Germany and the Euro Rescue Agreements

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Section IADS

In 2010 EU Member States agreed to provide economic aid (so-called 'bailouts') to help Greece and Ireland, and also to establish a permanent bailout system, the European Stability Mechanism (ESM), for Member States that have adopted the euro, which will replace the European Financial Stability Facility (EFSF) created in May 2010.

EU agreement on the bailout mechanisms has been unpopular in Germany and the Chancellor, Angela Merkel, has suffered setbacks in recent state elections. Her euro policies have also led to divisions within the CDU-led coalition government.

On 5 July 2011 the German Constitutional Court began deliberations on legal challenges launched in 2010 by the Bavarian conservative politician, Peter Gauweiler, and a group of academics, as to whether the German Government acted lawfully in committing money to the bailout of Greece and whether the EFSF and ESM are compatible with German law.

On 7 September 2011 the Constitutional Court rejected as unfounded the constitutional complaints about the measures concerning aid to Greece and the euro rescue package. In July 2012 six more complaints concerning the ESM and the fiscal compact agreed in December 2011 were filed with the Constitutional Court and on 10 July 2012 the Court decided it needed to examine these in detail at a later date. The German President, Joachim Gauck, did not therefore sign the ESM or the fiscal compact into law, and the proposed ESM start date of July 2012 has been missed.

This Note looks at German political and public views of the euro rescue package and the ESM, and recent Constitutional Court rulings.

For further information on the ESM and EFSF, see the following Standard Notes:

5812, Amending the EU Treaty: the European Stability Mechanism, 23 December 2010

5973, The European Financial Stabilisation Mechanism (EFSM), 20 May 2011

5800, Article 122(2) TFEU as Treaty Base for Financial Stability Mechanism, 14 December 2010

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1 German Government views on the 'bail-out'

The Merkel-led coalition government of Christian Democrats (CDU), Christian Social Union (CSU) and Free Democrats (FDP) was initially opposed to financial rescues ('bailouts') for debt-stricken eurozone countries such as Greece, and in 2010 Angela Merkel spoke in the German Parliament about the possible exclusion of a struggling member of the eurozone.[1] However, Chancellor Merkel came round to the view that the stability of the eurozone was worth the cost to Germany of a bailout. She also insisted on Greece tackling its own problems.

Finance Minister Wolfgang Schäuble, in the face strong opposition from the European Central Bank and EU governments including France, called for bondholders to assume a "fair" share of further Greek aid, and in a speech in the *Bundestag* on 10 June 2011 appealed to the spirit of German unity and European integration. The Social Democrat opposition leader, Frank-Walter Steinmeier, said the speech underlined the lack of European leadership spirit elsewhere in a cabinet that governed, particularly on EU affairs, "by the regulation book".

Angela Merkel wanted private banks to contribute funds to a second Greek bailout package, but after a meeting with the then French president, Nicolas Sarkozy, on 16 June 2011, she said that any contribution from private creditors to the package would have to be voluntary. The *Guardian* reported on 17 June 2011 that this "was a significant climbdown from her earlier position. Berlin had lobbied noisily for the compulsory participation in a new Greek bailout of private lenders, many of whom stand to lose heavily if Greece defaults on its €300bn (£265bn) debts".

On 6 July 2011 senior German officials resurrected the earlier Schäuble proposal that investors be encouraged to swap Greek Government bonds for new bonds. They reopened

1 HSee *BBC News*, 17 March 2010

the debate over whether the eurozone members should agree to one of their number becoming a defaulter, even temporarily.

There was criticism of the German Government's indecisiveness on the euro crisis. *Der Spiegel* commented in July 2011: "The chancellor's indecisiveness is infuriating her party. First she declares Germany's fate is tied to the survival of the euro. Then she claims the Spaniards and Greeks don't work hard enough and complains that the German taxpayer has to bail them out".[2] The various German plans for the Greek debt were summarised in *Der Spiegel*:

> Officials in Germany's Finance Ministry are analyzing several models for paring down Greece's debt burden to a more tolerable size. They are aiming to reduce its debt to about 120 percent of GDP. In absolute terms, this would involve relieving the country of roughly €70 billion ($99 billion) in debt. "We are searching through our entire arsenal for a fundamental solution to the problem," said one official close to Finance Minister Wolfgang Schäuble.
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> The basic version of such a solution would be to have the European Financial Stability Facility (EFSF) -- the European rescue fund -- purchase Greek sovereign bonds from banks and insurance companies that want to unload them. As an alternative, the fund could exchange Greek bonds for European ones.
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> The problem with this is that at present, the EFSF's rules don't allow these kinds of operations. They could be amended, of course, but not without resistance. In Germany, the business-friendly Free Democratic Party (FDP), the junior partner in the ruling coalition, is leading the fight in parliament against allowing the rescue fund to buy up bonds on the secondary market.
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> The second model tries to get around this constraint by allowing the EFSF to give Greece the money it needs to buy back its own bonds. Since its bonds are currently trading at only half their nominal value at most, this would be a good deal for Greece.
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> Such an offer might be very attractive for creditors, too. Many of them only stocked up on Greek sovereign bonds after the crisis, when they were already being traded at below face value. Other creditors, such as financial institutions, have already written down their Greek bonds and have them on their books at low market value. If the Greeks offer more than market value, it might be worth it for such companies to sell their bonds.
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> Since it is purely voluntary and tax-funded, this model would be far removed from the real private-sector participation that the German government has been calling for. But finance officials still believe this program could reduce Greek debt by up to €20 billion. The model would require a slight rise in the planned €120 billion volume of the second Greek aid package, but it would not require an increase in the overall EFSF rescue fund.[3]

On 21 July 2011 eurozone Member States agreed a second bailout for Greece to supplement the €440 billion rescue package launched in May 2010 and to expand the powers of the EFSF. This decision was subject to parliamentary approval in some Member States, including Germany (by 23 September 2011).

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2 H*Der Spiegel* 18 July 2011

3 H*Der Spiegel* 18 July 2011

A CSU paper published on 29 August 2011 sought changes to the EU monetary union rules to allow bankrupt Member States to leave the eurozone if they do not do enough to reduce their debts.

The FDP wanted the EFSF bill to include a veto right for the German Parliament in approving future euro bailout applications.

2 Parliamentary views

On 5 May 2010 the *Bundestag* Budget Committee approved a draft law on Germany's contribution to the first Greek financial package. The vote was along party lines, with the three ruling coalition parties all supporting the plan. On 7 May 2010 the *Bundestag* approved the €22.4bn euro German contribution to the Greek bailout package, voting by 390 to 72 in favour, with 139 abstentions. Commentators thought the vote signalled Germany's move from bailout opponent to reluctant participant, and its adoption was described as a victory for Chancellor Merkel. Wolfgang Schäuble told the *Bundestag* there was no better alternative and that any other way would be more expensive and more dangerous for Germany and the eurozone as a whole. The Upper House, the *Bundesrat*, which represents the governments of the 16 German states, also endorsed the package.[4]

> The German Parliament passed the *Act on Financial Stability within the Monetary Union* on 7 May 2010 and the *Euro Stabilisation Mechanism Act* on 22 May 2010.

Although both German parliamentary Chambers approved the bailout bill, opposition SPD Members abstained from the May 2011 vote, arguing that the burden of the bailout would fall too heavily on German taxpayers.[5] They also criticised Chancellor Merkel for attempting (unsuccessfully) to delay a decision on Greece until after the North Rhine-Westphalia state election.

Frank-Walter Steinmeier, SPD leader in the *Bundestag*, accused Merkel of undermining Germany's leading role in the EU. Frank Schäffler, the FDP financial spokesman, voted against the first Greek bailout because he thought it would obstruct the principles of the free market. He said later that the option of a regulated sovereign default and a change in the eurozone contract were needed, allowing countries like Greece to leave the euro temporarily.

3 First Constitutional Court ruling

On 7 May 2010, after the Bundestag had passed legislation to approve the first financial bailout plan,[6] a group of professors and lawyers and an MP (Wilhelm Hankel, Wilhelm Nölling, Joachim Starbatty, Karl Albrecht Schachtschneider, Dieter Spethmann and Peter Gauweiler) submitted a constitutional complaint to the German Constitutional Court, together with a request for a temporary court injunction that would prevent the then President, Horst Köhler, from signing the bill into law before the Court had considered their complaint.[7] Andreas Vosskuhle, President of the Constitutional Court, asked for statements from the

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4 For key dates see German Federal Ministry of Finance "HChronology: Stabilisation of the Economic and Monetary Union: Steps to safeguard the common currencyH", 2012

5 See *BBC News* 7 May 2011, "HGerman parliamentary vote backs Greece bail-out funding"

6 See Der Spiegel Hhttp://www.spiegel.de/international/europe/0,1518,693579,00.htmlH

7 See Hhttp://www.spiegel.de/international/germany/0,1518,699471,00.htmlH

Chancellor, ministers, parliament, the German President, state governments, the ECB and the Bundesbank addressing the request from Peter Gauweiler (CSU) for a temporary injunction. In June 2010 the Court dismissed Gauweiler's bid to stop the implementation of the rescue package, allowing German participation in the measure. The Court still had to consider the challenge itself, but ruled that it would be too damaging to suspend German involvement in the bailout package while it decided on the measure's constitutionality.

The complainants to the Constitutional Court argued that the bailouts:

- breached the German Constitution's protection of property (Article 14 of the German Constitution – *Eigentumsgarantie*) because they could endanger the stability of the German economy and generate inflation.
- breached the right to democratic representation (Articles 20 and 28 of the German Constitution – *Demokratieprinzip*) by restricting the Bundestag's control over its own budget.
- breached the EU's no-bailout provisions (Article 125 of the *Treaty on the Functioning of the European Union*), which states that neither the EU nor the Member States must assume each others' debts without sufficient justification.

On 5 July 2010 the German *Centrum für Europäische Politik* (CEPS) published a report by Dr. Thiemo Jeckon on the use of EU Treaty Article 122 for the Greek 'bailout'.[8] The CEP report argued that the EU had misused Article 122 as a legal base and that the European Parliament had not been consulted, which amounted to a breach of EU law. The report also suggested that the bailout package did not satisfy the terms of the German Constitutional Court's previous rulings on EU issues, as it did not provide a strong enough role for the German Parliament in approving aid. The report maintained that the package had sidelined the *Bundestag* and *Bundesrat*, despite the German Constitutional Court's Lisbon Treaty ruling in 2009 requiring a stronger role for these bodies in EU affairs.

The German Government's response stated only that that Germany was entering "uncharted constitutional territory" and that "The federal government has always taken great care to minimise possible constitutional risks along with the emergence of the EU aid package".[9]

On 5 July 2011 the Constitutional Court began its deliberations on the May 2010 legal challenge as to whether the German Government had acted lawfully in committing money to the Greek bailout. The Court also had to decide on the legality of German participation in bailouts for Ireland and Portugal. The Court made clear that basic economic and political issues would not be the subject of the proceedings, but only the constitutional limitations of government decisions. As the Court had rejected the complainants' request for interim relief, the German Government was able to participate in the financial aid package for Greece.

On 7 September 2011 the Constitutional Court dismissed three complaints about the first Greek bailout and the establishment of the EFSF, deeming them to be compliant with the German Constitution. The Court stated that the EU's 2010 bailout for Greece and subsequent aid granted through the rescue fund was legal, but also that the *Bundestag* should have more say in any future major eurozone bailouts, by the approval of the

8 Hhttp://www.cep.eu/fileadmin/user_upload/Kurzanalysen/Euro-Rettungsschirm/CEP-Studie_Euro-Rettungsschirm.pdfH
9 HOpen Europe blog, 5 July 2010

Parliament's Budget Committee. This latter requirement was less demanding than the suggestion for full plenary Bundestag approval, which would have slowed progress on future bailout efforts. See Court press release Press release no. 55/2011 of 7 September 2011.

EurActiv reported on 6 September 2011 that the CDU/CSU and FDP parties had already agreed "on a multi-level approach to involve the German Bundestag in future EFSF decisions. The main idea is that the government needs parliament's approval before it can agree in Brussels on new EFSF rescue packages, but will have an extended margin to decide on technical implementation of EFSF decisions".[10] The Government was reported to be aiming to bring the SPD and the Greens on board, but would negotiate the final agreement on parliamentary participation rights after the Court ruling.

The *Economist* Newsbook blog commented on 7 September 2011:

> Essentially, the court accepted the government's argument that these mechanisms did not constitute the creation of an open-ended "transfer union" that would in effect strip the Bundestag of its core responsibility to exercise control over the budget. "The Bundestag did not deplete its right to adopt the budget and control its implementation by the government and did not disregard the essential content of the principle of democracy," the judges wrote. The court demanded just one revision: rather than merely "striving" to obtain the approval of the Bundestag's budget committee before issuing guarantees to other euro countries it must always obtain prior approval from the committee.
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> This demand is likely to have an effect on changes now being contemplated by the Bundestag. Already, there had been a move to strengthen the authority of the legislature in weighing up euro rescue measures. And there had been a fear that the parliamentarians would strengthen their powers to the extent of paralysing the EFSF and the ESM. That now looks unlikely. Although the Bundestag's budget committee will now rule on individual bail-out programmes, the court's ruling does not seem to mandate that the Bundestag sign off on such operational questions as whether to buy a country's bonds in the secondary market. But the constitutional court's verdict is also a warning to the government: future rescues cannot exceed the capacity of the federal budget, they cannot be automatic, they must be contingent on reforms by the receiving country and they cannot be forced upon Germany.

The ruling was reported to have brought some relief to financial markets, with the euro briefly rising against the dollar (but the gain then reversing as traders assimilated the Court's warning that the ruling was not a blank cheque for future bailouts). The ruling would also make it easier for Chancellor Merkel to gain parliamentary approval in the vote on the EFSF on 29 September (see below).

4 Bundestag vote on expanding the EFSF

In the rescue plan agreed on 21 July 2011, the EFSF would be expanded to €440bn and would have the power to make 'precautionary' loans to eurozone companies struggling to borrow from the financial markets, and in certain circumstances to buy up sovereign debt. This would increase Germany's contribution to the bailout fund from €123bn to €211bn.

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10 HEurActiv 6 September 2011-09-06, German court seen approving EU bailouts, with conditions

On 31 August 2011 the Cabinet agreed a draft law to expand the EFSF, and it was envisaged that all eurozone States would ratify the agreement by the end of October 2011. The *Bundestag* voted on 29 September 2011 and the Senate around the same time, but the *Bundestag* also wanted increased authority in approving future eurozone bailout packages.

A *Reuters* report in August 2011 was optimistic that there would not be a parliamentary veto of the EFSF agreement.[11] The SDP indicated they would vote for the EFSF agreement, which would allow its adoption, even if some members of the centre-right coalition voted against it.

On 7 August 2011 in a joint statement with then President Sarkozy of France, Chancellor Merkel pledged support for struggling eurozone States.[12] Commentators thought this would make it more difficult for her to get parliamentary approval at the end of September. In the run-up to the parliamentary vote, CDU and FDP parliamentarians were calling for Greece to leave the eurozone. Reuters reported on 25 August 2011 of growing fears that Chancellor Merkel "may have to rely on opposition support to win the vote, a humiliation that could trigger a challenge to her position", and various reports thought the CDU would not muster enough votes in the *Bundestag* to pass the EFSF bill.[13] The German magazine *Focus* reported at the end of August 2011 that 23 members of the ruling coalition were "gearing up to vote against the EFSF", including some loyal CDU supporters such as Wolfgang Bosbach, the deputy parliamentary leader.[14]

On 29 September 2011 the Bundestag approved the bill to extend the EFSF and paved the way for its successor, the ESM, by a large majority (523 in favour to 85 against with 3 abstentions; Chancellor Merkel received 315 votes from her governing coalition, with 15 no-votes). During the debate Wolfgang Schäuble warned that Europe was in an "extraordinarily difficult situation", and that nervousness in financial markets could spread to the real economy. He stressed that Germany had to remain "an anchor of stability in Europe".[15] Schäuble said Greece "would only get the next tranche of bailout money if conditions from the troika - the European Union, European Central Bank and International Monetary Fund - are met" (ibid).[16] The Foreign Minister, Guido Westerwelle, stated on 29 September that the Bundestag had "lived up to its responsibility towards Europe. It sent the message to our European partners that they can depend on Germany".[17]

5 German Central Bank

In a statement on the outcome of the European Council meeting on 21 July 2011, the President of the German Central Bank (the *Bundesbank*), Dr Jens Weidmann, noted both positive and negative elements of the agreement on aid for Greece and the EFSF:

> The key monetary policy requirement in the sovereign debt crisis is that no additional risks spill over to the Eurosystem and that the dividing line between monetary policy and fiscal policy is not blurred any further. Solvent counterparties and sufficient collateral are crucial for the Eurosystem's

11 H*Reuters* "Analysis: Merkel's room for maneuver on euro crisis narrows", 8 August 2011
12 See H*Reuters* 7 August 2011
13 H*Bloomberg* Hquoting a H*Handelsblatt* report of 29 August 2011
14 H*EurActiv* 1 September 2011
15 H*Guardian business blog*H 29 September 2011
16 See H*Eurointelligence* 30 September 2011H for a summary of German press coverage of the debate and vote.
17 H*Auswärtiges Amt,* 29 September 2011

> refinancing operations. To that extent we expressly welcome the Council's announced intent, within a new support programme for Greece, to ensure sufficiently capitalised banks and adequate collateral, thereby addressing concerns held by the Deutsche Bundesbank and the Eurosystem.
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> The European Council has decided to grant Greece considerable relief. Private sector creditors are to contribute to the financing measures, although they will be partly protected by the donor member states. The support programme notably includes measures to significantly expand the flexibility of the European Financial Stability Facility (EFSF) and to make it a considerably more attractive option for all countries receiving assistance.
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> The combined effect of these decisions might reduce the acute tension in the financial markets. However, by shifting extensive additional risks to the countries providing assistance and to their taxpayers, the euro area has taken a major step towards communitising risks arising from unsound public finances and misdirected macroeconomic policies. This weakens the underlying principle of national fiscal responsibility on which European monetary union is founded. It will make it more difficult in future to maintain the incentives to pursue a sound fiscal policy.
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> This makes it all the more important to decisively tackle the root-causes of the crisis. The adopted adjustment programmes must now be implemented. Greece remains in need of extensive consolidation and reform. It is now all the more imperative to firmly stick to the goals of rigorously consolidating government finances throughout the euro area and strengthening the overall fiscal framework of monetary union.

However, the *Bundesbank* was opposed to the ECB buying eurozone government bonds, as the *Financial Times* reported on 22 August 2011, and the *Daily Telegraph* reported on 2 September 2011 on Dr Weidmann's belief that the mass bond purchases by the ECB had "strained the existing framework of the currency union and blurred the boundaries between monetary policy and fiscal policy". He said that decisions "on further risk-taking should be made by governments and parliaments, as only they have democratic legitimacy". He also stated in August 2011 that the EU's July decisions could weaken the institutional framework of European monetary union, concluding:

> While fiscal policy will continue to be determined by democratically elected parliaments at national level, the resultant risks and burdens will increasingly be borne by the Community in general and the financially sound countries in particular, without this being offset by any concrete powers to intervene in the sovereignty of national fiscal policies. No comprehensive change in the European treaties is currently envisaged that would democratically empower a central entity to exert some control over national budgetary policies. This means there is a danger that the euro-area countries' propensity to incur debt may increase even further, and the pressure on the euro area's single monetary policy to adopt an accommodating stance may grow. Unless and until a fundamental change of regime occurs involving an extensive surrender of national fiscal sovereignty, it is imperative that the no bail-out rule that is still enshrined in the treaties and the associated disciplining function of the capital markets be strengthened, and not fatally weakened.[18]

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[18] H*Bundesbank monthly report*, August 2011

6 Constitutional Court Preliminary Ruling

In a preliminary ruling on 28 October 2011 the Constitutional Court decided that the establishment of a secret committee to oversee EFSF operations was unconstitutional. The proposed secret committee of nine members would have accompanied Government decisions on the EFSF, and the aim of its secrecy was to reduce delays and keep information about EFSF operations out of the public domain. However, this contradicted the earlier Court ruling that EFSF decisions with an impact on national budget appropriations had to be sanctioned by the *Bundestag* Budget Committee (see above). The *Bundestag* would wait until the final Court ruling in November 2011 before deciding on a new procedure. Marta Zawilska-Florczuk of the Centre for Eastern Studies commented on 14 September 2011:

- The court's verdict will settle the dispute inside the CDU/CSU/FDP coalition over the stance it should take during the vote in the Bundestag on the ratification of the second rescue package for Greece, which will take place on 29 September. The constitutional court's decision is likely to convince those MPs from the CDU and the FDP who are sceptical about this package to support it. A debate is currently underway concerning the form in which the parliament is to be involved in issues regarding the EFSF. Decisions on new loans for indebted eurozone member states and on buying bonds on the secondary market are likely to be consulted at the plenum of the Bundestag, while other issues (such as amending the conditions of the loans which have already been made available) will be discussed by the budget commission.

- The need to consult most decisions to be taken with the budget commission may slow down the launch of the EFSF, the idea of which was to be a rapid response instrument to deal with the eurozone's problems. However, consultations with this body will impede the operation of this fund to a lesser extent than does the debate taking place each time at the Bundestag forum. This seems to have been the intention of the constitutional court, whose verdict means minimal interference with the functioning of the facility, while emphasising the role of the Bundestag, which is required from the treaty's point of view (the primacy of national parliaments in decisions regarding financial policy).

7 Popular discontent

Research and polls attributed German public anger over the German contribution to the Greek bailout to media reports showing Greek demonstrations over working longer hours, reforms to their allegedly generous pension system, and cutbacks, while they, the Germans, felt under enormous pressure themselves. Chancellor Merkel was blamed for not explaining to the general public why German taxpayers would benefit from the Greek bailout, and the explanation given in May 2010 about not wanting turmoil in the financial markets was no longer enough to calm German fears.

The public reaction in Germany to the first bailout was also directed against Greeks living in Germany, who reported that they had been the target of xenophobic remarks. The tabloid *Bild* newspaper ran a campaign against the bailout, urging the Greeks to leave the eurozone and take back the *drachma*. Opinion polls in May 2011, at the time the second bailout was agreed, showed a fall in the Chancellor's popularity, and a *Bild* campaign urged its readers to write to German MPs to express their unhappiness with the proposals.

A *Euronews* report in July 2011 stated that not only was the population divided, but that "even in her own government camp, the number of euro sceptics has risen. Among the liberals and Merkel's conservative sister party in Bavaria, there are powerful voices who are unwilling to use billions in taxpayers' money to stabilise the single currency".[19]

Reuters reported on a poll in July 2011 which "showed her popularity dropping to its lowest level in nearly five years, and running neck-and-neck in a hypothetical battle for chancellor with Frank-Walter Steinmeier, the grey SPD politician she trounced in 2009".

According to German ARD television's *Deutschlandtrend* poll published on 19 August 2011, 22% of Germans polled had strong faith in Chancellor Merkel's leadership, 55% were not very confident in her and 20% had no confidence at all.[20]

In 2012 the Chancellor's fortunes have been mixed. In the state election in Schleswig-Holstein on 6 May 2012 the CDU took 30.8% of the vote, the SPD 30.4%, the FDP 8.2%, the Greens 13.2%, the Pirate Party 8.2% and the SSW Danish minority party 4.6%. The CDU-FDP coalition could not continue in office, and the SPD formed a coalition with the Greens and SSW. Roland Nelles commented in *Spiegel online* on 5 June 2012 on the FDP's relative success and its possible implications for Chancellor Merkel:

> The party is making discreet overtures to the SPD and Greens about possibly governing together in the future, which heralds a possible shift in the balance of power in German politics. It could make sense for the FDP to wrest themselves free of the captive embrace of the CDU, their natural coalition partner for the last three decades. Merkel should be alarmed at the fact that this new coalition model is now being talked about quite openly.
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> The FDP could abandon their role as kingmakers to the CDU and start preventing CDU-led coalitions in future. The CDU for its part could start to woo the Greens as possible partners, but neither the CDU nor the Greens are ready for that.

On 13 May 2012 the state of North-Rhine Westphalia held snap elections brought about by the dissolution of the *Landtag* (the state legislative assembly) after the state government failed to pass the budget on 14 March 2012.[21] The CDU took 26.3%, down from nearly 35% in 2010, and the worst result in the state since World War II. The SPD won 39.1% and the FDP 8.3%. The red-green minority government led by Hannelore Kraft won a 9-seat majority and was able to continue governing the state. The *Frankfurter Allgemeine Zeitung* commented:

> Two factors had to come together to create this historic defeat for the CDU: An inept top candidate and an inept election campaign. Chancellor Merkel can do little about one of those shortcomings -- but for the other her party certainly bears part of the blame. The theme of stopping new debt, which already formed the crux of a failed election campaign in Schleswig-Holstein, doesn't mobilize people.[22]

The centre-left *Süddeutsche Zeitung* commented on the fall of the CDU's Norbert Röttgen, who had been described as a "potential successor to Chancellor Merkel":

[19] Claudia Kade, H*Euronews* 18 July 2011
[20] HReported in *EurActiv* 22 August 2001
[21] The three opposition parties voted against the budget and the coalition had expected the FDP to abstain from the budget vote, which would have allowed the red-green coalition to continue in office.
[22] Quoted in translation in H*Spiegel online international*, 14 May 2012

> With Röttgen though, comes a wider failure: The failure of the hope of the CDU's more progressive factions to try out a coalition with the Green Party in a larger German state. This puts the CDU on the defensive as far as coalition strategies go. For the CDU, this result is especially harsh given that Röttgen stands for modern, enlightened and environmental elements of the party -- a political direction which, in the medium term, could help the party win back its lost majority.[23]

On 23 May 2012 *BBC News* reported that opinion polls in Germany indicated "exasperation at the Greek situation and disenchantment with the euro. One poll over the weekend had an albeit slim majority thinking the euro was a mistake in the first place. And it had a big majority indicating Greece should be allowed to leave".

8 The Bundestag approves the ESM treaty

In mid-March 2012 the German Cabinet approved legislation to ratify the ESM Treaty and authorising Germany's contribution to the ESM,[24] but the Government still needed *Bundestag* support for the fiscal compact Treaty (the *Treaty on Stability, Coordination and Governance in the Economic and Monetary Union*) in the face of opposition from the SPD. Reports indicated that the Bundestag was not likely to pass the ESM bill, and that Chancellor Merkel hoped to link it to a vote on the fiscal compact Treaty, which had cross-party support. Both the ESM and the fiscal compact needed the approval of two-thirds of the *Bundestag* and the *Bundesrat*, which meant SPD support was vital. In mid-April 2012 Dr Herta Däubler-Gmelin, the justice minister in the first cabinet of former SPD Chancellor, Gerhard Schröder, said she would take a complaint to the Constitutional Court unless the electorate were given the opportunity to vote on the issues in a referendum.

Angela Merkel suffered a setback in her aims on 16 May, when she dismissed her environment minister, Norbert Röttgen, and replaced him with her chief whip, Peter Altmaier, on whom she had been relying to gain parliamentary ratification of the fiscal compact treaty before the summer recess. The planned date for the parliamentary vote, 25 May 2012, was postponed until after the Greek parliamentary elections in June. The SPD signalled its willingness to back the ESM, and the SPD-dominated *Bundesrat* also indicated its support. Opposition parties linked their support for the fiscal compact to Chancellor Merkel agreeing to a package of economic growth measures similar to those backed by the new French President, François Hollande. President Joachim Gauck announced on 21 June 2012 that he would wait for the Constitutional Court's decision on the compatibility of the ESM and fiscal compact treaties with German law before signing them off.

The Bundestag approved the ESM and the fiscal compact legislation on 29 June 2012, the opposition parties supporting the Government in return for measures on growth and job creation. The Bundesrat also later approved both bills.

However, following six constitutional complaints about the ESM, concerning alleged lack of democratic oversight and the undermining of parliamentary budgetary powers, the German President did not sign the new laws.

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[23] Ibid

[24] See HFederal Ministry of Finance information, 14 March 2012H

9 More complaints to the Constitutional Court

In July 2012 six constitutional complaints were lodged against the fiscal compact Treaty and the ESM.

The former justice minister, Herta Daubler-Gmelin, representing the group, "More Democracy", lodged a complaint on behalf of 12,000 people who signed an online petition alleging that the ESM would be a kind of super-bank without democratic or judicial controls, and secondly, that the fiscal compact would undermine parliamentary sovereignty in budgetary matters.

The opposition Left Party faxed a lawsuit to the FCC alleging that the Government was risking billions of euros in taxpayers' money for both mechanisms.

Peter Gauweiler's petition argued that the ESM breaches the no-bailout clause in the EU Treaty (The FCC has already ruled that bailouts are allowed as long as the German parliament approves each of them).

Karl Albrecht Schachtschneider also lodged a complaint, and two others were from German citizens whose names were not mentioned.

On 10 July the Constitutional Court considered whether to issue a temporary injunction against the two laws to stop them entering into force until the Court has addressed the main question of the constitutionality of the treaties. The Court President, Andreas Vosskuhle, said the Court could decide on a temporary injunction within about three weeks, but that it could not hold a full, substantive hearing on the constitutional issues until early 2013. Wolfgang Schäuble told the Court that any significant delay in approving the ESM and the fiscal compact treaty could lead to a loss of market confidence, danger for financial stability and would make the eurozone crisis worse.

The Court's decision to consider the complaints at a later date has prevented the ESM from taking effect on 1 July as originally planned.

10 Franco-German relations

Chancellor Merkel had had the support of the former French President, Nicolas Sarkozy, in her demands for fiscal austerity in Greece, Ireland, Portugal, Spain and Italy, prescribing the kind of spending cuts and labour reforms that Germany had implemented to revive its economy in the 1990s.

Merkel had openly backed Sarkozy in the French presidential election, and was reported to have refused to meet the Socialist candidate. Some commentators thought an Anglo-German partnership was set to replace the Paris-Berlin axis, and that *Merkameron* would replace *Merkozy*, but this looks unlikely in the light of more recent events. After Hollande's victory, Merkel promised to welcome Hollande with "open arms".[25] *Reuters* on 15 May 2012 looked at areas of agreement between Merkel and Hollande, already dubbed *Merkollande*, including a "more flexible use of EU structural aid, a bigger role for the European Investment Bank and the introduction of "project bonds" to foster investments in infrastructure like transportation and energy networks".

[25] H*Der Spiegel* 7 May 2012

François Hollande had campaigned on a pledge to reverse the austere Sarkozy policies, appearing to leave Angela Merkel with only a few smaller northern European eurozone allies, at the same time as she was increasingly being asked by leaders such as US President, Barack Obama, David Cameron and Italian President, Mario Monti, to assume a greater role in reversing the eurozone crisis. *Der Spiegel* reported on 21 May 2012 on differences separating the German Chancellor and the new French President:

> Merkel has so far strictly opposed euro bonds, arguing that the prospect of fresh debt at affordable interest rates for all members would remove an incentive for countries to maintain budget discipline. The bonds could also increase German borrowing costs, which are far lower than for most other euro member states because German debt is seen as particularly safe and is therefore in high demand.
>
> Hollande pledged during his election campaign to challenge Merkel's austerity-led plan for rescuing the euro and to place greater emphasis on stimulating growth.

For a few weeks in May-June there was a series of both subtle and pointed antagonism between the two leaders at fora such as the G8, the informal EU summit on 23 May, and on 15 June, when Merkel spoke to business leaders of a "growing gap" between the German and French economies after Hollande, contrary to protocol, had welcomed opposition SPD leaders to the Elysée.

At the G20 summit in Los Cabos, Mexico, on 18-19 June Merkel moved the debate away from growth and towards closer fiscal integration, but on 22 June the leaders of Germany, France, Italy and Spain agreed on a €130 billion euro package to try and revive economic growth in Europe. This was described as "a symbolic victory for Hollande".[26] The growth pact included increasing the European Investment Bank's capital, redirecting unspent EU regional funds and launching project bonds to co-finance major public investment programmes. The leaders differed over whether and how to launch joint bonds and Hollande was reported to have been impatient with Merkel's reluctance to underwrite eurobonds. While Hollande called for more solidarity among eurozone States and mutualising debt, Merkel still wanted greater political union and the transfer of control of national budgets and economic policies to the EU.[27]

After a private meeting on 27 June the two leaders agreed to direct bank aid from the ESM in exchange for centralised supervision of European banks. On 29 June 2012, when EU leaders agreed to ease the conditions for EU Member States receiving ESM aid, this was reported as being a defeat for Chancellor Merkel, but in fact it had been part of the 'deal' agreed with François Hollande a few days earlier.

On 8 July 2012 Merkel and Hollande joined to celebrate 50 years of Franco-German cooperation at the cathedral of Reims, where Charles de Gaulle and Konrad Adenauer had held a reconciliatory mass on 8 July 1962. In Reims they both campaigned for greater political integration in the EU, with Chancellor Merkel talking of the "big challenge" facing Europe and the weaknesses of Economic and Monetary Union which needed to be rectified,

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26 H*Reuters* 10 July 2012

27 H*France24,* 22 June 2012

while Hollande emphasised the importance of close bilateral cooperation, especially in the resolving of the current debt crisis.[28]

Reuters concluded on 10 July 2012:

> In the early 1990s, German conservative Helmut Kohl compromised, giving up the most potent symbol of West Germany's post-war prosperity, the Deutsche mark, in exchange for French Socialist Francois Mitterrand's support for German reunification. Two decades later, with the single currency in deep crisis, a similar "grand bargain" will be needed from Merkel and Hollande - former proteges of Kohl and Mitterrand - to save Europe's bold but flawed experiment.
>
> Germany, Europe's dominant economic power, will have to come to terms with the idea of a "transfer union" in which money from the bloc's more-prosperous north flows to its battered southern periphery, possibly via some form of common euro zone bonds. Is Merkel prepared for more "solidarity" if that is what is needed to save the single currency?
>
> For France, it will mean accepting a fiscal straitjacket made in Berlin, and the major loss of sovereignty that Berlin's nascent push for a European "political union" implies. Can the cautious Hollande persuade the French to go down this route?
>
> Time is not on their side. Without a convincing Franco-German answer in the coming months, markets could push up the borrowing costs of Italy and Spain to unsustainable levels, triggering the need for mammoth bailouts Europe cannot afford. [...]
>
> When leaders return from their summer breaks, Hollande is likely to come under pressure from Merkel to help her set the foundations for a "fiscal union" in Europe. For such a project they will need to work closely. Their aides say that after a rocky start, the past weeks have shown they can build a relationship of trust.

[28] HGerman Embassy, 11 July 2012