

# THE EUROPEAN UNION CRISIS

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The Euro's recent sharp descent against the dollar makes us doubt about the strength of the Euro and makes us think about the real possibility of reaching parity with the Dollar. The negative tendency of the Euro started in November as a result of the fears of unsustainable fiscal imbalances of several European countries. Finally, the Euro hit an 11 month low last week. This drop is the consequence of Europe's immersion in a deep economic crisis product of the large debt levels of Portugal, Ireland, Italy, Greece and Spain.

Oddly, this sharp drop of the European currency occurred contemporaneously with the European leaders' summit to decide how to help Greece. Indeed, Greece's big debt is making the European markets suffer. And more are to follow. Portugal, has already announced a negative long term debt, and Spain is trying to deal with a 20% unemployment rate. The Union is now focusing its efforts on how to help the highly indebted members.

Greece has not officially asked for a bail-out. The tensions between the member states to decide whether to financially assist Greece or not has ulterior motives. If Greece goes to the United States or to other non European institutions to ask for international financial assistance, it would trigger the beginning of the end of the European economic union. The issuance of a bail-out plan for Greece responds to the member states' need to protect the economic unity of the Union itself.

Another of the reasons to have a stand by up plan available is to reassure investors. This situation of generalized uncertainty has triggered distrust from investors in Greece and in other weak economies in the Union. The public testimonies of the Chancellor of Germany and the President of France mark the tendencies of the European currency. The lack of consensus within the European Union and the drop on the rating of Portugal, do not help the Euro. To the contrary, these circumstances are helping the Dollar. The drops on the European stock market and the Greek debt are some reasons for the resurgent Dollar.

Some argue that the EU does not have the legal capacity to bail-out Greece. This lack of legitimacy to provide financial assistance to other member states is based on Art. 125 of the TFEU[1], which establishes in pertinent part:

*1. The Union shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. (emphasis added).*

Some consider this Article as the no-bail out clause which forbids the member states of the European Union to provide financial assistance to another member state. However, this is a misreading of the Treaty. The Article clearly establishes that the Union cannot be liable for the debt of governments of any Member State. But this does not mean that, if the governments of member states so decide, they can, legally, bail-out other governments. However, Article 122 establishes in pertinent part:

*2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or **exceptional occurrences beyond its control**, the Council, on a proposal from the Commission, may grant, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision taken.*

This Article begs a necessary question: what are exceptional occurrences? Surprisingly enough, this concept has never been defined by the European Union. Would Greece's crisis constitute an exceptional occurrence? At first sight one could think it does constitute an exceptional occurrence. However, there is no specific definition that establishes what an exceptional occurrence is.

Applying these two rules to the present situation, the preliminary conclusion is that these are contradicting Articles. In trying to resolve this apparent contradiction, the Council has suggested that the no bail-out clause is superior to the article allowing for assistance to member states. In a Declaration attached to the Nice Treaty, the Council states: "*According to this declaration, decisions regarding financial assistance, such as are provided for in Article 100 and are compatible with the 'no bail-out' rule laid down in Article 103...*"[2].

Pursuant to the above, it is not clear whether the member countries of the Eurozone have the legal and financial power to bailout Greece. However, due to its not that long existence, Europe will be flexible on applying these rules. In fact, up to now the only obstacle has been political due to the lack of consensus among the different member states. Finally, last Friday, France and Germany agreed on a plan to aid the heavily indebted Greece. The plan would not be applied imminently, but only as a last resort. The plan will involve bilateral loans within the member states and will also have money available from the International Monetary Fund.

A much worse scenario would be Greece (or other indebted members) leaving the European Union. Right now Greece can not devalue its currency to boost its economy because it is part of the European Union. Only leaving the EU could Greece take control of its own economy. Perhaps Europe needs to strengthen the economic governance in the euro zone to avoid threats like Greece to the stability of the European Union.

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[1] Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:EN:PDF>

[2] Available at [http://eur-lex.europa.eu/en/treaties/dat/12001C/htm/C\\_2001080EN.007001.html](http://eur-lex.europa.eu/en/treaties/dat/12001C/htm/C_2001080EN.007001.html)