

Draft **TREATY ON THE DEMOCRATIZATION OF THE ECONOMIC AND SOCIAL GOVERNMENT OF THE EUROPEAN UNION (« T-DEM »)**

EXPLANATORY STATEMENT

In addressing the financial crisis which broke out in 2008, Member States of the European Union, together with the Commission and the European Central Bank, have built in hurry a powerful European government of national economic and social policies (hereafter ‘economic and social government of the Union’). Through a series of treaties (Treaty on Stability, Coordination and Governance and Treaty establishing the European Stability Mechanism), and legislative packages (the Six-Pack and Two-Pack establishing the European Semester), this government has been endowed with the instruments (of surveillance, control and conditionality) to profoundly reshape the democratic, fiscal and social pacts of the Member States of the Union. The Euro Group, an informal forum bringing together the finance ministers of the States whose currency is the Euro, has become the linchpin of this new Europe which emerged from the crisis.

Focused on its financial and budgetary objectives (the trinity ‘financial stability, fiscal consolidation and structural reforms’), this new European government has overlooked the fight against inequalities, and the design of a social, fair and sustainable development model for Europe. Unsurprisingly so, it proved unable to take up the challenges Europe is currently confronted with, after a decade of economic and financial crisis : the acceleration of global warming, the reception of refugees, the integration of new migrants, structural public under-investment (most notably in universities and research), tax fraud and evasion, ...

In addition, this significant strengthening of the executive capacity of European institutions in the field of economic, budgetary, fiscal and social policy has taken place without the parallel involvement of parliaments in its steering and control. The European Parliament has been largely excluded from this economic government ; symptomatically, as the TSCG foresees that « the President of the European Central Bank shall be invited to take part » in the meetings of the Heads of State or Government of the Euro area (Article 12(1)), it provides that « the President of the European Parliament may be invited to be heard » (Article 12(5)). As for the national Parliaments, they have only been recognized a limited advisory power by Article 13 of the TSCG - which refers to the Protocol on the role of national Parliaments in the European Union annexed to the European Union Treaties. This imbalance deeply hurts the commitment to « respect for and maintenance of representative democracy », which was solemnly acknowledged by the Heads of State or Government as an « essential element of membership » of the European Union in the Copenhagen Declaration of the European Council of 8 April 1978, a commitment which has been constantly renewed since then. It also contradicts the status of democracy, under Articles 2 and 13 of the Treaty on European Union (TEU), as one of the « values » that the Union’s institutions shall « promote ».

As it increases citizen disaffection towards the European project, this deficit of democratic legitimacy, together with the inability to meet the challenges Europe currently faces, carry the risk of a breakup of the European Union and national closure. Five years ago, at the heart of the financial crisis, the strengthening of the enforcement capacity of this economic and social government of the Union was justified by the urgency of the situation. Similarly today, one could easily invoke a real democratic and social emergency.

Europe will only reconnect with its citizens if it proves it has the ability to bring about a genuine European solidarity, by having the main beneficiaries of the globalization process fairly contribute to the financing of the public goods Europe desperately needs. This means demanding more from the large companies than from the small and medium ones, more from the wealthier taxpayers than from the modest ones. Europe will moreover only manage to broaden its social and political basis if it is able to give its citizens the public goods that concretely reflect its social, fair and sustainable development model.

Only an overall revision of the European treaties may provide the institutional framework needed to overcome the original shortcomings of the Economic and Monetary Union. However, as this option appears strongly impracticable in the short term, we propose the adoption, in a short timeframe, of an international treaty « democratizing the economic and social government » (hereinafter « T-Dem ») which shall enable the creation of a ‘democratization’ budget, discussed and voted upon by a European Assembly.

This budget is a democratization budget, as it must serve, through common taxes and investment in public goods, the fight against social inequalities at the European level, and the long-term viability of a genuine political model of social, fair and sustainable development. The four common taxes (on corporate profits, on high incomes, on wealth, and on carbon emissions), the base and rate of which shall be voted on by the European Assembly, concretely embody the existence of a European solidarity. In a similar fashion, in that it finally enables the creation of European public goods, the ‘democratization’ budget replaces the issues of inequality, climate change, research and social protection at the heart of the European growth regime. Against hard economic logic and ultraliberalism, which have dismantled the public services and social protection systems inherited from the post-war period, this treaty seeks to create the conditions for the emergence of a political Europe by overcoming its budgetary weakness.

The European Assembly constitutes the democratic framework which will enable this transformation. It proposes, debates and votes on the budget ; it has legislative capacity to foster economic and fiscal coordination as well as sustainable

growth and employment ; it sets the political agenda by taking part to the preparation of the agenda of the « Euro summit meetings » and of the semi-annual work programme of the Euro Group; it is endowed with the instruments to control the convergence and conditionality policies that were developed over the last decade at Union level; in the case of a disagreement with the Euro Group, it has the final say on the vote of the democratization budget, the base and rate of the taxes to fund it, and any other legislative act foreseen by this treaty.

In view of of the strong fiscal, budgetary and social impact of the economic and social government of the Union on the social pacts and economic policies of the Member States, only a European Assembly composed of national and European representatives elected by universal suffrage has today the legitimacy needed to steer and control its action.

Finally, this draft treaty puts forward a strategy to precipitate this transformation. Instead of a complete overhaul of the European treaties, more than unlikely under the current context, it makes use of the legal flexibility which enabled the creation of an economic government, outside the Union treaty framework. In so doing, the « T-Dem » takes over the modus operandi of the TSCG and the ESM Treaty (as validated by the Court of Justice of the European Union in its Pringle ruling from November 2012) to address the financial crisis, this time engaging in a democratizing effort. It seeks to demonstrate that the European project is not cast « in stone » - if there is a political will to shift its orientation -, and that the path of the democratisation of the economic and social government of the Union is finally worth following.

TREATY ON THE DEMOCRATIZATION OF THE ECONOMIC AND SOCIAL GOVERNMENT OF THE UNION (« T-DEM »)

RESOLVED to reiterate, against a succession of economic, political and social crises, the importance of the European integration process undertaken sixty years ago, with the establishment of the European Communities,

OBSERVING that the political and institutional turmoil generated by the financial crisis brought about a European government of the national economic and social policies of the 28 Member States, which gravitates around the institutions created for the States whose currency is the euro, most notably the Euro Group and the Euro Summit,

CONSCIOUS that the lack of democratic accountability and the political immobility which characterize this economic government of the Union poses a great democratic and social challenge for the European Union,

RECALLING the Five Presidents' Report on « Completing Europe's Economic and Monetary Union » from 22 June 2015, and its Part V on « Democratic Accountability, Legitimacy and Institutional Strengthening »,

CONVINCED of the necessity to guarantee the signatory States' repeated commitments towards social rights, as set out in the European Social Charter of 18 October 1961 (revised in 1996), the Community Charter of the Fundamental Social Rights of Workers of 9 December 1989 and the Charter of Fundamental Rights of the European Union, now an integrated part of the Lisbon Treaty,

WILLING to endow the Union with the means necessary to guarantee a certain model of social, fair and sustainable development, and with the democratic institutions to bring it to life,

RESOLVED to build the convergence and conditionality policies specific to the economic and social government of the Union around institutions that are democratically accountable at the European and at the national level, in order to fully contribute to achieving the values on which the European integration process is founded,

CONSCIOUS that the policies of economic and budgetary coordination and fiscal and social convergence covered by the economic government of the Union relate to the core of the constitutional prerogatives of national Parliaments which, as recalled by Article 12 TEU, « contribute actively to the good functioning of the Union »,

BEARING IN MIND that the objective of the Heads of State or Government of the euro area Member States and of other Member States of the European Union is to

incorporate the provisions of this Treaty as soon as possible into the Treaties on which the European Union is founded;

IN VIEW of further steps to be taken in order to lay the lasting foundation of a political, economic and social Union,

The Member States of the Union, signatories of this treaty,

REITERATE their obligation, as Member States of the European Union, to regard their economic policies as a matter of common concern, as well as their responsibility to set up mechanisms ensuring European solidarity ;

ESTABLISH a European Assembly composed of national and European representatives responsible for defining and voting on, if necessary with the last resort authority, the democratization budget of the Union, which endow it with the necessary means to fight inequalities and guarantee a model of social, fair and equitable development, and for controlling the decision taken in the framework of the economic government of the Union;

HAVE AGREED UPON THE FOLLOWING PROVISIONS:

TITLE I. PURPOSE AND SCOPE

ARTICLE 1.

1. Conscious of their responsibility toward the European project, and resolved to confirm the principle of solidarity within the European Union, the Contracting Parties intend through this treaty to deepen the democratization of the Union, by endowing it with a ‘democratization budget’.
2. With this Treaty which establishes a new budgetary and democratic compact, the Contracting Parties establish a European Assembly which is to discuss and vote on the ‘democratization’ budget, and to steer and control the economic and social government of the European Union.
3. All Member States of the European Union are destined to become party to this Treaty.

TITLE II. EUROPEAN DEMOCRATIC COMPACT

ARTICLE 2. The European Assembly

By this Treaty, the Contracting Parties establish among themselves an assembly called « European Assembly » (hereinafter referred to as ‘the Assembly’).

ARTICLE 3. Functions

1. The Assembly shall, jointly with the Euro Group, exercise the legislative and budgetary function and shall assume functions of steering and control over the economic and social government of the Union as laid down in this Treaty.
2. It shall work in close cooperation with the European Parliament.

ARTICLE 4. Composition

1. The number of members of the Assembly shall not exceed 400. It shall be composed, for the four fifths of its members (80%), of representatives that national Parliaments designate in proportion to the groups within them and with due regard to political pluralism, in accordance with a procedure laid down by each Member State, and for one fifth (20%) of its members, of representatives that the European Parliament designates in proportion to the groups within it and with due regard to political pluralism, in accordance with a procedure laid down by the European Parliament.
2. The number of members of the Assembly designated within national Parliaments shall be fixed in proportion to the population of the Member States. Each national Parliament sends at least one representative.
3. Delegations from the Parliaments of the Member States of the European Union which are not party to this Treaty shall be invited to participate, as observers, in the meetings of the Assembly. They shall have access in good time to all information, and shall be duly consulted.
4. A regulation shall fix the number of members of the Assembly.

ARTICLE 5. The Euro Group

1. The Euro Group is composed of the Ministers of the States whose currency is euro. Ministers from other Member States do participate.
2. The Euro Group shall ensure close coordination and convergence of the economic and fiscal policies of the States of the European Union.
3. It shall consist, according to the items placed on the agenda, of the Ministers for economic affairs and finance, the Ministers for employment and social affairs, or other Ministers concerned by the agenda.
4. The President of the Euro Group shall be elected by a majority of the Member States of the European Union.

ARTICLE 6. Euro Summits

1. The Euro Summit is composed of the States whose currency is the euro. Heads of State or Government of other Member States of the Union participate in its meetings.

TITRE III. LEGISLATIVE AND BUDGETARY POWERS

ARTICLE 7. Democratisation budget

1. The democratization budget shall aim at fighting inequalities, fostering sustainable growth, tax justice, employment, social cohesion and better convergence of economic and fiscal policies within the European Union.
2. All items of revenue and expenditure of the Euro area shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.
3. The annual democratization budget shall be established by the Assembly and the Euro Group.
4. The financial year shall run from 1 January to 31 December.

ARTICLE 8. Legislative procedure applicable to the adoption of the democratization budget, giving prominence to the Assembly in last resort

1. The Assembly and the Euro Group shall establish the annual democratization budget in accordance with the following provisions.
2. On the basis of a budget proposal prepared by the Assembly, the Euro Group shall adopt a budget project. The Commission shall assist the Assembly in the framework of the preparation of the budget proposal.
3. The budget proposal and the budget project shall contain an estimate of revenue and an estimate of expenditure.
4. The Euro Group shall submit its budget project to the Assembly not later than 1 September of the year preceding that in which the budget is to be implemented. If within 40 days of such submission, the Assembly:
 - a) approves the budget project, the budget shall be adopted ;
 - b) has not taken a decision, a new budget project shall be submitted by the Euro Group ;

- c) adopts amendments by a majority of its component members, the amended project shall be forwarded to the Euro Group. The President of the Assembly, in agreement with the President of the Euro Group, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the project being forwarded, the Euro Group informs the Assembly that it has approved all its amendments, the Conciliation Committee shall not meet.
5. The Conciliation Committee, which shall be composed of the members of the Euro Group or their representatives and an equal number of members of the Assembly, shall have the task of reaching agreement on a joint text, on the basis of the positions of the Assembly and the Euro Group.
 6. a) If, within 21 days, the Conciliation Committee agrees on a joint text, the Assembly and the Euro Group shall each have a period of 14 days from the date of that agreement to approve the joint text.

b) If, within the 21 days referred to in the previous subparagraph, the Conciliation Committee does not agree on a joint text, a new budget project shall be submitted by the Euro Group.
 7. If, within the period of fourteen days referred to in subparagraph 6 a) :
 - a) the Assembly and the Euro Group approve the joint text, the budget shall be deemed to be definitively adopted.
 - b) the Assembly rejects the joint text by a majority of its component members, a new budget project shall be submitted by the Euro Group taking account of the positions of the Assembly.
 - c) the Euro Group rejects the joint text, the President of the Euro Group shall request the Assembly, acting by a majority of its component Members, to take a final decision.

ARTICLE 9. Own resources and transfers

1. The contracting parties to the treaty shall endow themselves, through the democratisation budget, with the means necessary to reach the objectives set out in article 7 and carry through their policies.
2. Without prejudice to other revenue, the democratization budget shall be wholly financed from own resources.
3. The own resources shall be the progressive tax on high income, the progressive tax on wealth, the common tax on corporate profits and the tax on carbon emissions, as defined in Article 10.

4. The democratisation budget may foresee that all or part of the revenues from these own resources will be repaid to the Contracting Parties.
5. A yearly budget statement shall be established in order to take stock of the amounts of revenue paid by each Contracting Party and the amounts of the repayments and expenditures it benefitted from. The difference between the two amounts shall not exceed 0,1% of each State's GDP.

ARTICLE 10. Exercise of legislative competence

1. Without undermining the competences conferred upon the Union on economic policy, the Assembly and the Euro Group, acting in accordance with the legislative procedures referred to in Article 11, shall adopt legal provisions to fight inequalities, foster sustainable growth, fiscal justice, employment, social cohesion and better convergence of economic and fiscal policies within the European Union.
2. The Assembly and the Euro Group, acting in accordance with the ordinary legislative procedure, shall vote on the base and the rate of the common tax on corporate benefits, the progressive tax on high income, the progressive tax on wealth and the tax on carbon emissions which contribute to the democratization budget.
3. In compliance with the corporation tax base fixed at Article 10(2), Member States may adopt an additional tax rate.
4. The Assembly and the Euro Group, acting in accordance with the ordinary legislative procedure, shall adopt the provisions required to pool public debts exceeding 60 % of each Member State's GDP, through the issuance of common government bonds.
5. The legislative act projects or legislative act proposals provided for by the previous paragraph shall first be sent to the European Parliament for an opinion.

ARTICLE 11. Ordinary legislative procedure

1. The Euro Group and the Assembly shall adopt jointly the legislative acts applicable to the Contracting Parties.
2. Legislative initiative belongs concurrently to the Commission, the Euro Group and the members of the Assembly. They have a right of amendment.
3. The legislative agenda shall be set jointly by the Euro Group and the Assembly. However, within the limit of half of the meetings, the Assembly

shall set as a priority its own agenda and place the legislative act projects or proposals it accepts.

4. The ordinary legislative procedure applies to the regulations, directives and decisions jointly adopted by the Euro Group and the Assembly.
5. The members of the Euro Group submit legislative act projects. The members of the Assembly submit legislative act proposals.
6. Every legislative act project or proposal shall be successively examined by the Euro Group and the Assembly in view of the adoption of a single text.
7. When, following disagreement between the two institutions, a legislative act project or proposal could not be adopted after two readings, the President of the Euro Group and the President of the Assembly shall within six weeks convene a meeting of the Conciliation Committee.
8. The Conciliation Committee, which shall be composed of the members of the Euro Group or their representatives and an equal number of members representing the Assembly, shall have the task of reaching agreement on a joint text for the provisions still under discussion, within six weeks of its being convened.
9. If, within that six-week period, the Conciliation Committee approves a joint text, the Assembly and the Euro Group shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text.
10. If within the six weeks of its being convened the Conciliation Committee does not approve a joint text, or if the text mentioned in the previous paragraph is not adopted, the President of the Euro Group, after a new reading within the Euro Group and the Assembly, shall request the Assembly to take a final decision.

TITLE IV. STEERING AND CONTROL OF THE ECONOMIC AND SOCIAL GOVERNMENT OF THE UNION

ARTICLE 12. Steering and control of the economic and social government

The Assembly shall approve the agenda of the Euro Summit meetings, with regard to the items pertaining to economic and social policy, and the semi-annual work programme of the Euro Group.

ARTICLE 13. Convergence and coordination of economic and budgetary policies

1. The Assembly shall approve the Annual Growth Survey, the Joint Employment Report, the Alert Mechanism Report, and the Recommendations for the euro area which open the European Semester cycle.
2. It shall approve the country-specific reports, the country-specific recommendations published by the Commission and the Broad economic policy guidelines provided for by Article 121(2) TFEU.
3. In the framework of the Excessive deficit procedure, it shall approve the report prepared by the Commission in the case where a State does not comply with the criteria set out by Article 126(2) TFEU, the Council decision on the existence of an excessive deficit, and the measures decided on the basis of Article 126(11) TFEU.
4. It shall hold regular exchanges of views on the implementation conditions of the structural reforms recommended in the framework of the European Semester.

ARTICLE 14. Financial Assistance Facility

1. In the framework of the procedure for granting stability support, the Assembly shall approve the financial assistance facility granted under the procedure referred to in Article 13(2) of the Treaty establishing the European Stability Mechanism.
2. If the financial assistance facility as referred to in paragraph 1 is approved by the Assembly, the memorandum of understanding detailing the conditionality shall be submitted to the Assembly for approval.
3. The Assembly shall take part in the assessment of the situation of the Member States benefiting from or having benefited from a macroeconomic adjustment programme.

ARTICLE 15. Governance dialogue with the European Central Bank

1. Each year, in the light of the economic forecasts, the Assembly shall be invited to adopt a position through a resolution on the interpretation of the price stability objective and the inflation target adopted by the European Central Bank, in compliance with the European Treaties on which the European Union is founded.

2. The Assembly shall approve the annual report of the European Central Bank on the Single Supervisory Mechanism.

ARTICLE 16. Investigation and control powers

1. In order to carry out its function of control of the institutions of the economic and social government of the European Union, and in close cooperation with the European Parliament, the Assembly shall be endowed with a Parliamentary Office for the Evaluation of European Economic Choices.
2. The Assembly may, at the request of a quarter of its members, set up a committee of inquiry responsible for investigating alleged maladministration on the part of the institutions of the economic and social government of the European Union.
3. The Court of Auditors of the European Union shall assist the Assembly in exercising its control functions.
4. The European Central Bank and the Commission shall provide the Assembly with all documents and data which the latter deems useful in the exercise of its powers. As the case may be, these documents and data may be examined by a parliamentary committee which will meet in camera.
5. In order to ensure transparency and accountability, the Assembly may hear any person assuming functions in an institution of the economic and social government of the Union.

ARTICLE 17. Appointments

After hearing them, the Assembly shall approve the candidates chosen for the Presidency of the European Council, the Presidency of the Council of Ministers, the Presidency of the Euro Group, the Executive Board of the European Central Bank, and the Managing Direction of the European Stability Mechanism.

TITLE IV. CONSISTENCY AND RELATIONSHIP WITH THE LAW OF THE UNION

ARTICLE 18

This Treaty shall be applied and interpreted by the Contracting Parties in conformity with the Treaties on which the European Union is founded.

TITLE V. GENERAL AND FINAL PROVISIONS

ARTICLE 19

This Treaty shall be ratified by the Contracting Parties in accordance with their respective constitutional requirements.

ARTICLE 20

This Treaty shall enter into force on the first day of June two thousand and nineteen, provided that a number of States representing 70% of the population of the Contracting Parties of the European Union whose currency is the euro, have deposited their instruments of ratification, or at any prior date on which these conditions would be met.

ARTICLE 21

Within five years, at most, of the date of entry into force of this Treaty, on the basis of an assessment of the experience with its implementation, the necessary steps shall be taken, in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union, with the aim of incorporating the substance of this Treaty into the legal framework of the European Union.

Done at ..., on the first day of June two thousand and nineteen, in a single original in the Dutch, English, Estonian, Finnish, French, German, Greek, Irish, Italian, Latvian, Lithuanian, Maltese, Portuguese, Slovak, Slovenian and Spanish languages, each text being equally authentic, and deposited in the archives of the Depositary which shall transmit a duly certified copy to each of the Contracting Parties.