

# POWER STRUCTURES OF THE EUROPEAN CENTRAL BANK AND THE EUROPEAN COURT OF JUSTICE DURING THE DEBT CRISIS

## Bachelor Thesis

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## Declaration of Academic Honesty

I hereby declare that to the best of my knowledge and belief, the bachelor thesis in hand on the topic

*Power structures of the European Central Bank  
and the European Court of Justice during the Debt Crisis*

is the result of my own independent work and does not make use of other sources or materials than those referenced and that quotations and paraphrases obtained from the work of others are indicated as such.

Bianca Nödl

Münster, 23.06.2015

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## Abbreviations

AfD	<i>Alternative für Deutschland</i>
CBPP	Covered Bonds Purchasing Programme
ECB	European Central Bank
EFSF	European Financial Stability Facility
EJC	European Court of Justice
EMI	European Monetary Institute
EMU	European Monetary Union
ESCB	European System of Central Banks
ESM	European Stability Mechanism
EP	European Parliament
FED	Federal Reserve System
IMF	International Monetary Fund
LTRO	longer-term refinancing operations
NCBs	National Central Banks
OMT	Outright Monetary Transactions
QE	Quantitative Easing
SMP	Securities Markets Programme
TFEU	Treaty of the Functioning of the European Union

# 1 Introduction

The European Monetary Union (EMU) is currently suffering its biggest crisis since its foundation. The causes are numerous, but the most important ones are certainly due to the fact that countries which were different in aspects of competitiveness and credit worthiness adopted the euro. Many of these Eurozone countries suddenly received very low interest rates for their government bonds. This spending system collapsed when in 2006 the housing bubble in the USA burst and caused a global recession which massively affected the countries of the European Union (Enderlein, 2010).

The actual problem is a European debt crisis which was all along right below the surface. The European Central Bank administers the monetary policy for the 19 countries within the Eurozone. Its primary objective is laid down in Article 127(1) of the Treaty on the Functioning of the European Union and is to maintain price stability. In order to do so the ECB has a variety of instruments. One of the conventional instruments and most important one is the main refinancing operation which means that the ECB can lower or increase the base rate. But because of the recent European debt crisis, the ECB decided to do something, they have never done before: purchasing state bonds of weaker countries within the Eurozone. During May 2010 and September 2012 the ECB carried out the 'Securities Markets Programme' (SMP) and later OMT which was supposed to ensure liquidity in those market segments that are dysfunctional. The impact of these interventions, so basically the liquidity that has been injected, is sterilized in order to prevent inflation. At its peak, the programmes volume totalled around €210 billion (Deutsche Bundesbank, 2015).

Jens Weidmann, president of Germany's Central Bank voted against the decision and argued that it might erode the stability of the euro and the willingness of Eurozone member-states to implement reforms (Weidmann, 2013). However, he is not the only opponent. The Constitutional Court in Karlsruhe had to deal with the decision if the European Central Bank's government bond buying program (OMT) is illegal according to EU law, because German economics and politicians had filed a suit arguing that the actions of the ECB are a breach of Article 123 TFEU. Others say that the ECB had to make use of these unconventional measures in order to save the euro.

This bachelor thesis will focus on recent contested decisions to provide liquidity and guarantees to sovereigns and banks in the context of the euro zone crisis. It will test hypotheses derived from supranational governance theory, involving both the ECB and the ECJ. Thus the following question serves as a research question:

**To what extent can the ECB extend its own institutional powers in the EU?**

In order to analyse the power structures of the European Central Bank (ECB) and the European Court of Justice (ECJ), the present thesis will initially provide a preliminary analysis introducing the ECB and the ECJ their history, tasks and functions. As the cause for the unconventional monetary policy discussed in this thesis is the European debt crisis, there will be a short summary of events and possible reasons for the crisis.

Afterwards, the supranational governance theory of Sweet and Sandholtz is reviewed who attempted to explain why European integration occurs and how Member States progressively loose competencies and control over European institutions. There are several actors that push and pull the institutions and conjoin to advocacy coalitions. These are subsequently worked out in the main part of this thesis along the lines of events and the use of certain tools of monetary policy by the Governing Council of the ECB. These actions are then compared with the actual decisions that were made by the ECJ and that were initiated by an advocacy coalition that opposes the ECB's unconventional monetary policy.

Following the analysis of opinions and events regarding the selected cases and the advocacy coalitions, the findings are encapsulated and the hypotheses derived from the theory are reviewed.

## 2 Preliminary Analysis

The search for solutions for the European debt crisis has been multifaceted but has not yet provided an acceptable and sustainable solution. The European Central Bank though has used its tools. Some observers think by doing so it has crossed the line of legality and breached its mandate defined by the Treaty of the Functioning of the European Union (TFEU). The European Court of Justice on the other hand is called by the opponents of the ECB's monetary policy and was asked for a preliminary ruling on the OMT programme.

This section gives a preliminary analysis of the actors involved in the discussion and decision-making and their respective history and actions.

### 2.1 Analysing the European Central Bank

#### 2.1.1 History and Structure

When the EU was founded in 1957 the Member States initially intended to build a common market with a free trade area. It soon became obvious though that closer economic integration was needed to achieve a prosperous environment.

Based on the Delors' Report the European Council decided in 1989 to start stage one of the Economic Monetary Union (EMU) on 1 July 1990. From this day on complete freedom for

capital transactions was implemented and an increased co-operation between central banks was initiated. The Committee of Governors of the central banks of the Member States of the European Economic Community was given new tasks that included the promotion of the coordination of monetary policies in the Member States. The aim was to achieve price stability within the EU (ECB, 2015d).

Stage two of the economic integration began in 1994 with the establishment of the European Monetary Institute (EMI) that signified the end of the Committee of Governors. The main task of the EMI was to further strengthen cooperation between national central bank and to coordinate monetary policy. Additionally, it was supposed to make preparations that were needed for the establishment of the subsequent European System of Central Banks and for the creation of a single currency. In December 1995, the European Council agreed to name this currency 'euro' and decided to start stage three on 1 January 1999. The Stability and Growth Pact adopted in June 1997 aimed to ensure budgetary discipline and reinforcing financial stability.

The initial participants for the adoption of the single currency were France, Germany, Spain, Belgium, Italy, Ireland, the Netherlands, Austria, Portugal and Finland. These were the ones that had fulfilled the conditions that were necessary for the participation of the EMU. On 1 June 1998 the ECB formally replaced the EMI and Wim Duisenberg, previously president of the Dutch central bank and the EMI, became the first president of the European Central Bank. The necessary institution for the functioning of the EMU had now been established, but it could not perform its full performance until the introduction of the euro. Stage three of the economic integration started on 1 January 1999 with the irrevocable fixing of the exchange rates of the currencies of the participating 11 Member States and with a single monetary policy under the command of the ECB (ECB, 2015d).

### 2.1.2 Legal frame: tasks and objectives

The tasks and objectives of the European System of Central Banks (ESCB) are laid down in the TFEU which generally refers to the ESCB rather than to the Eurosystem. The Eurosystem consist of the ECB and the national central banks (NCBs) of the EU Member States whose currency is the euro. At the same time the ESCB enfolds the ECB and the NCBs of all EU Member States. Because there are EU Member States who have not adopted the euro, it is needed to make a difference between the Eurosystem and the ESCB.

The primary objective of the European System of Central Banks, as defined in Article 127 (1) of the TFEU, is to maintain price stability. It continues that '*without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Union*' (1958).



The basic tasks of the ESCB are defined in the TFEU and consist of the following:

- defining and implementing the monetary policy of the Eurozone
- conducting foreign-exchange operations consistent with the provisions of Article 219
- holding and managing the official foreign reserves of the Member States
- promoting the smooth operation of payment systems

(TFEU, 1958)

In order to secure financial stability, a number of agreements were made. Among them is the prohibition of monetary financing (Article 123, TFEU), the prohibition of privileged access to financial institutions (Article 124, TFEU), the no-bail-out clause (Article 125, TFEU), the fiscal provisions to avoid excessive government deficits (Article 126, TFEU), and the Stability and Growth Pact. Article 123 states that the ECB is legally forbidden from direct purchases of bonds from governments to avoid monetary financing. Therefore the ECB only buys government bonds on the secondary market.

Although there is no widely accepted definition or analytical framework for assessing the stability of a financial system, it can be approached in several ways. One way to define financial stability is to define its opposite: Mishkin (1999, p. 6) defines financial instability as shocks to the financial system that lead to its inability to provide investment opportunities.

A central banks role is to conduct policies and affect financial stability at both the microeconomic and macroeconomic levels. At microeconomic level regulation can help to reduce the risk of crisis, while emergency liquidity measures can help to control a crisis. At the macroeconomic level central banks try to avoid shocks that might disappoint the expectations of the private sector. The ECB has the power to maintain price stability by increasing and decreasing interest rates. However, responsibilities concerning financial stability for instance the lender-of-last-resort role remain in the hands of the Member States. The current system of overlapping jurisdictions leads to lively debates on the question if this system can adequately ensure financial stability (Granville & Mallick, 2009, p. 663).

Aside from that, according to the TFEU and TEU, price stability is the most important contribution that monetary policy can make to achieve a functioning economic environment and a high level of employment. But recently with the establishment of the banking union, the ECB has even more objectives being responsible for the supervision of system-relevant European banks. It carries out these tasks within the Single Supervisory Mechanism and with the help of the respective national authorities (European Commission, 2015).

The ECB aims for an inflation rate of below but close to 2% over the medium term in order to ensure price stability. It can influence inflation by setting interest rates. If inflation is too high

the ECB can increase interest rates that make it more expensive to borrow money. At the same time it is more attractive to save. If it wants to counter low inflation or even deflation it reduces interest rates (ECB, 2014).

The Governing Council (for simplicity reasons called ECB in the following) is the main decision making body of the ECB and consists of the Executive Board and the governors of the national central banks (Figure 2, appendix).

Within the institutional framework of the EU the ECB is politically independent. This means that neither the ECB nor the NCBs are permitted to take instructions from any political institution. At the same time the EU institutions and governments of the Member States are not allowed to influence the decisions. However, because decision-makers in the central bank are unelected, they should be accountable to an elected body which is in this case the European Parliament (EP). In practice this accountability is mainly carried out in form of hearings or monetary dialogues in front of the EP which consist of an introducing speech by the president of the ECB and a subsequent question and answer session in which the Members of the EP can ask questions. As the ECB has its own budget that is kept separate from the EU budget, it is also financially independent. Each Eurozone NCB pays up a share of the budget. In general members of the Governing Council are supposed to be in office for a long term which consists of a minimum of five years (ECB, 2015).

In summary it can be said that the current institutional set-up consists of three parts: the ECB is responsible for price stability within the Eurozone, while the responsibility of financial sustainability is in the hands of the governments that must follow the Stability and Growth Pact. Financial stability is an individual responsibility as well as a joint one. The main competence lies in the hands of the Member States, though (Figure 2, appendix).

## **2.2 Analysing the European Court of Justice**

The ECJ is the highest court in the European Union and deals with manifold types of cases and topics concerning EU law. New figures show that at the moment 2,462 cases are pending in the ECJ. In some cases it can take up to four years to reach judgment. With the EU becoming larger and more laws and regulations being passed, the caseload of the court in Luxembourg has increased significantly (Wilson, 2009).

In order to explain and understand the consequences of the actions of the EJC regarding the unconventional monetary policy of the ECB, it is helpful to have a closer look at the history and the composition of the highest European court.

### 2.2.1 History of the ECJ

In 1952, the European Coal and Steel Community was formally established with signing the Treaty of Paris in 1951. It aimed at unifying the European Countries after World War II and the ECJ was established shortly after. Each of the six Member States appointed one judge and to prevent a tie a seventh seat rotated between Germany, France and Italy. When in 1957 the European Economic Community (EEC) and the European Atomic Energy Community (Euratom) were created, the ECJ was additionally appointed to observe their treaties.

With the Treaty of Rome the possibility of a preliminary ruling was laid down in Article 177. This procedure became the most effective tool to develop Community law but it is strongly depended on the collaboration and willingness of national courts to submit questions of EU law. Cases brought before the court during the early years made it possible to establish fundamental principles and increase the influence of the ECJ. In 1993 the Maastricht Treaty was ratified and created the European Union. The ECJ belonged to the Community pillar of the EU (first pillar). When the Amsterdam Treaty was signed in 1997, issues that were previously the competence of the Member States moved from the third to the first pillar. This further integration meant an expansion of power for the ECJ (Tamm, 2013, p. 16ff).

### 2.2.2 Structure and purpose

The ECJ is composed of one judge per Member State which means it currently consists of 28 members. In addition to this, there are eight Advocate Generals who assist the judges in their decisions. The Judges and Advocate Generals are collectively appointed by the governments of the Member States for a term of six years. One of the tasks of the Advocate Generals is to prepare written opinions on the cases before a decision has been made by the ECJ. This submission consists of his opinion and a recommendation for the judges. They do not need to follow this recommendation, but in the past they have generally done so (Thienel, 2009).

The 'preliminary ruling procedure' is the most common case type the ECJ deals with. Each EU country has national courts that are responsible for ensuring that the EU law applied in the intended way. These courts might interpret the law in different ways though this should be prevented. If national courts are not sure whether they interpreted the law correctly, they are supposed to ask the ECJ for advice. The second one deals with 'proceedings for failure to fulfill an obligation'. If one Member State does not abide by EU law, the European Commission and sometimes also other Member States can start these proceedings. The ECJ then investigates if the allegations are true or false. If the country actually offended against EU law, it has to change the process immediately. If it does not do so, the ECJ can issue a fine.

The third one deals with 'actions for annulment' which means that in some cases EU countries, the Council or the Commission might believe that a particular EU law is illegal. It will then ask the Court to annul it. But also private individuals that are affected by a law could ask the ECJ to do so. Only if the Court finds that the particular law is against the treaty, it will annul it.

The fourth type of cases deals with 'actions for failure to act'. It refers to the Parliament, the Council and the Commission that have to make decisions in line with the treaty. Member countries and other EU institutions can make a complaint if these institutions failed to obey the treaty. The fifth and last type of cases deals with 'direct actions' which is opened by private individuals or companies that might have sustained damage because an EU institution did not act where it had been necessary to do so. It also refers to cases where the institutions did act but a direct damage was caused. The parties involved are then usually seeking compensation (Figure 4, appendix) (European Union, 2015).

The high amount of different types of cases shows how diverse the topics are that the ECJ deals with. As the highest court in the EU it not only intervenes in disputes between EU institutions, but also between private citizens and EU institutions just like the ECB. Rather than deciding in favour of the Member States, the ECJ has always acted as a driving force for European integration (Tamm, 2013).

## **2.3 The European Debt Crisis**

With the introduction of the common currency a large amount of money flowed into countries such as Cyprus, Spain, Greece, Ireland and Portugal. They could have used this money to become more competitive, but it was instead used to finance housing bubbles in countries like Ireland and Spain, and for an excessive government spending in countries like Greece. Thus, there were structural problems from the very beginning and the lack of competitiveness was concealed. Additionally, there were problems regarding the structure of the EMU because it combines a common monetary policy by the ECB and national fiscal policies. So there is a risk of moral hazard as interest rates have been comparatively low and there is no actual need for structural reforms. Furthermore, many governments stretched or even ignored the Stability and Growth Pact and Germany was one of them (Dombret, 2013).

Another possibility is that the crisis was caused because different types of political economies were united and a common monetary policy, although they would actually need different approaches of monetary policy. Countries like Greece and Spain could no longer devalue their exchange rates against their principal trading partners which made it more difficult for them to trade their goods while countries like Germany with a strong export benefited (Hall, 2012).

Investors on the financial market have tolerated this until the financial crisis in 2008 when the Member States had to support their banks and their economy with further debt. The investors lost confidence in the Eurozone and they stopped investing which caused even more distress (Dombret, 2013). This caused the ECB to step in and use some of the unconventional tools discussed in this thesis.

### 3 Theoretical approach

There are multiple theoretical approaches emerged from the academic debate on the European integration process that can be applied to explain the logic behind the development, structure and functions of the EMU and its central bank. This thesis will draw upon the supranational governance theory to provide a potentially greater explanatory power to the operations and a possible redefinition of the mandate of the ECB.

Sweet and Sandholtz (1997, p. 297ff) argue that simple characterizations as either 'intergovernmental' or 'supranational' will not do as an explanation for the integration of the European Union. These theories are unable to explain the unevenness of integration in practice because some policy areas are more integrated than others. This is why they developed their own theory on how supranational governance evolved over the past years. According to them, European integration is generated by three elements: the development of transnational society, the role of supranational organizations that have the power to follow an agenda directing to integration and the emphasis on European rule-making to resolve policy externalities.

The supranational governance theory uses certain aspects of Ernst B. Haas' neo-functionalism and Karl Deutsch's integration theory. Deutsch's focus on social exchange and Haas' emphasis on the creation of supranational institutions are being picked up to explain integration. Haas defined integration as *'the process whereby political actors ... are persuaded to shift their national loyalties, expectations, and political activities to a new and larger center'* (Haas, 1961, p. 367). However, Sweet and Sandholtz want to leave it as an open question to what extent actors actually shift their loyalties to the EU level. They think that it is possible to support European integration without a shift in identification from national to European level.

The dynamic Haas describes is reinforced by the potential for functional spill-overs. These are generally achieved when a supranational authority is given new competencies and new areas. It then becomes evident that these new powers are not enough achieve the initial policy objectives which leads to even further integration in this domain.

Because the theory uses certain aspects of other integration theories, it is also needed to have a closer look at Intergovernmentalism. Moravcsik's Liberal Intergovernmentalism (1993)

conceptualizes EU politics as a subgroup of international relations. The EU is therefore an interstate cooperation that is able to reduce the costs of information and policy innovation for the participating states. Additionally, European politics can be seen as a two-level game in which governments constantly mediate between domestic interests and European interests.

Sweet and Sandholtz (1997, p. 302f) propose a continuum that stretches between the poles intergovernmental and supranational. The intergovernmental pole's most important actors are the national governments and their respective representatives. These actors bargain with each other on international level in order to produce common decisions. On one side the bargaining is characterized by the relative powers of the participating states but also by the national preferences that had been discussed by domestic groups. At the supranational pole are institutions on EU level that possess jurisdiction over certain policy areas that are also able to constrain the behaviour of all actors.

There are three dimensions of integration that can be seen when moving from left to right: The first dimension points to the gain in power. Moving from intergovernmental to supranational, the power of supranational organizations increases. At the supranational pole the organizations might even become quite independent and autonomous in creating new policies even though some member states might oppose. The second dimension deals with the legal-normative part of the continuum. At the intergovernmental pole are very few rules opposed by the European level. The more supranational policies become the more rules, laws and secondary laws are set that stabilize interstate bargaining. Organizations on EU level establish themselves and build governmental structures. They produce, execute, and interpret EU rules. The third dimension explains that there is an influence of a transnational society. These non-governmental actors compose of interest groups, business élites and knowledge-based élites – namely epistemic communities or advocacy coalitions. They influence policy decisions and extend their power on the supranational level of governance. They can either follow the positions of the national governments, of the supranational level or even follow solely their own interests (Stone Sweet & Sandholtz, 1997, p. 304)

Stone Sweet and Sandholtz (1997, p. 304ff) understand these dimensions to be crucial indicators of levels of integration. If one element grows, it creates a situation in which the other two dimensions are likely to grow themselves. An expansion of the tasks of an EU organisation creates an opportunity for transnational actors and groups to exploit this and expand the transnational society. This can be achieved by putting pressure on their own governments. However, if these are opposing the plans, these actors can have access to supranational areas that are dominated by the Commission or the ECJ.

Domains where the number of cross-border transactions are high and increasing, there also will be an increasing demand for European rules and dispute-resolution. An example for this is the internal market that moved fastest forward to the supranational pole compared to other areas. Trade and investment between EU countries have grown constantly which lead to the need for further integration. This subsequently led to the creation of the common market.

Once some barriers are removed, economic actors that are seeking benefits from the European Community will target obstacles and try to pressure European legislative institutions to widen regulatory barriers. Stone Sweet and Sandholtz (1997, p. 309) claim that transnational actors will always prefer to live under one set of rules. As governments and EU institutions respond to these demands spill over occurs. They call this movement towards the supranational pole 'institutionalization'. Institutions are in constant change and evolve over time. These institutions act within a rule context but naturally encounter the limits of these rules. There can be situations in which the limits are not clear or their content can be disputed. These disputes can either lead to the creation of new rules (legislation) or a reinterpretation of the existing rules by the ECJ (adjudication). However, the ECJ does not choose these questions: Transnational actors seek clearer rules and therefore approach the court.

Furthermore, there are groups that might determine the decisions of decision-makers on European level or that can be the ones that approach the ECJ. In order to understand policy changes Sabatier (1988, p. 139) proposes an aggregation of actors by advocacy coalitions. These are people from various backgrounds such as elected officials, interest group leaders or researchers that share a common belief system. This system consists of common values, principles or problem perceptions. Members of advocacy coalitions provide opinions and advice that are of course induced by their characteristic world view. One aim is to maximize their influence within national administrations but also on international level of governance. They can give direction to the interests of states by pointing to problems and proposing changes. In most cases there will be 2-4 important coalitions that could establish themselves in an effective way.

Originally aiming at US policy changes, the advocacy coalition framework can also be applied to the EU. The complex relationships between the EU institutions increasingly mirror national institutions regarding policy changes. These institutions are most notably the European Commission, the Court of Justice, the Council of Ministers and the European Parliament (Sabatier, 1998).

But how can advocacy coalitions offer advice to decision-makers in the Governing Council of the ECB and to what extent does that affect preferences of these decision-makers really? Advocacy coalitions provide a great amount of expert knowledge. At the same time decision-



makers need this knowledge to work and decide effectively which is why they have incentives to institutionalize these actors e.g. in the form of advisory committees. Consequently this special relationship can be seen as being between principal and agent.

There can surely be several reasons why decision-makers consult and depend on such actors.. Members of advocacy coalitions do not need to be persuaded to commit themselves to certain topics. They are creators of knowledge and have a desire to spread their beliefs, although they will never be the actual decision-makers (Alchian & Demsetz, 1972). These experts have a reputation of neutrality and objectivity what pushes the decision-makers to at least pay attention to what they have to say. The ECB has used these groups in the past to publicly legitimate their decisions regarding the unconventional monetary policy. This was supposed to ensure the desired credibility of policies (Haas, 1992, p. 15).

By applying the supranational governance theory and by considering the mentioned advocacy coalitions, one can expect that the ECB might have increased its power by acclaiming new competences of the Member States during the financial crisis and that it has successfully redefined its mandate. These could in some cases be the financial markets because they might want to by government bonds and subsequently benefit from European rules when Member States are observed and supported by the ECB's policies. This then creates confidence in the markets. Where national governance on economic issues has failed like in Greece, the ECB could have stepped in.

At the same, one would expect the ECJ to use its legal power, observe the ECB's actions and to limit its move into fiscal policy. If it does not punish a breach of EU law, actors that oppose the actions of the ECB might betray the confidence in the highest European court.

Merging the aforementioned theoretical approach the following hypotheses can be derived:

**H1: With the mechanisms of the supranational governance theory the ECB has used advocacy coalitions for further integration after the financial crisis.**

**H2: The ECJ has determined the ECB's power by legal decisions.**

## 4 Research Design

The research design of this thesis aims to examine the cases of the ECB and the ECJ and their interaction with advocacy coalitions that support or oppose the increase of the ECB's power. This case study analyses the ECB as the core institution that has dealt with the crisis and the subsequent institutional changes. Furthermore, the ECJ as the main actor that has the power to limit the actions of the central bank is characterized. The used method is a congruence analysis which is usually applied in small-n case studies and tests whether



predictions made from theory are congruent from what is found in the case. There will also be an analysis of events in narrative form and tests at several points of time if the hypotheses can be approved (Beach & Petersen, 2013, p. 4f). The narrative form is a way of presenting empirical information. This analysis can be used to explain processes with an important temporal dimension such as the evolution of institutions like the ECB. This dimension is so important in this case because advocacy coalitions can influence involved actors and the events. A great strength of this method is that narratives can contextualize the individual steps in a way that makes the entire process visible rather than having it fragmented in analytical stages (Büthe, 2002, p. 481).

Additional to the chronological process, the involved advocacy coalitions that work by framing, understanding, interpreting and problem-solving on the basis of expertise, are analysed and the role of such discussions in determining the behaviour of the two institutions is examined. This thesis will then with the help of the supranational governance theory of Sweet and Sandholtz try to explain further economic integration.

## 5 Power Structures of the ECB and the ECJ: Advocacy Coalitions

The ECB and the EJC both play a major role in the conflict management during the European debt crisis. Both of them have different objectives and legal boundaries which is why their relationship remains in a political tug-of-war.

There have been several studies claiming that members of the ECB's Governing Council tend to give national interests that might be influenced by national lobbying groups a higher weight in the decision-making process than expected. The agreement that only Eurozone-wide data should be relevant and should play no role in the monetary policy might leave the actual factors that determine the decision-making process out (Angelini, et al., 2002). Observing the discussions especially regarding the unconventional monetary policy of the ECB, two opposing parties can be identified and each of them comprises an 'advocacy coalition'. These groups have not only a bearing on national interests, but also on the preferences of decision-makers in the Governing Council. These advocacy coalitions try to influence members of the legislature to support their cause. Consultancies and think tanks are no strangers to the influencing of national legislators or decision-makers on EU level. Therefore, advocacy coalitions have access to multiple channels in order to influence policymaking, because of the fragmented institutional structure of the EU.

One of the detected advocacy coalitions (Coalition A) supports the decisions of the ECB and considers the purchase of government bonds as a feasible solution to help financially distressed Eurozone countries. They share the belief that the actions are legal and that the

ECB does not exceed its mandate but uses its full spectrum. This coalition consists of representatives of financially distressed Eurozone countries, economists and politicians. One of the prominent supporters is economist Paul De Grauwe. The second advocacy coalition (Coalition B) opposes the bond purchases and refers to the possible losses the ECB could suffer if one of the concerning countries goes bankrupt. It consists in a large part of politicians of financially stronger Eurozone countries like Germany or the Netherlands and several economists with economist Hans-Werner Sinn, leading the way (Figure 5, appendix).

Many of the members of these advocacy coalitions are experts and have been given opinions to governments and decision-makers on many occasions. Sinn for instance has been one of the consultants for the Federal Court when it was assessing the ECB's unconventional monetary policy. This shows that these have a certain extent of influence on decision-making processes. The following section gives an insight into the monetary policy of the ECB and the opinions of the respective advocacy coalitions. Both the ECB and the ECJ are making arguments about the powers a central bank should and should not have in order to secure financial stability in the long run. They also benefit from supporting arguments expressed by the advocacy coalitions. These are examined in the following sections.

## **5.1 Policy of the European Central Bank**

After the collapse of Lehmann Brothers in 2008, the subsequent global financial crisis and an increase in public debt the ECB was forced to ease its monetary policy. Other major central banks like the Federal Reserve Bank (FED), The Bank of England and the Bank of Japan have done the same. The conventional monetary policy tools which consist of lowering or increasing interest rates did not bring the desired effect. The ECB lowered the interest rates reaching the zero lower bound (ZLB) and thus reached its limit. It was therefore necessary to introduce new unconventional policy tools in order to stabilize the Euro (Pronobis, 2014).

### **5.1.1 Interest rates - conventional monetary policy**

The ECB has the ability to change the three main interest rates. The marginal lending facility is used for overnight lending to banks. The main refinancing rate is the rate at which banks can borrow from the ECB on a regularly basis and the deposit rate is the rate banks receive when they park funds at the central bank. All these rates have been lowered multiple times during the last years. In June 2014 the ECB even introduced a negative interest rate as it was already by 0% by then (ECB, 2014).

The ECB (2014) claims, this had to be done in order to prevent deflation in the Eurozone, even though it has unfavourable effects on savers. Commercial banks choose to lower interest rates

for saving accounts as saving will not be beneficial for them any longer. At the same time, it is economically advantageous for consumers and businesses to borrow money as it is cheaper now. In addition to prevent low inflation the ECB says that low interest rates help to stimulate economic recovery, especially in financially distressed countries. Additionally, the negative interest rate is supposed to be an incentive for banks to actively trade on the interbank market. Although the interest rates are historically low, these measures are not particularly different from the measures other central banks choose.

Jens Weidmann, president of the German Bundesbank who is also member of the ECB's Governing Council, principally agrees but additionally says that the low interest rate environment is not without risks in the long run. It has multiple effects on the real economy and financial sector and cannot be a substitute for structural adjustments that are necessary in some euro area countries to overcome the economic crisis permanently. He understands the anxiety of depositors that their money is losing purchasing power, but supports the ECB in terms of increasing the demand forces (Weidmann, 2013).

### 5.1.2 Quantitative Easing

As mentioned before, the ECB has lowered the interest rates to nearly zero in order to stimulate Eurozone economies. So there were no longer any standard measures that could have been used. QE has been used by several central banks in the past to improve market confidence and reduce systemic crises (Klyuev, et al., 2009).

Since the beginning of 2015 the ECB has introduced a program called "Quantitative Easing" (QE) that aims at reducing deflation in the Euro area. It buys securities such as government bonds on a monthly basis in the amount of €60 billion. The programme is supposed to be continued until at least September 2016. The ECB buys securities with electronic money that did not exist before and therefore increases the amount of bank reserves. The banks are then expected to use this money to buy new assets which raises stock prices and lowers interest rates. This will most likely increase investment which will therefore be beneficial for the economy (The Economist, 2015).

De Grauwe and Ji (2015) refer to the inflation rate and the money base in the Eurozone to support their opinion on QE. They observe that since 2012 the inflation has declined and even became negative in the end of 2014 (Figure 8, Appendix). In addition to that the money base in the Eurozone has declined as well (Figure 9, Appendix). In order to raise the inflation to the necessary 2% again the money base needs to be increased which can be achieved by QE. They argue that the technically easiest way to implement QE is to buy government bonds in secondary markets and that this has been successfully done by other central banks in the

world such as the FED and the Bank of England. The ECB, however was not as successful with QE and they blame this due to the fact that especially the German Bundesbank, the German Constitutional Court and some German economists are particularly opposing. QE might be the technically easiest way to achieve positive inflation but it also seems to be the politically most difficult one.

Bundesbank president Weidmann indeed opposes the use of QE as he does not see that the economic outlook would require this risky undertaking. The inflation rates might be very low at the moment and it is unlikely to change anytime soon, but he insists that it is important to look at the causes. The present decrease of oil prices cause the inflation rate to decline by about one percentage point and the risk of a dangerous deflation with falling prices and wages is currently very low. Even in countries that experienced very strong price declines, such as Spain a downward wage-price spiral cannot be seen. These price declines are seemingly a consequence of necessary adjustment processes that have led to an increasing economic performance. Additionally consumers are regaining confidence in the economy (Deutsche Bundesbank, 2015).

German economist Hans-Werner Sinn (2014) says that the losses from such policies are actually unloaded at the taxpayers in form of reduced profits distributed by the central banks to the Ministers of Finance. Additionally parliaments might need to relieve the ECB in case of further losses. He argues that this is once again a fiscal bailout and not monetary policy. Especially France would ask the ECB for an ultra-loose monetary policy and active exchange rate policy because if the Euro exchange rate falls, the country hopes that it would boost the currently weak export.

De Grauwe and Ji (2015) counter that this argument is not sufficient. When the government bonds are kept on the balance sheet of the ECB, the government transfers interest that the ECB then transfers as a revenue back to the government. They say that the ECB could without any problem stop this and *'put the bonds in the shredding machine'*. By doing so the ECB would not create a new risk for the taxpayers.

According to them QE is in general most beneficial for Germany as for example Italy pays much more interest than Germany itself. The profit that is being made by the ECB is redistributed according to the equity shares which would lead to Germany receiving a net positive interest flow made possible by a net negative interest flow from Italy. As this scenario is highly beneficial for prudent countries like Germany it would according to De Grauwe and Ji not make any sense to let Italy become default. There certainly is a financial transfer but not the one Weidmann and his allies feared of (De Grauwe & Ji, 2015).

Although QE is criticised by some observers it is generally not seen as a transgression of power of the ECB. This method is widely used by other central banks as well. However one must admit that the ECB is in some way different from the FED or the Bank of England. These are the central banks of sovereign states which the ECB is not. QE has been used to increase inflation in order to get nearer to the aimed 2%. As this has not been reached yet, the purchases continue. However, until now the ECB has not breached its mandate regarding QE so H1 **'With the mechanisms of the supranational governance theory the ECB has used advocacy coalitions for further integration after the financial crisis.'** cannot be approved in this case.

### 5.1.3 SMP/OMT-Programme

The ECB's recent approach to deal with the debt crisis dissociates itself from the ones of other central banks in some way. The unconventional monetary policy is much more a complement to the conventional monetary policy and aims at providing liquidity to the economies in an indirect way. Therefore the ECB does not use these measures in order to substitute the interest rate policy. These unconventional monetary policy measures, the ECB implemented during the European debt crisis, include longer-term refinancing operations (LTRO), Covered Bond Purchase Programme (CBPP), Securities Markets Programme and Outright Monetary Transactions (OMT) (Cour-Thimann & Winkler, 2013).

In June 2014, the ECB announced to improve the functioning of the monetary policy mechanism by lending money to the real economy. In order to do so the Governing Council has decided to conduct a series of targeted longer-term refinancing operations (TLTROs). It was targeted at improving bank lending to the non-financial private sector within the euro area. Loans for house purchase were excluded though (ECB, 2014c). The other unconventional measures focused on outright purchases of specific financial securities which mainly consisted of state bonds. The ECB acted that way in order to lower the borrowing costs of indebted countries like Greece, Italy, Portugal or Spain (Buiter & Rahbari, 2012). By doing so, the central bank tried to avoid a possible insolvency and therefore a threat of a breakup of the Eurozone (Pronobis, 2014).

The recent crisis in the Eurozone has led to highly charged debates about the ECB's purchase of sovereign bonds of Eurozone countries. Usually there are differences about the interest rates of northern European countries and the more economically and financially distressed countries in the European periphery. Beetsma, Giuliodori, de Jong and Widiyanto (2013) show that domestic interest spreads of the financially stricken European countries heavily respond to news about the Eurozone crisis and to begin with regardless if these are good or bad. They do respond especially intense to bad news, though. Advocacy coalitions use the public sphere

to circulate their opinions and can have a bearing on the domestic interest spreads. But of course the ECB can use this mechanism as well.

The Securities Markets Programme (SMP) was introduced in May 2010 and aimed at lowering the interest rates of Member States in financial distress. The ECB purchases government bonds of these states in the secondary market and thus causes additional demand resulting in an increase of the bonds' prices. This eventually leads to reduced interest rates that correspond to the low interest rates that the other Eurozone bonds possessed. Some observers say that by doing so the ECB intervenes in the market forces (Helm, 2012).

In September 2012, the ECB announced a number of technical features regarding the ECB's outright transactions in secondary sovereign bond markets. The ECB only buys these Outright Monetary Transactions (OMTs) under certain conditions. The specific country needs to participate in a European Financial Stability Facility/European Stability Mechanism (EFSF/ESM) programme. Such programmes usually take the form of macroeconomic adjustment programmes. In most cases the IMF will be involved in the monitoring of the requirements for the countries. The ECB claims that the liquidity created through OMTs is fully sterilized. Following the OMT decision the SMP programme has stopped to exist. But until now it has not been actually used (ECB, 2012b).

#### *Advocacy coalition A: Supporters of the SMP/OMT programme*

When OMT was announced in 2012, government spreads of financially distressed countries actually went down. According to economists of the London School of Economics the plain announcement of OMT was enough to satisfy investors. They claim that collective movements of panic within financial markets can have dramatic effects on spreads (De Grauwe & Ji, 2013). These movements are far away from any reasonable fundament and could work as if a bubble had been created. This implication leads them to the conclusion that the ECB needs to provide liquidity in these times of market panic. So when the ECB decided to purchase an unlimited amount of government bonds from Eurozone countries, it took away these *intense existential fears*. It became obvious that the ECB would act as a lender of last resort and the spreads of the Eurozone countries actually started to decline.

The financial markets had sent the wrong signals and because they were driven by fear they increased the spreads artificially to a very high level. They also sent these wrong signals to European authorities which lead them to demand more austerity measures within the financially distressed countries. Altogether this means that the financial markets had acquired much power over European Authorities and when the ECB finally acted with purchasing government bonds, it took over and reclaimed the power (De Grauwe & Ji, 2013).

Furthermore, De Grauwe (2010) argues that the government purchases have been essential because the crisis was only allowed to unfold because of hesitation by both the Eurozone governments and the ECB. Regarding the Greek crisis there was no clear and fast response. According to him, there are three reasons why the Greek crisis has to be stopped as soon as possible. Firstly, the Greek crisis and subsequent default risks can affect other government bond market in the Eurozone which then secondly will affect the banking sector. The banks have just started to recover by borrowing short-term money from the ECB at very low interest rates and then invested in longer-term government bonds. If bond prices would sharply decline, it could lead to a new banking crisis in the Eurozone. The third reason is that if the Greek crisis continues, the government bond yields of many Eurozone countries will increase which will put a lot of pressure on these countries and will make it much more difficult to reduce their debt levels. In addition to that, it could also lead to deflationary effects and the risk of pulling the Eurozone economies down into recession. De Grauwe does not agree with analysts that appreciate the discipline imposed by the market and that say that these high interest rates will teach the wasteful governments to discipline their budgets. These analysts, according to De Grauwe, tend to be employed by major banks, which is as he says *'ironical'* as many banks had to be saved because of their *'unchecked profligacy'*.

Lawyer Leon Helm states that the ECB became in fact a strong stakeholder in the fate of the Member states because it holds so many bonds. There certainly is a link between the SMP/OMT programmes and Member State behaviour (Helm, 2012, p. 60ff).

In the preamble of its decision on the SMP the ECB explicitly connects the bond purchases to how the Member states need to behave so that the central bank agrees to buy government bonds thorough the programme. Point four of the preamble states:

*"The Governing Council will decide on the scope of the interventions. The Governing Council has taken note of the statement of the euro area Member State governments that they 'will take all measures needed to meet their fiscal targets this year and the years ahead in line with excessive deficit procedures' and the precise additional commitments taken by some euro area Member State governments to accelerate fiscal consolidation and ensure the sustainability of their public finances."*

(ECB, 2010)

This constitutes a problem since this is presumably an intervention in fiscal policy which is in fact a competence of the national Member State governments and not the ECB's. At the same time it is undoubtedly profitable for the ECB to put pressure on the concerned Member States to consolidate their budget.



Helm also claims that the ECB argues incoherently regarding the SMP/OMT measures: On one side the ECB proclaims that these programmes are necessary to restore faith in the financial markets and to rescue the Eurozone, on the other side it says that SMP/OMT will only be used if Member States fulfil certain requirements. However, if there actually are malfunctions that disturb financial markets the ECB should to act regardless of the behaviour of Member States. Furthermore, there is a possible threat to the ECB's political independence. Owning so many government bonds will have an influence on the behaviour of the central bank and its relationship to the Member States. There might be pressure on the ECB by the Member States to keep up the purchasing or even blackmailing. Especially those Member States that the ECB holds bonds from could threaten to go bankrupt which would lead to vast losses for the ECB. This would backfire on Eurozone members, though. Because each Member State has a share in the ECB capital the profits and losses of the ECB are distributed to them which makes such a scenario unlikely (Helm, 2012).

Having a look at **H1** the ECB has actually increased its power at this point of time. Even supporters like Paul De Grauwe admit that the ECB has breached its mandate but that it was necessary in order to secure financial stability and therefore the common currency. A central banks role is usually to conduct policies that affect price stability and financial stability. Because countries like Germany and the Netherlands rejected the idea of a common fiscal policy, there was no political majority. Thus the ECB has been limited to the aim of price stability although financial instability can ultimately affect price stability. The weak institutional set up might have pushed the ECB to these actions in order to fulfill its actual mandate.

#### *Advocacy coalition B: Critics of the SMP/OMT programmes*

Critics claim that the ECB has breached its mandate by announcing potentially unlimited sovereign bond purchases. With the OMT programme the ECB oversteps the mark and interferes into the terrain of fiscal policy. This would violate European law (Art. 123 paragraph 1 TFEU) according to which monetary financing of sovereign entities is strictly prohibited. Additionally, political independence of the ECB is put in danger.

Since the establishment of the EMU, the German Bundesbank has firmly promoted the insurance that the euro remains a stable currency and that the maintaining of price stability is the core task of the Euro system. Against this background Weidmann (2013) has in his role as the president of the Bundesbank supported several measures of crisis management by the euro system. However, he does not support the measures regarding SMP and OMT.

The monetary union is based on a strong stability-oriented foundation and while monetary policy became the ECB's task, financial and economic policies largely remained in the hands of the Member States. Therefore, the common monetary policy is supposed to be independent



and a monetary state financing is explicitly prohibited. In order to secure the fulfilment of the objective of price stability and to prevent the spread of unsound public finances to other member countries, fiscal rules were introduced and the liability for other Member States was excluded. Moreover, the need to finance themselves on the capital markets should create incentives for solid finances. Weidmann also claims that there is a consensus between the central banks of the Euro system that the market interest rates on government bonds must have a disciplinary effect (Weidmann, 2013).

However, because of the current monetary policy most EMU countries that have not been as successful as Germany and the Netherlands have enjoyed low interest rates. So this disciplinary effect does not work and there is a high chance of moral hazard. The crisis has also highlighted the importance of financial stability for monetary policy. Turmoil in the financial markets have not only high economic costs, they can also affect price developments. Thus monetary policy faces a huge challenge: In fulfilling its mission financial stability certainly plays an important role in the monetary policy as it affects financial stability with its measures. Additionally, it has several times prevented an escalation of the crisis. But the European monetary policy should not forget about its main objective, the price stability. When in doubt critics argue that the aim of price stability should have priority.

The expectation of potentially unlimited purchases of government bonds contributed to the decrease of spreads (Figure 7, appendix). But if the monetary union should remain a stability union, in addition to a direct easing of tensions in financial markets, the existing regulatory framework and long-term effects need to be observed. Against this background Weidmann (2013) indicates significant stability problems regarding the purchase of government bonds by the euro system and further crisis measures of the Eurosystem, which blur the lines between European monetary policy and financial policies of individual Member States. According to him the separation of monetary and fiscal policy are closely related to the central bank's independence. Although the boundaries between monetary and fiscal policy might inevitably blur in times of crisis, the ECB should ensure sufficient distance when it takes actions.

Weidmann (2013) sees two main problems in such a combination of monetary and fiscal policy: Firstly it will be difficult to achieve the core objective of price stability in the long-term. Secondly the ECB distributes a considerable amount of government solvency risks between the taxpayers of the monetary union without eliminating the actual causes of the crisis. These decisions are supposed to be made by the national parliaments and not by the ECB, though.

Secondary market purchases of government bonds by the euro system are in general not excluded by the treaty and could be a tool by which the central bank provides liquidity for the common currency area. Nevertheless they should not aim to reduce the interest rates of

individual countries by buying their government debt. He also sees the danger that, despite the precautionary measures in the OMT programme the credibility of monetary policy as a guarantor of price stability is threatened. The concerned Member States must implement reforms to bring their public finances back into balance and they need to promote competitive economic structures. The other Member States may influence these measures on the basis of EFSF and ESM programmes in which bond purchases are possible. If the sovereign debt crisis once again threatens the Eurozone Weidmann proclaims that the Member States are the ones that should decide if they want to react with further financial assistance or further European integration e.g. in the form of a joint liability or a mutual financial and economic policy (Weidmann, 2013).

Hans Werner Sinn, professor for economics and finance and president of the Munich-based *Ifo Institute for Economic Research* argues that in fact the European Stability Mechanism (ESM) was supposed to be able to purchase state bonds if necessary and that therefore the ECB would bethink itself to its actual monetary policy tasks.

This was according to Sinn (2012, p. 25) one of the main arguments the German Parliament, the Bundestag, when the members of parliament were persuaded to agree to the ESM that aimed to provide financial assistance to Member States of the Eurozone experiencing financing difficulties.

Party whip Volker Kauder (CDU) said:

*"I would like to point out for our coalition: We have made it clear in the course of the structuring of the EFSF that under certain conditions bonds can be purchased on the secondary market. But then we do not want that the ECB buys such bonds in the future. That must be the task of the ESM."*

(Deutscher Bundestag, 2011)

Even the ECB connected its own programme SMP to the EFSF/ESM programme of the Member States. The ECB president at the time Jean-Claude Trichet stated that they expect that the EFSF which will have the capacity to intervene in the secondary markets will be effective and efficient. And that it would permit the ECB to restore a more appropriate monetary policy (ECB, 2011a).

According to Sinn (2012) these arguments certainly managed to convince the parties in the Bundestag to approve to the ESM. They did not want the ECB to buy government securities, because this was considered legally questionable. Therefore the official bailouts were organized as a substitute. During the debate in parliament the ECB in fact stopped their government bond purchases so the expectation was created that the ECB would now abandon its legally problematic purchases. But as soon as the Bundestag had ratified the accompanying

law for the ESM on 29 June 2012 the ECB announced on 6 September 2012 from now on to assist vulnerable countries by unlimited purchases of government securities.

The president of the ECB Mario Draghi famously announced:

*“Within our mandate, the ECB is ready to do whatever it takes to preserve the euro. And believe me, it will be enough.”*

(ECB, 2012f)

With this announcement the ECB has basically declared that buyers of government bonds do not need to fear a state bankruptcy because the central bank will take over these bonds and therefore take over the losses. As Sinn puts it his would then eventually charge taxpayers of the Member States. Of course the ECB had certain requirements for these purchases but these did not alter the fact that the markets viewed this announcement of the ECB as an implicit communitarisation of the debt of the concerned countries (Sinn, 2012, p. 26).

This is in line with what was expressed by several market participants and important actors. The president of the Swiss national bank, Philipp Hildebrand wrote in the Financial Times:

*“The ECB's OMT is a game changer. OMT's soothing power stems from the fact that market participants in effect see them as a commitment to the mutualisation of liabilities across the euro zone: countries standing together behind the debts of the vulnerable.”*

(Hildebrand, 2013)

Sinn (2012, p. 27) comes to the conclusion that either the ECB operates a non-entitled fiscal policy, or the ESM operates forbidden monetary policy. In his opinion the ESM does not exceed its powers and the ECB has in fact exceeded its powers.

Having a look at **H1** once again, one might say that the public objection and questioning of Members of the Governing Council like Jens Weidmann could damage the reputation of the ECB and its credibility. This credibility though is its most important tool. Bad news and public questioning of the ECB's monetary policy could affect spreads. The ECB's tools work by convincing the financial markets. So too many critics could devastatingly damage this 'magic'. So the ECB walks on a fine line between being able to influence spreads the way it wants and to satisfy critics. However, SMP/OMT has shown to actually lower government spreads, in spite of its risks.

## Summary

The analysis has shown that the ECB came to the limits of its mandate by using SMP/OMT. A central bank's role usually is to ensure price stability and financial stability. Additionally it acts as a lender of last resort in times of bank insolvency or financial crisis. However, the ECB has

been limited to maintaining price stability leaving financial stability mainly in the hands of the Member States. It is not allowed to act as a lender of last resort. Some Member States have unsuccessfully tried to maintain financial stability in their own countries and therefore threatening the EMU as a whole. The ECB saw the need to broaden its mandate in order to secure the stability of the Eurozone as a whole, even if this might involve risks. It has used and benefitted from the supporting advocacy coalition that publicly announced that the ECB's actions are inevitably and save the Eurozone.

## **5.2 Decisions and actions of the European Court of Justice**

The Eurozone has been in an extraordinary situation since the outbreak of the European debt crisis and this presumably lead to measures that were on the border of legality. Christine Lagarde, president of the International Monetary Fund (IMF) said that the EU leaders violated a lot of rules because they wanted to save the Eurozone (Lagarde, 2010).

The management of the crisis had been given to a great extend to the ECB whose monetary policy has been between being under fire and being praised. The opinions of the advocacy coalitions have been elaborated in this thesis so far. The following section deals with the effective actions of these groups which mainly were complaints directed to the ECJ with the aim to stop the ECB from a possible breach of its mandate.

### **5.2.1 Possible violations of the law: Challengers of the ECB's monetary policy**

The rule of law is besides democratic accountability the highest protection against an abuse of power. If governments or parliaments do not follow the law or delegate powers to unaccountable institutions there must be the possibility to take legal action in order to restrain them. In the EU this is the task of the ECJ that can be ask to interpret EU law in order to solve emerging disputes (Beck, 2014).

In September 2012 several German economists, politicians including Peter Gauweiler and the socialist party 'DIE LINKE' (Gauweiler, et al., 2014) requested for a preliminary ruling from the German Constitutional Court regarding a possible abuse of power by the ECB. Questions that were being addressed were among others if the decision of the ECB to introduce the OMT programme is incompatible with Article 119 and Article 127(1), (2) of the TFEU and with Articles 17 to 24 of the Protocol on the Statute of the ESCB and the ECB. The complainants argue that the ECB exceeds the monetary policy mandate and encroach upon the Member States' competences. They referred in particular to the fact that the ECB only buys government bonds of selected Member States and that it purchases government bonds of programme countries in addition to the ESFS or the ESM which could therefore undermine the limits and conditions

laid down by these programmes. In their opinion the decision on the technical features of OMTs is incompatible with the prohibition of monetary financing of Article 123 TFEU which includes that there are no quantitative limits for the government bond purchases. They additionally said that the ECB would interfere in the government bond market by influencing the prices by not demanding specific requirements before they purchase these on the secondary market (Gauweiler, et al., 2014).

Yet, the supporters of the ECB's monetary policy called for a dismissal of the OMT court case. Notable economics and professors Francesco Giavazzi, Richard Portes, Beatrice Weder di Mauro and Charles Wyplosz (2013) expressed the opinion that the court would be wise to actually dismiss the case. Otherwise the decision could become a great threat to the stability of the Eurozone and to EU taxpayers.

They argued that a legal view on the unconventional monetary policy of the ECB would seriously endanger its independence and the highest German court should not undermine it. A ruling of the German Constitutional Court on financial limits would do so and would destroy the credibility of the OMT programme. If the German Bundestag would need to approve every single use of the OMT the 'magic' of this programme would be undone, as it has not been used but the only announcement stopped the markets to drive up spreads. This would then force the ECB to actually purchase government bonds (Giavazzi, et al., 2013).

### 5.2.2 Judicial decisions

On 7 February 2014 the German Federal Constitutional Court announced the following:

*"In this Court's view there are weighty reasons to believe that the OMT goes beyond the mandate of the European Central Bank's monetary policy and thus overlaps with the competence of the Member States and violates the prohibition of monetary financing of the budget."*

(German Constitutional Court, 2014)

The issued votes were 6:2, so two of the judges voted against the decision. Judge Luebbe-Wolff and judge Gerhardt were both of the opinion that the German Constitutional Court should not have dealt with this question in the first place. The six remaining judges were in disagreement over the question of whether the ECJ has to be involved or not. It was decided though that the ECJ should decide about the OMT programme. This was the first time in its history that the German Constitutional Court asked the ECJ for a preliminary ruling (Frankfurter Allgemeine Zeitung, 2014).

The Federal Constitutional Court assumed that the mandate of the ECB must be narrowly interpreted in terms of monetary and economic policy. According to the judges the ECB's

independence can only be justified for stability-oriented monetary policy. If this is transferred to other policy areas it would not be democratically legitimated and can therefore not be justified (German Constitutional Court, 2014).

The Court (2014) also stated that the OMT programme actually resembles the ESM which was created by the Member States. In a functional way OMT is equivalent to the assistance measures of the ESM and thus this procedure has to be classified as economic policy. The fact that the ECB only wants to purchase government bonds of countries that fulfil the conditions of the ESM's macroeconomic adjustment programme shows that the ECB wants to intervene in the Member states budget policies. Otherwise it would not be understandable why the ECB would stop buying government bonds if the states do not fulfil these conditions any longer.

Although the Federal Constitutional Court (2014) left the actual decision on the OMT programme to the ECJ it considered several conditions under that this programme could possibly be in conformity with EU law. First of all the OMT programme should no longer be used under the conditions of the European assistance programme. It should also be only of supportive nature which should lead to a quantitative limitation of purchases. Additionally the purchases should be approved and legitimized by the Member states. In order to secure taxpayer's money the possibility of a debt cut must also be excluded. Moreover the ECB should avoid to interfere in price formation on the market as much as possible under these conditions.

Murswiek (2014, p. 154) professor of public law and also legal representative of Peter Gauweiler argued that it would be incompatible with the independence of the ECB to have purchases of government bonds approved by the Member States. So this would not actually be an option. Moreover the condition to limit the volume of the purchases is not feasible either as this would not have the desired effect. Such a limitation would not lead to an impact on price formation and lower the yields on government bonds.

Even though the Federal Constitutional Court did not actually decide this question it made clear that it viewed the German authorities to be in the focus of interest of this constitutional complaint. They failed to defend themselves against the transgression of powers of the ECB. German government authorities must ensure that EU institutions do not transcend its limitations. So they must actively stand against a usurpation of sovereign rights by these institutions (Murswiek, 2014, p. 157).

As an answer to this decision Paul De Grauwe talked about a *'lack of understanding of the basics of central banking'*. As in his opinion the OMT programme does not create a risk for Eurozone taxpayers it seems quite *'terrifying that such an important judgment could destroy the ECB's necessary responsibility of lender of last resort is based on ignorance'*. He hopes



that the judges of the ECJ *'will not show the same degree of ignorance'* (De Grauwe, 2014). This reaction shows how intense the debate on this subject actually is.

On 14 January 2015 the General Advocate Cruz Villalón delivered an opinion that is seen as indicative for the actual decision of the ECJ that is expected in autumn 2015. He said that the ECB must be able to implement such decisions as has a lot of expertise in this field and the national courts should acknowledge this when they review these policies. He sees OMT as an unconventional measure that is uncompleted as only its elementary technical features have been presented. He thinks that OMT is in general legitimate but the ECB should explain its actual intentions and justifications for such a programme. The Advocate General made it clear that he sees the OMT programme as *'suitable, necessary and proportionate in the strict sense'* (Cruz Villalón, 2015).

The European press and especially the before mentioned advocacy coalitions reacted in accord with their expressed opinions. Among the complainants of the initial complaint was Joachim Starbatty who is known to be a member of the German Eurosceptic party *'Alternative für Deutschland'* (AfD) and is currently a Member of the European Parliament. He announced that his party would also file a constitutional complaint (AfD, 2015). Hans-Werner Sinn also criticized this opinion sharply as this would mean that the ECB could do anything as long as it would justify its behaviour. If the ECJ would follow this advice it would cause a constitutional crisis within the Eurozone (Sinn, 2015). Weidmann said, however, that the ECJ had still limited the ECB in a way as this decision included the requirement that the central bank is not allowed to operate monetary- and economic policy. Although the boundary between these can be drawn differently (Weidmann, 2015).

Having **H2 'The ECJ has determined the ECB's power by legal decisions'** in mind one can summarize that the ECJ has not actually determined the ECB. The critics do not seem to be satisfied as well either. They have already announced that they will use every legal possibility to force the ECB to stop purchasing government bonds any longer. This is in line of what Stone Sweet and Sandholtz expected of the transnational society and in this case the advocacy coalitions. These actors seek clearer rules and push the ECJ into a decision.

### 5.2.3 Who will have the final word - The Federal Court or the ECJ?

When the Federal Court announced its decision to refer the case to the ECJ the media's response was diverse: Some said that the Federal Court should not have dealt with this complaint in the first place and others saw this as sign of a lack of courage to make its own decision. But as the ECJ is primarily responsible for the interpretation of EU law and the actions of EU institutions it was also seen as an appropriate decision. Whenever a national court

questions on the interpretation of EU law it is supposed to refer to the ECJ. But the Federal Court argued that it can still have the last word when it comes to an EU institution like the ECB that transgresses its powers (TFEU, 1958).

The case returns to the Federal Court after the ECJ has decided and it then decides itself whether the challenged act is applicable with German law because of a transgression of powers or possibly not. This would be the case if this transgression of power is so tremendous that it carries substantial weight in the arrangement of competences between the Member States and the EU institutions. There are several scenarios regarding the ECB case that can possibly come true in the future. Many observers think that the ECJ will decide in favour of the ECB as it usually strengthens the power of the EU rather than the Member States' and aims for a continuing European integration. It could also be that the ECJ might want to accentuate its neutrality, though.

Murswiek (2014) suggested the following scenarios as possible outcomes:

1. The ECJ decides that the ECB has actually transgressed its powers which would mean that the ECB is no longer allowed to execute the OMT-programme. The Federal Constitutional Court will sustain the constitutional complaint in Germany.
2. The ECJ accepts the OMT programme but sets several conditions (e.g. the ones the Federal Court suggested) and the ECB must change the programme to make it conform to EU law. In this case the Federal Constitutional Court would accept this decision and reject the constitutional complaints.
3. The ECJ declares that the OMT programme is in conformity with EU law which would be exact opposite from what the Federal Court suggested. This could mean that the Federal Court makes then the decision that the ECB has significantly transgressed its powers. Most likely, the Court then determines that the Deutsche Bundesbank is not allowed to participate in the execution of the OMT programme. Furthermore this would mean that the Federal Government is supposed to conduct negotiations with other Member States about a possible limitations of the actions of the ECB.
4. The ECJ decides that the OMT programme is in conformity with EU law without demanding the conditions that were proposed by the Federal Court. It would be difficult for the latter to criticise the ECJ for this possible violation of the TFEU. It will most likely reject the constitutional complaints even though it might think that the allegations of the complainants are actually true.

As the General Advocate had already announced its decision and if the ECJ will possibly decide in line with what he decided scenario 1 was highly unlikely.



Finally, on 16 June 2015 the Grand Chamber of the ECJ ruled that EU law can be interpreted as permitting the ECB to adopt a programme for the purchase of government bonds on secondary markets. It has not demanded any conditions at all. Additionally, the ECJ has agreed with the ECB and its supporting advocacy coalition that OMT was needed to counter extreme spreads in government bond markets (ECJ, 2015).

Therefore, scenario 4 has partly become true and the press saw this decision as a clear defeat for the Federal Court. Although the ECJ's ruling is binding under EU law the Federal Court could still decide that OMT does not comply with the German constitution.

Additionally to these decisions a change in the voting procedure of the Governing Council of the ECB has been made (Figure 10, appendix). When Lithuania entered the Eurozone in 2015 the votes in the Governing Council began to rotate as there will be more than 18 governors representing their respective national central banks. Up to 2015 all of the members were heard and all of their votes were counted. But the more countries become member of the Eurozone the more difficult and time consuming are the decision-making processes. The governors will be divided into groups according to the economic strength and the size of the financial sector in their home countries. With 19 to 21 Member States there are two groups formed. One group includes Germany, France, Italy, Spain and the Netherlands. Their voices rotate on a monthly basis so that each month one of the governors of the top five countries has no vote in the Council. Each of them though is allowed to attend the meetings and give their opinion. The remaining central banks combine a total of eleven voting rights, which also rotate on a monthly basis. This group includes countries such as Portugal, Ireland or Lithuania (Deutsche Bundesbank, 2014).

Some people especially in Germany have expressed the fear that decisions regarding programmes like OMT are being made when critics like Weidmann are not able to vote because of the rotation. The argument of the ECB is that the new procedure would increase efficiency, though. But as all central bankers are still present but cannot vote this might lead to legitimacy problems. However others say that the new procedure is fair to all the countries and that countries like Germany and France should not have a vote measured against their share of the ECB budget. They do not see a risk of political interference (Frankfurter Allgemeine Zeitung, 2014).

As the ECJ has decided to not prohibit an unlimited government bond purchasing by the ECB **H2** can still not be approved.

## Summary

H2 was derived of the expectation that the ECJ would limit the transgression of powers by the ECB, but could not be approved. The analysis of the decisions of the Federal Court and the

ECJ have shown that the court has approved the ECB's usage of SMP/OMT. By allowing this case the ECB could successfully and legally redefine its mandate.

## 6 Reassessment of the supranational governance theory

The supranational governance theory of Stone Sweet and Sandholtz partly consists of non-governmental actors that build a transnational society. Members of this group can be interest groups, business élites or advocacy coalitions. Sabatier claimed that the latter can influence policy decisions by proposing and pushing for changes. In most cases he expected 2-4 important advocacy coalitions.

Regarding the case of SMP/OMT of the ECB two competing advocacy coalitions could be identified. The advocacy coalition of the critics, mainly consisting of competitive Eurozone countries and economics is trying to convince members of the ECB's Governing Council that the used measures namely SMP and OMT are not the ones that can save the Euro but that these are the ones that can deepen the problems of the euro crisis. They argue that taxpayer's money is at risk and that the ECB should return to its former monetary policy tools. The advocacy coalition of the supporters on the other hand consists of less competitive countries like France and Greece and supporting economics, argues that the ECB is exactly doing what it should be: Saving the Euro, helping financially distressed Eurozone countries and moving forward to a redefinition of the ECB's mandate. Both the ECB and the ECJ had to deal with new areas of policies and institutional changes during the euro crisis with advocacy coalitions spreading their opinions in order to convince them of their 'truths'.

There is a high demand for new EU rules in domains in which the number of cross-border transactions is high. This has been the case with the common market. As European-wide trade and investment increased, the need to further integration was widely requested. The crisis has shown that the current institutional set up is not sufficient to successfully avoid shocks to the EMU which leads to discussions on how the role of the ECB might need to change.

Stone Sweet and Sandholtz also claimed that once some barriers are removed, transnational actors will push European legislative institutions to further widen the regulatory barriers. When the EU or governments meet these demands, spill over occurs. Institutions evolve over time and will encounter the limits of the rule context. The ECB has certainly evolved and by using SMP/OMT has reached the limits of its mandate. These limits are disputed by the detected advocacy coalitions that seek a clearer rules. This can be either achieved by approaching the European Parliament and demanding new rules (legislation) or by approaching the ECJ that will reinterpret the existing rules for the ECB (adjudication). Advocacy coalition B chose to approach the Federal Court which then referred the case to the ECJ.

Additionally, functional spill overs can be found. The ECB has already been given new competences by the Member States. With the establishment of the banking union the ECB became the single supervisor of European banks. This has formerly been a competence of the Member states. However, some of the countries could not provide the elements of a stable economy and did not have the infrastructure to for example supervise their banks (European Commission, 2015).

This shows that ultimately the ECB might need more competences of the Member states in order to fulfil its role as a central bank and secure financial stability. The discussion on a mutualisation of debt in the Eurozone shows that mainly countries like Germany and the Netherlands seem to oppose the idea of shared debt. By purchasing government bonds on the secondary markets the ECB might have circumvented the legal boundaries.

#### **H1 'The ECB has used advocacy coalitions to increase its power after the financial crisis'**

was derived of the expectation that the ECB might have increased its power by acclaiming new competences of the Member States during the financial crisis and that the capacities of the ECB respond to the demands of the transnational actors. Governments of Member States that failed to create an economic stability needed support of the ECB and subjected to its requirements.

Gauweiler and his allies (2014) have expressed that it is not necessarily in the interest of the Member States that the ECB uses unconventional monetary policy like SMP/OMT. With their complaint at the Federal Constitutional Court they have tried to limit the ECB's claim of power and reclaim the Member States competency to have their parliament decide on these issues because taxpayer's money might be at risk. But the ECJ decided against the complaint. It therefore backed the decisions of the ECB regarding the purchase of government bonds. This way the ECJ approved the redefinition of the ECB's mandate.

As previously mentioned there have also been changes in the voting procedure of the ECB. The rotation principle in the Governing Council has been introduced in the early 2015 when Lithuania entered the Eurozone. The decision for this procedure has been unanimously made in the Governing Council years ago. This is an argument against the fears that this could be used to take advantage of the fact that critics like Jens Weidmann cannot vote every five months. It has been introduced in order to increase efficiency which cannot actually be achieved as all central bankers are still present in meetings and can express their opinions. Another reason was to make sure that all the votes of the Member States would still have the same importance no matter how high the share of the ECB's budget is. These are surely very plausible arguments but the sheer possibility to take advantage could create legitimacy difficulties. If important decisions that could have an impact on every EU citizen are made

without their respective representative of the NCB it could certainly create headwind. This could affect confidence in the markets so it is worth protecting. Taking all these findings into account there have certainly been an increase of the ECB's power and a redefinition of its mandate. Therefore H1 can be corroborated.

It is certainly difficult to say to what extent really the advocacy coalitions affect the decision-making process of the ECB's Governing Council. What can be found though are evidences in the quarterly hearings in front of the European Parliament: As the ECB is accountable to the European Parliament it has to justify oneself and its monetary policy. These Monetary Dialogues (Figure 10, appendix) can be used to evaluate and publicize the targets the ECB sets, which will increase the effectiveness of the policy. The EP can also evaluate the distributive implications of the ECB's purchases of government bonds and regarding the Banking Union it can evaluate how decisions the ECB takes as a banking supervisor affect monetary policy (Claeys, et al., 2014). Advocacy coalitions can affect these hearings by advising and influencing the involved politicians of the EP as well as influencing the Governing Council of the ECB.

The second hypothesis **H2 'The ECJ has determined the ECB's power by legal decisions'** was derived of the expectation that the ECJ would use its legal power to observe the ECB's actions and to limit its move into fiscal policy.

As mentioned before in this thesis, the ECJ's Advocate General (2015) and the ECJ itself hold the view that the ECB's unconventional monetary policy is in fact necessary and that national courts like the German Constitutional Court should rather not interfere with the independent moves of the ECB. He said that they are not as experienced with economical question that aim at price stability in the whole Eurozone. In addition to this general opinion on the OMT programme he also said that if the ECB continues this path it must justify its intentions and issue its arguments. The opposing advocacy coalition B has in fact advised the German institutional Court in its decision. Hans-Werner Sinn acted as an official advisor during the process which shows that the advocacy coalitions took part in this specific decision-making process.

One can argue that the decision of the Advocate General might be a limitation. Even one of the prominent critics of the OMT decision Jens Weidmann said that in a way the ECJ has used its power to remind the ECB to respect the limits of its mandate and to not mix monetary policy and fiscal policies. The Advocate General also mentioned that the ECB is definitely subject to the ECJ's scrutiny. The ECB might be politically independent but it must obey the EU law like any other EU institution. In order to be able to do so he demands a proper legal act that describe the functioning of the OMT and its limits if the ECB actually wants to conduct the

programme that has only been announced via press release. This legal act can then be legally controlled by the ECJ. He also made clear that the European Parliament that had issued a press release on the topic was not entitled to do so as this is solely the task of the ECJ. Advocate General Cruz Villalón and the Grand Chamber of the ECJ have definitely displayed their position in the European power structures. They have put the German Constitutional Court, the European Parliament and the ECB in their place and reminded them which EU institution is in charge to observe and interpret EU law in the last instance.

The question is, though, if the 'limitations' that has been set for the central bank actually limit the ECB's unconventional monetary policy. The answer is that it does not because there is no hindrance for the ECB to issue a binding legal act on the OMT programme in addition to the press release. The ECJ does obviously not reject the basic idea of the purchase of state bonds on the secondary market. Critics of this opinion had hoped that the judges would come to a completely other conclusion but the ECJ has decided that OMT complies with EU law. The expectation of **H2** can therefore not be approved.

### *Liberal Intergovernmentalism*

Ultimately, an actual redefinition of the ECB's mandate might not work without the approval of the Member States either. The EMU brought countries together that aimed for completely different growth strategies. The northern countries like Germany, the Netherlands or Finland aimed for a supply side or export-led growth based on wage restraint, productivity and competitiveness. On the other hand the southern countries mainly aimed for a demand-led growth that was based on fiscal expansion and wage inflation (Schimmelpfennig, 2015).

Moravcsik argued that decision in favour for Europe come from the national government and not from the supranational level. Positions of governments enter on international level and a bargaining begins. European integration is seen *as a series of rational choices made by national leaders* (Moravcsik, 1993, p. 18)

Most governments decided that anything should be done in order to save the Eurozone. However, negotiations resulted in a burden-sharing design that mainly reflected the preferences of the northern countries like Germany or the Netherlands. These countries wanted to minimize liabilities and financial assistance and consult the IMF. Other countries like France argued that the only way to survive the crisis would be the Europeanization of sovereign debt and opposed strict austerity measures for financially distressed countries. These countries were in a less fortunate financial situation and were under pressure from the financial markets. This is why they pushed for rescue measures and also the unlimited purchasing of government bonds by the ECB (Schimmelpfennig, 2015, p. 180). Although all Member States have the common aim of strengthening the Eurozone, the institutional design mainly resembles

Germany's preferences. Schimmelpfennig argues that intergovernmental financial assistance, supranational fiscal and economic surveillance and a banking union with supranational supervision and intergovernmental resolution are strong indicators for this suggestion (Schimmelpfennig, 2015, p. 190).

Member States certainly are important actors and decision-makers in the process of European Integration. Stone Sweet and Sandholtz do not deny that but also stress the importance of transnational society and spill overs. In the end the Governing Council of the ECB will decide about the future execution of OMT and not the Member States. Weidmann has been outvoted several times and might so in the future. It will be difficult for the opposing Member States to have an influence on these decisions after the ECJ approved SMP/OMT. After all the ECB's mandate is to secure price stability in the whole Eurozone and an active intervention of national government is not permitted.

#### *Central bank independence at risk?*

The question is though what will happen if this political independence is at risk. If the ECJ had decided to oppose the OMT programme it would have meant that in this case the German parliament would have needed to discuss and pass legislations every single time the ECB wants to use OMT. However this would have been incompatible with the ECB's independence. Within its mandate the ECB does not need legitimation from the Member States and if actions are not within this mandate even this legitimation would be in accord with the EU law.

Some observers have raised the question of the ECB has put its independence at risk already. As the ECB has expanded its powers and redefined its mandate, it could have exposed the central bank to political demands. However, the independence of the ECB is extremely useful: an independent ECB has a greater credibility in achieving its goals. Elected officials tend to have incentives to think until the next election rather than having a look at the long run. Inflation could therefore be exploited to reduce for example unemployment rates in order to win an election. A central bank that take orders from a government might help to finance deficits and therefore increasing inflation (Weber & Förschner, 2014, p. 45).

By taking over the competence of supervising banks within the banking union, the ECB also puts its instrument independence at risk. With price stability being its primary goal and the intention to support national banks that have liquidity problems, there will certainly be conflicts between these goals. Some observers say that even a strict separation of monetary policy and banking supervision within the ECB could not lower this risk. The only way would be a separate institution that has yet to be established. When Mario Draghi vowed to do "whatever it takes" he added a second goal next price stability that might be contradictory. It might be necessary for the ECB to use measures in order to secure one goal that actually opposes the other.



Because the matter is of high political relevance one cannot be sure if the ECB would give priority to price stability. If financial investors tested Draghi's vow to save the Euro, it could force the ECB to actually buy an unlimited amount of government bonds. If consumer prices were rising simultaneously, the ECB would be caught up in a dilemma. Furthermore, SMP/OMT could be a threat to the ECB budget that could cause massive losses in case of a default. So even the ECB's budget autonomy is ultimately at risk. Low losses would reduce the transfers to national central banks. On the other hand, high losses could mean that the ECB needs to issue money in order to finance the defaults. This could ultimately also lead to unwanted inflation in the long run (Weber & Forschner, 2014, p. 49).

## 7 Conclusion

The ECB has introduced several unconventional monetary tools in order to save the Eurozone, but a sufficient solution has not been found yet. The SMP/OMT programme was supposed to lower the interest rates for government bonds of financially distressed countries like Greece. By purchasing these government bonds the ECB was accused of risking taxpayer's money, because every Member State has a share of the ECB's budget and defaults could cause damage to the Eurozone as a whole. One of the main shareholders is Germany and many opponents of the ECB's monetary policy have expressed their concern about the risks and the transgression of powers of the ECB.

This thesis has examined if the ECB has actually redefined its mandate by analysing the associated events. The supranational governance theory has proved to be suitable for an explanation on how the ECB has developed. Furthermore, the advocacy coalitions have been elaborated in order to understand and explain policy changes and the reasons for unconventional monetary policy. The analysis suggests that most of the critics think that the ECB has illegally extended its power by using SMP and by announcing OMT. The Advocate General Cruz Villalón, as a representative of the ECJ, has approved SMP/OMT but has still displayed its position in the European power structures. He has reminded the Federal Constitutional Court and the ECB that the ECJ as the highest court in the EU is in charge to observe and interpret EU law in the last instance.

In June 2015 the ECJ has finally decided that OMT complies with EU law. This decision could indeed lead to a communitarisation of debt within the Eurozone and this could be a step to further European integration. It could be seen that the ECB has benefitted from the views expressed of the supporting advocacy coalition.

However, this might also lead to heated discussions about a parallel integration in budgetary matters and also about a possible constitutional crisis that needs to be tackled. The great

divide between the competitive northern countries and the financially weak southern countries has shown to be a major problem in terms of such a communitarisation of debt. Ultimately the northern countries might not want to pay for unstable countries. After all, the decision of the ECJ has been on all accounts awaited eagerly as a definite limitation of the ECB has not been executed.

The Federal Constitutional Court's decision to announce the opinion that the ECB's unconventional monetary policy is illegal and to refer to the ECJ can be seen as one of its most important decisions so far. The decision is of great economic importance for the Eurozone, because the ECB's OMT programme is the main tool that is supposed to solve the European debt crisis. Furthermore, it can and probably will guide future decisions on that matter as this is the first time that the role and actions of the ECB are analysed by a constitutional court and coincidentally accused of being undemocratic.

In conclusion, the study demonstrates that the power structures of the ECB and the ECJ are not fixed yet. With additional countries joining the Eurozone, changes voting procedures within the Governing Council and future decisions of the ECJ, the role of the ECB and its institutional structure is in a constant transition. The institutional set up of the ECB and its mandate has mainly been limited to price stability rather than financial stability. The crisis has shown that the ECB has used SMP/OMT in order to ultimately secure the euro. The ECJ has approved this step allowing the ECB to successfully redefine its mandate.



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## Translation of German Quotes

### **Volker Kauder, p. 18**

“Ich möchte für unsere Koalition ausdrücklich darauf hinweisen: Wenn wir im Zuge der Gestaltung der EFSF klargestellt haben, dass unter bestimmten Voraussetzungen Anleihen am Sekundärmarkt aufgekauft werden können, dann wollen wir aber nicht mehr, dass die EZB in Zukunft solche Anleihen aufkauft. Das muss Aufgabe des Rettungsschirms sein und bleiben.”

"I would like to point out for our coalition: We have made it clear in the course of the structuring of the EFSF that under certain conditions bonds can be purchased on the secondary market. But then we do not want that the ECB buys such bonds in the future. That must be the task of the ESM. "

### **Decision of the German Constitutional Court, p. 23**

„Nach Auffassung des Senats sprechen gewichtige Gründe dafür, dass es über das Mandat der Europäischen Zentralbank für die Währungspolitik hinausgeht und damit in die Zuständigkeit der Mitgliedstaaten übergreift sowie gegen das Verbot monetärer Haushaltsfinanzierung verstößt.“

"In this Court's view there are weighty reasons to believe that the OMT goes beyond the mandate of the European Central Bank's monetary policy and thus overlaps with the competence of the Member States and violates the prohibition of monetary financing of the budget."

## Appendix

Figure 1: Diagram of the Advocacy Coalitions, own figure based on (Sabatier, 1988)

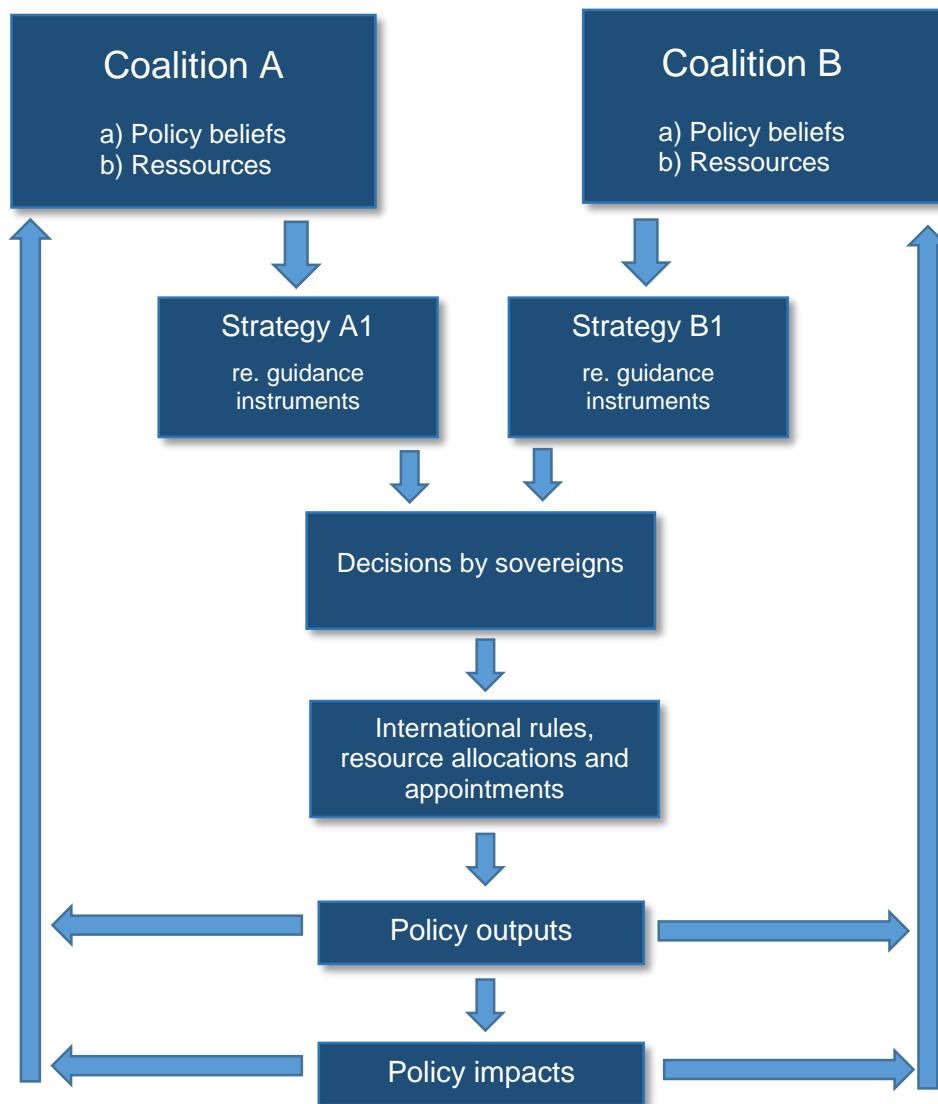




Figure 2: Decision-making bodies of the ECB, own figure (data: ECB)

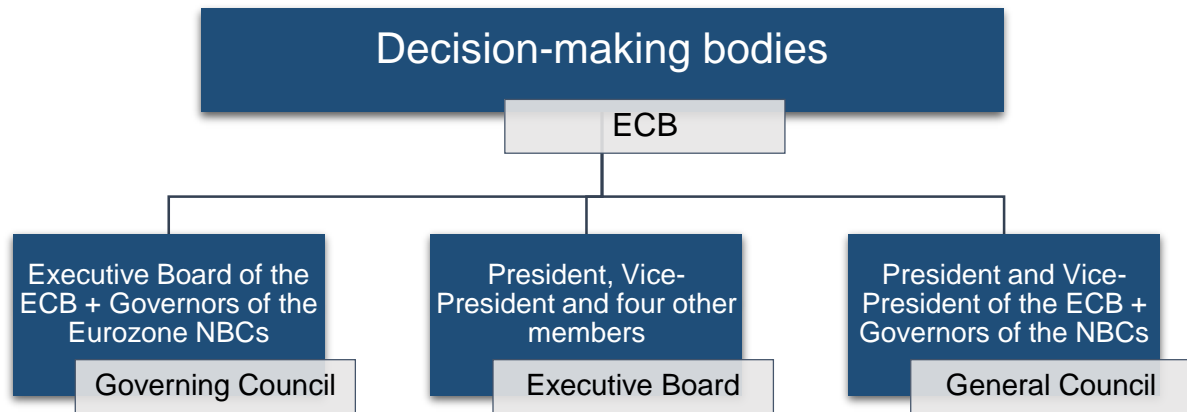


Figure 3: Economic stability in the Eurozone (Cour-Thimann & Winkler, 2013)



**Figure 4: European Court of Justice: Structure and possible cases, own figure (data: ECJ)**

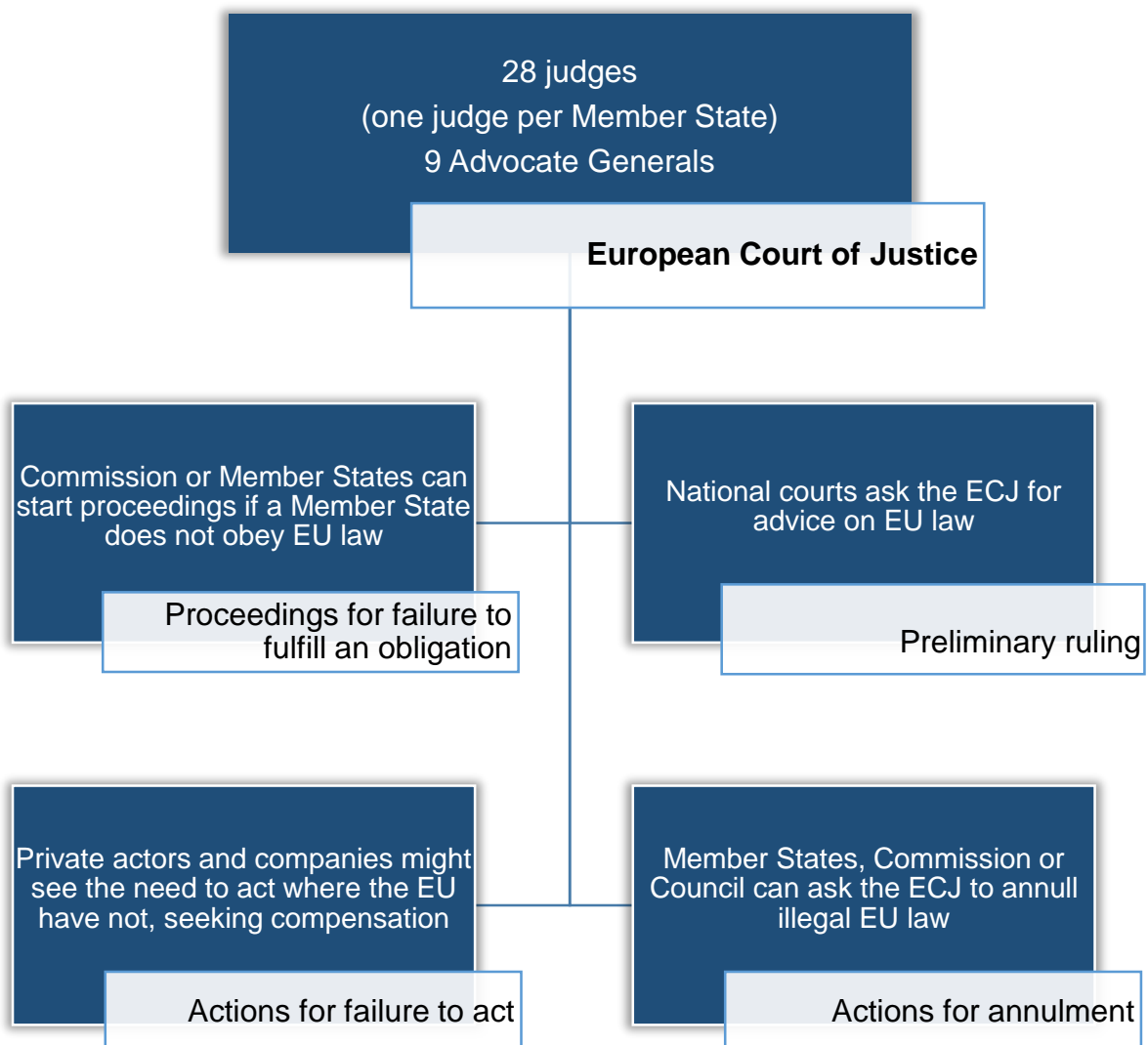


Figure 5: Advocacy coalitions mentioned in this thesis, own figure

Advocacy coalitions regarding the Monetary Policy of the ECB			
<i>Indicators derived from definition (Sabatier, 1988)</i>		<b>Coalition A:</b>  <b>Supporters of unconventional monetary policy</b>	<b>Coalition B:</b>  <b>Opponents of unconventional monetary policy</b>
<b>Actors involved</b>	<i>Member States</i>	France, Greece, Spain, Belgium, Portugal (esp. financially distressed countries)	Germany, The Netherlands, Finland (competitive countries)
	<i>Economists</i>	Paul De Grauwe, Yuemei Ji, Mario Draghi	Hans-Werner Sinn, Jens Weidmann, Francesco Giavazzi, Richard Portes, Beatrice Weder di Mauro and Charles Wyplosz
	<i>Politicians</i>		Peter Gauweiler et al.
<b>Common belief system</b>		i) a strong preference for unconventional monetary policy as a chance for financially distressed Eurozone countries to pay their debts ii) stressing the need to overcome the crisis with additional monetary tools	i) a deep distrust in unconventional monetary policy ii) stressing the risk for taxpayers and the Eurozone as a whole, therefore not a preferred option in crisis management
<b>Proposed Changes</b>		Institutional changes should be made in order to broaden the ECB's mandate	ECB should be legally limited in its actions

Figure 6: Selected pre- and post-OMT spreads (Castells, et al., 2014)

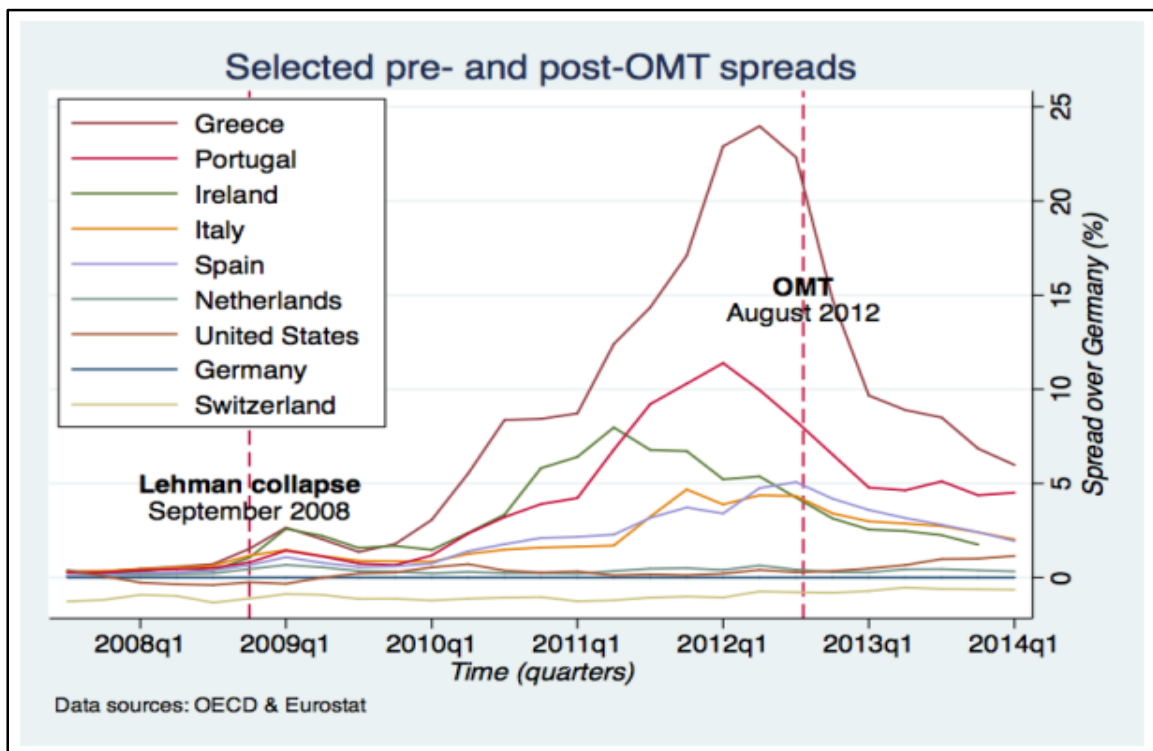
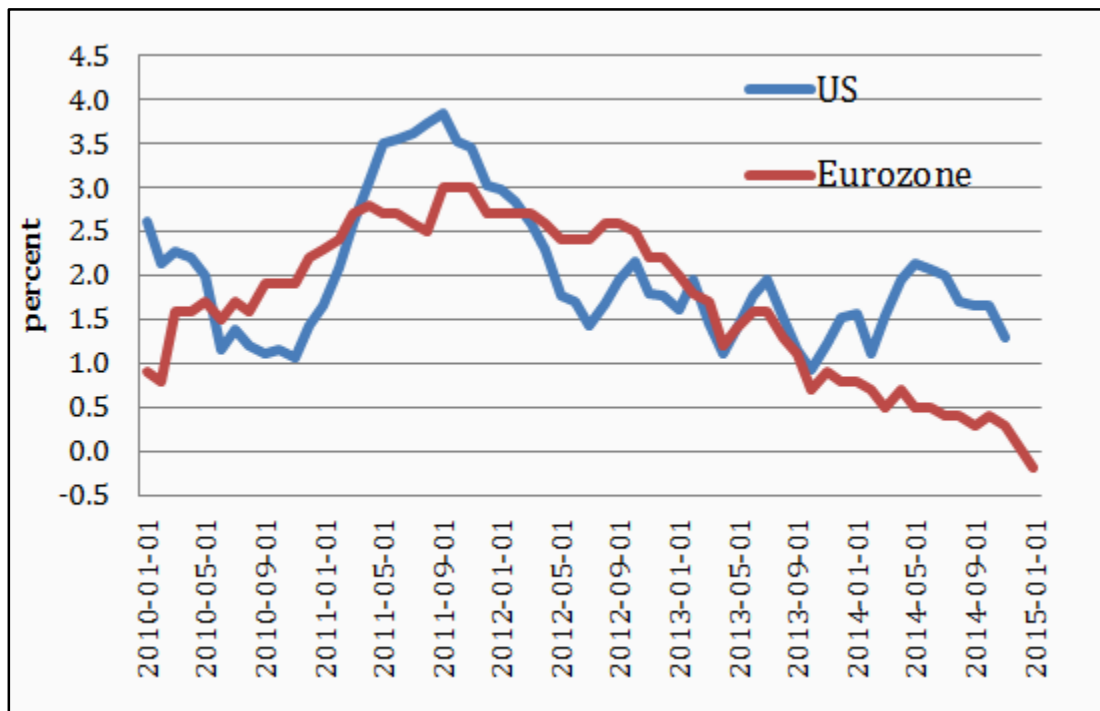
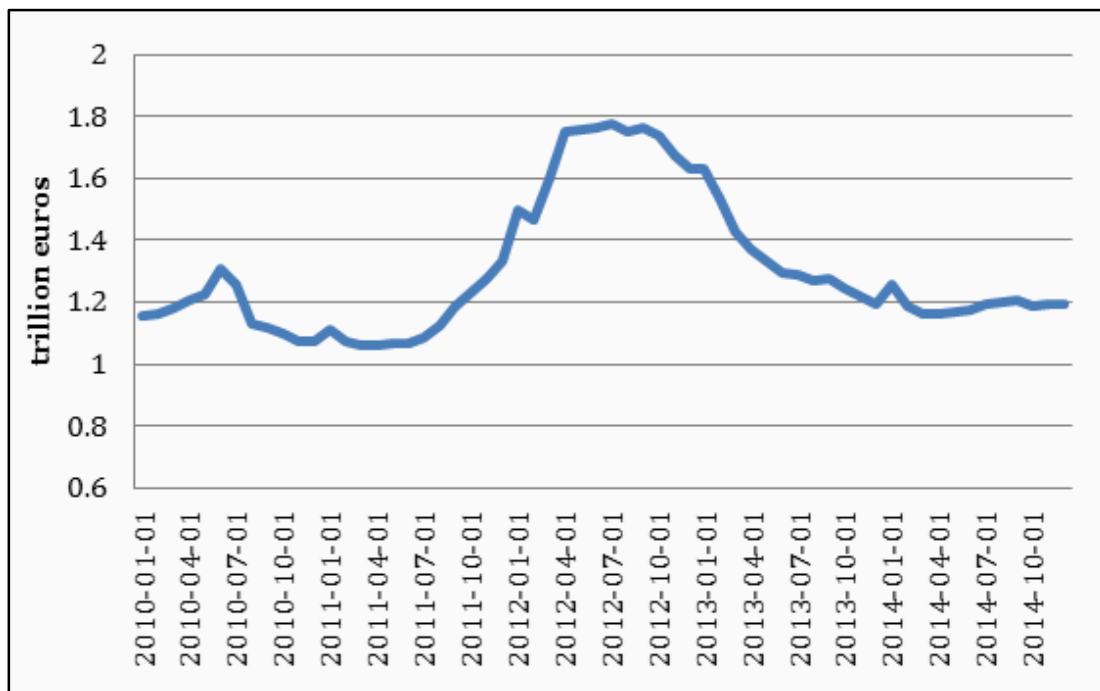


Figure 7: Inflation in the US and the Eurozone (De Grauwe, 2015)



**Figure 8: Money base in Europe (De Grauwe, 2015)**



**Figure 9: Rotation principle on the ECB Governing Council (Deutsche Bundesbank, 2014)**



**Figure 10: Options for the Monetary Dialogue under an evolving monetary policy (EP)**

Possible Policy	Role of Monetary Dialogue in increasing accountability and effectiveness
Forward Guidance	Evaluate and publicise the targets the ECB sets, which will increase the effectiveness of the policy
Quantitative Easing	Evaluate the distributive implications of central bank purchases of assets
Banking Union	Evaluate how decisions the ECB takes as a banking supervisor affect monetary policy