INTRODUCTION

Preliminary

The Speaker of Parliament sent on 3 September 2012 a government report on the proposed directive on the recovery and resolution of credit institutions and investment firms (U51/2012 vp) to the Grand Committee for action and to the Commerce Committee for report to the Grand Committee.

The Speaker of Parliament sent on 12 October 2012 a government report from the on the proposed regulations on the transfer to the European Central Bank of prudential supervision of credit institutions (U 61/2012 vp) to the Grand Committee for action and to the Commerce Committee for report to the Grand Committee. The Grand Committee further sent the matter to the Constitution Committee and the Finance Committee for possible action.

On 14 September 2012 the Grand Committee received the government’s statement on prudential supervision of credit institutions (E 99/2012 vp) and sent it to the Constitution Committee and the Commerce Committee for possible action and to the Finance Committee for information.

On 12 October 2012 the Grand Committee sent the government’s statement on developing EMU (E 113/2012 vp) to the Constitution Committee, the Finance Committee and the Commerce Committee for possible action. On 5 December 2012 the Grand Committee received an updated government statement on this issue.

1 The Finnish government is officially known as the Council of State. For convenience, the colloquial term "Government" will be used in the body of the translation.
On 12 October 2012 the Grand Committee sent the Government’s statement on banking union in the context of developing EMU (E 114/2012 vp) to the Constitution Committee, the Finance Committee and the Commerce Committee for possible action.

**Proposals of the European Institutions**

The U- and E-matters listed above are closely related to the following proposals of the European institutions for deepening economic and monetary union during the next years:

- The European Parliament’s resolution of 20 November 2012 concerning the document “Towards a genuine economic and monetary Union” by the Chairs of the European Council, the Commission and the Eurogroup and the Head of the European Central Bank.
- The European Commission’s communication of 28 November 2012, “Blueprint for a deep and genuine EMU”.
- The revised “Towards a genuine economic and monetary Union”, published by he Chairs of the European Council, the Commission and the Euro group and the Head of the European Central Bank on 5 December 2012.
- The draft conclusions of the European Council of 13 – 14 December 2012.

**Expert testimony**

The committee heard the expert testimony of: *list omitted from the translation*.

**Reference data**

The Commerce Committee gave a report (TaVL 43/2012 vp). The Finance Committee and the Constitution Committee issued reasoned opinions.²

**THE GOVERNMENT’S REPORTS AND THE INSTITUTIONS’ PROPOSALS**

**The Proposals**

*Summaries omitted from the translation.*

**The Government's Opinion**

² The sector committee documents are available in Finnish only. The Finance Committee is responsible for the national budget, while the Commerce Committee is in charge of, int. al., the banking and financial sectors.
The Government affirms Finland’s continuing commitment to the stability of the common currency and the development of economic and monetary union. It is too early to express an opinion on the institutions’ long term proposals. Proposals should be based on member states’ common understanding of deepening EMU and ensure member states’ ownership of developments. No rift should be created unnecessarily between euro and non-euro member states. The central task is to rebuild confidence in commitment to common rules. Any development should be based on adequate study and adequate public debate. EMU can be developed only gradually and with an emphasis on shorter-term objectives.

The banking supervision mechanism should be created as soon as can be done without prejudice to the quality of legislation. The common crisis resolution system should ensure investor participation, uniform procedures and principles and minimising costs to the tax payer. Finalisation of the crisis resolution directive is a prerequisite for developing the EU’s crisis management system. A joint deposit guarantee or fund should not be created at least at this stage.

A common banking supervisor is a necessary but not yet sufficient condition for direct capitalisation of banks out of ESM funds. Private investors should continue to bear primary responsibility for the solidity of banks. States should bear primary responsibility for the stability of their banking systems. ESM can be only an exceptional and last-resort measure. Direct capitalisation of banks by the ESM can be a useful new support mechanism provided that the banking supervision mechanism is in place first and that decisions in the ESM are made unanimously and on a case-by-case basis.

As regards fiscal union, the Government notes that proposals are still being developed. Finland remains committed to strict fiscal discipline and takes a constructive approach to proposals to enhance fiscal discipline. Interventions in national budget procedures should occur only if there is a clear and present danger that a member state’s public finances deviate from agreed objectives. Fiscal discipline does not require increased joint liability.

The government does not support the euro group taking on joint liability for debt, as this would reduce market pressures to balance member state’s public finances, increase moral hazard and would be a violation of article 125 TFEU. The government does support exchanges of information and voluntary cooperation.

The government is prepared to consider national and temporary redemption funds that do not lead to mutual liability.

The government is prepared to consider a limited fiscal capacity that would be a more developed version of existing instruments. The government does not support using a common fiscal capacity to stabilise economic cycles; this should remain a national responsibility.

The government does not at present support a common budget for the euro group.
The government is prepared to study the pros and cons of contractual arrangements (CCIs), as more details emerge.

As for the democratic legitimacy of the euro zone, the government points to the primary role of national parliaments. The Commission should play a central role in the governance of the euro zone. The euro group’s ability to appear jointly in international forums should be enhanced.

With respect to further developments the government underlines the importance of protecting the cohesion of the European Union and of building primarily on the current treaties.

OPINIONS OF THE GRAND COMMITTEE

Justifications

Banking resolution and supervision

The Grand Committee, in concurrence with the opinion of the Commerce Committee, agrees with the government’s positive position on the proposed directive on the recovery and resolution of credit institutions and investment firms (U51/2012 vp) and the proposed regulations on the transfer to the European Central Bank of prudential supervision of credit institutions (U 61/2012 vp). The committee deems both proposals to deserve support also in view of their effects in Finland. The committee emphasises, however, that the ultimate approval of these statutes will depend on the resolution of outstanding questions of principle. These include the financing of resolution systems and the status of non-euro countries within the banking supervision system. To avoid repetition, the Grand Committee refers to the detailed positions in the Commerce Committee’s report, with which the Grand Committee agrees. The Grand Committee draws particular attention to the remarks of the Constitution Committee concerning the delimitation of duties within the banking supervision structure, the status of national laws in supervision carried out by the ECB and the right of appeal within the ECB’s financial supervision activities.

Developing EMU

General remarks

The Grand Committee observes that the Commission and the heads of four institutions delivered, one week before the next European Council, wide-reaching plans for developing the economic and monetary union into what is meant to be its final stage within five years. Based on publicly available drafts of the European Council’s conclusions, at least the chairman of the European Council sees member states’ commitment to these plans as the objective of the European Council. If implemented as such, the plans would involve an irrevocable transfer of authority from member states to the European institutions. When
read in conjunction with the economic policy statutes that have recently been implemented or soon will be implemented, the plans also involve the permanent commitment of economic policy in the Euro group and its member states to policies subject to the fiscal sustainability limits in the Stability and growth pact. According to the authors, these plans will involve treaty changes in the future.

The Grand Committee considers that it is neither possible not even necessary for the Finnish parliament to adopt a position on these plans in the time available. The committee recalls that of the measures suggested by the institutions, only those related to banking supervision and resolution are relevant to the current economic crisis. The committee agrees with the government that these immediately relevant measures should be the focus of attention now. The long-term and permanent measures can wait until they have undergone the thorough and public scrutiny they call for.

The committee notes that the institutions’ proposals touch upon the foundations of Finland’s sovereignty in ways that call for thorough discussion both in the Eduskunta and in society generally, before representatives of the Republic can make even tentative commitments at European meetings. The difficulty of changing the treaties, and probably the Finnish constitution, further limit the ability to make commitments at the European Council. The Grand Committee thus supports the government’s position that the European Council should focus on measures that are needed now and can be agreed now, including on bank resolution and supervision.

Finland’s objectives regarding the EU and EMU

The committee has been informed that the government plans to submit a general report on Finland’s European policy to the parliamentary session of 2013. The committee notes that a report covering the objectives and content of our country’s European policy would be an appropriate vehicle for discussing the institution’s fundamental proposals. Such a report would also provide the opportunity to address the broader issue of how Finland’s position in the European Union has changed gradually, through multiple decisions. In this statement, the committee can offer only some general remarks as a basis for discussion.

The committee agrees with the government that future arrangements must not be allowed to widen the rift between euro countries and non-euro EU member states. The committee reminds that one of the prime justifications for Finland joining the EU was the need to be in the same reference group as the states that are politically most important to us. Both the general influence of our country and the competitiveness of many Finnish industries call for economic policy integration to proceed at as equal a pace as possible in the states that are important to Finland.

The committee observes that the economic crisis has also had effects on the EU treaty’s system of decision-making. The economic crisis has led to shifts in the Union’s competences and balances of power that were not foreseen in the Lisbon treaty of 2009. At the same time, the measures in
the Lisbon treaty that were meant to increase democratic legitimacy have had virtually no effect. The committee considers it necessary to remind that the commitment to ever closer union of the peoples of Europe that has been made by our country and all other member states is linked to the treaty’s exhaustive statement of the member states’ consensus on the direction and content of European integration. The committee believes that this needs to be said when the institutions put forward plans that seem to be based on the notion of a European “finalité politique” that needs no further justification or discussion. The treaty makes the European Union a mutual project of the member states. The development of the Union will be decided, by amending the treaties if necessary, by the member states and peoples of Europe, who are the owners of the Union.

According to the Constitution Committee’s reasoned opinion of 12 December 2012, the development of EMU is a broad, complex and multi-stage project, in the course of which the government should give its assessment of the constitutional effects of the totality of the proposals. The economic and fiscal crisis facing the euro zone has been addressed by gradual measures, making it difficult to assess the combined impact on, e.g., the Eduskunta’s budgetary powers.

The committee agrees with the government that stability in the euro zone is a primary national interest, for which Finland has conscientiously fulfilled all its commitments. The committee considers, like the government, that the statutes already in force or soon to be adopted are the prime tools for overcoming the current crisis and preventing new ones, and there is no need for treaty change.

During the economic crisis, the committee has repeatedly given its support to an approach based on limiting excessive public sector deficits and debt. The committee still supports this policy. The ban on excessive deficits is in the treaty. However, current European legislation does allow for some flexibility meaning for example, that crisis countries experiencing negative growth rates can be given additional time to correct imbalances. The committee believes that the current and soon-to-be-finalised legislation is sufficient. The committee considers that we must beware of an economic policy that is so rigid and schematic that it takes into account only fiscal sustainability at the expense of all other economic policy objectives, including employment, growth and social stability.

The committee observes, like the government, that the institutions’ proposal involves replacing the treaty’s system of decentralised fiscal policy-making on the US model with a German-style centralised fiscal policy. The committee agrees with the government that the individual responsibility of the euro states – a consistently applied no-bailout rule – provides the best incentive for abiding by commonly agreed economic policy rules.

The government should also make an assessment of what impact on Finland the possible introduction of qualified majority voting in fiscal policy and on a common budget would have. Clearly, Finland’s voice would be quite small in QMV, corresponding to our share of the euro zone’s population
or economy. Introducing QMV on fiscal policy and budget issues at the Union level would be a difficult qualitative change for Finland. The committee draws to mind that, at least for the near future, Finland is financially a strong country that can cope reasonably well without any more joint liability.

Democracy and fundamental rights

The committee believes that it is not possible to examine the development of EMU exclusively on economic policy grounds. This examination calls for a much broader legal and political approach that takes into account both the effects that economic policy has on citizens and their fundamental and human rights. The examination must also take into consideration the democratic legitimacy of economic policy, the basic requirement that economic policy is based on the will of the citizens as expressed in elections and can be changed by the citizens via elections. The committee considers the institutions’ proposals on this topic to be both insufficient and unbalanced.

The committee observes that solving the democracy issue is one of the most significant conditions for implementing the institutions’ plans. Fiscal power, the power to tax citizens and decide on how to spend the money, has been one of the most important subjects of citizens’ right to participate ever since the democratic revolutions of the eighteenth century. As long as nation states remain the prime object of citizens’ allegiance, it is hard to see how budgetary power could be transferred to the Union without a loss of democratic legitimacy. The European Parliament has an important and irreplaceable role as co-legislator (with the Council) and as monitor of the Commission and the institutions subject to the Commission – both tasks within the limited mandate provided by the treaty. It is not, however, foreseeable that the Union would become such a focus of citizens’ aspirations that we could talk of a European Union “Staatsvolk”, able to grant to the European Parliament the kind of general mandate that is held by national parliaments. The committee concludes that the principles of democracy require that member states retain their primacy in economic policy.

The committee believes it would be a mistake to overemphasize the issue of the division of powers between national parliaments and the European Parliament. Both levels should exercise power and assume the corresponding responsibility. Occasional differences are due not to parliaments’ competing hungers for power, but to the insufficiently clear demarcation between national and Union competences. The European Parliament’s report rightly draws attention to the emergence of “parliament-free zones”, and democratic deficits in these border areas. It should, however, also be acknowledged that there are areas, such as the application of the law, where parliaments need to monitor the provision of good administration at a general level, but should refrain from attempts to influence individual decisions.

Applied to the economic union this would imply that national parliaments should each be responsible for its respective national budget. Because of their “ownership” of the budget, they should
also be responsible, as high organs of state, for their budgetary decisions when these lead to negotiations with or actions by the European institutions. This means that national parliaments should participate in formulating the objectives of national governments’ negotiations with the European institutions and in implementing the results of these negotiations. The proper role of a national parliament is the same as the role that the Finnish parliament plays in all interaction between Finland and the EU. The role of the European Parliament is to monitor that the Commission works effectively and impartially in applying the legal norms adopted to foster economic stability. However, it would be clearly improper for the European Parliament to try and influence how European law is applied to a specific case or country.

A similar distinction applies to the democratic supervision of other activities of the European institutions, for example banking supervision or bank resolution. European law must distinguish between those tasks that are subject to the general parliamentary oversight of the administration, and those tasks that involve applying the law or the core monetary policy tasks of the ECB. The latter call for a parliamentary scrutiny that is more general in scope and respectful of the independence of the institution in question. The division of labour between national parliaments and the European Parliament would be determined in practice by which activity is to be overseen and which law, national or European applies to that activity.

The committee brings to mind that the economic crisis in some member states has had serious consequences for fundamental and human rights in these countries. The economic crisis and resultant budget cuts and austerity in some member states have impacted severely on economic, social and cultural rights. Any deepening of EMU needs to take into account that the European Social Charter is a binding legal norm for the Union and the member states. Legal norms concerning the economic union need to be drafted and applied so as to safeguard the economic, social and cultural rights guaranteed by the treaty.

The report of the four institution heads deals rather superficially with the democratic legitimacy of economic policy decision-making. As a national parliament, our attention is drawn to the statement that the principle of keeping democratic surveillance at the same level as decision-making implies participation by the European Parliament, while maintaining the central role of national parliaments. The report recognises the central role of national parliaments in adopting national budgets, but suggests that national parliaments might not be best placed to consider fully the common interest of the Union. The report makes reference, no doubt as a solution, to article 13 of the Fiscal Compact and to the mechanisms in Protocol 1 of the Lisbon Treaty. These mechanisms are joint conferences of the European Parliament and national parliaments.

Like the government, the Grand Committee has no problem with developing forms of cooperation among parliaments in the EU. The committee does, however, consider it important to point
out that no parliamentary conference is in itself capable of providing democratic scrutiny or legitimacy. The European Parliament and national parliaments are not able to farm out their constitutional duties to a conference. A conference that gathers for short periods at long intervals can only scrutinize policy by hearing *ex-post* reports and exchanging information among participants. The core part of parliamentary work, the thorough examination and public discussion of issues to be decided, is practically impossible in a conference situation. In view of the debate on the role of parliaments in certain member states, it is also necessary to emphasise that the notion of a “joint position of parliaments” has no foundation in reality. Parliaments do not take a particular position because they are parliaments. National parliaments look to the national interest and the European Parliament to the European interest. At both levels, there are differences between political groups; the position of any parliament is the outcome of discussion, compromise and voting. Conferences offer participants useful support in their work in their home parliament. No conference can replace the work done in parliaments.

The committee notes that no treaty provision or statute is needed to establish an inter-parliamentary conference, as such conferences in no way exercise public power. The committee considers it important that the mistake made in adopting article 13 of the Fiscal Compact is not repeated. It is dangerous for democracy to adopt quasi-democratic rules that offer the appearance but not the reality of democratic legitimacy. The European Parliament and each national parliament have the ability to influence economic policy using their existing competences. The arrangement in article 13 Fiscal Compact is weaker than the existing competences of the EP and most national parliaments.

The committee observes that the Finnish Eduskunta’s role in European economic policy will be determined – irrespective of what may be decided at the European level – by the provisions of the Finnish constitution, which guarantee the Eduskunta the powers of supreme organ of state also in respect of EU policy formulation. The committee would like to revive in this context its proposal from the time of the constitutional convention: The influence of national parliaments in the EU could usefully be guaranteed by a code of conduct obliging each member state to give an assurance that its national parliament has been involved, in accordance with national constitutional requirements, in forming the positions that the member state represents in the Council. The committee holds this proposal to be still valuable and more pertinent than ever.

The committee considers that respect for the treaty is a minimum requirement for the EU’s democratic legitimacy. Developing EMU must be based on respect for the treaty and European law generally. The treaty and the Union’s legislation have been adopted in a fundamentally democratic procedure. The measures taken to control the economic crisis leave something to be desired in this respect, as regular procedures have been waived and serious doubts have been voiced about whether these measures are consistent with the treaty.
Finally, the committee wishes to point out that democracy also requires that the principles of transparency and public access to documents are realised in the development of EMU. The committee refers in particular to recurring problems due to the European institutions’ bias against applying the so-called transparency regulation in a spirit of enhancing fundamental rights.

The committee considers that plans for developing EMU need to be debated publicly in the context of a broader civic discourse.

The committee notes that Finnish transparency practices have proved themselves also in the economic crisis. The committee expects to receive, also in future, all the information it requires. In Finland, it is the Grand Committee that bears responsibility, also in respect of issues that have to be declared secret owing to compelling reasons of national interest.

The institutional framework of EMU

The institutions’ proposals assume that the management and supervisory tasks of the future economic union should be undertaken by the Commission and a Treasury within the Commission. The Committee acknowledges that any institutional discussion would be premature at a time when the economic union itself is hardly a commonly agreed objective. The committee would, however, draw attention to the difficulty of the institutional issue. The Commission is to carry on in its current role as impartial promoter of all member states’ interests, and also to be accountable for the results of economic policy in the eurozone. The conflict of interest would seem to be obvious.

The committee also considers it important to raise the issue of the Commission’s and the European civil service’s capacity to carry out economic policy tasks creditably. Events leading to and during the economic crisis (e.g., the partial mishandling of the bank stress tests, the quality of analysis and legislative drafting) at least invite the question, will the Commission be able to recruit the expertise necessary for an economic union is less than five years. This question also has a bearing on citizens’ readiness to give new tasks to the Commission and on the markets’ inclination to trust the Commission’s economic policies.

The Liikanen report

The committee agrees with the government that the report on the structure of the EU’s banking sector and on creating a stable and efficient banking system, prepared by a working group headed by the Governor of the Bank of Finland, Erkki Liikanen, should be added to the list of measures to be taken to stabilise the economy in the immediate future. In particular, the committee identifies the following working group recommendations as important and urgent: Proprietary and other high risk trading should be separated from other functions within banking groups. Banks should be obliged to maintain acceptable revival and
resolution plans; these may include an obligation to separate yet other functions from deposit banking. Capital requirements for trading resources and for housing and real estate-linked loans need to be reassessed. Bank governance and supervision needs to be reinforced.

*Direct bank capitalisation from the ESM*

The committee agrees with the government that primary responsibility for the stability of banks rests with their owners and, for banking systems with the home states of banks. ESM financing should be applied only as a last resort, on a case-by-case basis and following a unanimous decision. A functioning common supervisory mechanism is an absolute precondition for activating ESM capitalisation. Direct capitalisation must not lead to member states having to increase the ESM’s capital.

*Fiscal union*

The committee agrees with the government that implementing the economic governance measures already agreed should be the immediate preoccupation. The committee believes it would be at least premature to decide any further-reaching steps to encroach on member states’ budgetary policies before the previously agreed measures have even been tried.

The committee agrees with the government that even partial joint liability for debt by the euro states would be economically harmful and contrary to the convention. The committee adds that the difficulty of changing the treaty should be a sufficient reason to remove the notion of joint liability from active discussion in the European institutions. The committee agrees with the government that there is a case for promoting the exchange of information and voluntary cooperation concerning government bonds. The committee assumes that these items need not be mentioned in the European conclusions, which are notoriously open to over-interpretation.

The government is prepared to consider the creation in the context of developing the EMU of a redemption fund as a national and temporary arrangement to bring down debt to sustainable levels. The committee was unable to form a sufficiently precise understanding of the government’s proposal in the time available. The proposal is still vague and the committee is not ready to express an opinion. As an initial reaction, the committee is prepared to consider all proposals to improve debt sustainability in the euro zone. However, the committee has reservations about linking measures that are meant to be purely national to the development of EMU or other common arrangements, as this might create the unjustified impression of an implicit guarantee.
A common fiscal capacity

The government has an open mind about exploring the creation of a common fiscal capacity in support of structural reform. The starting point should be developing existing instruments, such as the cohesion, structural and globalisation funds and their resources. The committee has no objection to the government’s opinion, but would remind that, in the EU, changing a name often causes pressure towards more qualitative and quantitative changes in the future. The cohesion and structural funds have been supposed to support structural reforms since they were first created. As can be read from the justifications of Finland’s positions on the multiannual financial framework (MFF), the effectiveness of these funds has been poor. Improving the effectiveness of the EU’s structural policies would be welcome, but the committee sees no grounds for optimism in the near future. The committee has reservations about adding further complications to the current negotiations about the MFF. The committee believes that Finland should make it a prime objective at the next European Council to resist anything that could be construed as supporting the institutions’ objective of a joint euro zone budget.

The committee supports the government’s categorical opposition to using a common fiscal capacity to counteract cyclical shocks. The committee observes that intervening against cyclical variations would involve such a large treasury that the proposal comes close to suggesting that all national budgets are made subordinate to a common fiscal capability. With reference to the Commission’s discussion paper, the committee points out that asymmetric shocks cannot be compared to unforeseeable natural disasters. Preparing for cyclical variations is a basic part of fiscal policy. If a falling economic cycle subjects a state to unbearable economic strain, the reasons can be found in that state’s policy choices and shortcomings in the EU’s supervisory activities.

The committee considers that the drafters of these proposals should be asked to give plausible answers to the following questions: How effective could any euro zone dampening of cyclical variations realistically be? Would these anti-cyclical measures turn into a permanent transfer mechanism? Would political control be sufficient to ward off moral hazard? What added value do the institutions’ proposals offer beyond the six-pack, two-pack, Fiscal Compact and enhanced ESM, which have all been agreed but not yet tested?

The committee agrees with the government’s negative position on a joint euro zone budget, an own resource for the euro zone and the creation of a euro zone “treasury” within the Commission. As noted by the government, there are no economic policy justifications to be found for any of these, and they would further increase the rift between EU member states. The committee is of the opinion that issues of democratic legitimacy alone exclude these proposals from serious consideration.
An economic policy union

The committee agrees with the government that current instruments for harmonising member states’ economic policies need to be fully explored before any new proposals are brought to the table. The committee agrees with the government’s reservations about contractual convergence and competitiveness instruments. In addition to the list of questions mentioned by the government, the committee would add the question, why a contractual arrangement is even being proposed, when normal statutory instruments would be much less problematic from the democratic legitimacy perspective.

Statement

As its statement, the Grand Committee pronounces,

that in concurrence with the sector committees it agrees with the government’s position on the proposed directive on the recovery and resolution of credit institutions and investment firms (U51/2012 vp) and the proposed regulations on the transfer to the European Central Bank of prudential supervision of credit institutions (U 61/2012 vp. The committee believes that progress on these should be the objective of the forthcoming European Council; and

that it agrees with the government’s position concerning the EU institutions’ preliminary proposals on banking union and developing EMU with the emphases stated above.

Helsinki, 13 December 2012

The following members took part in the approval of this statement:

[25 names omitted from the translation.]

DISSENTING OPINIONS

[The two dissenting opinions, by five members of the Finnish Centre parliamentary group and four members of the The Finns parliamentary group, respectively, have been omitted from the translation.]