

# ***Draft* TREATY ON THE DEMOCRATIZATION OF THE GOVERNANCE OF THE EURO AREA (« T-DEM »)**

## EXPLANATORY STATEMENT

In addressing the Euro area crisis, Member States have built a « Euro area governance » system which, from the Treaty on Stability, Coordination and Governance (TSCG) and the Treaty establishing the European Stability Mechanism (ESM) to the Regulation on the Banking Union and the *Six-Pack* and *Two-Pack* legislative packages, has contributed to the consolidation of austerity policies across the economic and monetary union.

The significant strengthening of the executive capacity of European institutions in the field of economic policy has taken place in the absence of any parallel development of parliamentary control. The European Parliament is largely excluded from the governance of the Euro area governance. Symptomatically, as article 12(1) of the TSCG foresees that « the President of the European Central Bank shall be invited to take part » in the meetings of the Heads of State or Government of the Euro area, its article 12(5) merely provides that « the President of the European Parliament may be invited to be heard ». As for the national Parliaments, the TSCG only acknowledges their limited advisory power in its article 13 - which refers to the Protocol on the role of national Parliaments in the European Union annexed to the European Union Treaties.

This imbalance deeply hurts the EU Heads of State or Government's commitment to « respect for and maintenance of representative democracy », which they solemnly declared to be an « essential element of membership » of the European Union in the Copenhagen Declaration of the European Council of 8 April 1978, and which they have constantly renewed since then. It also contradicts the status of democracy, under Articles 2 and 13 of the Treaty on European Union (TEU), as one of the « values » that the Union's institutions shall « promote ».

As it increases European citizens' estrangement from the European project, this deficit of democratic legitimacy carries the risk of a breakup of the European Union. Five years ago, the establishment of the ESM was justified by the urgency to address pressing issues of financial stability. Similarly today, it is a democratic emergency that calls for a revamping of the decision-making processes that structures the Euro area.

In view of the interconnection between the economic and monetary policies and the intertwining of the European Union's and the Member States' competences, only an overall revision of the European treaties could provide the

Euro area with the institutional framework it needs to overcome the original shortcomings of the Economic and Monetary Union.

However, as this option appears strongly impracticable in the short term, the possible adoption, in a short timeframe, of an international treaty that seeks to democratize the governance of the Euro area (hereinafter « T-Dem ») signed by the Member States whose currency is the euro, which puts « democratic conditionality » at its core, shall be considered.

The objective of the present draft treaty is twofold. On the one hand, it seeks to guarantee that convergence and conditionality policies, which currently are at the heart of the governance of the Euro area, are carried out by institutions which are democratically accountable, both at the European and at the national levels. On the other hand, it allows that the next necessary steps towards deepened fiscal and social convergence and economic and budgetary coordination within the Euro area, will not be decided upon without the direct involvement of the representatives of national Parliaments.

The Parliamentary Assembly of the Euro area foreseen by the present draft treaty fully contributes to the governance of the Euro area. Firstly, the Assembly sets the political agenda, by taking part to the preparation of the agenda of the « Euro summit meetings » (Council of Heads of State or Government) as well as of the semi-annual work programme of the Euro Group (Council of Ministers of the Euro area). Secondly, the Assembly is endowed with legislative capacity, in order to foster economic and fiscal convergence as well as sustainable growth and employment. Thirdly, the Assembly has the means to control the convergence and conditionality policies that have emerged over the last decade within the Euro area ; and in the case of a disagreement between the Assembly and the Euro Group, the former has the final say on the vote of the Euro area budget, the base and rate of corporate tax, and any other legislative act foreseen by the T-Dem.

For this purpose, the present draft treaty seeks to maximize the legal margins of manoeuvre that could allow the creation of a truly democratic system of governance for the Euro area, *as a complement* to the European Union treaties. In so doing, the « T-Dem » replicates the *modus operandi* of both the TSCG and the ESM Treaty (as validated by the Court of Justice of the European Union in its *Pringle* ruling from November 2012) to address the financial crisis, but does so in order to engage in a democratizing effort. It seeks to demonstrate that the European project is not cast « in stone » - provided there is enough of political will to shift its orientation ; it affirms that the path of the democratisation of the governance of the Euro area is worth following.

## **TREATY ON THE DEMOCRATIZATION OF THE EURO AREA GOVERNANCE (« T-DEM »)**

RESOLVED to reiterate, against a succession of economic, political and social crises, the importance of the European integration process undertaken sixty years ago with the establishment of the European Communities,

CONSCIOUS of the need, recalled by Protocol No. 14 to the Lisbon Treaty, to « lay down special provisions for enhanced dialogue between the Member States whose currency is the euro »,

TAKING NOTICE of the political and institutional upheavals brought about by the financial crisis and the emergence of a true « governance of the Euro area » to which a variety of institutions take part, in various capacities : the Council of Heads of State or Government of the Euro area (the « Euro Summit » as established by Article 12 of the TSCG), the Council of Ministers of the Euro area (the Euro Group as recognized by Article 137 TFEU and Protocol No. 14 to the Lisbon Treaty), the European Commission, the Court of Justice of the European Union and the European Central Bank,

NOTING that the imbalances of this « Euro area governance » currently confront the European Union with a situation of democratic emergency,

DESIRING to strengthen the democratic accountability and the effectiveness of the of the institutions of the « governance of the Euro area », so that they can better carry out the duties entrusted to them,

RECALLING the Five Presidents' Report on « Completing Europe's Economic and Monetary Union » from 22 June 2015, and its Part V on « Democratic Accountability, Legitimacy and Institutional Strengthening »,

RESOLVED to guarantee the signatory States' repeated commitments towards social rights, as set out in the European Social Charter of 18 October 1961 (revised in 1996), the Community Charter of the Fundamental Social Rights of Workers of 9 December 1989 and the Charter of Fundamental Rights of the European Union, now an integral part of the Lisbon Treaty,

RESOLVED to build the convergence and conditionality policies specific to the Euro area around institutions that are democratically accountable at the European and at the national level, in order to fully contribute to achieving the values on which the European integration process is founded,

IN VIEW of further steps to be taken in order to lay the lasting foundation of a political, economic and social Union,

The Member States of the Euro area, signatories of this treaty, REITERATE their obligation, as Member States of the European Union, to regard their economic policies as a matter of common concern, as well as their responsibility to set up mechanisms ensuring European solidarity ;

DECIDE to strengthen the democratic nature of the decisions taken in the framework of the governance of the Euro area ;

RECALLING the principle of sincere cooperation which governs the relations between the European Union and the Member States,

BEARING IN MIND that the objective of the Heads of State or Government of the Euro area Member States and of other Member States of the European Union is to incorporate the provisions of this Treaty as soon as possible into the Treaties on which the European Union is founded;

CONSIDERING that the policies of economic and budgetary coordination and fiscal and social convergence necessary for the proper functioning of the Euro area relate to the core of the constitutional prerogatives of national Parliaments which, as recalled by Article 12 TEU, « contribute actively to the good functioning of the Union »,

HAVE AGREED UPON THE FOLLOWING PROVISIONS:

## TITRE I. PURPOSE AND SCOPE

### ARTICLE 1 :

1. By this Treaty, the Contracting Parties agree, as Member States of the European Union, to strengthen the policies of economic and budgetary coordination and fiscal and social convergence necessary for the proper functioning of the Euro area, by adopting a democratic compact, thereby supporting the achievement of the European Union's objectives.

2. The Contracting Parties are the Member States whose currency is the euro.

## TITRE II. DEMOCRATIC COMPACT FOR THE EURO AREA

### ARTICLE 2. The Parliamentary Assembly

By this Treaty, the Contracting Parties establish among themselves an Assembly called « Parliamentary Assembly of the Euro area » (hereinafter referred to as 'the Assembly').

### ARTICLE 3. Functions

1. The Assembly shall, jointly with the Euro Group, exercise the legislative function and shall assume functions of political control as laid down in this Treaty.
2. It shall work in close cooperation with the European Parliament.

### ARTICLE 4. Composition

1. The number of members of the Assembly shall not exceed 400. It shall be composed, for the four fifths of its members, of representatives designated by national Parliaments in proportion to the groups within them and with due regard to political pluralism, in accordance with a procedure laid down by each Euro area Member State, and for one fifth of its members, of representatives designated by the European Parliament in proportion to the groups within it and with due regard to political pluralism, in accordance with a procedure laid down by the European Parliament.
2. The number of members of the Assembly designated within national Parliaments shall be fixed in proportion to the population of the Euro area Member States. Each national Parliament sends at least one representative.
3. Delegations from the Parliaments of the Member States of the European Union whose currency is not the Euro shall be invited to participate, as observers, in the meetings of the Assembly. They shall have access in due time to all relevant information, and shall be duly consulted.
4. A regulation shall fix the number of members of the Assembly.

### ARTICLE 5. New Members

The other Member States of the European Union can become signatories of this Treaty as from the entry into force of the decision of the Council of the European Union taken in accordance with Article 140(2) TFEU to abrogate their derogation from adopting the euro.

### ARTICLE 6 : The Council of Ministers of the Euro area (Euro Group)

1. The Council of Ministers of the Euro area shall ensure close coordination and convergence of the economic and fiscal policies of Member States whose currency is the euro.
2. It shall consist, according to the items placed on the agenda, of the Ministers for economic affairs and finance, the Ministers for employment and social affairs, or

other Ministers concerned by the agenda.

3. The President of the Council of Ministers of the Euro area, pursuant to Article 2 to Protocol No. 14 of the Lisbon Treaty, shall be elected by a majority of the Member States.

### TITRE III. POWERS AND TASKS OF THE PARLIAMENTARY ASSEMBLY OF THE EURO AREA

#### ARTICLE 7. Euro Summit and Euro Group

1. In agreement with the Euro Group, the Assembly shall prepare the meetings of the Heads of State or Government of the Euro area (Euro Summits).

2. In agreement with its members, it shall determine the semi-annual work programme of the Euro Group.

#### ARTICLE 8. Convergence and coordination of economic and budgetary policies

1. Each year, the Assembly shall adopt a position on the Alert Mechanism Report (AMR) released by the European Commission in the framework of the macroeconomic imbalance procedure, as far as it relates to Member States whose currency is the Euro.

2. It shall take part in the monitoring of the discussions on the annual draft budgetary plans of the Member States in the framework of the European Semester and shall make recommendations.

3. As the case may be, it shall assess the recommendations and reports submitted by the Commission to the Council concerning the Euro area Member States subject to an excessive imbalance procedure.

4. It shall hold regular exchanges of views on the implementation conditions of the structural reforms recommended for the Euro area in the framework of the European Semester.

5. It shall take part in the supervision of the Euro area Member States' coordination efforts in the field of budgetary policies, and shall monitor the overall fiscal trajectory of the Euro area.

#### ARTICLE 9. Financial Assistance Facility

1. In the framework of the procedure for granting stability support, the Parliamentary Assembly of the Euro Area shall approve by a vote the financial

assistance facility granted under the procedure referred to in Article 13(2) of the Treaty establishing the European Stability Mechanism.

2. If the financial assistance facility as referred to in paragraph 1 is approved by the Assembly, the memorandum of understanding detailing the conditionality attached to the financial assistance facility shall be submitted to the Assembly for approval.

3. The Assembly shall take part in the assessment of the situation of the Member States benefiting from or having benefited from a macroeconomic adjustment programme.

#### ARTICLE 10. Governance dialogue with the European Central Bank

1. Each year, in the light of the economic forecasts, the Assembly shall be invited to adopt a position through a resolution on the interpretation of the price stability objective and the inflation target adopted by the European Central Bank, in compliance with the Treaties on which the European Union is founded.

2. The Assembly shall approve by vote the annual report of the European Central Bank on the Single Supervisory Mechanism.

#### ARTICLE 11. Investigation and control powers

1. In order to carry out its function of control of the institutions of the « governance of the Euro area », and in close cooperation with the European Parliament, the Assembly is endowed with a Parliamentary Office for the Evaluation of European Economic Choices.

2. The Assembly may, at the request of a quarter of its members, set up a committee of inquiry responsible for investigating alleged maladministration in the « Euro area governance ».

3. The Court of Auditors of the European Union shall assist the Assembly in exercising its control functions.

4. The European Central Bank and the Commission shall supply to the Assembly all documents and data which the latter considers desirable in the exercise of its powers. As the case may be, these documents and data may be examined by a parliamentary committee which will meet in camera.

5. In order to ensure transparency and accountability, the Assembly may hear institutional actors of the Euro area governance.

#### ARTICLE 12. Exercise of legislative competence within the Euro area

1. Without undermining the competences conferred upon the Union in the field of economic policy, the Assembly and the Euro Group, acting in accordance with the legislative procedures referred to in Articles 13 and 15, shall adopt legal provisions to foster sustainable growth and employment within the Euro area, social cohesion and better convergence of economic and fiscal policies.
2. The Assembly and the Euro Group, acting in accordance with the ordinary legislative procedure, shall vote on the base and the rate of the corporate tax which contributes to the Euro area budget.
3. In compliance with the corporate tax base fixed at Article 12(2), Member States may adopt an additional tax rate.
4. The Assembly and the Euro Group, acting in accordance with the ordinary legislative procedure, shall adopt the provisions with a view to pool public debts exceeding 60 % of each Euro Area Member State's GDP.
5. The legislative act projects or legislative act proposals provided for in Article 13 shall first be sent to the European Parliament for an opinion.

#### ARTICLE 13. Ordinary legislative procedure

1. The Euro Group and the Assembly shall jointly adopt the legislative acts applicable within the Euro area governance.
2. Legislative initiative concurrently belongs to the members of the Euro Group and to the members of the Assembly. They have a right of amendment.
3. The legislative agenda of the Euro area shall be set jointly by the Euro Group and the Assembly. However, within the limit of half of the meetings, the Assembly shall set as a priority its own agenda and place the legislative act projects or proposals it accepts.
4. The ordinary legislative procedure of the Euro area applies to the regulations, directives and decisions jointly adopted by the Euro Group and the Assembly.
5. The members of the Euro Group submit legislative act projects. The members of the Assembly submit legislative act proposals.
6. Every legislative act project or proposal shall be successively examined by the Euro Group and the Assembly in view of the adoption of a single text.
7. When, following disagreement between the two institutions, a legislative act project or proposal could not be adopted after two readings, the President of the Euro Group and the President of the Assembly shall within six weeks convene a

meeting of the Conciliation Committee.

8. The Conciliation Committee, which shall be composed of the members of the Euro Group or their representatives and an equal number of members representing the Assembly, shall have the task of reaching an agreement on a joint text for the provisions still under discussion, within six weeks of its being convened.

9. If, within that six-week period, the Conciliation Committee approves a joint text, the Assembly and the Euro Group shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text.

10. If within the six weeks of its being convened the Conciliation Committee does not approve a joint text, or if the text mentioned in the previous paragraph is not adopted, the President of the Euro Group, after a new reading within both the Euro Group and the Assembly, requests that the Assembly takes a final decision.

#### ARTICLE 14. Budget of the Euro area

1. The budget of the Euro area's budget shall aim at fostering sustainable growth, employment, social cohesion and better convergence of economic and fiscal policies within the Euro area.

2. All items of revenue and expenditure of the Euro area shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.

3. The annual budget of the Euro area shall be established by the Assembly and the Euro Group.

4. The financial year runs from 1 January to 31 December.

#### ARTICLE 15. Legislative procedure applicable to the adoption of the budget of the Euro area

1. The Assembly and the Euro Group establish the budget of the Euro area in accordance with the following provisions.

2. On the basis of a budget proposal prepared by the Assembly, the Euro Group adopts a budget project.

3. The budget proposal and the budget project shall contain an estimate of revenue and an estimate of expenditure.

4. The Euro Group shall submit its budget project to the Assembly not later than 1 September of the year preceding that in which the budget is to be implemented. If within 40 days of such submission, the Parliamentary Assembly of the Euro area :

- a) approves the budget project, the budget shall be adopted ;
- b) has not taken a decision, a new budget project shall be submitted by the Euro Group ;
- c) adopts amendments by a majority of its component members, the amended project shall be forwarded to the Euro Group. The President of the Assembly, in agreement with the President of the Euro Group, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the project being forwarded, the Euro Group informs the Assembly that it has approved all its amendments, the Conciliation Committee shall not meet.

5. The Conciliation Committee, which shall be composed of the members of the Euro Group or their representatives and an equal number of members of the Assembly, shall have the task of reaching agreement on a joint text, on the basis of the positions of the Assembly and the Euro Group.

6. a) If, within 21 days, the Conciliation Committee agrees on a joint text, the Assembly and the Euro Group shall each have a period of 14 days from the date of that agreement to approve the joint text.

b) If, within the 21 days referred to in the previous subparagraph, the Conciliation Committee does not agree on a joint text, a new budget project shall be submitted by the Euro Group.

7. If, within the period of fourteen days referred to in subparagraph 6 a) :

- a) the Assembly and the Euro Group approve the joint text, the budget shall be deemed to be definitively adopted.
- b) the Assembly rejects the joint text by a majority of its component members, a new budget project shall be submitted by the Euro Group taking account of the positions of the Assembly.
- c) the Euro Group rejects the joint text, the President of the Euro Group shall request the Assembly, acting by a majority of its component Members, to take a final decision.

## ARTICLE 16. The Euro area's own resources

1. The Euro area shall provide itself with the means necessary to attain its objectives and carry through its policies.

2. Without prejudice to other revenue, the budget shall be financed wholly from own resources.

3. The Euro area's own resources shall be those set out in Article 12.

## ARTICLE 17. Appointments

After hearing them, the Assembly shall vote on the candidates chosen for the Executive Board of the European Central Bank, the Presidency of the Euro Group, and the Managing Direction of the European Stability Mechanism.

## TITRE IV. CONSISTENCY AND RELATIONSHIP WITH THE LAW OF THE UNION

### ARTICLE 18

This Treaty shall be applied and interpreted by the Contracting Parties in conformity with the Treaties on which the European Union is founded, in particular Article 4(3) of the Treaty on European Union, and with European Union law, including procedural law whenever the adoption of secondary legislation is required.

## TITRE V. GENERAL AND FINAL PROVISIONS

### ARTICLE 19

This Treaty shall be ratified by the Contracting Parties in accordance with their respective constitutional requirements.

### ARTICLE 20

This Treaty shall enter into force on ... 2017, provided that half of the Member States whose currency is the euro on the day of signature of this Treaty, and representing 70 % of their population, have deposited their instruments of ratification, or at any prior date on which these conditions would be met.

### ARTICLE 21

This Treaty shall apply as from the date of entry into force amongst the Contracting Parties whose currency is the euro which have ratified it.

### ARTICLE 22

Within five years, at most, of the date of entry into force of this Treaty, on the basis of an assessment of the experience with its implementation, the necessary steps shall be taken, in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union, with the aim of incorporating the substance

of this Treaty into the legal framework of the European Union.

Done at Brussels, on ... 2017, in a single original, whose Dutch, English, Estonian, Finnish, French, German, Greek, Irish, Italian, Latvian, Lithuanian, Maltese, Portuguese, Slovak, Slovenian and Spanish texts are equally authentic, which shall be deposited in the archives of the Depositary which shall transmit a duly certified copy to each of the Contracting Parties,

For the Euro area Member States