



UNIVERSITÀ  
DEGLI STUDI  
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**Jean Monnet Module “SoEULaw” Workshop  
E-book presentation:  
“New Awareness of Solidarity in European Union Law and Beyond”  
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**The European Stability Mechanism and denied solidarity**

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## WHAT IS THE EUROPEAN STABILITY MECHANISM?

The European Stability Mechanism (ESM) was set up in February 2012 as a successor to the European Financial Stability Facility (EFSF).

The ESM's mission is to provide financial assistance to euro area countries experiencing or threatened by severe financing problems.

# LENDING TOOLKIT



Loans within a macroeconomic adjustment programme

Used



Objective	+
Conditionality	+
Monitoring	+



Primary market purchases

Unused

Objective	+
Conditionality	+



Secondary market purchases

Unused

Objective	+
Conditionality	+



Precautionary credit line

Unused

Objective	+
Two types of credit lines	+
Monitoring	+



Loans for indirect bank recapitalisation

Used



Objective	+
Eligibility	+
Conditionality	+
Monitoring	+

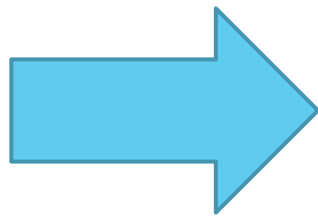
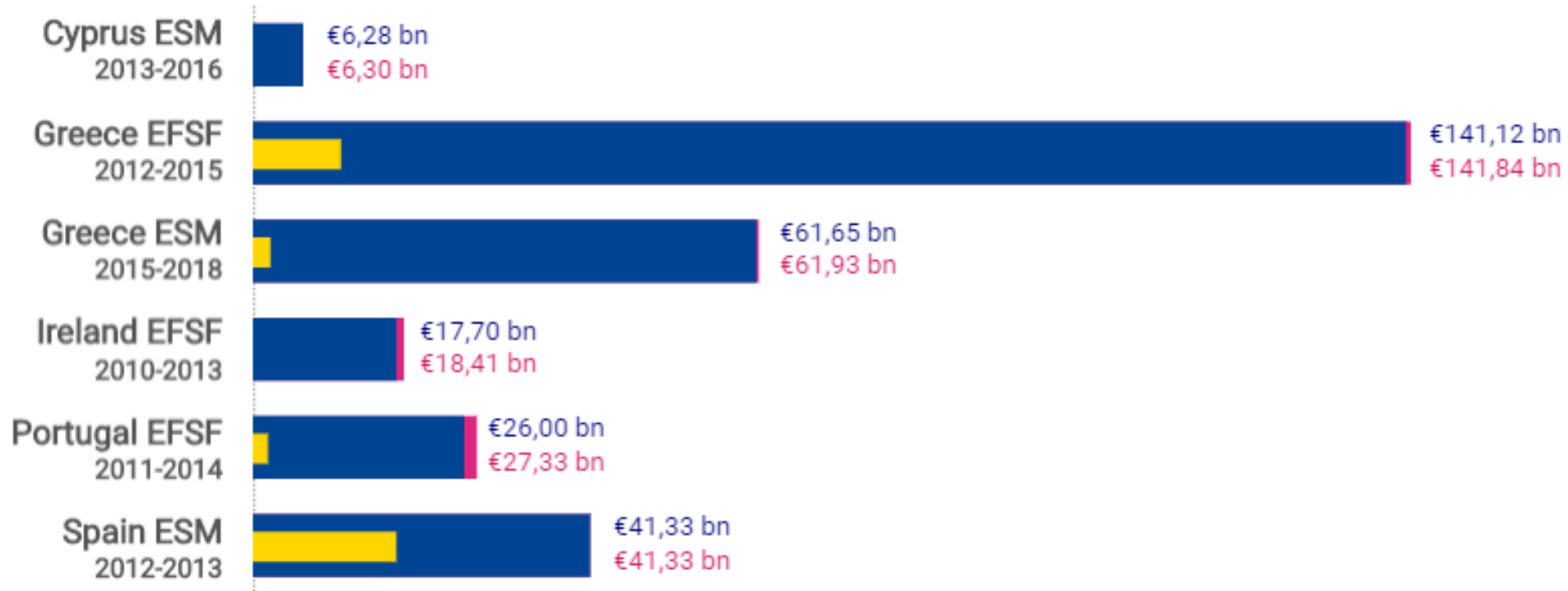


Direct recapitalisation of institutions

Unused

Objective	+
Eligibility	+
Conditionality	+

# PROGRAMME OVERVIEW



“The work of the ESM is an expression of European solidarity among the euro countries”.

Rolf Strauch,  
ESM Chief Economist

## SOLIDARITY vs CONDITIONALITY

“The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism **will be made subject to strict conditionality**”.

**ART. 136 TFEU, §3.**

“The conditionality prescribed [...] is intended **to ensure that the activities of the ESM are compatible with**, inter alia, **Article 125 TFEU** and the coordinating measures adopted by the Union”

**ECJ, Case C-370/12,  
Thomas Pringle v Government of Ireland and Others**

# Cypriot 3-year ESM programme

Conditions and revisions by date of Memorandum of Understanding

Sector	Subsector	Count	mag13	set13	dic13	mar14	giu14	dic14	lug15	ott15
Fiscal measures		36								
Fiscal-structural		247								
Financial sector policies		341								
Other policies		10								
Structural labour market policies		51								
Structural product market policies		78								

## FILTERS

### Programme

- Cyprus ESM
- Greece EFSF
- Greece ESM
- Ireland EFSF
- Portugal EFSF
- Spain ESM

### View

Conditions & Revisions ▾

### Wildcard Match

### Condition Type

- Action
- Prior action

## LEGEND

- First mention
- Unchanged or broadl...
- Significant redrafting

Expenditure measures	Introduce as of the budget year 2014 structural reform measur..	mag13	
	Introduce measures to control healthcare expenditure (see 3.2, ..	mag13	
	Further streamline the Easter allowance to pensioners by limiti..	mag13	
	Implement a scaled reduction in emoluments of public and broa..	mag13	
	Reduce the expenditure on various housing schemes by at least ..	mag13	
	A reform of the tax system for motor vehicles with effect from budget...	mag13 set13	
	Achieve a general government primary deficit of no more than EUR 395 million...	mag13 set13	
	A compensation scheme for provident and retirement funds in C..	set13	
	Based on the programme's current macroeconomic and fiscal projection and...	mag13 set13	

**“The strict conditionality contained in the MoU may very well and very directly impinge on the social and economic rights of the EU citizens”.**

Schwarz Michael, 2014, ‘A Memorandum of Misunderstanding - the Doomed Road of the European Stability Mechanism and a Possible Way Out: Enhanced Cooperation’, in *Common Market Law Review*, LI(2), p. 400.

# How will the reform enter into force?

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**Political  
agreement in the  
Eurogroup  
(30 November 2020)**



**Signature of  
the agreement  
amending the  
ESM Treaty**

**Ratification by  
all 19 euro area  
member states**



**Entry into force of  
the amended ESM  
Treaty**

**Early introduction  
of the backstop to  
the SRF in 2022**







### Precautionary credit line

Unused

#### Objective



To support sound policies and prevent crisis situations from emerging. It aims to help ESM Members whose economic conditions are sound to maintain continuous access to market financing by strengthening the credibility of their macroeconomic performance.

#### Two types of credit lines



Both can be drawn via a loan or a primary market purchase, have an initial availability period of one year and are renewable:

- Precautionary Conditioned Credit Line (PCCL): available to a Member State whose economic and financial situation is fundamentally sound, as determined by respecting six eligibility criteria such as public debt, external position or market access on reasonable terms.

- Enhanced conditions credit line (ECCL): access open to euro area Member States whose economic and financial situation remains sound but that do not comply with the eligibility criteria for PCCL. The ESM Member is obliged to adopt corrective measures addressing such weaknesses and avoiding future problems in respect of access to market financing. The ESM Member has the flexibility to request funds at any time during the availability period.

## ELIGIBILITY CRITERIA FOR GRANTING A PRECAUTIONARY CONDITIONED CREDIT LINE (PCCL):

- (a) Respect of the quantitative fiscal benchmarks. The ESM Member shall not be under excessive deficit procedure and needs to meet the three following benchmarks in the two years preceding the request for precautionary financial assistance:
- i. a general government deficit not exceeding 3 percent of GDP,
  - ii. a general government structural budget balance at or above the country specific minimum benchmark,
  - iii. a debt benchmark consisting of a general government debt to GDP ratio below 60 percent or a reduction in the differential with respect to 60 % over the previous two years at an average rate of one twentieth per year;
- (b) Absence of excessive imbalances. The ESM Member should not be identified as experiencing excessive imbalances under EU surveillance;
- (c) A track record of access to international capital markets, where relevant, on reasonable terms;
- (d) A sustainable external position; and
- (e) Absence of severe financial sector vulnerabilities putting at risk the ESM Member's financial stability

The ESM should provide stability support only to ESM Members whose debt is considered sustainable and whose repayment capacity to the ESM is confirmed.



The introduction of the single-limb CACs



**Sovereign debt restructuring as a condition to access ESM assistance**

# CONCLUSIONS

## ▶ **Short-term goal**

*“An adequate and proportionate form of private-sector involvement shall be sought on a case-by-case basis where financial assistance is received by an ESM Member, in line with IMF practice. The nature and the extent of this involvement shall depend on the outcome of a debt sustainability analysis and shall take due account of the risk of contagion and potential spill-over effects on other Member States of the European Union and third countries”*

## ▶ **Long-Term**

- Integrating the ESM into the EU legal framework
- Introduction of an automatic Fiscal Stabiliser