LEGAL IMPLICATIONS OF EU ECONOMIC GOVERNANCE FOR PUBLIC FINANCE IN A MEMBER STATE: THE CASE OF SLOVENIA

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ABSTRACT

This research analyses the legal implications of the EU economic governance framework reforms for the public finance system of a Member State (MS).
In the article, we first present theoretical insights regarding the European model of economic governance. We discuss the questions of the economic sovereignty of MSs, the balance of economic and social goals, the democratic nature of procedures in relations between EU authorities and MSs, the application of EU law versus intergovernmental cooperation, legal sanctions for MSs, and violations of the EU fiscal rules, etc.
This article discusses the 10-year development and tightening of the legal framework of European economic governance with an analysis of the legal bases for the obligations of MSs in the European Semester (ES) process and the legal sanctions they suffer in the event of a violation of European rules. The timeline of the ES, in particular, is presented both by deadlines (months) and by documents that must be submitted for assessment by the MSs or those that they receive from EU authorities and bodies.
An analysis follows on the effect of the presented EU regulations on the development of an MS's legal order in the field of public finance - in this case Slovenia's. This analysis specifically focuses on the constitutional and legal framework of fiscal rules and the annual budget preparation and execution laws. The analysis shows the all-round conformity, even subordination, of the Member States' constitutional order and legislation on public finances to the European economic governance through the agreed process of the European Semester.

KEYWORDS

European economic governance
fiscal coordination
fiscal rule
European Semester

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economic sovereignty
budgetary and macroeconomic surveillance

1. Background

The reforms of European economic governance during the period 2011–2013, the amended rules of the Stability and Growth Pact (SGP),[2] and the Intergovernmental Treaty on Stability, Coordination and Governance (TSCG)[3] are currently (in 2023) undergoing intensive political and professional debate.[4]

The aim of this paper is to identify and assess the effect of the respective EU regulation on the legislative and policy processes in the field of public financial planning in MSs from the point of view of their economic and social sovereignty and the principles of proportionality and subsidiarity. The following hypotheses are checked during this research:

1. European economic governance, especially the ES, has produced enviable results in the past decade in terms of the coordination (mainly fiscal and monetary) of MSs' policies, although in many ways it has simultaneously pushed MSs into the position of executors of professional instructions and timelines of European officials and side-lined democratic processes; thus, the question of the economic (developmental) sovereignty of the MSs in relation to EU bodies arises.

2. The procedures and tasks arising from the ES are excessively burdensome for MSs and for the EU administration; simplification and reorientation of fiscal planning and action from the annual to the medium term are needed.

3. The EU deals mostly with economic policies (mainly fiscal and monetary) and fiscal balance in the MSs but neglects the sustainability and strategic planning of the EU's competitive position at the global level.

4. In terms of the importance and weight of the sanctions in the European economic governance system, fiscal criteria are far ahead; lately, social and sustainability aspects are in principle being taken into consideration, but they are not part of binding EU law and are therefore less strictly adhered to.

5. The reform of the European economic governance system must also include the 2023 Commission and Council proposals for more gradual paths and the

2 | The SGP was formed by the conclusions of the Amsterdam European Council of 16 and 17 June 1997, Regulation 1466/97, Regulation 1467/97, amended by Regulation 1177/2011, and Regulation 1175/2011. SGP– An Overview, Directorate-General for Internal Policies, Economic Governance Support Unit (EGOV) 30 September 2014. Hereinafter : Stability and Growth Pact – An Overview, 2014.

3 | Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (also referred to as the TSCG, or simply the Fiscal Stability Treaty). Intergovernmental Treaty, 2 March 2012.

4 | In February 2020, the Commission published a communication entitled the Economic Governance Review, in which it reported on the extent to which the various elements of control, as introduced or modified by the 2011 and 2013 reforms, are effective in achieving its key goals, namely: sustainable public finances, comprehensive supervisory framework, closer coordination of economic policies, convergence of the economic development.

introduction of national medium-term (at least four-year) fiscal-structural plans. The duration of the medium-term fiscal structural plan could be extended if an MS commits to an eligible set of reforms and investments. A stricter enforcement regime and more control over the medium-term plans to ensure that MSs deliver on the commitments (economic, social, and sustainability) made in their medium-term fiscal-structural plans is acceptable. Sanctions must also apply to violations of social and sustainability goals. Treaty reference values of 3% of GDP deficit and 60% of GDP debt and the excessive deficit procedure based on a breach of the 3% deficit criterion should, despite critical views of the theory, remain unchanged.

The proposed amendments to the basic EU regulations (Regulation 473/2013[5], Regulation 472/2013[6]) tighten the fiscal discipline rules and at the same time introduce more individual treatment of MS; determine common budgetary time-frames for all euro-area MSs and rules for the monitoring and evaluation of MSs' budgetary plans by the Commission. In case of serious violations of the SGP rules, the Commission can request a revision of the plans. The regulation also requires euro-area MSs subject to an excessive deficit procedure to detail the policy measures and structural reforms needed to ensure an effective and sustainable reduction of the excessive deficit. MSs that have been affected or are threatened with serious problems related to their financial stability will be subject to enhanced supervision and financial assistance.

2. Methodology

The methodology of this research follows analytical, comparative, and partly historical research methods. In the parts dealing with how the relevant EU public finance and budgetary laws are implemented in an MS's legislation, a case method and comparative legal analysis are applied. In addition to the presentation and legal analysis of the rules on state debt and budget deficit, an overview of EU rules related to the ES follows, as well as some statistical data analysis. The relevant theoretical analysis of theory standpoints on public finance policy in the academic literature is a part of the research.

5 | Regulation 473/2013 of the EU and of the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the MS in the euro area.
6 | Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability.

3. European economic governance: a theoretical perspective

3.1. Key issues related to EU economic governance and national sovereignty

3.1.1. Economic sovereignty

The issue of sovereignty is one of the most complex and contentious issues in EU economic governance. It refers to a country's ability to exercise control over its economic policies, resources, and decision-making processes without external interference. The EU has developed economic governance that involves a mix of supranational, intergovernmental, and national-level decision-making. This has raised concerns among some MSs about the erosion of their sovereignty and their ability to control their own economic policies.

The EU's dominance in the process of the ES is obvious, and the issue of sovereignty appears to be a concern of MS. However, it must be taken into consideration that the MSs themselves, upon joining the EU, voted for the transfer of a part of their sovereign rights to the EU bodies, and some MSs even constitutionally defined the transfer of part of their sovereign rights to the EU (as, for example, Slovenia with an amendment to the Constitution in 2003).

Some MSs have raised concerns about the impact of EU economic governance on their national sovereignty and economic interests (economic nationalism). They argue that the EU's policies favour larger and more powerful MSs at the expense of smaller states, and that the EU's focus on market liberalization and competition has led to job losses and economic inequality. Stiglitz, for example, says: 'Sovereignty is at the root of challenges to the EU'[7], and states that the EU is an organization of sovereign nations that is asking those countries to relinquish their economic sovereignty to build a strong currency.

The EU's system of fiscal policy coordination has long been a source of tension. Some MSs argue that the EU's fiscal rules limit their ability to pursue their own economic policies, while others argue that greater coordination is necessary to prevent economic imbalances and crises. Some researchers[8] are of the opinion that today the need for fiscal rules is greater than ever.

3.1.2. Social and economic objectives

The economic and social policy coordination procedures that existed until 2010 were implemented independently of each other. The MSs therefore saw a need to synchronize the timetables of these procedures in order to streamline the process and to better align the goals of national budgetary, growth, and employment and social policies, while taking into account the objectives set at the EU level. Furthermore, there was a need to extend monitoring and coordination to broader macroeconomic and social policies.

7 | Stiglitz, 2016.
8 | Beetsma et al., 2018.

Theory evaluates the balance of planning economic and social goals very differently. For example, Crespy and Menz[9] argue that the Semester's governance architecture inherently prioritizes economic goals and actors over their social counterparts, as do de la Porte and Heins.[10] Bekker finds instead that this more integrated socioeconomic co-ordination process offers new opportunities for defending and 'mainstreaming' EU social objectives,[11] and observes that the European Semester's socioeconomic coordination process might be considered both economic and social. However, it is noted that the subsuming of social policy goals into economic cycles of governance does not necessarily result in the subjugation of social policy to economic imperatives and concludes that there is still an opportunity to achieve complementary modes of coordination.

One criticism put forward by many authors is the prioritization of economic objectives over social objectives in the ES. For example, Zeitlin et al.[12] observe that many critics argue that social policy has been largely dominated by economic policy and that economic policy actors have dominated the Semester process as well as the decision-making process.

We can agree that the ES established a coordination framework in which social policy coordination gained importance during the second half of the last decade.[13] Even though its social aspect has been criticized as being overwhelmed by the economic goals, there is increasing evidence that the Semester is undergoing progressive socialization, as it constitutes a new opportunity for social actors to further enter the process and seize their legitimate role,[14] even though the involvement of social players thus far remains mainly country-specific.

However, the need to implement legal rules and sanctions in the event of non-compliance with the agreed social and development recommendations (as well as recovery and resilience) remains. We can agree that the social aspects of planning only came into force after the adoption of the European Charter on Social Rights,[15] but it is indisputable that the social goals are far underestimated compared to the economic ones in the process of the ES. This is also because legal sanctions for non-compliance with mandatory recommendations refer only to violations of the rules on fiscal deficit and indebtedness, while the social aspect is governed by so-called soft law.

3.1.3. Democratic deficit

In theory, the question of respecting the democratic principles of decision-making arises in the context of strengthening the EU; according to these opinions, EU as an integration cannot succeed solely through intergovernmental

9 | Crespy and Menz, 2015.
10 | de la Porte and Heins, 2015.
11 | Bekker, 2015.
12 | Zeitlin et al., 2018.
13 | Zeitlin and Vanhercke, 2014.
14 | Vanhercke and Verdun, 2022.
15 | The European Social Charter is a Council of Europe treaty that guarantees fundamental social and economic rights as a counterpart to the European Convention on Human Rights, which refers to civil and political rights.

cooperation and similar ways, without strengthening the powers of the EU bodies by changing EU primary law.

Bickerton et al.[16] point to increased European integration in these areas without a transfer of powers to supranational institutions, which they term 'new' inter governmentalism. Others[17] instead point to the emergence of a new supra nationalism, resulting from the enhanced role of the Commission and the ECB in the EU's post-crisis economic governance.

Theoretical views might turn into criticism of disrespect for the fundamental principles of democracy. Crum[18] has expressed concern that governance responsibilities have been shifted away from democratic institutions, such as parliaments, into the hands of unelected and unaccountable technocrats. Contrariwise, Alberto Miglio[19] is of the opinion that it was the EP, rather than the Commission, that pushed hardest for the inclusion of the Semester and RQMV in the Six-Pack legislation.

Zeitlin and Vanhercke note[20] that MSs frequently experience this as imposition from above.However, in their study, they note that although the Semester was largely driven by economic considerations when it was initiated, there has been a partial and progressive socialization of the ES.

It is difficult to support the position of a democratic deficit in the implementation of European economic governance procedures. The rules on these procedures have been adopted by MSs within the framework of generally accepted European democratic process of decision-making and are a part of European primary law. Another question is whether these rules, which presuppose waivers by MSs in the exercise of economic sovereignty, are consistent with the principles of modern democracy, such as sovereignty, subsidiarity, and proportionality.

3.1.4. Legal challenges

The EU's system of economic governance is also subject to legal challenges, particularly in relation to the balance of power between EU institutions and MSs. Some MSs have challenged EU decisions in court, arguing that they violate national sovereignty or infringe on their constitutional rights. Authors who have written on this issue include Weatherill and Bruno De Witte.[21]

The ES combines hard and soft (non-binding) law. Indeed, during the ES, there is coordination between the MSs that are not legally engaged and not forced to comply with its outcomes or its targets. Nevertheless, the ES also has a hard law component.

Within hard law, the processes of budgetary as well as macroeconomic assessments and recommendations put in EU Regulations or in treaties must be observed. That means that MSs can be subject to sanctions in case of non-compliance.

16 | Bickerton et al., 2015.
17 | Schmidt, 2016; Dehousse, 2016.
18 | Crum, 2017.
19 | Miglio, 2019.
20 | Zeitlin and Vanhercke, 2018.
21 | Wetherill, 2017; de Witte, 2008.

We can conclude that the first and the second pillars of the ES form the hard law, though the third pillar is dealt with in soft law.

3.1.5. Summary of theoretical views on European economic governance

The ES has evolved considerably since its creation in 2010 from purely reinforced monitoring of national budgets and reforms to drive convergence towards agreed binding standards, including in the social field. Verdun and Zeitlin[22] assess the Semester as already having reshaped the architecture of EU governance in ways that challenge established theoretical understandings by integrating the pursuit of social and economic objectives into an interactive cycle of deliberation between national and supranational actors.

We conclude that European economic governance undoubtedly strongly interferes with the relations between the EU and its MSs and justifiably raises questions of sovereignty and the democratic governance of the EU, as well as the balance of economic and social development. On the other hand, the coordination of economic policies through the ES contributes decisively to greater stability and balanced development in the MSs and in recent times has increasingly contributed to resilience, recovery, and sustainable development. However, European economic governance needs to be upgraded and its deficiencies eliminated, and above all to be simplified and democratically consolidated.

The key here is a balanced treatment of economic (fiscal, monetary, development) and social goals (following the UN SDG), which must also be reflected in legal sanctions. The EU must overcome the current approach where only fiscal and monetary rules are subject to binding rules and legal sanctions for MSs, while the social sphere is regulated solely by EU soft law.

4. EU legal framework of the European economic governance system

4.1. The objectives of the European Semester (ES)

The ES is the process of socio-economic policy coordination in the EU. Although it was initially mainly an economic exercise, the ES has evolved, integrating other relevant policy fields into the process, and is now a part of the EU's economic governance framework. During the ES, MSs align their budgetary and economic policies with the rules agreed at the EU level.

The key objectives of the ES are to contribute to convergence and stability in the EU and to ensure sound public finances. It aims to prevent excessive macroeconomic imbalances in the EU. Currently it is also a coordination mechanism to monitor the implementation of national recovery and resilience plans and to coordinate and monitor employment and social policies. Social goals are gaining in importance, although their realization is not sanctioned by EU law.

22 | Verdun and Zeitlin, 2017.

As already mentioned, the ES covers different fields of economic and social policy coordination such as fiscal policies (sustainability of public finances in line with the SGP), prevention of excessive macroeconomic imbalances, structural reforms (growth and employment), recovery and resilience reforms, and employment and social policies (the European Pillar of Social Rights). In addition to fiscal goals and macroeconomic balance, in the recent period, recovery and resilience related to exiting the epidemic and the energy crisis, as well as social goals, have come to the fore as key goals. The Recovery and Resilience Facility, as part of NextGenerationEU 2014, was integrated into the ES framework.

The ES started out as budgetary cooperation among the EU MSs. It was created in a context of crisis in 2008 and adapted in 2021 in response to the COVID-19 crisis. However, it has evolved over the years with the gradual inclusion of social, economic, and employment objectives. ES is governed mainly by three pillars, which are a combination of hard and soft law.

The 2008 economic crisis revealed the need for stronger economic governance and better social policy coordination between the EU MSs. Enhanced economic and social policy coordination helped to prevent discrepancies and contributed to ensuring convergence and stability in the EU. The first ES cycle took place in 2011.

4.2. Legal framework of the ES: the three pillars

The ES was created under the legal basis of the so-called Six-Pack. In particular, the legal bases for the process are Arts. 121 and 148 of the TFEU and six legislative acts that reformed the SGP (the ‘Six-Pack’). The SGP started in 1997 as the legal framework (based on primary and secondary EU law) that seeks to ensure sustainable public finances to contribute to the stability of the Economic and Monetary Union (EMU). It consists of two main building blocks: the preventive arm and the corrective arm.[23]

At present, the ES consists of three pillars: budgetary surveillance, macroeconomic surveillance, and socioeconomic coordination. In 2017, the scope of the ES was widened with the inclusion of a social dimension within the third pillar through the European Pillar of Social Rights.

Before 2010, the European economic governance system consisted of two pillars, budgetary surveillance after the adoption of the SGP in 1997, and socioeconomic coordination, initiated by the Lisbon Strategy in early 2000.

There is a fourth pillar based on financial solidarity (formed by different acts: the Two-Pack, the European Stability Mechanism, and the Fiscal Compact) which does not play a relevant role during the Semester because all the macroeconomic and budgetary processes that form its core are part of the three pillars.

In 2020, with the outbreak of the COVID-19 crisis, the ES requirements were simplified. During the 2020 round of the ES, the main steps basically remained the same, but some measures were made more flexible for the MSs. In contrast with other years, the 2020 ES recommendations mainly focused on broad areas that were mostly related to the health crisis, such as investments in healthcare,

23 | Stability and Growth Pact – An Overview, 2014.

preservation of employment, research, and development, and the preservation of the single market.

4.2.1. Budgetary surveillance (first pillar)

Budgetary surveillance was strengthened with the legislative acts reforming the SGP. Regulation 1466/97[24] (the preventive arm of the SGP) set out the rules covering the content, submission, examination, and monitoring of Stability Programmes and Convergence Programmes as part of multilateral surveillance by the Council. The aim was to prevent the occurrence of excessive general government deficits at an early stage and to promote the surveillance and coordination of economic policies. Each Member State had to submit to the Council and Commission information necessary for the purpose of multilateral surveillance at regular intervals. It was replaced by Regulation 1175/2011[25].

Regulation 1467/97 (the corrective arm of the SGP)[26] set out the provisions to speed up and clarify the excessive deficit procedure; the objective was to deter excessive general government deficits and, if they occurred, ensure their prompt correction. According to Regulation 479/2009[27], MSs report to the Commission (Eurostat) their planned and actual government deficits and levels of government debt twice a year (before 1 April and before 1 October). MSs inform the Commission (Eurostat) which national authorities are responsible for the excessive deficit procedure reporting.

Finally, Regulation 472/2013 strengthened the economic and budgetary surveillance of the MSs (in the euro area). It lays down provisions for strengthening the economic and budgetary surveillance and for enhanced economic policy coordination of the euro-area MSs which are threatened with serious difficulties or which request or receive financial assistance.

Regulation (EU) No 473/2013 sets out provisions for enhanced monitoring of budgetary policies in the euro area and for ensuring that national budgets are consistent with the economic policy guidance issued in the context of the SGP and the ES. This was done by the ES, as established in Art. 2a of Regulation 1466/97, with a common budgetary timeline and by the procedure for the prevention and correction of excessive macroeconomic imbalances, as established by Regulation 1176/2011.

24 | Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies.
25 | Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies.
26 | Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure.
27 | Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community.

4.2.2. Macroeconomic surveillance (second pillar)

The macroeconomic surveillance created by the Six-Pack relates to the six regulations and the directive in the field of fiscal policy. Regulation 1173/2011[28] set out a system of sanctions aimed at enhancing the enforcement of the preventive and corrective parts of the SGP in the euro area. Regulation 1175/2011 amends Regulation 1466/97 on the strengthening of the surveillance of budgetary positions; Regulation 1177/2011[29] amends Regulation 1467/97 on the excessive deficit procedure; and finally, Directive 2011/85/EU concerns the requirements for the budgetary frameworks of the MSs.[30]

The next two regulations relate to macroeconomic imbalances: Regulation 1176/2011[31], covering all EU MSs, sets out detailed rules for the detection of macroeconomic imbalances, as well as the prevention and correction of excessive macroeconomic imbalances within the Union. Regulation 1174/2011[32] lays down a system of sanctions for the effective correction of excessive macroeconomic imbalances in the euro area applied to MSs whose currency is the euro. The regulation focuses on the possibility of sanctions and other procedures for enforcement of the required 'corrective action plan', to satisfy the EIP recommendation from the Council.

In addition, Directive 2011/85/EU lays down detailed rules concerning the characteristics of the budgetary frameworks of the MS. Those rules are necessary to ensure MSs' compliance with obligations under the TFEU with regard to avoiding excessive government deficits.

4.2.3. Socioeconomic coordination (third pillar)

The application of Regulation 1176/2011 observes Art. 152 of the TFEU, and the recommendations issued under this Regulation in respect national practices for wage formation. This Regulation also takes into account Art. 28 of the Charter of Fundamental Rights of the EU.

The socioeconomic coordination was strengthened by the Euro Plus Pact[33] that came into force on 13 December 2011. Following the proclamation of the European Pillar of Social Rights in 2017, the ES also provides a framework for coordinating and monitoring MSs' efforts in delivering on the pillar. The pillar sets out 20 key principles for a strong social Europe in the fields of equal opportunities, access to

28 | Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area.

29 | Regulation 1177/2011 amending Regulation 1467/97, on speeding up and clarifying the implementation of the excessive deficit procedure.

30 | Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States.

31 | Regulation 1176/2011 on the prevention and correction of macroeconomic imbalances.

32 | Regulation (EU) No 1174/2011 of the European Parliament and of the Council of 16 November 2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area.

33 | The Euro-Plus Pact (or Euro+ Pact, also initially called the Competitiveness Pact or later the Pact for the Euro) was adopted in March 2011 under the EU's Open Method of Coordination as an intergovernmental agreement between all MSs of the European Union (except Croatia, Czech Republic, Hungary, Sweden, and the UK).

the labour market, fair working conditions, social protection, and inclusion. The ES also includes an assessment of how MSs are performing on the UN Sustainable Development Goals (SDGs),[34] although there are no sanctions for not following the SDGs.

4.2.4. Fiscal Pact

At the European Council meeting in March 2012, all MSs (except the United Kingdom and the Czech Republic) signed the intergovernmental Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG). The Fiscal Pact became a part of EU law in 2018.

The treaty defines a balanced budget as a general budget deficit not exceeding 3.0% of the gross domestic product (GDP), and a structural deficit not exceeding a country-specific Medium-term Budgetary Objective (MTO). The Fiscal Pact envisages the incorporation of the 'golden rule' of a balanced budget with a structural deficit floor of 0.5% of GDP (if public debt is below 60% of GDP, this floor is 1% of GDP) in national legislation and possibly in the constitution ('debt brake').

There is a legal remedy in the TSCG. If an individual MS does not implement this rule properly, other MSs can initiate proceedings against it before the Court of Justice of the EU. Additional provisions include the automatic triggering of a correction mechanism and stricter rules for countries in excessive deficit procedures. Financial assistance within the framework of the European Stability Mechanism will only be provided to MSs that have signed the TSCG.

4.3. General withdrawal clause of the SGP, the 2022 recovery, and resilience facility

The COVID-19 crisis in 2019 led to a decline in economic activity in the EU. In March 2020, the Council used the general withdrawal clause under the SGP for the first time to give MSs room to take emergency measures with major budgetary consequences.

By using the general withdrawal clause, an MS that is in preventive action has the possibility of temporarily withdrawing from the adjustment path to reach the medium-term budgetary objective, provided that this does not jeopardize fiscal sustainability in the medium term.

If the MS is in the corrective phase, in accordance with the clause, the Council may adopt a revised fiscal policy on the recommendation of the Commission. In short, the general withdrawal clause does not hold back the procedures of the SGP but allows the Commission and the Council to deviate from the budgetary requirements that otherwise apply.

In March 2021, the Commission adopted a Communication one year after the COVID-19 outbreak with the following statement: 'A decision on whether to deactivate or continue to apply the general opt-out clause in 2022 would have to be adopted on the basis of a comprehensive assessment of the state of the economy,

34 | The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as a universal call to action to end poverty, protect the planet, and ensure that all people enjoy peace and prosperity by 2030.

which would be based on quantitative criteria. A key quantitative measure would be the level of output in the EU or euro area compared to pre-crisis levels'[35].

In response to the COVID-19 crisis, the EU adapted its socioeconomic governance and decided to provide financial support to all MS in order to help them recover. In that context, as a key tool of the NextGenerationEU Plan,[36] the Recovery and Resilience Facility emerged as a form of financial support for MSs through loans and grants. The ES became 'the main institutional vehicle' for the Recovery and Resilience Facility, and they now encompass each other.[37]

In order to use the financial support, the Recovery and Resilience Facility requires from the MS plans and strategies with reforms and public investment projects. The main ES tools used to integrate the Recovery and Resilience Facility are the Country-Specific Recommendations and the National Reforms Programmes, facilitating the elaboration of plans in order to assess the reform trajectories.[38] In addition, the ES timeline is used.

Although the use of the ES as the tool for the COVID-19 recovery plan faces criticism, it is also seen[39] as an opportunity for increased effectiveness of the ES, as this process makes the soft governance dimension of the ES harder.

The Commission classified the four main dimensions of the 2022 ES, integrating the Recovery and Resilience Facility:[40]

1. National Reform Programmes and Stability/Convergence Programmes—as usual, MSs must submit their economic and fiscal policy strategies, this time taking into account a new dimension of the National Reform Programme, which includes bi-annual reporting requirements under the Recovery and Resilience Facility.

2. Publication of streamline country reports – country reports include a general overview of their economic and social development, the difficulties that states are facing, and an analysis of their resilience.

3. Proposals for country-specific recommendations (CSRs); these recommendations highlight the in-depth analyses to identify the requirement of policy analyses.

4. Continued integration of the SDGs into the ES, the Commission is working to integrate the SDGs into the European Semester, and annual SDG monitoring reports including information on each State's progress are available from all the MSs.

4.4. European Semester Timeline

The ES runs from November to June and is preceded in each country by a national semester running from July to October in which the recommendations

35 | Communication from the Commission to the Council, One year since the outbreak of COVID-19: fiscal policy response, Brussels, 3.3.2021, COM(2021) 105 final.
36 | The Next Generation EU (NGEU) fund is a European initiative to provide financial support to all MS to recover from the adverse effects of the COVID-19 pandemic.
37 | EC 2021, Recovery and Resilience Facility.
38 | Vanhercke and Verdun, 2021.
39 | D'Erman and Verdun, 2023.
40 | EC 2022, Recovery and Resilience Facility.

introduced by the Commission and approved by the Council are to be adopted by national parliaments and construed into national legislation.[41]

The timetable for adopting the budget documents of an MS is very demanding; it is divided into four periods, starting with autumn and then is followed by the winter, spring, and summer forecasts. The political and professional bodies of the EU and MSs cooperate intensively in all periods. It is a huge organizational, professional, and political task that subjects the adoption of national budgets to compliance with EU rules (e.g. regarding indebtedness and budget deficit) and recommendations. The process is logistically and substantively complex and should be simplified or at least reduced in time.

In the preparation of the CSRs, Country Teams are led by the Secretariat-General of the Commission with contributions from desk officers and several EU officials from the relevant Directorates-General of the Commission. It must follow a deliberative and evidence-based process. At the national level, the Commission engages ES Officers (ESOs), who are economic policy experts charged with the task of bringing the Semester closer to national stakeholders by overseeing the implementation of the CSRs, feeding the Country Teams with CSR analysis, national insights and sentiments, and sometimes explaining complex details of EU economic governance to the national stakeholders.[42] When the draft has been formulated by the Country Teams, it is then submitted to the Directors-General of the Secretariat-General of the European Commission, Directorate-General for Economic and Financial Affairs, Directorate-General for Employment, Social Affairs and Inclusion, and Directorate-General for Taxation and Customs Union for discussion, and finally sent to the college of commissioners for approval.[43]

4.4.1. October, submission of MS draft budgetary plans, EU documents

The ES begins with the submission by the Eurozone MSs of their draft budgetary plans. Before the budget of each MS is debated in its national parliament, the Commission needs to assess it according to numerous elements, such as the macroeconomic and budgetary situation of the country. The following EU documents are produced in this period:

1. The Annual Growth Survey is a Communication from the Commission to the other EU institutions, a document of the Autumn Package, which analyses the most recent trends in terms of economic and social policies.

2. The Alert Mechanism Report identifies and addresses the risks of macroeconomic imbalances in accordance with Arts. 3 and 4 of Regulation 1176/2011.

3. The Joint Employment Report (Art. 140 of the TFEU) outlines the social and employment achievements or developments. The MSs are monitored by a scoreboard of indicators set up in the European Pillar of Social Rights (Council Decision 2018/1215[44]).

41 | Papadopoulos and Piattoni, 2019.
42 | Munta, 2020.
43 | Natali and Vanhercke, 2013.
44 | Council Decision 2018/1215 of 16 July 2018.

4. The Commission's recommendation for the euro area prescribes measures that the Eurozone MSs must implement for the functioning of the single currency area.

5. The Commission's opinion on draft budgetary plans assesses the conformity of the draft budgetary plan of each MS in line with the fiscal and budgetary rules (first pillar). It also gives an overview of the implementation of each MS regarding the CSR.

4.4.2. November, overall EU recommendations, EU opinions on the draft budgetary plans

The Commission releases three documents which explain and demonstrate the overall situation of employment, social priorities, and economic stability inside the EU. It also delivers overall recommendations for the Eurozone and a specific opinion on the draft budgetary plans of the Eurozone countries.

4.4.3. December and January, Council recommendations, adoption of budgets

In December and January, the Council adopts the recommendations on the economic policy of the euro area based on the Commission's recommendation and conclusions on the Alert Mechanism Report and the Annual Growth Survey. In December and January, the national parliament of each Member State adopts its budget.

4.4.4. February, March, Country Reports, Council priorities

In February, the Commission publishes its Country Reports, which underline the economic situation and forecasts for each State and its progress regarding the implementation of the CSRs addressed by the Council in the previous years for the country. The Country Reports are important for MSs for the preparation of their National Reform Programmes as well as their Stability or Convergence Programmes. In March, the Council lists the broad economic priorities that need to be adopted by the MS. These guidelines allow MSs to develop their Stability Programmes (for euro-area MSs) or Convergence Programmes (for non-euro-area MSs) and their National Reform Programmes.

4.4.5. April, May, National Reform Programme, Stability Programme

In April, each MS sends two documents to the Commission and the Council: the National Reform Programme (a detailed project of a country's economic reforms) and the Stability Programme (for Eurozone countries) / the Convergence Programme (for non-Eurozone countries; stating the orientation and the objectives of its budgetary policies for three years, the planned deficit, the level of indebtedness, and some macroeconomic scenarios).

In May, the Commission publishes and sends to the Council its proposal of recommendations in view of the adoption of the CSRs (the macroeconomic, fiscal, and budgetary reforms that need to be taken). These recommendations need to be followed and implemented by the MS. The CSRs are drafted after a thorough assessment of the progress made from the previous year's CSRs, and a detailed analysis of the National Reform Programmes and Stability or Convergence Programmes.

4.4.6. June and July, Country-Specific Recommendations

In June and July, the Council, after discussions in different formations (Employment, Social Policy, Health and Consumer Affairs Council (EPSCO), and advisory bodies such as the Economic Policy Committee (EPC), the Employment Committee (EMCO), and the Social Protection Committee (SPC)) formally adopts the CSRs; the MSs are supposed to take these recommendations into account in their national decision-making and in the next year's national budget.

As this makes clear, the ES has a very tight schedule in terms of content and time, which MSs strictly follow; there is almost no room for manoeuvre. All national budget procedures, dates, and main restrictions (fiscal deficit, public debt) are, so to speak, prescribed from above, so criticism of the encroachment on the development autonomy of the MSs is justified.

At the same time, this process brings great long-term benefits for MSs, as it makes it easier for them to overcome periods of crisis or less responsible governments.

5. Legal consequences in case of the violation of the EU fiscal rules

5.1. Legal basis for the European System of Financial Supervision (ESFS)

The objective of the ESFS[45] is that the fiscal policy of the EU is designed with the aim of establishing a solid and efficient framework for the coordination and control of the fiscal policies of the MSs. The amended framework was designed taking into account the shortcomings of the original design of the EMU and with the aim of strengthening the guiding principle of sound public finances, set out in Art. 119(3) of the TFEU.

The question that arises in this regard is whether the ESFS, with its mechanisms that encroach on the jurisdiction of the MSs, goes too far and already represents a systemic obstacle to the fiscal sovereignty of the MSs and thus interferes with the constitutional position of the MSs in relation to the EU. In the following, we will pay attention to precisely these aspects and the effects of the functioning of the ESFS as an important part of the economic governance of the EU MSs.

The legal basis for the ESFS are Arts. 3, 119 to 144, 136, 219, and 282 to 284 of the TFEU and protocols nos. 12 (on the excessive deficit procedure) and 13 (on convergent criteria) attached to the Treaties.

However, the rules are becoming increasingly detailed and increasingly encroach upon the procedures, policies, and criteria of fiscal decision-making

45 | The ESFS was introduced in 2010 and became operational on 1 January 2011. The ESFS consists of the European Systemic Risk Board (ESRB), the three European supervisory authorities (ESAs) – namely the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) – the Joint Committee of the ESAs, and the national supervisors.

of the MSs. Secondary EU legislation specifies more precisely how the rules and procedures of the TFEU are to be implemented. The amended SGP provides the main instruments for controlling the fiscal policies of MSs (preventive part) and reducing excessive deficits (corrective part). With the strengthening of control over the budgets of the MSs and the implementation of economic policies, the sanctioned implementation of the rules on excessive deficit procedures already strongly interferes with the fiscal independence determined by the legislation of the MSs.

Such coordinated economic governance and monitoring increases the effectiveness of the implementation of national Recovery and Resilience Plans. In this connection, it is justified to ask what should prevail in the balance of values: fiscal sovereignty versus the greater individual and joint efficiency of the MSs and the EU. In addition, the question arises as to whether disciplining countries by ordering additional coordination and additions to their documents and even financial sanctions is appropriate from the point of view of the constitutionally determined position of the members in the community.

5.2. Alert mechanism

Regulation (EU) No 1176/2011 sets out the alert mechanism established to facilitate the early identification and the monitoring of imbalances. The Commission prepares an annual report containing a qualitative economic and financial assessment based on a scoreboard with a set of indicators. The report contains an economic and financial assessment putting the movement of the indicators into perspective that draws, if necessary, upon other relevant economic and financial indicators when assessing the evolution of imbalances.

The annual report identifies MSs that the Commission considers may be affected by, or may be at risk of being affected by, imbalances. The Commission transmits the annual report to the EP, the Council, and the European Economic and Social Committee.

As part of the multilateral surveillance in accordance with Art. 121(3) of the TFEU, the Council discusses and carries out an overall assessment of the Commission's Annual Report. The Euro group discusses the report insofar as it relates to MSs whose currency is the euro.

The Alert Mechanism Report is an overview of macroeconomic developments in individual EU MSs. Based on this report, the Commission may decide to conduct an in-depth review of the situation in individual countries in which there is a high risk of possible macroeconomic imbalances. Such reviews make it easier to determine whether there are any macroeconomic imbalances and, if so, to accurately determine their nature and extent. In addition, the Commission can make policy recommendations to MSs based on reviews.

In the case of significant deviations from the adjustment path to achieve the medium-term budgetary objective, the Commission sends a warning to the MSs concerned in accordance with Art. 121(4) of the TFEU (Arts. 6 and 10 of the amended Regulation 1466/97).

The amended SGP also provides for the possibility of imposing sanctions in the form of an interest-bearing deposit in the amount of 0.2% of the GDP of the previous year on MSs that do not take appropriate adjustment measures. Fines are also foreseen for manipulation of data on debt or deficits.

5.3. In-depth reviews (IDRs)

The in-depth reviews (IDRs) are analytical documents prepared by the Commission aimed at identifying and assessing the severity of macroeconomic imbalances. The annual Alert Mechanism Report (AMR) selects the MSs for which an IDR is prepared by the Commission. IDRs can also be prepared in case of unexpected significant economic developments that require urgent analysis.

IDRs aim to identify the nature and severity of macroeconomic imbalances in EU MSs. In its analysis, the European Commission takes into account existing Council recommendations and policy commitments of the MSs concerned. Since 2015, IDRs have been incorporated in the European Semester's Country Reports.

The Commission Communication accompanying the Country Reports includes the IDR results, which may be as follows: no imbalances, imbalances, excessive imbalances, and excessive imbalances with corrective action.

A process of specific monitoring is applied to EU MSs with imbalances or excessive imbalances, which is adapted to the degree and nature of their imbalances and involves an intensified dialogue with national authorities, as well as progress reports and policy recommendations in their annual CSR. Countries found to be experiencing 'excessive imbalances with corrective action' are liable to face the Excessive Imbalance Procedure.

5.4. The Excessive Deficit Procedure (EDP)

Protocol 12 based on the Art. 126(2) of the TFEU gives as the reference values on deficit (3% for the ratio of the government deficit to GDP) and debt (60% for the ratio of government debt to GDP). The main framework for the EU fiscal rules is the SGP, which consists of two main components: the Excessive Deficit Procedure (EDP) and the Preventive Arm.

According to the EDP, if an MS exceeds the budget deficits limit of 3% GDP, it is subject to closer monitoring and may face corrective measures.

These criteria are numerically defined in the same way for all MSs, regardless of the large differences between them, both in terms of economic development and structural characteristics of the economies, and it is not easy for many MSs to fulfil them.

The EU bodies' opinions and specific recommendations in this respect are not just non-binding recommendations of the EU authorities, but sanctioned fiscal limits imposed by the EU upon MSs to improve fiscal balances. Whether this entails encroaching upon their sovereignty and fiscal autonomy is a question that will weigh in theoretical and political discussions about the future of the EU.

Paras. 3 to 6 of Art. 126 of the TFEU determine the procedure for assessing and deciding whether the deficit is excessive. If an MS does not fulfil at least one of the two criteria, or there is a risk that it will not fulfil it, the Commission prepares a report.

5.5. Procedures and sanctions in case of violation of the EU fiscal rules

EU fiscal rules are therefore not only a political commitment, but rather a sanctioned legal rule which is directly applicable and enforceable. The procedure that follows a violation of the rules is clearly defined: 1) If the Commission finds that an excessive deficit exists (or may arise), it sends an opinion to the MS concerned and informs the Council; based on the Commission's proposal, the Council takes the final decision on whether an excessive deficit exists (Art. 126(6) TFEU). 2) On the basis of the Commission's recommendation, Council adopts a recommendation for the relevant MS (Art. 126(7) TFEU) and sets a maximum six-month deadline within which the

MS must take effective measures to reduce deficits.

This alone, i.e. concrete recommendations to the MS and an order to take effective measures, is generally enough, but sanctions can also be imposed. The excessive deficit procedure provides for sanctions in cases of non-compliance with recommendations (Art. 126(11) TFEU). For euro-area MSs, this sanction is in principle a fine consisting of a fixed part (0.2% of GDP) and a variable part (maximum 0.5% of GDP for both parts combined).

In addition, Regulation 1173/2011 on the effective implementation of budgetary control in the euro area provides additional sanctions for euro-area MSs that are imposed at various stages of the excessive deficit procedure and include interest-free deposits of 0.2% of GDP and a fine of 0.2% of GDP from the previous year. The regulation also provides for sanctions for the manipulation of statistical data.

These rules are strict and enforceable and far from mere recommendations that an MS should follow or not. They thoroughly and directly interfere with the sovereignty of the EU MSs in relation to their autonomy in the field of public finances. Another question is whether this is in a long-term harmful or beneficial intervention to the democracy and sovereignty of the MSs. In any case, it certainly contributes to long-term solid public finances as a basis for health economy and democratic society.

5.6. The Preventive Arm

This component focuses on the medium-term budgetary position and aims to prevent the emergence of excessive deficits. MSs are required to achieve their Medium-term Budgetary Objectives (MTOs) and ensure a sustainable path for public finances. The MTOs are based on each country's specific circumstances.

In addition to the SGP, the Fiscal Compact (Treaty on Stability, Coordination, and Governance) was agreed upon by EU MSs in 2012. The Fiscal Compact introduced further fiscal rules, including the requirement for a balanced budget or a surplus in structural terms.

The enforcement of fiscal rules in the EU involves regular monitoring, assessment, and coordination among MSs and the Commission. The Commission assesses MSs' compliance with fiscal rules and can recommend corrective actions if necessary. Ultimately, EU MSs have the responsibility to implement and adhere to the fiscal rules to ensure sustainable public finances and economic stability within the EU.

In any case, the preventive role of the SGP is important. The Stability and Convergence Programmes are the key instruments of the preventive work of the SGP and represent the medium-term budget strategy of individual MSs, i.e. how these countries intend to achieve or maintain a sound fiscal position in the medium term in accordance with the requirements of the Pact.

The goal of preventive work is to ensure healthy public finances through multilateral control based on Art. 121 of the PDEU, amended Regulation 1467/97, and the new Regulation 1173/2011.

As presented in the chapter of ES, a part of the multilateral surveillance referred to in Art. 121 of the TFEU is that each MS must submit a Stability Programme (euro-area MS), or a Convergence Programme (non-euro-area MS) to the Commission and the Council in April of each year. That includes Medium-term Budgetary Objectives, adjustment paths for their achievement, and a scenario analysis in which the effects of changes in fundamental economic assumptions on the fiscal position are examined.

6. Legal implications of the EU fiscal rules on public finance in a Member State (The case of Slovenia)

6.1. The impact of EU fiscal rules on constitutional regulation in a Member State

The fulfilment of the Maastricht criteria entry into the EU (in 2004) and the conditions for inclusion in the Euro group (in 2007) required Slovenia to adapt not only its economic policies but also its constitutional arrangements and legislation. Slovenia consciously renounced the exercise of sovereignty in this area, even amending Art. 3a of the Constitution of the Republic of Slovenia (CS) [46] to this effect.

Slovenia, like other EU MSs, has harmonized its financial law with EU law; therefore, in the part covered by the acquis communautaire, it does not differ significantly from the financial law in force in other MSs. Slovenia has adopted extensive modern legislation, both in the field of fiscal and monetary law. Public finance planning in Slovenia, as an EU Member State and as a country of the euro area, is subject to extensive EU rules designed to ensure sound public finances and coordinated fiscal policies, based on Arts. 121 and 126 of the TFEU.

The national financial regulatory framework has been developed strictly following a set of macroeconomic rules, policies, and objectives determined in a number of EU Regulations (European economic governance).

Legislation related to public budget and macroeconomic balances is to a large extent subject to EU Regulations with direct effect; that fact substantially affects

46 | Constitution of the Republic of Slovenia (CS) (Official Gazette of the RS, no. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a and 92/21 – UZ62a).

the issue of MS sovereignty. However, the SGP, related EU Regulations, and intergovernmental treaties, as a set of rules designed to ensure sound public finances and coordinated fiscal policies of the EU MSs, are all legally based on Arts. 121 and 126 of the TFEU. However, there is no doubt that MSs including Slovenia voted for that piece of EU primary legislation.

As explained in detail in the chapter on the EU Semester Timeline, each year each MS draws up a draft Budgetary Plan (main orientations and elements concerning fiscal objectives and measures for the coming year) at the end of each year and submits it to the EU bodies prior to adoption by the National Assembly.

Following the SGP, MSs annually draw up a Stability Programme (a multi-year macroeconomic and fiscal framework and key fiscal projections) and National Reform Programme (planned work priorities and measures and key policies of the government for the next two years) and forward them to the respective EU bodies for recommendation (the so-called CSRs). As explained, some of these CSRs (for example, those related to fiscal deficit and public debt) are binding and legally sanctioned.

Recently, in 2020, 2021, and 2022, due to COVID-19 and the energy crisis (Ukraine-Russia war), significant shifts have been made in EU fiscal policy, as well as deviations from the previously established fiscal rules, due to measures to eliminate economic damage and strengthen resilience and economic recovery during and after the pandemic. Like other MSs, Slovenia strictly follows these new directions and limits. It is hard to talk about sovereignty here.

6.2. The transfer of the exercise of a part of sovereign rights (Constitutional amendments in Slovenia)

Immediately before joining the EU, Slovenia amended the CS, namely Art. 3a. and thereby created the constitutional basis and conditions for the transfer of a part of its sovereignty to international organizations (EU). More specifically, the amended Art. 3a stipulates the transfer of the exercise of certain sovereign rights due to the country's involvement in international organizations, rather than the transfer of sovereignty itself.

The amended Art. 3a of the CS stipulates that Slovenia, with an international agreement, can transfer the exercise of a part of its sovereign rights to international organizations, but not to any international organization. The CS sets the condition that the exercise of a part of sovereignty can only be transferred to international organizations based on respect for human rights and fundamental freedoms, democracy, and the principles of the rule of law (EU). The same constitutional rule with the supplementary Art. 3a of the CS also applies to entering into a defence alliance (NATO) with countries based on respect for these values.

In addition, the amended constitutional provision stipulates that before the ratification of such an international treaty, the National Assembly can call a referendum. The proposal is accepted at the referendum if the majority of voters who have validly voted vote for it and the National Assembly is bound by the outcome of the referendum. On this basis, a referendum was held in Slovenia regarding both issues (EU and NATO) on 23 March 2003, supported by a large majority of voters

(89.64% for Slovenia's entry into the EU and a slightly smaller majority of 66.05% for Slovenia's entry into NATO).

Even then (2003), the issue of sovereignty related to Slovenia's entry into the EU was an extremely sensitive political issue, mainly due to bad experiences in the previous federal state. That is why Slovenia raised this issue to the level of the CS, which even in the adopted diction does not allow the transfer of sovereignty; thus, the diction used is the transfer of the exercise of part of sovereign rights. Even with the addition to the CS in 2003, therefore, the renunciation or transfer of even the smallest part of sovereignty is not permissible. Under strict constitutionally determined conditions, it is permissible to transfer only individual sovereign rights to be exercised.

Therefore, the constitutional provision additionally requires that the international treaty by which Slovenia transfers the exercise of part of its sovereign rights to international organizations must be ratified by the National Assembly with a two-thirds majority of all deputies. International treaties, including intergovernmental pacts within the EU, are subordinated to this constitutional provision, if they concern any transfer of the exercise of sovereign rights and not just the TFEU.

Otherwise, the provision of Art. 3a allows that legal acts and decisions of the international organizations to which the Republic of Slovenia (RS) transfers the exercise of a part of its sovereign rights (EU) be used in RS in accordance with the legal regulations of these organizations. However, the government is committed to regularly inform the National Assembly of proposals for such acts and decisions and about its activities.

The National Assembly can adopt positions on this, and the government takes them into account in its activities. The relations between the National Assembly and the government are regulated in greater detail by the law, which is adopted with a two-thirds majority of the votes of the deputies present (FRA).

| *6.3. Fiscal rules in the Constitution of the Republic of Slovenia*

Art. 148 of the Constitution in its current text was introduced into the Slovenian legal order by UZ 148.[47] The first sentence of the Art. 148/2 of the CS, which regulates the constitutional fiscal rule, stipulates the medium-term balance of revenues and expenditures of state budgets without borrowing, or that revenues must exceed expenditures. Art. 148 also provides an exception to this rule, namely that this principle may be temporarily deviated from, but only in exceptional circumstances for the state.

The law, which was adopted by the National Assembly with a two-thirds majority of the votes of all deputies (the so-called Fiscal Rule Act, FRA 2015[48]), determines the method and time frame of the implementation of the principle of balance, the criteria for determining exceptional circumstances, and how to act when they occur.

47 | Constitutional Act on Amendments to Art. 148 of the CS as of 24 May 2013.
48 | Fiscal Rule Act (FRA), Official Gazette of the Republic of Slovenia, no. 55/15, 177/20, compr. and 129/22.

Art. 148 of the CS mandates a rational and long-term sustainable public finance policy and seeks to prevent excessive borrowing and the creation of high budget deficits and high levels of public debt, which could lead to illiquidity and insolvency of the state, and thereby to the inability of the state to fulfil its obligations to provide constitutionally protected values.

'Medium-term' in the constitutional provision refers to the duty of such fiscal management and planning which focuses on the state of public finances throughout the entire economic cycle, and not only on the current budget year, and takes into account the current state of the national economy in the cycle in each year. The medium-term balance of the country's budgets without borrowing can be achieved in several ways, with the CS leaving the choice to the legislature.

The CS also provides a rule on the method of financing in the event that the budget is not adopted by the first day when it is necessary to start implementing it. In this case, the beneficiaries who are financed from the budget are temporarily financed according to the previous budget.

6.4. Fiscal Rule Act

The FRA is an implementing act for the constitutional fiscal rule, i.e. at the legislative level the method of implementing the principle from the Art. 148/2 of the CS is defined. The FRA was adopted based on the legal reference in the Art. 148/3 of the CS that instructs the National Assembly to regulate more detailed issues related to the implementation of the constitutional fiscal rule.

The FRA specifies that it determin**es** the method and time frame for implementing the principle of medium-term balance of revenues and expenditures of the state budget without borrowing, the criteria for determining exceptional circumstances in which medium-term balance may be deviated from, and the manner of dealing with their occurrence or termination (Art. 1).

For our discussion, it is important to add that with this law Council Directive 2011/85/EU on requirements related to the budget frameworks of MS is partially transposed into the legal order of the RS. Directive 2011/85/EU lays down detailed rules concerning the characteristics of the budgetary frameworks of the MS. Those rules are necessary to ensure MSs' compliance with obligations under the TFEU with regard to avoiding excessive government deficits (Art. 1). Therefore, if the FRA is an implementing act of the amended Constitution of the RS, and at the same time the FRA implements an EU directive, it can be concluded that the constitutional amendment was also the result of adaptation to the EU directive, which opens up additional aspects of sovereignty.

In the Proposal for the initiation of the procedure for amending Art. 148 of the Constitution of the RS with the draft of the Constitutional Act of 8 March 2012, the Government highlighted excessive borrowing as a major problem of public finances. For the stability of public finances, it is said to be necessary that the budget be balanced and that a legal basis be adopted for the limitation of public borrowing. The strengthening of public financial discipline and the placement of the fiscal rule in the Constitution are said to be necessary to prevent further deterioration of Slovenia's position on the international financial markets.

The purpose of Art. 148 of the Constitution was to limit the state, i.e. the Government and, upon its proposal, the National Assembly in making decisions on the amount of revenues and expenditures, borrowing, and the public financial deficit. Since it is a question of limiting the decision-making right of the National Assembly, the proponent decided to determine this limitation by amending Art. 148 of the CS and not, as was originally planned, only by adopting the relevant law.[49]

In the discussion, opinions were also put forward that it is important for Slovenia to maintain its fiscal sovereignty, which over-indebted countries lose sooner rather than later, given that it is a small open economy in a monetary union without monetary sovereignty (Proposal for the initiation of the procedure for amending Art. 148).

6.5. Fiscal Rule Act and Fiscal Pact comparison

To understand the Constitutional fiscal rule, given the involvement of the RS in the EMU, one must also take into account the common goal of the parties that have committed themselves internationally with the Fiscal Pact.

The main content of the Constitutional fiscal rule from the Art. 148/2 of the CS is the principle of medium-term balance, which is worded such that revenues and expenditures of state budgets must be 'balanced in the medium term without borrowing, or revenues must exceed expenditures'.

Linguistically, this principle does not differ much from the rule under point (a) 1.3 of the Fiscal Pact, which stipulates that the budgetary position of the sector of the contracting state must be balanced or in surplus. It is a fundamental principle that can be derived at the legal level in several ways, as already shown by a comparison of the remaining part of Art. 3 of the Fiscal Pact and Art. 3 of the FRA.

Art. 3 of the Fiscal Pact essentially limits the structural deficit to a maximum of −0.5% of GDP (for low-indebted countries, at least −1% of GDP), defines exceptional circumstances in which a temporary deviation from this goal is permissible, and requires the so-called corrective mechanisms by which the Party should eliminate deviations from its medium-term goal or the adjustment path for its achievement. Art. 3 of the FRA defines the legal implementation of the principle of medium-term budget balance much more precisely and in much greater detail, including with mathematical formulas.

6.6. Public Finance Act

The composition, preparation, and execution of the state and municipal budgets, state or municipal borrowing, guarantees and management of their debts, accounting and internal control of public finances, and budget inspection are governed by the Public Finance Act (PFA)[50]. This law also sets out the rules that apply to the Health Insurance Institute of Slovenia (health fund) and the Institute

49 | Decision of the Constitutional Court U-I-129/19-26.
50 | Public Finances Act (PFA) (Official Gazette of the Republic of Slovenia, No. 11/11 – official consolidated text, 14/13 – compr., 101/13, 55/15 – FRA, 96/15 – ZIPRS1617, 13/18, 195/20 – dec. US, 18/23 – ZDU-1O and 76/23).

for Pension and Disability Insurance of Slovenia (pension fund), both in the compulsory part of insurance, for public funds, public institutions, and agencies.

The PFA was adopted in 1999 and has since been amended almost 20 times to date, which we may definitely associate with extensive EU legal regulation and ongoing development of EU regulation in the field of economic governance.

The PFA stipulates that the extent of borrowing and all anticipated guarantees of the state and the extent of public sector borrowing at the state level in an individual year are determined by the annual law regulating the execution of the State Budget.

6.7. Annual execution of the state budget

The Budget Execution Act (BEA), specifics the implementation of the budget of RS for each year. The designated revenues and receipts of the state, the extent of borrowing and guarantees of the state and the public sector at the state level of obligations, and other issues related to the execution of the budget are also determined.

In the BEA, the use of cohesion policy funds and Recovery and Resilience Mechanism funds is also determined annually. The execution of annual state budgets each year is thus directly dependent on EU economic, especially fiscal, and lately also cohesion and development policies or recovery and resilience policies.

Thus, for example, according to the BEA, which transposes EU financial support mechanisms for recovery and resilience to mitigate the economic and social effects of the coronavirus pandemic, the Russia-Ukraine war energy crisis, or to increase the sustainability and resilience of the economy and to improve preparedness for the challenges of the green and digital transition. In this way, the EU's support and development policies towards MSs are reflected to the greatest extent in each annual BEA; to a lesser extent, development concepts that derive from the sovereignty of individual countries are thus expressed.

Funds of the Recovery and Resilience Mechanism are financial support from the EU to the MSs intended to finance the measures included in the Recovery and Resilience Plan. The Recovery and Resilience Plan[51] is a document containing the measures eligible for EU funding under the Recovery and Resilience Mechanism, as defined by Regulation 2021/241. The Recovery and Resilience Fund is a subaccount that collects the funds of the Recovery and Resilience Mechanism.

It is also clear from the above that annual budgets and the amount of funds available for on-budget spending largely depend on the policies and are related to the financing limitations of various forms of public spending, as defined at the EU level. EU policies and rules related to such funds, normally converted (or not) into domestic budget spending, certainly constitute a special aspect of the debate on the economic sovereignty of MSs.

51 | The Recovery and Resilience Facility (RRF) is a temporary instrument that is the centrepiece of NextGenerationEU – the EU's plan to emerge stronger and more resilient from the current crisis.

7. Conclusions

The reforms of European economic governance are currently undergoing intensive political and professional debate. This paper has demonstrated that the effect of the respective EU regulations on the economic and social sovereignty of MSs is substantial. European economic governance undoubtedly strongly interferes with the relations between the EU and the MSs and reasonably raises questions of the sovereignty and democratic governance of the EU, as well as the balance of economic and social development.

On the other hand, the coordination of economic policies through the ES contributes decisively to greater stability and balanced development in the MSs and in recent times has increasingly contributed to resilience, recovery, and sustainable development.

However, European economic governance needs to be upgraded and its deficiencies eliminated, and above all it needs to be simplified and democratically consolidated. The key here is a balanced treatment of economic (fiscal, economic) and social goals (following the UN SDGs), which must also be reflected in legal sanctions. The EU must overcome the existing approach that only fiscal and monetary rules are subject to binding rules and legal sanctions for MSs, while the social sphere is regulated by EU soft law alone. The research for this paper led us to the following conclusions regarding the hypotheses put forward:

1. European economic governance, especially the European Semester, has had enviable results in the past decade in terms of the coordination (mainly fiscal and monetary) of MSs' policies. However, it has pushed MSs into the position of executors of professional instructions and timelines of European officials and has side-lined democratic processes; the question of the economic (developmental) sovereignty of the MSs in relation to EU bodies is real. However, the MSs (including by amending their constitutions) sovereignly consented to the transfer of part of their sovereign rights to the EU. It is important that the strengthening of the EU level be based on consciously defined primary and secondary EU law. It definitely brings benefits to the MSs and the EU and is in their interest.

2. It is true that the procedures and tasks arising from the ES are excessively burdensome for the MSs and for the EU administration; simplification and reorientation from the annual fiscal planning and action to the medium term are needed. In doing so, the democratic principles on which the EU is built must be strictly observed, especially subsidiarity and proportionality.

3. The EU deals very much with economic policies (mainly fiscal and monetary) and fiscal balance in the MSs but neglects the MSs' reflection of the development and strategic planning of the EU's position in the global space. It is important that the process also enable a thorough consideration of the strategic issues of the EU's competitive position in the world and aspects of global sustainable development, and that the MSs decisively participate in this process as well. European economic governance is not only the governance of the MSs, but also of the EU as a whole.

4. In terms of the importance and weight of the sanctions in the European economic governance, fiscal criteria are far ahead; social and sustainability

aspects are taken into consideration in planning in principle, but they are not part of binding EU law and are therefore less strictly adhered to. In the recent period, in addition to fiscal and monetary goals, social and development goals have gained increasing ground in European governance. This is an important shift, but it will only be decisive when legal sanctions are also determined and imposed on the MSs for non-compliance with the social and sustainable development parameters set by the EU.

5. The reform of European economic governance must include the 2023 Commission and Council proposals for more gradual paths and the introduction of national medium-term (at least four-year) fiscal-structural plans. The duration of the medium-term fiscal structural plan could be extended if an MS commits to an eligible set of reforms and investments. A stricter enforcement regime and greater control over the medium-term plans to ensure that MSs deliver the commitments (economic, social, and sustainability) made in their medium-term fiscal-structural plans is acceptable. Treaty reference values of 3% of GDP deficit and 60% of GDP debt and the excessive deficit procedure on the basis of a breach of the 3% deficit criterion need further reflection from the point of view of the new European economic governance concept.

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