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The Eurozone Still Has Life

Given the extensive degree of European integration, in particular the single market, withdrawing from the EU would have almost incalculable legal and economic implications for the state that wants to withdraw. All the more reason for Greece to do what it takes to stay in the fold.

The possibility of a forced or voluntary withdrawal of Greece from the euro-area or even from the EU has been discussed both by politicians and in the media. The deplorable state of Greece's finances and the consequential crisis for the European single currency have put public pressure on member states to find ways of dealing with the problem.

Despite being subjected to the EU's excessive deficit procedure (EDP) since April 2009, the fiscal position of Greece has continued to deteriorate. Having concluded that Greece has failed to comply with its recommendations under the EDP, in February, the Economic and Finance Ministers Council (Ecofin) set Greece a deadline to remedy its excessive deficit by 2012.

Budgetary consolidation

Ecofin has set out concrete budgetary consolidation measures, covering wages, pension reform, healthcare reforms, the public administration, the product market, the business environment, productivity and employment growth.

Schedule

A specific timetable has been set, including deadlines for reporting on measures taken. In an unprecedented move, the European Commission has initiated an infringement procedure against Greece for its failure to comply with its duty under EU law to report reliable budgetary statistics.

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Future membership?

Serious doubts are raised about the feasibility and desirability of Greece's continued membership of the euro-area, given the country's track record on the application of European fiscal rules and considering the ambiguity of public support in Greece for the necessary comprehensive structural reforms to achieve the envisaged annual budgetary adjustments. Moreover, it has been suggested that a continued lack of fiscal discipline by some member states at the expense of the stability of the euro could in an extreme scenario result in the withdrawal of other euro-area members, in particular Germany.

Euro-Area Exit

A distinction can be made between forced exit and the voluntary withdrawal of a member state from the euro-area:

- Expulsion. EU law has introduced an extensive regulatory framework to ensure fiscal discipline primarily in the countries that participate in the euro-area. The Stability and Growth Pact even foresees financial sanctions in the case of a member state that persistently ignores cross-European fiscal discipline rules. However, EU law does not give euro-area member states the right to expel one of their peers from the system. Moreover, the initiation of infringement procedure by the Commission or by another member state is expressly excluded.

- Voluntary withdrawal. EU law determines the economic and legal institutional conditions for membership in the euro-area with reference to the so-called convergence criteria as well as the decision-making procedure for admitting new countries to the single European currency. However, an explicit procedure allowing for the voluntary withdrawal of a member state from the euro-area does not exist. The legal implications of this are not clear cut.

It can be argued that in the absence of an explicit provision, the unilateral withdrawal of a member state is not possible. Evidence for this view can be found in the provisions governing the procedure for admission to the euro-area, which refer to the "irrevocable fixing" of the rates at which the national currencies are exchanged against the euro.

Beyond purely legal considerations, it is hardly conceivable that the voluntary withdrawal of a member state could be prevented or might attract concrete legal sanctions, in the form for example of an infringement procedure. However, such a move would certainly isolate the member state concerned and seriously undermine its position in the EU. Moreover, the damage to the credibility of the euro-area would be incalculable.

- Feasibility. Even if withdrawal from the euro-area could in practice not be prevented, the vast legal consequences (such as the continuation of contracts) and economic implications (such as the reintroduction of a national currency and the reimbursement of outstanding euro debts) make this a highly risky strategy for any member state. This is particularly the case if the member state is in the midst of a major economic crisis.

More importantly, the exit of one of the bigger euro-area national economies, such as Germany, would seriously call into question the future of the euro-area as a whole, possibly resulting in the abandonment of the single European currency altogether.

EU Exit

In the light of the absence of a right to expel a member state from the euro-area and the uncertainty surrounding the right for voluntary withdrawal, an ousting or voluntary withdrawal from the EU could be considered as an alternative:

The European Union flag waving over the hills of the Acropolis in Athens.

Bloomberg via Getty Images / K. Tsironis

- Expulsion. EU law does not foresee the option of expelling a member state from the Union. It is possible to suspend the rights and obligations of a member state in case of a "serious and persistent breach by a member state" of the fundamental values on which the EU is founded. However, these values refer to respect for human dignity, freedom, democracy, equality, the rule of law and human rights. They do not include fiscal discipline.

- Voluntary withdrawal. With the coming into effect of the Lisbon Treaty in December 2009, for the first time in its history, EU law explicitly foresees the possibility of a member state voluntarily withdrawing from the EU in accordance with its own constitutional requirements.

This withdrawal can be based on any consideration, including, inter alia, reasons of economic or monetary stability. In principle such an exit from the EU has to be based on a withdrawal agreement setting out the future relationship between the withdrawing country and the EU. However, even if such an agreement cannot be reached, the rights and obligations under EU law, including those referring to membership of the euro-area, will cease to exist two years after the initial notification by that member state of its intention to leave the EU.

- Feasibility. To an even greater extent than a possible withdrawal from the euro-area, given the extensive degree of European integration, in particular the single market, withdrawal from the EU would have almost incalculable legal and economic implications, first and foremost for the country that wants to withdraw.

Conclusion:

It is unlikely that a member state would voluntarily withdraw from the euro-area or the EU, because of the political, economic and diplomatic repercussions. EU law does not cover a member's expulsion. However, the crisis surrounding excessive deficits in Greece and other members of the single currency could eventually result in a rethink within the EU of its system of economic coordination. This would inevitably target more rights for the EU to co-govern member states'economies.