex-ante and, given an observed performance, there is no uncertainty in the way it is interpreted and rewarded.

Public procurement is an example for showing the interplay of different instruments in the proper regulation of a sector. Both EU and domestic legislations are necessary to address all the issues involved. One possibility for achieving value for money in public procurement is to superimpose an effect evaluation objective to the EU procurement rules¹¹. This is fully compatible with the EU directives, but needs to be introduced domestically.

Some Member States do so on a regular basis, taking the EU initiatives as a starting point of a process of reform. Italy (including administrative judges reviewing government decisions) very seldom builds

⁹ Directive 2014/24/EU Of the European Parliament and of the Council of 26 February 2014 on public procurement. Available at: <http://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:32014L0024&from=EN>

¹⁰ Albano, GL, Heimler, A. and Ponti, M. (2014), “Concorrenza, regolazione e gare nei servizi pubblici locali: il caso del trasporto pubblico locale”, *Mercato, concorrenza e regole*.

¹¹ See Heimler, A. (2015), “Appalti pubblici, vincoli comunitari e prassi applicative: quale spazio per gli aspetti sostanziali?”, *Mercato, concorrenza e regole*.

up from existing EU obligations and remains confined to the text of the EU rules without understanding their objectives fully nor trying to adapt them to domestic circumstances. Two examples may help explain these points, one on public procurement the other one on the service directive.

Public procurement

The new 2014 directives on public procurement innovate quite substantially on previous consolidated practices. In the past, for fear that member States would strategically exclude foreign firms, bad reputation (past performance) could be a criterion for exclusion from a bid only in very stringent circumstances. Recognizing that this limitation negatively affected the incentives for a quality performance after adjudication, the new Directive suggested in Recital 101 that a company can be excluded from a bid in the case of “repeated cases of minor irregularities (which) can give rise to doubts about the reliability of an economic operator which might justify its exclusion”. Italy, when transposing the new directive into national law chose a much more rigorous standard: having been found responsible in the past of “serious professional violations”¹²

For the Commission this more rigorous Italian approach is perfectly fine, given the objective the Community pursues, i.e. promoting the free movement (the probability that an outsider be wrongly considered a bad performer is reduced). On the other hand for Italy such a restriction on the possibilities of excluding low quality firms, may lead to widespread inefficiencies. Were they considered when the procurement law was enacted? My understanding is that the only concern of the drafters of the law was reducing administrative discretion. The costs involved, in terms of reduced quality of supply, for achieving it did not matter to them.

The service directive

Article 12 of the Directive suggests that “(W)here the number of authorisations available for a given activity is limited because of the scarcity of available natural resources or technical capacity, Member States shall apply a selection procedure to potential candidates which provides full guarantees of impartiality and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure”. The principle of introducing a bidding procedure in the case of scarcity was meant to be applied to situations of very tight and stable oligopoly, where demand is captive and the possibility to exercise that activity for a new entrant is impossible, once all possible authorizations had been granted.

There is a further condition that needs to be taken into account for the mandatory bidding to be incentive compatible, but this is an issue that unfortunately the Directive does not consider: the value of the activity to be authorized should not depend on the value added provided by the company who had been first authorized to start it. Otherwise the State risks expropriating through the subsequent biddings some of the benefits that should accrue to the company itself, discouraging the company for fear of expropriation from carrying out in the first place any investment or any effort for improvement, not a very good result in terms of public policy goals to be pursued. For example what is the value of a TV transmitting frequency thirty years after it has been used by a successful TV company? How can you disentangle the value of the frequency from the value of the company itself (whose value would be scrap without the frequency)?

Furthermore it is clear from the text of article 12 that the bidding is necessary only in circumstances where an activity cannot be carried out by an outsider unless he participates in a bidding procedure. If, on the other hand, a company can enter the market by acquiring on the market an already authorized company, than introducing regular biddings should not be necessary. This is certainly the case in Italy for establishments providing beach services or for shopping stalls. Those should be issues

¹² See the Italian Public Procurement Code (codice degli appalti, Decreto Legislativo 18 Aprile 2016, n.50), article 80, paragraph 5, letter c.

of no community significance. Furthermore periodic bidding would create a disincentive for sunk investments, exactly the contrary of what a “good” public policy should pursue.

The EU should reconsider the way it interprets article 12 of the service directive.

4. State Aid control: recent developments

Article 107 of the EU Treaty which defines incompatible State Aid was very carefully drafted. It does not define aid, it only defines what an aid cannot do: “Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market”. Accordingly, there are five elements to an incompatible State Aid: (i) the use of state resources; (ii) the measure must confer an advantage to certain firms; (iii) the advantage must be selective; (iv) the measure must distort competition; and (v) affect trade between member states.

What is an aid?

Without going into the operational details of European State aid policy, it is important to underline that the Commission and the European Courts, similarly to what happened in the field of antitrust, have provided a wide definition of what is an advantage to firms, defining as state aid not just a financial transfer from the State, but any advantage that directly affects the budget charges of a firm. Furthermore, given the fact the government ownership was widespread in Europe (at least until the late 1990s), the notion of State aid was expanded in order to identify the circumstances when investment decisions in government-owned firms were incompatible with state aid legislation. The main instrument developed was the private-investor principle, introduced already in 1981, according to which no State aid is involved if it can be shown that the capital investment by the state would also have been made by a private investor at market conditions, an easy standard to declare, but a difficult one to enforce in a rigorous way.

For example, it is not clear what is the standard of reference to be applied—the profitability of the additional investment or the overall returns that the firm achieves otherwise. As von Weiszacker (2002) argued, the problem with the private-investor test adopted by the Commission is that the profitability is calculated with respect to the addition of capital to an existing firm as if it were a stand-alone investment. This is not the right test for a company that the government already owns. Indeed, if new capital increases the value of the old capital, then the return which the owner achieves overall as the result of the injection of new capital can be higher than the return which an outsider achieves from injection of new capital into the enterprise under the same conditions.

Selectivity and incompatibility

According to article 107, paragraph 1, selectivity is not sufficient for an aid to be incompatible with the common market. It is first necessary that the aid distorts competition. However, even if according to settled case law, State aid measures are defined in terms of the effects they produce, not in terms of the objective they pursue implicitly or explicitly, distortions of competition have always been presumed from selectivity. As a result, in the EU practice, State aid decisions are not accompanied by a market analysis nor by a thorough analysis of the distortionary effects of the measure (see Heimler, 2009 and Heimler and Jenny, 2012)¹³.

¹³ Heimler, A. (2009), “European State aid policy in search of a standard. What is the role of economic analysis?”. In Hawk Barry (a cura di), *International Antitrust Law and Policy, Fordham Competition Law 2009*, Juris Publishing; Heimler, A. and Jenny, F. (2012) “The Limitations of EC State Aid Control”, *Oxford Review of Economic Policy*.

The European case law on State aid in this respect is very different from that in antitrust, where presumptions that competition is distorted are used, at least in principle, only in a subset of circumstances (hard-core cartels). In State aid the presumption that selectivity leads to a distortion of competition is universal. The definition of incompatible state aid under article 107, paragraph 1, is therefore quite wide and a competition analysis is undertaken only very late in the process.

The procedure is as follows. First incompatibility needs to be identified (and this is done with reference to selectivity, not to competition). Then the Commission has to examine whether the State measure can be exempted according to the criteria identified in article 107, paragraph 2 (aid granted to individual consumers, to make good the damages of a natural disaster, or aid granted to the former East Germany) and paragraph 3 (aid to achieve convergence between EU regions, aid to execute an important EU project, development aid, and to promote culture).

In the exemption decisions under article 107, paragraph 3, (in article 107, paragraph 2, decisions the Commission can exercise no discretion) competition issues are addressed only at the balancing stage, after the Commission has shown that the aid provides some overall benefits, that go beyond the aid itself (the benefit is the incentive that the aid provides). Furthermore, competition issues are always considered as a negative element, i.e. distortions. According to established practice, an aid can never have a positive effect on competition (i.e. selectivity means that some competitors do not receive it). But sometimes the effects of the aid increase competition overall (and often not because of the aid but because of the new idea that the aid was able to bring to the market), a very important result that is rarely considered in the analysis.

Finally, if there are no overall benefits originating from the aid (just private benefits), as it happens in many circumstances, the measure cannot be exempted and is declared incompatible with the common market even when the distortions of competition are unnoticeable.

In the individual assessment of a State aid measures, the effect on competition should be a preliminary exercise. If there is no effect on competition, the measure is not an incompatible State aid¹⁴. Full stop.

A first step of this approach can be seen in the clarification provided by the ECJ on what is an aid. For example, (after the Leipzig Halle judgment¹⁵), an infrastructure that is not used for economic activity falls outside of State Aid control. Small concert halls, small museums are not caught either since they do not have an impact on intracommunity trade. As for ancillary economic activities, provided the economic activity is small, there is no State Aid. Subsidizing infrastructures that may be big but do not face competition (national road network, bridges on a highway and a rail next to it, etc.), is also fine, provided that the infrastructure be available to everybody on fair, transparent and non discriminatory conditions.

What is clearly State aid is subsidizing airports, ports, broadband, energy, the reason being that these sectors are open to competition. In such markets, it is not just the infrastructure itself, but also its use that may be subject to State Aid control. Provided there is a competitive tender there is no advantage to the operator and therefore no advantage at the level of the user.

The role of the general block exemption (GBER)

Compatibility decision are a monopoly of the European Commission. However the GBER has extended the scope of Block Exemptions (no notification for these). It is a paradigm shift: In 2011

¹⁴ Should the effect on competition be positive, the extension of the aid to the small number of negatively affected competitors, more than restitution of the aid, may be the appropriate remedy.

¹⁵ Judgment of the European Court of Justice, 19 December 2012, *Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH, v European Commission*, Available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=131967&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=861426>.

51% of the State aid schemes were block exempted, they are 89% in 2016.

As described by the Commission in the Vademecum on Community law on State aid,¹⁶ “(T)he GBER consolidates into one text and harmonises the rules previously existing in different regulations. It also enlarges the area covered by notification exemptions by five types of aid which have not been exempted so far (environmental aid, innovation aid, research and development aid for large companies, aid in the form of risk capital and aid for enterprises newly created by female entrepreneurs). The GBER applies only to transparent aid, i.e. grants and interest rate subsidies, loans where gross grant equivalent takes account of the reference rate, guarantee schemes, fiscal measures (with a cap) and repayable advances under certain conditions. Aid is only allowed if it has an incentive effect. The GBER provides different criteria for the verification of the incentive effect with ranging complexity: (i) for certain types of measures, incentive effect is presumed; (ii) for SMEs, the incentive effect is present if the application for aid was submitted prior to the start of the project; (iii) and for large enterprises, in addition to the above, the Member State would have had to verify basic conditions of the documentation.”¹⁷

All these exemptions are granted presuming that the aid is beneficial, i.e. overcoming very widely defined market failures, an assumption that would need a much more rigorous justification had it been done on a case-by-case basis, considering, for example, that SMEs can very often finance themselves in the market without the need of any aid, that investment into innovations is always appropriable, and so on. This is why an ex-post assessment of State aid schemes may help identify the type of market failure where state aid is more effective in overcoming them.

The GBER is also used for Regional aid. This is an area of increasing inefficiencies. Regional aid is meant to promote convergence among Regions characterized by different degrees of development and of relative competitiveness. Considering that many regions that benefit from generous State aid regimes already benefit from substantial costs advantages (i.e. low labour costs, favourable exchange rates, etc.), granting State aid without a rigorous assessment of its incentive effect can risk developing into a policy of “beggar thy neighbor”. Because of generous locational aid, firms have a greater incentive to move from high costs to low costs EU countries, sometimes even to accession countries. When this process takes place in periods of high growth the problems are minimized. However in periods of recession, the process of decentralization of production to low costs countries can become very detrimental and create increasing social costs. According to the GBER, the assessment of the compatibility of State aid is simply done with respect of the territory/country where the aid is granted. What matters is “that a project is carried out, which would not have been carried out in the area concerned or would not have been sufficiently profitable for the beneficiary in the area concerned in the absence of the aid”.

The test is perfectly fine, if it is carried out for aid which is outside of block exempted regimes. For block-exempted schemes the beneficial effect of the aid is presumed. It should not. For investment aid, for regions already characterized by profound cost advantages, which is particularly true when the generous aid standard applies to a whole country, the compatibility of the aid should be decided on a case by case basis.

A possibility could be to introduce a notification obligation for all regimes, including those that are now block exempted, adopting a simplified procedure for assessing their compatibility. Relying on ex post evaluation to fine tune State aid policy, as the Commission suggests, is a good idea but it would take decades for it to produce any effect.

¹⁶ Available at: http://ec.europa.eu/competition/state_aid/studies_reports/studies_reports.cfm.

¹⁷ Pages 19 and 20 of the Vademecum.

In the existing EU practice (after the 2017 revision of the GBER) only for relocational investment the aid is not block exempted. In such instances the test for assessing the compatibility of such aid should also consider the costs incurred by the other member State because of the relocation. In other words, for relocational investments, the aid should not be assessed with respect to the new investment only but also by considering all the costs (direct and indirect) incurred because of the relocation from the country where the original plant was localized.

More scope for legislative developments: the corporate income tax.

Multinational companies have benefitted from very favorable tax treatments in some Member States. Such tax provisions are problematic. If they have provided a selective advantage they may be prohibited. The case law is starting to become extensive: Starbucks (they were charging IP charges for coffee roasting only when the transaction took place between subsidiaries); Belgian excess profit scheme (extra deductions for only those multinational companies that built their headquarter in Belgium) and Apple cases (very low corporate taxes to Apple in Ireland). State aid provisions however are not sufficient for creating a level playing field in the EU.

The Apple case

The main critical issues in this case are two pieces of legislation: an Irish law that allows companies incorporated in Ireland and being fully controlled by foreign individuals not to be taxed in Ireland for profits not originated in Ireland and a US law that allows multinationals to pay taxes on their profits made abroad only when these are returned back to the US. As a result of the combination of these two elements, Apple was not paying taxes on most of its profits outside of the US and transferred to Ireland, the reason being that they were originated in the United States through the creation of intellectual property and as a result were not taxable in Ireland.

All this is not sufficient for identifying an incompatible State aid because it merely leads to an advantage, i.e. the tax savings that Apple received, measured as the difference between the tax that would have been due under generally applicable domestic law and the tax actually paid under the challenged provision or regime. As for selectivity, the advantage could be considered selective if “it put(s) ... (Apple) in a more favourable position than other undertakings that are in a comparable factual and legal position”.

An issue here to be discussed is whether the selectivity should be measured against other multinationals similar to Apple, showing that the tax treatment Apple received was more favorable than they did, but these other multinationals may not even be Apple competitors, or whether, much more rightly, the selectivity should be measured with respect of the actual or potential competitors of Apple, putting into question the generality of the measure itself.

Two companies benefitted from the favorable tax in the Ireland-Apple case, Apple Sales International (ASI) and Apple Operations Europe (AOE), both were Irish-incorporated Apple subsidiaries, but they were tax resident nowhere (stateless). According to an agreement with the Irish tax Authority ASI and AOE would pay taxes in Ireland on figurative profits calculated as a percentage (around 15%) of the branch operating expenses.

In the course of the negotiations on how to calculate these figurative profits, Ireland and Apple discussed employment levels in Ireland in exchange for a somehow lower tax burden. This is clearly State aid. Furthermore Ireland accepted without any independent assessment Apple representation about the relative contributions of the head offices and the branches (IP licenses should all be attributed to the US and branch profits were presumed according to Apple suggestions). The restitution request did therefore take into account this reassessment. More importantly the advantage Apple received was compared, not to the situation of other multinationals geographically diversified like Apple, but to Apple competitors that would have to buy inputs at market prices (and not as Apple did at tax free prices).

The case is under appeal. In my view the prohibition it introduced may create some discipline for fiscal authorities across the EU, but of course short of any harmonization of the corporate income tax.

The EU however is actively working on these issues also on the regulatory front. In particular, short of rate harmonization, the new proposed directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions provides “a specific, structured and multi-layered procedure for cross-border conversions which ensures a scrutiny of the legality of the cross-border conversion firstly by the competent authority of the departure Member State and secondly by the destination Member State in the light of all relevant facts and information. A crucial element of the procedure is that it would prevent a cross-border conversion where it is determined that it constitutes an abuse, namely in cases where it constitutes an artificial arrangement aimed at obtaining undue tax advantages or at unduly prejudicing the legal or contractual rights of employees, creditors or minority members”.

The Directive however does not introduce some constraints on transfer prices so that, even an existing corporate structure, by illegitimately shifting profits to low tax countries, would not be able to strategically reduce its tax burden.

Achieving a common corporate tax in the EU is a worthwhile objective to be pursued by a specific tax harmonization directive.

5. Conclusion

European and domestic regulations are strictly complementary. The best outcome is achieved when domestic regulation is competition oriented, adding an efficiency pillar to the EU objective of opening up markets. When domestic regulation creates obstacles for competition to emerge, the positive effects potentially associated with European interventions is weakened. In public procurement, for example, the efforts of the EU to allow firms to receive some benefits because of a good reputation as Public Administration suppliers should not be frustrated, as it has been done in Italy when the new European directives were adopted domestically. Quality of supply is what matters, not extending advantages to unfit firms!

The same is true when European law is applied without due consideration to domestic supply conditions. For example article 12 of the Service Directive obliges Member States to introduce a bidding procedure should the number of competitors be naturally limited. The provision was meant to be applied to situations of very tight and stable oligopoly, where demand is captive and the possibility to exercise an activity is impossible for a new entrant, once all possible authorizations had been granted. Everything is fine except that in some markets the value of the activity subject to authorization depends on the sunk investments made by those that have been granted the authorization in the past. Introducing a bidding procedure in such instances leads to an illegitimate expropriation by the State of private sunk investments, weakening the incentive to invest in the first place. Furthermore, where the numbers of such authorizations is high, the market is not blocked and many firms can enter the market by acquiring in the market an already authorized company. Introducing regular biddings, as imposed by the Service Directive, should not be necessary in such instances.

As for State Aid, the process of modernization started in 2012 has not addressed one of the main shortcomings of the practice of State aid control, mainly the fact that the notion of an incompatible aid starts from an assessment of selectivity and not from a competitive evaluation of the affected market. If an aid produces no effects on competition or, even better, it promotes greater competition, it should not be blocked.

Furthermore, instead of exempting aid, the EU should concentrate more on blocking incompatible aid. For example, locational aid was originally meant to contribute to the development of regions which were a small part of existing Member States (for example the Southern part of Italy). With the

accession to EU of countries characterized by much lower levels of income per capita, the privilege of locational aid has been granted, contrary to what was happening in the past, to whole countries, already benefitting from strong competitive advantages (low labor costs, favorable exchange rates, etc.). State aid regimes granting locational aid and block exempted should instead all be notified to the Commission and be subject to a simplified authorization procedure. Relying on ex post assessment for reforming State aid policy is a good idea, but it would take decades to produce the desired effects, if any.

Finally corporate income tax harmonization is a necessity in Europe, as highlighted by the recent Apple case. State aid control can eliminate some distortions but it is certainly unable to create a level playing field in the EU. For this it is necessary to intervene with a specific directive ensuring harmonization is properly achieved.