EUROPOLITICS / Financial services

Banking union

Member states ready to consider working on treaty change

By Manon Malhère in Dublin | Monday 15 April 2013

Germany has received additional guarantees from its partners on the strict separation of monetary tasks from bank supervision in the European Central Bank (EBC). They agreed in a declaration that "member states are ready to work constructively on a proposal for a treaty change" at the informal meeting of the 27 finance ministers, on 12-13 April in Dublin. The ministers reaffirmed their commitment to "the urgent conclusion of all agreed elements of banking union". This includes the controversial issue of the resolution of banks in crisis.

The issue of strict task separation is part of the discussions on the package creating a single supervisory mechanism (SSM) for eurozone banks and open to non-eurozone countries. This grants a central supervisory role for the ECB. The European Parliament and Council worked out a compromise on 19 March (see *Europolitics*4610), which should be endorsed by member states' permanent representatives (Coreper) on 18 April. The 27 ministers gave the political go-ahead after Germany had received additional guarantees on the strict separation of the two ECB responsibilities.

From the outset, Berlin has raised concerns about this issue, which is related to the independence of the ECB anchored in the treaties. The problem is as follows: the ECB has to be totally independent when exercising its monetary tasks. Yet, at the same time, it should also be democratically accountable in its supervisory role. A new supervisory board is to be established within the ECB. Even though the co-legislators aimed as best they could at a strict separation between the two functions, this cannot be fully guaranteed. Under the current treaties, only the Governing Council made up of eurozone members – and not the supervisory board - can adopt official decisions.

During talks on the package, Germany strongly warned that it was not for the Governing Council to assume responsibility for the supervisory board's final decisions within the ECB. It asked for a 'Chinese Wall' between the banking and monetary components. The only way to legally ensure a complete separation is a treaty change. It is no secret that many have reservations about such a change, which involves a long and complex process.

Nevertheless, Germany received assurances from its partners that the member states are ready to work "constructively" on a proposal for a treaty change as stated in the declaration.

"The most important thing is that the banking union works within the framework of the current treaties," Internal Market Commissioner Michel Barnier insisted after the ministerial meeting.

RESOLUTION

The ministers reaffirmed the need for an urgent conclusion of all agreed elements of the banking union, as set out by the European Council, particularly in its conclusions of 13-14 December 2012. But nothing is set in stone, especially when it comes to the directive establishing a framework for the orderly resolution of banks in crisis. This proposal is under intense negotiation in the Council and the European Parliament.

Proposed by the European Commission almost a year ago, the text presents a three-stage framework (directive) for distressed or failing banks: prevention, early intervention and resolution. The key objective is to break the link between banks and public intervention.

The European Council has, on more than one occasion, called on the co-legislators to reach a compromise before June. On the EP's side, the vote in the Committee on Economic and Monetary Affairs (ECON) on a report by Gunnar Hökmark (EPP, Sweden) on the text is scheduled to take place on 24 April (4624). But several issues are still highly controversial among member states (4593).

"I heard the willingness of the ministers to finalise another element, which is the toolbox of the resolution," Barnier said, adding that an agreement on this text is a "priority".

One of the reasons for this is that the Commission is expected to present, in June, another legislative proposal establishing a single resolution authority for banks in the 17 eurozone states and the non-eurozone countries participating in the single supervisory mechanism (SSM).

This authority "should accompany the ECB in its function of supervisor," explained Barnier. He added that the issue at hand is to foster coordination of national resolution funds when it comes to the resolution of cross-border or systemic banks.

Looking ahead, Vitor Constancio, vice-president of the ECB, said "we need a European initiative" on banking resolution. "The ECB is going to have more direct responsibility [with the SSM - Ed] over the most important banks in Europe and most of them are cross-border banks," he added. "As a complement to supervision we also need a resolution that can deal effectively with […] cross border banks."

The Commission's proposal should provide for the establishment of a common resolution fund. But convincing governments to approve the creation of such a fund will be challenging. They, and the EP, already look askance at mandatory solidarity between national resolution funds as proposed by the Commission in the directive establishing a framework for the resolution of distressed banks in the 27.

More fundamentally, member states may well raise concerns about the legal base for establishing the single resolution authority, as was the case for the SSM. Barnier is convinced that "the right basis to build the resolution mechanism" can be found within the framework of the current treaties.