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Between economic necessity and legal feasibility: Possible reforms of EU fiscal rules without Treaty change

European Economic and Social Committee (EESC)
Economic and Monetary Union and Economic and Social Cohesion (ECO)

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Foundations: Treaty framework

- Two pillars of the fiscal framework
  - Excessive deficit procedure: Article 126 TFEU with far-reaching rights to impose obligations and sanctions (corrective arm of the SGP)
  - Before excessive deficit: economic policy coordination, where national Parliaments remain sovereign (preventive arm of the SGP)
  - Distribution of competences between EU and MS

Foundations

- Dispelling some myths
  - Rule-based fiscal framework
    - Imperative Treaty requirement: Avoiding excessive deficits (Article 126(1) TFEU)
    - Treaty does not provide for a precise definition of 'excessive deficits'
    - Transgression of reference values only triggers the preparation of a Commission report
    - Council determines the existence of an excessive deficit without being obliged to
  - Rule-based approach is laid down in secondary law (subject to changes)
    - MTO, adjustment path towards it and the possibility to temporarily deviate from adjustment path
  - Fiscal Compact is hierarchically subject to changes in secondary law
    - Fiscal Compact (TSCG) is an inter-se agreement between MS competing against secondary law
    - Stricter rules than in secondary law are possible
    - Yet, significant changes to secondary law overrule the Fiscal Compact

Elements of Reform

- **Expenditure Rule**
  - Assessment of compliance based exclusively on debt levels
  - Necessary element: rule requiring a sufficient diminishment of debt above the reference value at satisfactory pace
  - Note: 'Relief' from the deficit criterion under Article 126(2) TFEU is not possible (but that is more than the current MTO); that's the upper limit (which might have implications for the definition of the scope of 'expenditure')
- **Golden Rule**
  - SGP knows a 'structural reform clause' and an 'investment clause'
  - Golden Rule might go beyond, but must respect the deficit criterion under Article 126 TFEU ('safety margin')

Short Conclusions

- Treaty allows for significant changes to the EU fiscal framework
- Requirement to 'avoid excessive deficits' is the ultimate limit, the precise content of which is not defined and open to political (read: procedural) implementation
  - That's where the margin of manoeuvre stems from
  - That's where procedures need to respect the institutional balance within the EU and between the EU and the Member States
  - Main danger: the sum of all measures might lead to a structural transgression of the deficit criterion, especially in high-debt countries
  - Credible safety margins with regard to the excessive deficit threshold are therefore crucial

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Thank you for your attention

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