

The euro area debt crisis: Where do we stand? How do we exit?

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No 'Grexit'

- No 'Grexit'
- A 'Fi-xit'?



Gillian Tett, FT, 25 October 2012

A Finnish parallel currency is imaginable
(Nordea Bank research)

- A 'Brixit'?
- Resurgence of regional nationalism

Protocol (No 24) *[revoked by the Lisbon Reform Treaty]*

on the transition to the third stage of economic and monetary union (1992)

THE HIGH CONTRACTING PARTIES

Declare the irreversible character of the Community's movement to the third stage of economic and monetary union by signing the new Treaty provisions on economic and monetary union.

Therefore all Member States shall, whether they fulfil the necessary conditions for the adoption of a single currency or not, respect the will for the Community to enter swiftly into the third stage, and therefore no Member State shall prevent the entering into the third stage.

If by the end of 1997 the date of the beginning of the third stage has not been set, the Member States concerned, the Community institutions and other bodies involved shall expedite all preparatory work during 1998, in order to enable the Community to enter the third stage **irrevocably** on 1 January 1999 and to enable the ECB and the ESCB to start their full functioning from this date.

This Protocol shall be annexed to the Treaty establishing the European Community.

"Within our mandate, the ECB is ready to do whatever it takes to preserve the euro. And believe me, it will be enough."

London, 26 July 2012

ECB's OMT



- Outright transactions in secondary sovereign bond markets
- Announced 6 September 2012
- “strict and effective conditionality attached to an appropriate EFSF/ESM programme”
- Aim:
 - “to safeguard the monetary policy transmission mechanism in all [States] of the euro area.”
 - “to preserve the singleness of our monetary policy and to ensure the proper transmission of our policy stance to the real economy throughout the area.”
 - “to address severe distortions in government bond markets which originate from, in particular, unfounded fears on the part of investors of the reversibility of the euro.”

My proposed agenda

- an update on economic governance
(six-pack, duo-pack, <Fiscal Compact>, ‘genuine EMU’);
- an update on ‘banking union’: proposals and critique;
- constitutionality testing of crisis measures
(Karlsruhe, Tallinn, Luxembourg);
- some philosophical remarks about Europe and the world
in these times.

An update on economic governance

- Six-pack
- Duo-pack
- <Fiscal Compact Treaty>
- Towards a genuine Economic & Monetary Union

'E' in EMU (1)

Principles, prohibitions, procedures

- An economic policy based on coordination of Member States' economic policies
- Prohibition of monetary financing (Article 123 TFEU)
- Prohibition of privileged access (of public sector to financial sector) (Article 124 TFEU)
- 'No bail-out' clause: EU and MS are not liable for MS public debt, nor shall assume commitments of MS public sector (Article 125 TFEU)

‘E’ in EMU (2)

- Multilateral surveillance procedure
based on Broad Economic Policy Guidelines
(Art. 121 TFEU)
- Excessive deficit procedure (‘EDP’)
(Art. 126 TFEU)
- Specific coordination among € area States
(Art. 136 TFEU new since ‘Lisbon’)
- Own economic policy measures of the EU
(only used thus far for strategic reserves of oil and gas)
(Art. 122 TFEU)

‘E’ in EMU (3)

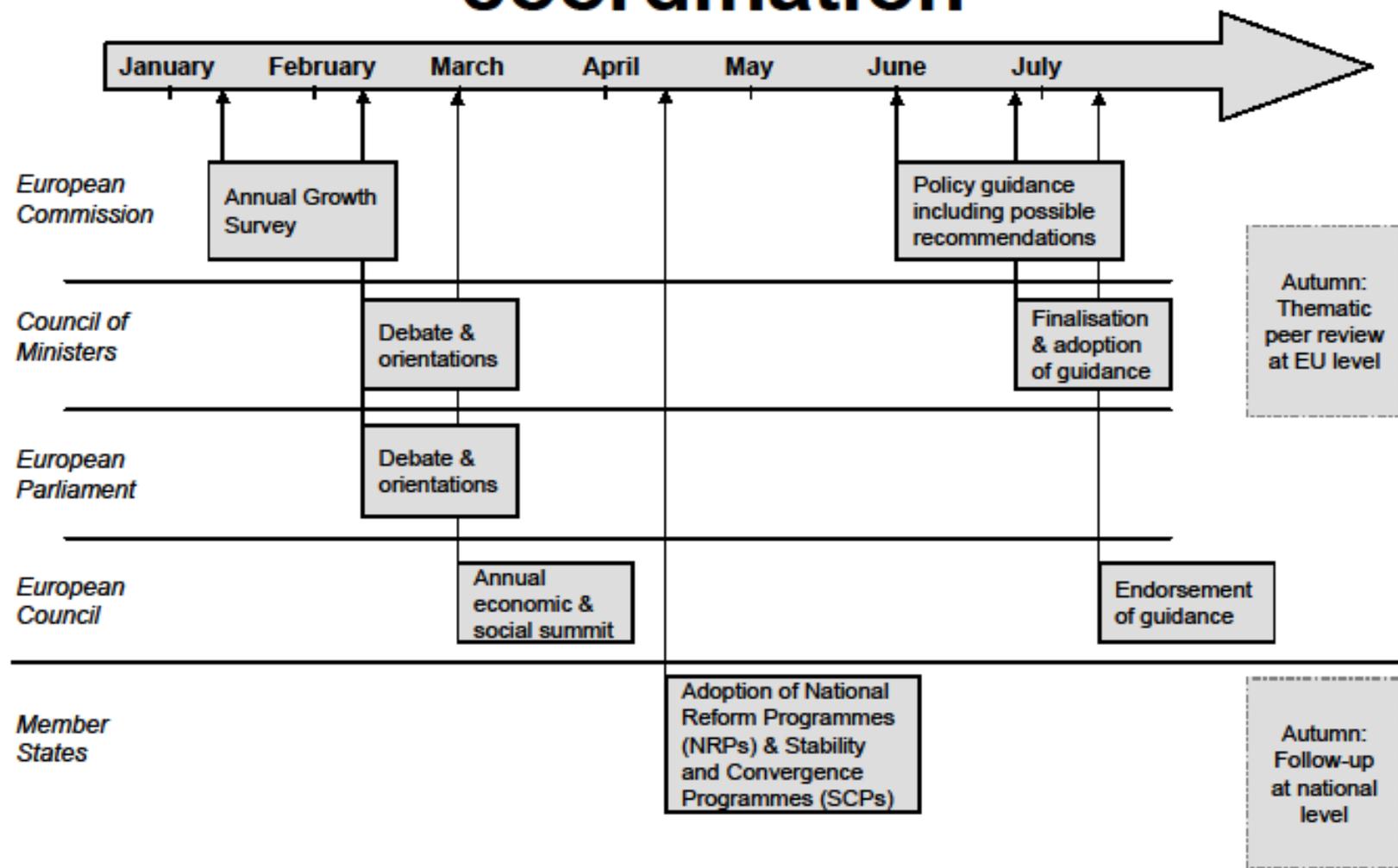
Content

- Amsterdam European Council, 1997
- Narrowing down options under Art. 99 + 104 EC [121 + 126 TFEU]
- Medium-term budgetary objective (MTBO) of positions close to balance or in surplus

Form

- European Council Resolution (not binding)
- Regulation 1466/97: ‘preventive arm’
 - amended by Regulations 1055/2005 and 1175/2011stability and convergence programmes
- Regulation 1467/97: ‘corrective arm’
 - amended by Regulations 1056/2005 and 1177/2011definitions, speeding up procedure, abeyance, sanctions

European semester of policy coordination





Naar een sterker
Europees economisch
bestuur

Vers une gouvernance
économique européenne
renforcée



Towards
a stronger European
economic governance

European Commission
Berlaymont Building,
October 2011
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01/11/2012

Six-pack: background

- Acknowledgment of failure to recognize imbalances beyond budgetary realm
- Too limited application of EDP/SGP
 - focus on deficit, not debt criterion
- Sanctions not applied thus far
- ‘Deauville’ (French-German consensus) overturned by EP (supported by ECB): from Council control to reverse QMV

Six-pack and duo-pack

Adopted ('six-pack'):

- Directive ex 126 (4) TFEU requirements for MS budgetary frameworks
- Regulation ex 121 (6) TFEU prevention and correction of macro-economic imbalances
- Regulation ex 136 / 121 (6) TFEU on enforcement measures to correct macro-economic imbalances in euro area
- Regulation amending Reg. 1467/97 (corrective arm of SGP)
- Regulation amending Reg. 1466/67 (preventive arm of SGP)
- Regulation effective enforcement of budgetary surveillance in euro area

Proposed and under discussion for over one year ("duo-pack"):

- Regulation on monitoring and assessing draft budgets and ensuring correction of excessive deficits
- Regulation on strengthening of economic and budgetary surveillance of States in difficulties

Impact of the ‘packs’

1. Stricter budgetary surveillance
2. Renewed emphasis on debt criterion
3. Numerical precision in progress towards sustainable public finances
4. Much stricter enforcement for euro area MS
5. Reliance on financial sanctions in enforcement
6. Independence and reliability of statistics
7. Wider scope of surveillance from Brussels (economic imbalances), with € area enforcement

<Fiscal compact treaty>: overview

- International treaty next to TFEU among 25
- 95% already (to be) adopted under six-pack or duo-pack (Olli Rehn, seminar before ALDE, European Parliament, 10/01/12)
- New elements: constitutional debt brake & automatic sanctions...
- ...+ decision that MS has excessive deficit also by reversed QMV
- Budgetary position in balance or surplus (structural deficit < 0.5%)
- Benchmark debt reduction: 1/20th per annum of excess > 60%
- Ex ante reporting on public debt issuance (Eurobonds precursor?)
- Commitment to endorse Commission unless QM is against
- “undertake to work jointly towards an economic policy”
- ECJ to rule on consistency of national law with balanced budget requirement and automatic correction mechanism under treaty

<Fiscal compact>: economic governance

- Euro Summit meetings: Heads of State or Government euro area + Commission President, ECB President observer
- President of Euro Summit appointed by simple majority at same time as European Council President
- Twice yearly meetings at least
- <outs> that ratified TSCG invited subject-specific and once a year; other <outs> ‘closely informed’
- European Parliament involved // conference of committees of EP and national parliaments of TSCG parties

Critical assessment of packs & TSCG

- Same old mechanisms, strengthened (Commission) but...
 - Will peer group pressure work?
 - Will sanctions be effective or counterproductive?
 - Take away voting rights rather than impose sanctions that aggravate fiscal problems that they seek to address
- Not (yet?):
 - Joint economic policy making (Article 122 (1) TFEU)
 - Economic stabilisers (EU partially funding national unemployment schemes) / joint issuance of bonds with varying i rate levels
 - Labour market does not work in States / across EU
 - Euro's cultural dimension: language, common bond

European Commission
Berlaymont building
Brussels, August 2012
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Towards a genuine EMU (1)

Van Rompuy's ideas (June, October 2012)

- Gradually developing a fiscal capacity for EMU
 - to facilitate adjustments to State-specific shocks by providing for some degree of absorption at central level ...
 - ... and, beyond shock-absorption function: to facilitate structural reforms in MS
 - establishment of a Treasury function with clearly defined fiscal responsibilities
 - pooling of some short term sovereign funding instruments (T-bills) on a limited and conditional basis to be examined

Towards a genuine EMU (2)

Van Rompuy's ideas (June, October 2012)

□ Economic policy pursuit

- 'careful balance' between 'need to maintain policy autonomy and adjustment capacity' and enforceability of measures to prevent build-up of imbalances and facilitate price & cost adjustment
- greater visibility, authority and impact of agreed legislation
- institutional quality, labour market and business climate: cross-EU weaknesses and sizeable differences between MS > completion of single market
- individual arrangements of a contractual nature MS/ EU institutions on reforms promoting growth and jobs / financial support from EU
- ex ante coordination of major economic policy reform plans with significant spillover effects on euro area

Towards a genuine EMU (3)

Van Rompuy's ideas (June, October 2012)

- ❑ SSM
- ❑ Strengthening macro-prudential policy
- ❑ Democratic legitimacy and accountability:
 - 'strengthened role of EU institutions commensurate involvement of the European Parliament ('EP')
 - increased cooperation between national parliaments/EP
 - a debate in EP and national parliaments on recommendations adopted in European Semester.

‘Single Supervisory Mechanism’

- SSM term for ECB assuming operational tasks in prudential supervision, first step towards ‘banking union’ } *
- Micro-prudential supervision next to macro-prudential supervision (ESRB)
- Link with recently renewed EU-wide supervisory landscape: EBA, ESMA, EIOPA
- Recovery and Resolution at EU level (via ESM?) } *
- Deposit Insurance at EU level } *
- Single rulebook } *

Different types of supervision

investor protection ('conduct of business') supervision, focusing on conduct-of-business rules and disclosure of information

micro-prudential supervision, geared towards the safety and soundness of individual financial-services providers in the interest of depositors and other creditors

macro-prudential supervision, geared towards avoidance and containment of systemic risk and, therefore, interested in macroeconomic and financial market developments and market infrastructures

ECB assuming operational tasks

- Exclusive ECB competence to authorise, supervise and close credit institutions
- ECB ‘home’ and ‘host State’ supervisor for branching out and out-of-State services provision
- ECB to rely on preparations and examinations by national supervisory authorities
- Role in respect of joining <outs>
- Governance and accountability (‘Supervisory Board’, ultimate responsibility with ECB Governing Council)

Critical assessment

- ✓ Right approach to confer tasks on ECB (127 (6) TFEU)
- ✓ Co-ordination monetary and prudential policy best within one house
- ✓ In line with trend back toward greater role for central banks (Bank of England)
- ❑ Difficult interplay with single market / EBA
- ❑ Mandatory information exchange, uniformly applicable to all supervisors in all areas of prudential supervision, to be adopted
- ❑ How will interplay Union and national law function?
 - ECB relies on Directives implemented in Member States
 - Judicial review against ECB acts according to national or EU (formal)law?
- ❑ R&R and DGS ‘Europeanisation’ urgent
- ❑ Single Rulebook urgent: regulations instead of directives
- ❑ Interplay between macro (ESRB) and micro (ECB): how will this work?

ECB's new headquarters
at the *Grossmarkthalle*
in Frankfurt am Main
Architect: Martin Elsaesser
Completed: 1928
1941-1945: Collecting point
for deportation of Jewish
population
1997: Holocaust Memorial
Architect of new premises:
Coop Himmelb(l)au



Constitutionality challenges (1)

EC law takes precedence

- *Costa vs. Enel* (Case 6/64), 15 July 1964, [1964] ECR 585;
- *EEA Agreement* (Opinion 1/91), 14 December 1991, [1991] ECR I-6079
- ECJ interprets EU law in final instance
- National courts may or need to (highest courts) refer to ECJ for preliminary ruling: Article 267 TFEU
- National (constitutional) courts do not determine scope and application of EU law

Constitutionality challenges (2)

The Hague District Court

- A request for an injunction against the Dutch Parliament's adoption of the ratification act concerning the Treaty establishing the European Stability Mechanisms (ESM), before a new parliament was installed after forthcoming elections, was denied by the District Court in The Hague.
- In his decision, the Dutch Judge also rejected the ground of alleged infringement of Article 125 TFEU (the no bail-out clause) through the establishment of the ESM: the prospective amendment of the TFEU would exclude any doubt about the compatibility of a support mechanism with the no bail-out clause and the Dutch Government had explained to Parliament that the current text of the TFEU also allowed such support.

Decision of Judge R.J. Paris of 1 June 2012 in the Case of *Wilders e.a. against the State of the Netherlands*, LJN (State Judicial Decisions Numbering): BW7242, District Court of The Hague, 419556 / KG ZA 12-523

Constitutionality challenges (3)

Bundesverfassungsgericht (German Constitutional Court)

- 7 September 2011 decision
- 12 September 2012 decision
- Background of the *Grundgesetz* (Basic Law): ‘never again’
- Constitution (‘Basic Law’) contains an absolute limit to protect the identity of Germany: Article 79 (3) declares inadmissible a constitutional change that would affect fundamental principles of the German public order. Nevertheless, the Constitution is, in principle, friendly to European law (“*Europarechtsfreundlich*”) and EU law should be abided by (paragraph 109).

Constitutionality challenges (4)

Riigikohus (Estonian Supreme Court)

- Article 4 (4) ESM Treaty ('emergency voting procedure': 85% of votes cast decide on financial assistance) violates the principle of sovereignty in Estonian Constitution
- Legitimate aim for this infringement found elsewhere
- Economic and financial sustainability of euro area is included in constitutional values of Estonia
- Infringement is proportional if suitable, necessary and moderate for achievement of objective (economic and financial stability, guaranteeing rights and freedoms)
- Respect for legislative choice in fulfillment of financial obligations (*vis-à-vis* other euro area MS in ESM Treaty)

Constitutionality challenges (5)

Direct challenge of ECB acts

- Request for annulment of the ECB decisions widening collateral requirements in respect of Greek, Irish and Portuguese public debt instruments and of the ECB's Securities Market Programme: *Städter* (Case T-532/11),
- Decision of the General Court of 16 December 2011
- On appeal: Case C-102/12 P)

Constitutionality challenges (6)

References to the ECJ

- *Sindicato dos Bancários do Norte and Others v BPN - Banco Português de Negócios, SA* (Case C-128/12), 8 March 2012
- *Sindicato Nacional dos Profissionais de Seguros e Afins v Fidelidade Mundial - Companhia de Seguros, S.A.* (Case C-264/12), 29 May 2012
- A German eurosceptic think tank (Europolis) is said to have requested the German Constitutional Court to refer the legality under EU law of the ESM to the ECJ
- The Irish Supreme Court has referred the question of the legality of the establishment of the ESM to the ECJ: Case C-370/12 (*Pringle*): *Thomas Pringle v The Government of Ireland, Ireland and the Attorney General*, [2012] IESC 47, Supreme Court Record Number: 339/2012, 31 July 2012

Europe, the world, the crisis

- ❑ New institutional arrangements:
 - ❑ ECB President before national parliament
(Mario Draghi in Berlin, 24 October 2012)
 - ❑ ‘Economic dialogue’: national minister before European Parliament (‘six-pack’)
 - ❑ Conference of EP and national parliaments on budgetary policies? (<fiscal compact treaty>)
 - ❑ Liikanen Report: structural change in banking

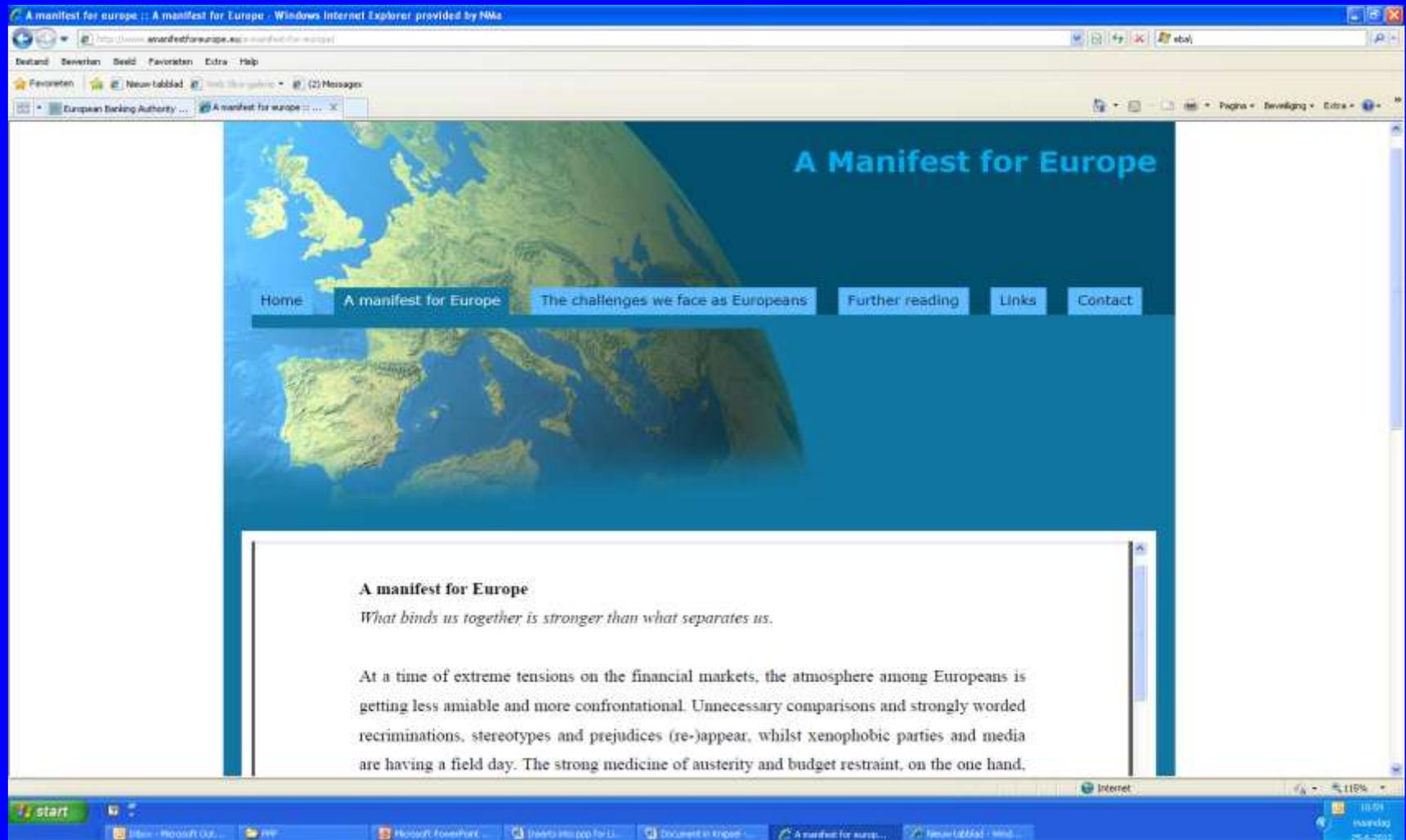
Europe, the world, the crisis

- Effects of austerity in peripheral States
- Negative spiral, economically...
-and politically:
 - Greek Fascists ('New Dawn')
 - Beppe Grillo <http://www.beppegrillo.it/en/>
 - 'True Finns'
 - PVV and SP in NL

Europe, the world, the crisis

- ❑ Extension of surveillance mechanisms beyond 'E' ?
treatment of 'aliens', refugees
- ❑ Common defense, common civil action force ?
- ❑ Cultural aspect of European integration
labour mobility,
common media space,
language capabilities
- ❑ Cultural aspect of the crisis
role of women in boards,
role of media in shaping crisis

The challenges we face as Europeans



The screenshot shows a Windows Internet Explorer browser window displaying the website 'A Manifest for Europe'. The browser's address bar shows the URL 'http://www.manifestforeurope.eu'. The website's header features a large map of Europe with the title 'A Manifest for Europe' in blue text. Below the map is a navigation menu with the following items: 'Home', 'A manifest for Europe', 'The challenges we face as Europeans', 'Further reading', 'Links', and 'Contact'. The 'The challenges we face as Europeans' link is highlighted in blue. The main content area contains the following text:

A manifest for Europe
What binds us together is stronger than what separates us.

At a time of extreme tensions on the financial markets, the atmosphere among Europeans is getting less amiable and more confrontational. Unnecessary comparisons and strongly worded recriminations, stereotypes and prejudices (re-)appear, whilst xenophobic parties and media are having a field day. The strong medicine of austerity and budget restraint, on the one hand,

Europe, the world, the crisis

- ❑ Linking the crises: joint initiatives for a CO₂-free economy
- ❑ Linking the crises: solar energy from Southern Europe –
who's taking the lead?



01/11/2012



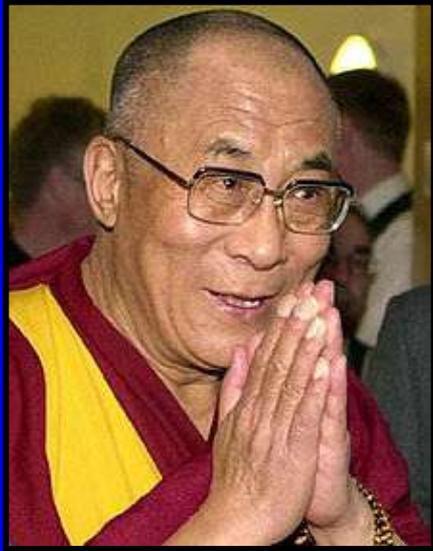
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Europe, the world, the crisis

- ❑ Financial system (and society at large) based on:
 - *Greed*
 - *Fear*
 - *Herd behaviour*
 - *Trust*
- ❑ Diminishing faith in economic growth
- ❑ Morality in the current crisis: Tomáš Sedláček
- ❑ Multiple crises: *development (hunger, disease), inter-cultural and inter-religious world*





Dalai Lama

My Spiritual Autobiography

Sofia Stril-Rever

Rider, London, 2011

In the final analysis, humanity is *one*, and our only home is this little planet. If we want to protect it, each one of us has to experience *universal altruism*. Only this feeling will eliminate the selfish motives that impel people to take advantage of each other.

With a *sincere and open heart*, we are naturally confident and sure of ourselves, and we have nothing to fear from others.

I believe that at all levels of society – family, national and international – the key to a better, happier world is *greater compassion*.