

EMU CHOICES

THE CHOICE FOR EUROPE SINCE MAASTRICHT
SALZBURG CENTRE OF EUROPEAN UNION STUDIES

Fact sheet on legal foundations for fiscal, economic, and monetary integration

ROMANIA

by Ioana Raducu



Introduction

This country fact sheet provides concise information on the main characteristics of the national constitutional systems, including the system and role of national jurisprudence, parliaments and governments. Further, it briefs on the constitutional foundations and limits in the field of Economic and Monetary Union. It outlines on the existence of specific constitutional provisions on EMU membership, accession, treaty amendments, or limits to the (further) transfer of powers through Treaty amendments.

Among others, the overview informs about the principal actors in the field of fiscal and economic policies, the relevant findings of the judicial and parliamentary branches on EMU related actions, implementation measures of supranational and international rules, and respective constitutional amendments.

The legal fact sheets were compiled for all 28 EU member states of the Horizon 2020 funded project ‘The Choice for Europe since Maastricht: Member States’ Preferences for Economic and Financial Integration’.

ROMANIA (Ioana Raducu)

1) Main characteristics of the national constitutional system

Romania is based on the Constitution adopted in 1991, revised in 2003, in view of the accession to the EU. The basic constitutional principles safeguard the democracy, the territorial integrity of the Republic and the respect of human rights.

The Romanian Constitutional Court (RCC) is the ultimate guardian of the legal order exercising its competence to review the compatibility of legislation with the Constitution. Once the Romania adheres to the Euro, the Treaty on Stability, Coordination and Governance (TSCG) and the Treaty Establishing the European Stability Mechanism (TESM) will be adopted. As public international treaties, the ratification law can be checked before the Constitutional Court against the yardstick of domestic constitutional law. The Constitutional Court has not yet clarified the relationship between the EU law and the Constitution.

Romania has specific provisions on EU membership which covers the procedure for the accession and treaty amendments:

Article 148 (2) of the Constitution states that as a result of the accession, the provisions of the constituent treaties of the European Union, as well as the other mandatory community regulations shall take precedence over the opposite provisions of the national laws, in compliance with the provisions of the Accession act. (3) The provisions of paragraphs (1) and (2) shall also apply accordingly for the accession to the acts revising the constituent treaties of the European Union.

From Article 148(2) one can infer that Romanian constitutional law recognizes the essential characteristics of EU law: direct effect and primacy over national legislation. The relationship between the Constitution and the EU is not directly settled by the RCC. Once Romania became member of EU, EU measures are no longer subject of judicial control by the Constitutional Court, but by ordinary courts. If ordinary courts have doubts as to the conformity of EU secondary law with EU primary law it makes use of the preliminary reference procedure under Art 267 TFEU.

In view of its accession to Euro, Romania participates to the European Semester and joined the Euro Plus Pact to further strengthen the economic pillar of EMU and achieve a new quality of economic policy coordination between the States.

Romania translates the priorities of sound budget and financial sustainability into National Reform Programmes. On this basis, the Commission presents its proposals for country-specific opinions and recommendations for their adoption before the June European Council. Fiscal policies should aim to bring debt trends back onto a sustainable path and ensure that deficits are below 3 % of GDP in the timeframe agreed upon by the Council.

The European Council and the Council provide policy advice before Member States to finalise their draft budgets for the following year. Draft budgets will then be sent by the governments to the national Parliaments, which continue to fully exercise their right to decide on budget. In other words, this new framework represents in no way a limit to the sovereignty

of national parliaments. Romania is currently in the preventive arm of the Stability and Growth Pact.

Romania has not yet constitutionalised the zero structural deficit rule with a reasonable debt target, such 60% of GDP. For 2014, Romania has a public deficit of 1% GDP which is within the limits set by the TSCG and TESM. In its Convergence Programme for 2015 Romania has requested a temporary deviation of 0.5% of GDP from the required adjustment path towards the medium-term objective because of the planned structural reforms. Thus the objective for 2015 is 1.45% and for 2016-2018 is below 1.25%.

2) Constitutional Foundations of EMU

According to the accession Treaty, Romania has not opted out from the single currency. Therefore it is foreseen by Romania to participate in the Euro mechanism in January 2019.

Since the 2007 accession, Romania has tried to meet the new requirements imposed by EU Law in the field of EMU and met the criteria of convergence established by Maastricht Treaty: stable interest rates and inflation, a sustainable level of public debt. The monetary integration covers the real convergence with the economies of the EMU, financial stability, etc. The progress made by the Member States are analysed by the European Commission and the ECB in a convergence report which is presented to the Council every 2 years (according to Art 140 (1) of the Treaty).

According to the latest Report 2015-2019, Romania maintains the objective to accession in April 2019.

The Constitutional Court has not developed an *ultra-vires* doctrine with regard to EU law. It is unclear when Romania will join Euro and what kind of future accession treaty amendments would constitute a revision necessary to modify the constitutional setting.

According to Article 20 paragraph 2 of Romanian Constitution, *(t)he international regulations shall take precedence over national law unless the Constitution or national laws comprise more favourable provisions.*

The Romanian Constitutional Court has not yet found that the Romanian constitutional provisions comprise a more favourable regime than the EU Treaties. Romanian constitutional law does not seem to contain insurmountable barriers to further EMU integration due to a Treaty change. The changing of EU Treaties calls for higher thresholds as regards their approval in parliament. The RCC only reviewed national legislation according to international/European standards.

The Romanian Parliament adopted the Fiscal Responsibility Law no. 69/2010 in March 2010 (republished in Official Journal, Part I n0. 330 of 14 May 2015) designed to strengthen fiscal discipline and to contribute to improving the medium term fiscal planning. It transposes five fiscal rules to achieve the budgetary objectives, set by the Protocol 12 of the TFEU (Stability Pact), to better prioritize expenditures and promotes a prudent approach to fiscal policy in good economic times in order to preserve the necessary fiscal space to stimulate the economic

activity during recessionary times: transparency, stability, fiscal responsibility, equity and efficiency in taxation.

3) Limits to the (further) transfer of powers to the EU

The integration of the Treaty amendments – such as ESM, Fiscal Compact – in the constitutional order will be most probably similar to the integration of the EU *acquis* (for further details see the paper *Romania and the EU Integration*).

According to Article 152 of Romanian Constitution, the provisions of this Constitution with regard to the national, independent, unitary and indivisible character of the Romanian State, the republican form of government, territorial integrity, independence of justice, political pluralism and official language shall not be subject to revision. (2) Likewise, no revision shall be made if it results in the suppression of the citizens' fundamental rights and freedoms, or of the safeguards thereof. (3) The Constitution shall not be revised during a state of siege or emergency, or in wartime. As such there are no-EMU related measures subject to a sovereignty reserve.

The RCC has not further defined or conceptualised transfer of sovereignty and /or constitutional limits to EU integration.

4) At institutional level measures were taken after the crisis

New reporting requirements are introduced to raise the transparency of domestic fiscal policy. Since May 2011, the coordination at national level for the adoption of the Euro is ensured by the **Inter-ministerial Committee for the adhesion to Euro**, presided by the Head of the Government, Head of the National Romanian Bank (NRB) , the Ministry of Finance another representatives of governmental and non-governmental structures .

Since February 2010, the Committee of the passage to the euro works in the NRB, which prepares the formal framework for the problematics of nominal and real convergence and supports the Central Bank's decision to adhere to the EMU (studies the implementation of new concepts and mechanism developed by the EU in the aftermath of the crisis or the indicators of the structural alignment of Romania to the Eurozone). Since October 2010, the Committee comprises also the representatives of the Ministry of Finance. It prepares governmental national programmes following the European Semester and follows the work of European Systemic Risk Board (ESRB) which publishes reports on the systemic risks arising from the activities of European insurers and re-insurers. The Committee contributes to the preparation of national programmes by the Romanian Government (the Convergence or Stability Programme and National Reform Programme) following the notes received in the European Semester based on Council Regulation 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies Regulation (EU) No 1176/2011 of the EP and the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances.

The **Fiscal Council** as an independent authority established by the Fiscal Responsibility Law, aims to support the Government and the Parliament in designing and implementing the fiscal policy and to promote the transparency and sustainability of public finances. The objective of

the Fiscal Council is to contribute at the creation and strengthening of a culture of fiscal and budgetary responsibility in Romania, including by increasing public awareness on the consequences of policy decisions on the sustainability of government finances on the long run.

EMU CHOICES

THE CHOICE FOR EUROPE SINCE MAASTRICHT
SALZBURG CENTRE OF EUROPEAN UNION STUDIES



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No. 649532

www.EMUchoices.eu