Exit from the Monetary Union – A Free Choice by Greece

Martin Seidel*

Greece's membership of the monetary union is not compulsory. Greece is free to give up its membership of the European Union at any time. The other member states cannot prevent Greece from leaving the European Union. From a strictly legal point of view, Greece can neither 'leave' nor 'join' the monetary union. For the monetary union is no association of countries that a state can 'join' or 'leave' like a club or an organisation. All that stands behind the so-called monetary union is the competence and responsibility that has been transferred to a European level to design a common central monetary policy for the member states of the European Union. Monetary policy is, like for example the European Union's fisheries policy, a so-called exclusive policy of the European Union, alongside which there is no complementary policy formulation on a national level, unlike for agricultural policy, for example. Regardless of its classification as an exclusive policy, the scope of the common monetary policy can be territorially expanded and restricted *via* exceptional regulations, as in other policy areas. A restriction in terms of the fishery policy, for example, occurs in that Greenland was retrospectively excluded from the European Union's fishery policy as part of Danish state territory. There was no talk of Denmark even partially leaving the 'fishery union' of the European Economic Community.

Despite Greece's involvement in shaping the European Union's common monetary policy *via* the board of governors of the European System of central banks, the euro remains a foreign currency for Greece. As a foreign currency, and unlike a national currency, the euro is not an *economic accounting device* tailored to suit the Greek economy, i.e. unlike a national currency, it does not act as a 'measurement system' that reflects the economic performance of an economy compared to all other competing economies in figures. The monetary policy of the European Central Bank and/or more specifically of the European System of central banks is not oriented exclusively towards Greece's economy and cannot be compared to a national currency in this respect. Since European monetary policy, like any monetary policy, can only be formulated in a standardized fashion, it cannot even orientate itself primarily towards Greece's economic policy concerns due to the small size of Greece's economic area. Greece is not a territorial component of an integrated European economy, but continues to have an economy that is based on its own sovereign statehood and its own laws, just like all other member states. Despite some co-responsibilities borne by the European Union in the field of the so-called policy of economic and social cohesion (fund policy), economic policy remains primarily the responsibility of member states, even in the wake of the Maastricht and Lisbon treaties. The common market designed by the European Union may connect the economies of member states, but it is institutionally limited to the realisation of four cross-border economic freedoms: namely for the cross-border intra-community flow of goods, services, persons and capital; while also acting as a customs union and hosting a central competition authority. The common market or single market has not merged the economies of member states into an integrated economy to date, and will only achieve this to a limited extent at best in the future given the lack of any provision of community public goods, which must be centrally offered by an economy. Despite the expectations placed in it at the Maastricht Conference, which the current debt crisis in several member states of the monetary zone has shown to be misguided, the European Union's monetary policy did not *ipso facto* lead to converging economic development in all member states, thereby creating the conditions for a true merger of the economies of member states.

Greece will be 'struck by Apollo' (Friedrich Hölderlin), if it does not distance itself in the short-term from the course followed by the European Union since the outbreak of the sovereign debt crisis

*University of Bonn.

in 2009 to address the excessive debt burden carried by Greece and other high borrowing requirements on the part of crisis-hit member states of the monetary zone. The draconian (economic adjustment) programme imposed on Greece of rigorous cuts to state spending and across-the-board increases in taxes and contributions was imposed on Greece as a 'return service' for financial support from the European Union, member states and the International Monetary Fund with a view to the 'recovery' of its creditworthiness as a member state of the eurozone. This will not, in all likelihood, lead to a successful outcome, but to the absolute economic demise of the country, with lastingly high collateral social costs for its population as a result. In terms of numbers, Greece can become economically stronger and competitive 'with or thanks to a miracle' (from Israel) at best if it remains inside the monetary zone and does not give up the euro as a foreign currency. Only a haircut, which in itself would not be sufficient to enable Greece to remain a member of the monetary union, along with the reintroduction of its own national currency, would give Greece a chance to recover economically.

Now that the 'draconian' economic adjustment programme imposed on Greece over the past two years has proven ineffective, the view should very soon start to prevail in Greece that an economic fresh start outside the European Union is preferable to the country's demise, which looks likely at present. This view should prevail even if such a fresh start were to take place in undoubtedly harsh economic conditions, for it would at least offer the hope of a better future and of real financial economic support, instead of the purely fiscal assistance provided to date. The history of the numerous cases of state defaults shows that Greece will not be entering rough, uncharted terrain. The circumscribed new start may, if properly managed, very quickly restore Greece's creditworthiness if the economy can be successfully boosted. Greece should feel no obligation to safeguard or preserve the monetary union. Neither the monetary union nor the euro as a single currency will be endangered by Greece taking 'time out' from participating in the monetary union. Indeed, the monetary union and the process of political integration in Europe is far more likely to be strengthened by Greece leaving the currency zone and the anticipated fresh start for its economy arising from such a move, than that such a politically reasonable step should call into question achievements to date in the process of European unification. The Maastricht regulatory system for monetary union provides for member states that do not satisfy monetary union membership conditions to participate in monetary union in an appropriate way via their participation in the European Monetary System II – in its so called first and second level – as 'member states with an exceptional permit' outside the monetary zone, and to participate in the integration process on an equal footing.

Should the view prevail in Greece on a political level that the country should replace the euro as a foreign currency with a new national currency (the 'euro-drachma') and the Greek government should signal Greece's exit from the European Union, then the latter would have to take action immediately. In view of the danger of speculative capital flows, there should neither be objections on the part of other member states nor an overly public discussion of the issue. It may be necessary – as in the case of previous exchange rate realignments within the European Monetary System (EMS I) – to close the stock markets immediately and other, tested measures may have to be taken by the European Union and the other member states. Any denial of technical assistance on the part of other member states would raise the question of an infringement of solidarity, if not of European Union law.

An immediate statutory requirement to act would arise both on a Greek national and on a European level.

Despite its membership of the European Union and the monetary zone Greece has sufficient sovereign powers to reintroduce its own currency immediately, without the authorisation of European Union legislators if necessary, to declare itself fully or partially insolvent by law, and to take all of the requisite legislative measures in this case. Neither the introduction of the euro as a currency and legal form of payment in Greece, nor recourse to the European Union's competence in shaping monetary policy as a so-called exclusive policy have led to the quasi in rem destruction of Greece's powers to act in the area of monetary and currency system, which could not be reinstalled without a change to the Greek constitution or without an authorizing legal act by the European Union. The authority of the member states to leave the European Union autonomously and established by the Lisbon Treaty is based on the continued existence of all national sovereign jurisdictions after member states join the European Union, despite the fact that the national jurisdictions affected by the granting of rights to the European Union

can no longer be exercised autonomously without the member states in question potentially being held accountable for an infringement of European Union law. The autonomous reintroduction of a national currency by Greece that is thereby made legally possible, without any prior abolition of the euro as a currency for Greece *via* a European Union legislative act, would be seen as 'violating European law' or an infringement of the rule of union law. However, as a direct result of the Greece's 'exit' from the monetary union, which has been declared permissible, the other member states of the European Union and its legislator would be obliged by European law to immediately revoke all regulations opposing the reintroduction of a national currency in Greece, and especially and in the first instance, the validity of the single currency for Greece. The member states and the bodies of the European Union, in the opposite sense, acted very innovatively, but correctly at the time when the German government included five new German Länder as well as East Berlin autonomously at first in the purview of German constitutional law on the occasion of German reunification on 3 October 1990, thereby extending the overall sovereign and territorial area of validity of bodies of the European Union to all of reunified Germany without passing any legislative act.

The European Union and its member states cannot raise any political objection to Greece's wish to leave the monetary union, and specifically cannot claim that any member state other than Greece would incur 'significant costs' related to the latter's exit. If, after weighing up the pros and cons, Greece is prepared to shoulder all of the 'social and economic' costs arising for the country if it gives up the single currency because it backs this solution and believes that it can only boost its economic performance, with financial assistance from other states or international organisations, by leaving the monetary union, there is no room for reservations on the part of other member states, and not even if there are objections regarding the disadvantageous consequences of an 'exit' for other member states or the monetary union. The solidarity required from all member states demands that Greece should not be prevented from taking responsibility for its own destiny either by horror scenarios or by the threat of sanctions. The euro as a foreign currency has had catastrophic economic consequences for Greece and will continue to do so in the future if, after the obvious failure of the 'bail-out measures' of the European Union, this disastrous side-effect on Greece is not cancelled out by its exit from the monetary union and Greece's reintroduction of its own currency. The commonly cited horror scenario of a member state leaving the currency zone also merits closer scrutiny. The servicing of debts quoted in euros, which would nominally grow by the devaluation rate after the anticipated devaluation of the newly introduced national currency against the euro, are no longer an issue if Greece legally declares its insolvency and nominally converts all state and privately issued bonds into the new currency, or defaults on payment entirely. Rising import prices, which are also menacingly cited, will be opposed by falling export prices, meaning that the comparative cost advantages of the Greek economy should, on balance, result in an increase in prosperity in tourism at least. Inflationary trends can be counteracted and curbed by an appropriate central bank policy and also should not be seen as an inevitable result of any exit. Similarly, capital flight, if it should occur, can be counteracted by legislative measures; and this fear should not prevent Greece from reintroducing its own currency and undertaking a haircut. Domestic banks, or their foreign counterparts with investments in Greece, that are on the verge of collapse can be supported by equalization claims if they are deemed capable of survival, as shown by similar cases in the past. A trustworthy Greek government, especially if supported by other member states and the European Union, could even try with some degree of success to counteract a bank run, which is realistically the greatest fear, by following the German government's example in 2008 on the outbreak of the global financial and economic crisis.