European Union and Budget Decisions (I)

UNIVERSITY OF SIENA, SCHOOL OF ECONOMICS AND MANAGEMENT

JEAN MONNET MODULE “EUCOLAW” THE EUROPEANIZATION OF CONSTITUTIONAL LAW. THE IMPACT OF EU LAW ON NATIONAL SOURCES OF LAW, FORM OF GOVERNMENT, RIGHTS AND FREEDOMS.

COMPARATIVE LAW, 3-4-2017 PROF. GIAMMARIA MILANI

UNIVERSITÀ DI SIENA 1240

Co-funded by the European Union

Summary

- 1. Public Finance and State Budget
- 2. The European framework
- 3. The Italian framework
- 4. A comparative perspective
- 5. Open issues

1. Public Finance and State Budget

What is the State Budget?

- The state budget is a document which lists the revenues and the expenditures of the state in a given period of time, normally one year.
- The state budget is both an economic document and an expression of political choices. The budget has been defined as the transcription, in counting and economic terms, of the political program.
- The state budget is connected to the form of the State, to the form of government and to the type of State

State budget and form of State

- The origin of the state budget is, somehow, a consequence of the evolution of the form of State.
- By an historical point of view, the form of State is the set of relations that, in a certain historical moment, exist between who has the power and who is subject to that power. The form of State is determined by the aims and objectives of the state legal order, which are usually and nowadays written in the constitutions.

State budget and form of State

- In the Feudal System the idea of a public budget was missing, while a kind of direct correlation between contributions and benefits existed.
- In the Absolute State, the evolution of the public sphere and the strengthening of the State power led to a creation of a public budget based on general and compulsory contribution and public expenditures.
- In the Liberal State the state budget become one of the central aspect characterizing the relationship between the king and the bourgeois class represented by the Parliament
- In the Contemporary State, a democratic, pluralist and social State, the budget substantially change its role and its aim, trying to ensure equality, dignity and welfare.

State budget and form of government

- The concept of state budget is also essential to understand the significance of the form of government.
- The form of government indicates the ways in which the power and the determination of the political orientation of the State are divided among the constitutional bodies and the relationships between them. The determination of the political orientation is the determination of the objectives to be pursued by the public bodies; in other words, it is the set of public policies to be implemented in a specific historical moment.

State budget and form of government

- The discussion and approval of the state budget means the discussion and approval of a particular political orientation.
- The political institution that we are used to know born around the discussion and approval of the budget, and in particular around the authorization of spending and taxation (principle of “no taxation without representation”)
- the Government, which administers state budget and is responsible for its management;
- the Parliament, which monitors the work of the Government and authorize its choices regarding public money

State budget and type of State

- The concept of state budget is finally fundamental to understand the evolution of the types of State
- The type of State is the set of rules concerning the distribution of power among the levels of government, or the relationship between the central State and the decentralized authorities (such as Member States, Lander, Regions, Provinces).

State budget and type of State

- Fiscal federalism
- With the recent economic crisis there is an attempt to put a stop to this development and to strengthen the powers of the central state.

The State Budget today

- The budgetary matters seems to represent one of the clearest cases of overlap between the supranational and the national dimensions.

- The budgetary autonomy for the European states (but not only for them) no longer exists.

2. The European Framework

The evolution of the European Economic Governance

- In 1957 the Treaty of Rome established that:
- The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it (art. 2).
- Each Member State shall pursue the economic policy needed to ensure the equilibrium of its overall balance of payments and to maintain confidence in its currency, while taking care to ensure a high level of employment and a stable level of prices (art. 104).

The evolution of the European Economic Governance

- Between 1960 and 1964 advisory bodies are established in order to approximate the economic policies of the Member States.
- In 1970 the Werner Plan provides the progressive transfer of decisions regarding the economic policy by the States to the Union.
- Between 1973 and 1978 the European Monetary Cooperation Fund (EMCF) and the European Monetary System (EMS) are set up.
- In 1986 the Single European Act incorporates these institutions and introduces the art. 102A in which it sets out the objective of convergence of economic and monetary policies, necessary for the further development of the community.

The evolution of the European Economic Governance

- In 1992, with the Treaty of Maastricht, the public finance becomes an important and central topic in European Union law.
- Among its aims there is the establishment of an Economic and Monetary Union for the adoption of a single currency. For that purpose it lay down some essential conditions, such as the sustainability of the public finance (art. 3 A), and several substantial and procedural principles.
- From the substantive point of view it provides for the prohibition of excessive government deficits (Art. 104) and the achievement of budget situations non-characterized by excessive deficits (art. 109 J) and establishes the so called Maastricht criteria or Euro convergence criteria (government deficit/GDP ratio lower than 3%; government debt/GDP ratio lower than 60%).
- From the procedural point of view the Treaty establishes that the criteria have to be respected according to the definition developed by EU law; that States have to inform the Commission at least twice a year on the situation of the debt and deficit; that the Member States are invited to adapt their national procedures.

The evolution of the European Economic Governance

- In 1997 the Stability and Growth Pact (see Materials) is approved. It is composed by a preventive arm and by a corrective arm.
- The preventive arm (Regulation 1466/97: see Materials) provides that each Member State has to submit to the Commission and the Council a stability and development program containing objective of a budgetary situation close to balance or in surplus; the forecasts of the main economic variables; a description of the measures to be taken; an assessment of the influence of the eventual deviation of the economic variables on deficit and debt.
- The corrective arm (Regulation 1467/97: see Materials) provides that the excessive deficit could be considered exceptional and temporary if it depended on an event totally unpredictable or whether it was a result of a severe economic recession crisis; otherwise, it would lead to the imposition of financial sanctions.

The evolution of the European Economic Governance

- In 2005, following a European economic slowdown and an institutional crisis the Stability and Growth Pact is changed
- As for the preventive arm (Regulation 1055/05: see Materials), it is provided that the medium-term targets can be differentiated for Member States and can deviate from the objective of balance or surplus, while remaining with a safety margin below of 3%.
- As for the corrective arm (Regulation 1056/05: see Materials) the list of the relevant factors to be taken into account in the assessment of the country macroeconomic situation are enlarged and the penalty proceeding and the exceptional clause are revised in a more elastic sense

The Economic Crisis: causes and consequences

- The great economic crisis affecting Europe since 2008 has put in light all the problems of national and European economic governance.
- At national level, the more serious problems are the sustainability of the public finances of some states and the lack or delay of structural reforms (labor, education etc.).
- At European level, the problems seem to arise from the flexibility of the rules, from the arbitrary nature of those who were supposed to oversee their compliance and from the lack of an economic governance able to guarantee development and growth.
- This crisis situation led some Member States to risk default or exit from the euro
- The solution proposed consist of the creation of financial assistance instruments and the reform of the European economic governance.

The Economic Crisis: causes and consequences

- The financial assistance instruments are the result of the institutionalization and rationalization of the measures taken to try to solve the problem of Greece
- In 2010 the European Financial Stability Mechanism (EFSM) is introduced in order to create an organic tool of financial assistance (see Materials); it is based on Art. 122 TFEU
- By a further treaty signed by Eurozone Member States a parallel society is created, the European Financial Stability Facility (EFSF), guaranteed by the Eurozone Member States
- The mechanism lay down the conditions and the procedure for granting financial assistance to a Member State: the aid is proposed by the European Commission and granted by a decision adopted by the Council with qualified majority; it is subject to the fulfillment of the commitments made by the State in a special adjustment program.

The Economic Crisis: causes and consequences

- In 2011, in order to create a stronger mechanism a change to the art. 136 of TFEU is approved, explicitly providing in the Treaty the possibility to establish a stability mechanism
- In 2012 the European Stability Mechanism (ESM) is created; it has different financing system, functioning and governance compared to the previous mechanisms.
- As for the financing system, the new mechanism takes advantage of Member States contributions and not of the simple guarantees
- As for the governance, there is a Board of Governors, a Board of directors, and a General manager.
- As for the functioning, the request must be made by the State to the Board of Governors, which decides unanimously. The granting is accompanied by a memorandum of understanding; the Board of directors must approve with qualified majority the agreement.

The Economic Crisis: causes and consequences

- Alongside the financial assistance mechanisms, the European Union carries on governance reforms, of a different nature: political acts, normative acts reforming the European legislation, treaties of non-European nature.
- In 2011 the Heads of State and Government of the Eurozone sign the Euro Plus Pact (see Materials). It is a political act approved in order to consolidate the economic pillar of the monetary union, to make a qualitative leap in the economic policy coordination, and to improve competitiveness and increase convergence of the States.
- In particular, it establishes four guidelines: the pact has to be in line with and strengthen the existing economic governance; the pact has to be focused on priority policy areas that are essential for fostering competitiveness and convergence; each year, concrete national commitments have to be undertaken by each Head of State or Government; participating Member States are fully committed to the completion of the Single Market.
- It has a purely political value, but it sets the stage for the adoption of the following binding instruments

The Economic Crisis: causes and consequences

- In 2011 the Parliament and the Council adopt also the so-called Six Pack (five regulations and a directive: see Materials) aimed at strengthening the preventive and corrective arms of the Stability and Growth Pact.
- With regard to the preventive arm, the amendment introduce an European Semester and the concept of prudent fiscal policy.
- With regard the corrective arm, the amendment clarifies the excessive deficit procedure in order to make it more rapid and effective. In particular, it provides that also the debt is taken into account, stating that countries with a debt of over 60% of GDP should take steps to reduce it at a satisfactory pace (one-twentieth per year).
- In 2013 it was instead adopted the so called Two Pack (see Materials), two regulations that aim at strengthening the surveillance in unstable countries and establishing common rules for the evaluation of the budget documents.

The Economic Crisis: causes and consequences

- In 2012, meanwhile, the worsening of the economic crisis in some states has led to strengthen economic coordination outside the European Union framework but using its institutions, as already seen for the financial assistance mechanisms.
- A new international treaty is signed, the Treaty on stability, coordination and governance in the European Monetary Union (the so-called Fiscal Compact: see Materials). The fiscal compact is closely linked to the ESM, as it is expected that the ratification and compliance with the fiscal compact is a necessary condition for the access to the ESM assistance.
- The most important point of the fiscal compact is contained in paragraph 2 of art. 3: the Treaty commits Member States to introduce one year after its entry into force the balanced budget principle through provisions of binding force and permanent character, preferably constitutional, or otherwise guaranteed to be fully respected and adhered to throughout the national budgetary processes.
- The treaty also defines in a new way the concept of a balanced budget, establishing that the deficit must not exceed 0.5% of GDP, or 1% if the debt is significantly below 60% of GDP. The treaty reaffirms that countries with a debt of over 60% of GDP should take steps to reduce it one-twentieth per year.