

# EuropolIS

## **Time for a historical compromise –**

Why Europe needs the *Guldenmark* and no longer  
the Euro as single currency

by<sup>1</sup>

MARKUS C. KERBER

---

<sup>1</sup> This paper is the text of the presentation given by Prof. Markus C. Kerber at the Institute of Directors in London on September 27th 2012

# EuropolIS

Contact:  
Professor  
Dr. iur. Markus C. Kerber  
Europolis  
Hackescher Markt 4 Berlin Germany  
mkerber@europolis-online.org  
www.europolis-online.org

© This work, including all of its parts, is protected by copyright. Any utilisation outside the narrow constraints of the German Copyright Act, without the consent of the author, is prohibited and punishable by law. This applies in particular to reproductions, translations, microfilming as well as storage and processing in electronic systems.

# EuropolIS

## I.

In the light of the never ending Greek crisis and at the dawn of a big bang in Spain, Italy and perhaps France, we all no doubt share the feeling that we have come to a dead end in the discussion on the Euro.

When it comes to the question of an alternative to the Euro, however, silence is deafening. Meanwhile, no-one is prepared to say how the Euro project might be finished, modified or transformed. Even *Lord Wolfson's* award for the best plan to manage the break-up of the Eurozone is based on the idea that the Euro will be abandoned, and as a consequence it prejudices in part all other attempts to find a solution. We should not content ourselves with questions of how to break up the Euro zone as there is much more at stake than the cliff-hanger that the Euro project has become. The crisis threatens the entire future of European Integration and thus concerns the UK.

# EUROPOLIS

## II.

I would like to present a proposal to you in the form of my paper, "More monetary competition". In it I state the case for retaining the Euro as one European common currency, with alongside a parallel currency granting those countries with a current account surplus i.e. Germany, the Netherlands, Finland, Austria, Luxembourg and in the future Ireland, the special option of preserving their interests, similar to the opt-outs exercised by the United Kingdom, Sweden and Denmark. These countries should have the opportunity of introducing a second currency, the Guldenmark, as second legal tender alongside the Euro. It is in the interest of these countries, i.e. the Netherlands, Germany, Finland, Luxembourg and Austria, and for the protection of their citizens, to introduce a second currency; this is fair to the same extent that the Euro has been allowed, by the increasingly French- and Italian-dominated European Central Bank (ECB), to become a weak currency, with the subsequent potential for inflation. The parallel currency would be managed by a central bank which would also communitise currency reserves.

Political promoters of the single currency - especially France – will no doubt reject this idea as unthinkable because the

# EUROPOLIS

Euro is “irreversible”. However, if we look at history, the qualification as “irreversible” has always been the implicit admittance that the end is at hand.

Ever since the foundation of the European Economic Community, and even after the Maastricht Treaty on the foundation of a European Union, there has been monetary competition in the European single market. This monetary competition has not halted or even hindered the development of the single market. The addition of a parallel currency to the Euro, which would serve as an anchor of stability for the countries with current account surpluses, is not an alien concept.

In the current political situation all projections by unconditional saviours of the Euro as a single currency have proven to be unfounded. The European Commission’s expectations regarding the development of homogeneity within the Eurozone have also emerged as the stuff of fiction. By contrast, the social unrest in Greece, and rampant unemployment in southern Spain and Portugal send out a clear signal: The single currency can no longer be maintained as a hard currency in these countries.

# EuropolIS

How can the introduction of a parallel currency solve the current problems, protect Germany, the Netherlands, Finland and Austria, and lead the European Union out of the worst crisis it has ever faced? And why should the Euro remain in place as legal tender alongside a parallel currency - let us call it the "Guldenmark"? What risks are associated in having two different legal tenders operating alongside each other? What benefits would the Guldenmark offer the citizens of the current account surplus countries? These burning questions take us back to the fundamental problems of the Eurozone.

These problems did not arise as a result of the Euro not becoming a common currency, but because it was created as the single currency. Thus an administrative act converted the national currencies of the founding members of the monetary union into the Euro, rather than launching the Euro alongside the national currencies, thereby giving the monetary union of Europe time to develop. The political act of creating the single currency was designed to be irreversible, as was the political will, formulated by France, and the political wishful thinking of the European

# EuropolIS

Commission.<sup>2</sup> The European treaties do not allow for flexible membership of the monetary union, i.e. the option for Euro countries to leave, or to take a break from the Euro, although renowned economists like *Kenneth Rogoff*<sup>3</sup> have recommended it. The Union Treaties commit all members of the European Union to fulfil the convergence criteria (the economic rationality of which is questionable and incomplete) before applying to join the monetary union.<sup>4</sup> Only two countries are formally exempted from the obligation to join the single currency: the United Kingdom and Denmark.<sup>5</sup> The European monetary union's chief failing, therefore, is having created the Euro as a single currency, because a single currency only permits one single monetary

---

<sup>2</sup> Commission of the European Communities, Green Paper on the Practical Arrangement for the Introduction of the Single Currency, Brussels, 31.5.1995, COM(95) 333 final.

<sup>3</sup> FAZ 23.9.2011, Die Gläubiger sehen von einem Euro Schulden nur 30 Cent wieder, S. 16.

<sup>4</sup> Art. 140 TFEU

<sup>5</sup> Protocol (No 25) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland (1992), annexed to the Treaty establishing the European Community: This Protocol specifies the provisions of the United Kingdom's opt-out from moving to the third stage of economic and monetary union (EMU), meaning that it has not introduced the Euro for the time being. The United Kingdom is still in the second stage of EMU. The opt-out clause was a condition for the United Kingdom to approve the Treaty as a whole; Protocol on certain provisions relating to Denmark, annexed to the Treaty establishing the European Community (1992) provides Denmark with the guarantee that it will not automatically proceed to the third stage of EMU even if the criteria are fulfilled. The Danish Constitution requires a referendum to be held on this issue. Sweden reserves the implicit right – despite its convergence potential – to remain outside of the unprecedented experiment to create a monetary union of sovereign states.

policy, although each respective economy requires an individual monetary policy.

The political concept of parallel currency is nothing new.<sup>6</sup> Its application in the current circumstances results from economic logic and is due to pragmatism. The countries in the A zone, in other words the economic backbone of the EMU, are no longer prepared to play the role of a powerless diaspora within the European Central Bank. Their citizens are even less prepared to provide a system of permanent financial equalisation (Fiscal union), as well as an internal Eurosystem balance of payments credits for countries in a state of fiscal emergency. Nevertheless, they do not want to abolish the Euro as one legal tender. They are insistent, however, on a monetary and economic policy based on the homogeneity of their national economies. They therefore wish to organise themselves instead within a currency running parallel to the Euro, while still retaining the Euro, which citizens and businesses would be free to use as a non-exclusive legal tender.

---

<sup>6</sup> Cf. Issing, Einführung in die Geldpolitik, 5th edn., München 1993, p. 3; Jarchow, Grundriss der Geldpolitik, 9th edn., Stuttgart 2010, p. 31; Vaubel, Neglected Aspects of the Parallel-Currency Approach to European Monetary Unification, Working Paper N°30, Kieler Arbeitspapiere, Institut für Weltwirtschaft an der Universität Kiel; Bofinger/Kloten, Währungsintegration über eine europäische Parallelwährung, in: Europa-Banking: Bankpolitik im Europäischen Finanzraum und währungspolitische Integration, Duwendag (Hrsg.), 1st edn., Baden-Baden 1998, p. 57 ff.

# EUROPOLIS

In the context of monetary convergence the idea of a parallel currency was first developed in the early 1990s by the then Governor of the Bank of England, *Leigh-Pemberton*.<sup>7</sup> The British proposal, which emerged at almost exactly the same time as Bundesbank chief economist *Otmar Issing's* sceptical comments,<sup>8</sup> attempted to override the concept of the ECU as a basket currency through the creation of the hard ECU. This would have been the 13th currency for the then 12 member states within the European exchange rate mechanism. It would have required the creation of a community institution, which would have possessed the sole right to issue this currency. This 13th currency as proposed by the Bank of England at that time would have been a fully valid currency. It would have been integrated into the European Exchange Rate Mechanism parity grid at a margin of fluctuation of +/- 2.2 %, and would have been recognised as legal tender with a non-devaluation guarantee in all participating countries.<sup>9</sup>

---

<sup>7</sup> Cf. The United Kingdom's Proposal for economic and monetary union, Bank of England, Vol. 30, N°3, August 1990, p. 374-377.

<sup>8</sup> ? FAZ 28.1.1991, Über die Hard-ECU zur Europäischen Währungsunion, S. 7.

<sup>9</sup> Cf. Hasse/Koch, Wirtschaftsdienst 1991/IV, S. 188 ff. „Die Hard-ECU – eine Ersatz-D-Mark oder ein trojanisches Pferd?“.

# EuropolIS

The concept of the hard ECU is worth being revived in the current crisis. This parallel currency – the Guldenmark – could be introduced under the logistical auspices of the national central banks– but not necessarily those of the Bundesbank. In contrast to the creation of the Euro, this would require an institutional structure which could react to individual deviations in the member states within the Guldenmark zone.

Neither the error in constructing the Eurozone with regards to the structure of the Central Bank, nor the loophole of a fiscal compensation mechanism should be repeated. The Guldenmark's currency area would therefore be an organisation of limited solidarity, but one with the option for every member state to exit the currency zone as an *ultima ratio*. Prior to this, an institutional framework would need to be created, either by the central bank, or by an economic and fiscal council amongst the participating countries, for measures to be taken to respond to the growing economic divergence within the currency zone in terms of monetary or fiscal policy. It cannot be assumed that the inflation rate, the level of competitiveness, the growth rate, or budget deficits and debt levels would develop alike throughout the Guldenmark currency area. In contrast to the Eurozone,

# EuropolIS

however, there is consensus amongst the A countries, as well as amongst their citizens and their political decision-makers on the absolute priority for price stability.

At this point something would have to be dealt with which is long overdue: The recovery of German gold reserves with a value of approx. 135 billion Euros. They are largely, and without reason, under external management.

### III.

In the light of the interests of those countries, which cling on to the Euro as the exclusive legal tender throughout the entire Eurozone, it will not be possible to stop them from taking A-countries to the European Court of Justice, claiming that they were in breach of Article 128 of the TFEU.<sup>10</sup> This claim would have no success, as the wording of this provision leaves enough room for additional currencies in the EU<sup>11</sup>.

Incidentally, it will take time, - 39 months on average - before an initial claim can be made against a member state, in accordance with Art. 259, Section 2 of the TFEU, the European Commission would have to be concerned with the object of the claim.

Due to these deadlines, in the event of an infringement procedure, it must be assumed that the introduction of the Guldenmark, while retaining the Euro, will trigger a set of dynamics, which will set aside the discussion on the compatibility of Guldenmark with Union law. If the proposal

---

<sup>10</sup> In accordance with Article 128 Section 1. 3 TFEU, the ECB or the national central banks of the ESCB are exclusively authorised to issue Euro banknotes as a legal tender.

<sup>11</sup> Article 127/128 TFEU

# EuropolIS

meets the expectations of the markets, then it will undoubtedly be supported by politics and public opinion.

From a legal viewpoint it must be underlined that– contrary to probable assertions from the European Commission, the ECB as well as the Council – no measure previously implemented to rescue the Euro can be reconciled with the provisions in Articles 123 – 125 of the TFEU. So law has been violated by the Commission and the Council without any foreseeable stabilisation of the Euro zone, no matter how that would have come about. The EU is in dire straits and the A countries are in a situation of self-defence. Regarding self-defence, urgency measures are justified in the light of the risks that the Euro project represents in terms of the disintegration of the entire Union.

The choice of a parallel currency is a more proportionate reaction than the irrevocable return to the previous national currency and the abandonment of the Euro. Incidentally, the planned "Enhanced cooperation" via the European Treaties offers the perfect legal framework to implement the monetary convergence of the A states.<sup>12</sup> Article 20 Section 2 of the TEU states:

---

<sup>12</sup> Cp. Art 20 TEU, Art. 326-334 TFEU.

# EUROPOLIS

*“Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process.”*

This competition between the Euro and the "Guldenmark" would have the following beneficial effects:

If the ECB continues its policy of low interest rates and its "policy of softening rules for the eligibility of collaterals" with regard to financing by banks, then the Euro is destined to become a weak currency, quickly losing its value. The Guldenmark would therefore take the place of the hard currency quickly, which would lead to its revaluation in comparison to the Euro and other currencies. In the short-term this would have extremely positive fiscal effects on the terms of debt repayment. This, however, could involve difficulties for foreign trade as a result of the pressure to reevaluate the Guldenmark.

To limit the revaluation pressure on the A currency zone, however, it would seem advisable to consider granting one single Eurozone country with a current account deficit the option of membership to the A zone, subject to strictest conditionality. This would also serve the economic interest of not permanently excluding the important real economies of the European Union from the A zone. Furthermore, there

# EUROPOLIS

are diplomatic and political considerations to think about in avoiding a permanent political split in the European Union into northern and southern Europe, or in extracting as much industrial substance as possible from the remaining Eurozone.

Only France, Italy and Spain could be considered for conditional membership to the A Zone for political and economic reasons but not in the near future.

With the continued decline of the Eurozone there will be no shortage of applicants from these countries, which means that sooner or later the option of the accession of a country like Italy or Spain, with strict conditions attached, could be used as a bargaining tool. There is no need to fear revaluation pressure at this stage as these kinds of negotiations would mitigate any revaluation pressure.

The fiscal benefits of launching a parallel currency are unbeatable if this currency – the Guldenmark – appreciates in relation to the Euro as this would facilitate the repayment of Euro-denominated debt. Problems with foreign trade as a consequence of the foreseeable revaluation pressure of the

# EuropolIS

Guldenmark can be controlled if there is the prospect of accession talks with one Mediterranean country.

This brings us to the decisive question: Who will give the starting signal for the introduction of the Guldenmark?

In the light of the uncontrolled, crisis-laden character of the European monetary area the national central banks in the A countries are under political pressure like never before. Their powers are indispensable. The implementation of a parallel currency concept is therefore critically dependent on whether the central banks are willing, under a broad interpretation of their mandate in terms of fiscal and monetary policy, to provide the necessary political stimulus and to take the preparatory measures. In any case, a tactical prelude is required.

So we must anticipate radical changes amongst the A countries, not just in terms of their voting patterns in the Council of the ECB, but also their refusal to comply with the instructions from ECB on implementing ECB-decisions.

Such a power, comparable to the right of remonstrance as a standard practice in civil service law<sup>13</sup> for national central banks, may be based on the fact that the rulings and guidelines from the ECB, in particular in terms of easing security requirements for collaterals in line with refinancing from banks, as well as for the purchase of bonds from states in fiscal emergency, are completely illegal. The A countries would - as until now in the Council of the ECB – need not only to vote against the continuation of the modified repurchase policy and the purchase of bonds, but they would need to hint at their illegality and contradict the authority of the ECB over them in accordance with Article 12, Section 1 Page 1, Section 2 Page 2 of the Protocol on the Statute of the ECB. They can do this without any great difficulty, as virtually all ECB measures exceed the bank's mandate on monetary policy<sup>14</sup> because they are solely motivated by fiscal policy.<sup>15</sup>

---

<sup>13</sup> Cf. §63 BBG; Battis, in: Bundesbeamtenengesetz, Battis (Ed.), 4th edn., München 2009, §63 BBG, para. 1 ff.

<sup>14</sup> Kerber, Out of bounds? On the legality of the ECB's actions in the euro crisis, <http://www.euractiv.com/euro-finance/bounds-legality-ecb-actions-euro-crisis-analysis-509841> (16.1.2012); Kerber/Städter, EuZW 2011, 536.

<sup>15</sup> Horn, NJW 2011, 1398 (1402 f.); Pagenkopf, NVwZ 2011, 1473 (1478); Stark, Les Echos vom 15.1.2012, Stark écrit à ses ex-collègues de la BCE et critique les décisions prises, [http://www.lesechos.fr/economie-politique/monde/actu/afp\\_00416501-stark-ecrit-a-ses-ex-collegues-de-la-bce-et-critique-les-decisions-prises-275272.php](http://www.lesechos.fr/economie-politique/monde/actu/afp_00416501-stark-ecrit-a-ses-ex-collegues-de-la-bce-et-critique-les-decisions-prises-275272.php) (16.1.2012).

Furthermore, the executives of the national central banks have a direct personal interest in refusing to follow the instructions of the ECB, as they believe that otherwise they would be subject to considerable claims for damages in the event of the collapse of the whole Euro system. How acute these kinds of claims for damages are can be exemplified by the penal complaint made by *Prof. Schünemann* against the Executive Board of the Bundesbank.<sup>16</sup>

The refusal of the Bundesbank to accept collaterals from Portugal, Ireland and Greece is the first signal of the emerging resistance amongst national central banks, conscious as they are of their political responsibility.

---

<sup>16</sup> Cf. Gaiser, EuR 2002, 517 (535).

## IV.

The preceding remarks sum up a concept. This concept can only be implemented if the political will is present. A more detailed illustration of its operative implementation has been prepared. The announcement that those countries with a current account surplus would even contemplate a parallel currency would act as a jolt to the expectations of certain governments, and in particular the continuous rejection of any kind of austerity policy by France. The leading authorities in the ECB, which have rapidly turned the ECB into a fiscal fire-fighter, would understand that their policies can no longer be viewed as the only option. It would also serve as a warning to the saviours of the Euro, with their endless attempts to build firewalls for the sake of suspending sanctions by the markets against state debtors that they cannot continue to gamble like this indefinitely.

\*\*\*\*\*

# EUROPOLIS

Allow me to recapitulate:

Neither the Germans nor the Dutch gave their unconditional consent to the idea of a European monetary union. Their Yes, and even the consent given by the then German government, was conditional and subject – as was made perfectly clear by the German constitutional Court in 1993 – to the monetary union remaining a union of stability. No one can maintain that this is the case any longer, and nor does there appear to be any hope of the European monetary union ever becoming a union of stability again. The attempts of the unconditional saviours of the Euro to stigmatise alternatives to their policies and to label any discussion on alternatives as a risk to the European Union is part of the PR strategy practised by a small, unscrupulous oligarchy which is determined, without regard to any legal rules, to continue, against all reason, with an elite project that has long since lost the support of the populace. Certain European governments desire – in particular the new power in Paris – to place Germany and other countries with current account surpluses under EU administration once and for all. We as Germans do not deserve that any more than the Dutch, the Austrians or the Finns.

## **Markus C. KERBER**

Prof. Dr. Markus C. Kerber is professor of public finance and political economy at the Technology University Berlin. Since 2006 he has been visiting professor of defense economics at the Sciences Po Paris. From 1991 - 2001 he was a visiting lecturer at the Chief of Staff Bundeswehr Academy. Kerber is a lawyer shuffling between Berlin, Paris and London. His activities also included senior positions for investment banks in London and Paris. Kerber published numerous articles on public finance, corporate finance, antitrust law and European law. Under his responsibility a constitutional complaint against the Euro financial stability mechanism and against the financial assistance was launched in 2010 and received significant support from the German civil society and industry. He is the founder of the think tank “Europolis” based in Berlin.



Website: [www.europolis-online.org](http://www.europolis-online.org)