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POLICY DEPARTMENT C
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS

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Article 136 TFEU, ESM, Fiscal Stability Treaty - Ratification requirements and present situation in the Member States September 2012

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DIRECTORATE GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT C: CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS

CONSTITUTIONAL AFFAIRS

Article 136 TFEU, ESM, Fiscal Stability Treaty

Ratification requirements and present situation in the Member States

13 September 2012 v07

NOTE

Abstract

This note provides an overview of the ratification procedures on the modification of article 136 TFEU, the European Stability Mechanism Treaty and the Treaty on Stability, Coordination and Governance in EU Member States. The subsequent tables summarize the general state of play of these ratifications and deal in more detail with the constitutional rules and the circumstances surrounding the ratification process in the Member States. All articles mentioned refer to the national constitutions unless specified otherwise. The electronic version of this note allows accessing relevant background information via hyperlinks (national constitutional texts, draft bills, acts, notes, press releases, articles, etc.).

The text will be updated on a regular basis and hold as reference the version number and the date of edition.

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1. ARTICLE 136 (3) TFEU

1.1. Content

The European Council of 25th March 2011, acting by unanimity, following the procedure of article 48(6), after consultation of the European Parliament, the Commission and the European Central Bank, adopted a decision 2011/119/EU aiming at the amendment of article 136 (3), inserting a sentence: "The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality".

1.2. National constitutional requirements

The constitutional requirements for ratification differ from Member State to Member State. Application of the simplified revision procedure by the European Council under article 48(6), is conditional upon the principle that the amending decision does not provide for an increase of competences of the European Union. This principle, as well as the fact that the article applies solely to the members of the Euro zone, guided the analysis of certain EU Member States' governments who submit it to less constraining ratification procedures (Denmark, Greece, and Latvia). But several Member States decided to use the constitutional majority (Germany). The constitutions of other Member States require a constitutional majority for any treaty amendment (Austria).

1.3. Entry into force

Article 2 of the Decision of the European Council indicates as the objective for the date of entry into force 1st January 2013, provided that all EU Member States have successfully completed approval of the decision according to their respective constitutional requirements. Nevertheless, the ratification objective for the related ESM treaty was anticipated to 1st July 2012.

1.4. Recent developments

On the 12th September, all EU countries have completed their parliamentary ratification procedures of the article 136(3) amendment, besides Malta which only started in July 2012.

Four countries await either the royal or the presidential assent, namely the Netherlands, the United Kingdom, the Czech Republic and Germany.

- In the Netherlands, the assent is a mere formal step as the monarch cannot, in principle, withhold it.
- In the United Kingdom, the House of Commons completed the third reading on 10th September and the ratification bill was sent to the House of Lords to await the royal assent.
- Germany's Constitutional court cleared the way for the completion of the ratification with the assent by president Gauck on 12th September.
- Although the Czech parliament completed the parliamentary ratification on 5th June, the notoriously eurosceptic president Vaclav Klaus still have not added his signature to the ratification bill neither has he made any public statement about his intentions concerning the bill.

2. EUROPEAN STABILITY MECHANISM TREATY

2.1. Revised ESM treaty

The ESM treaty was signed by the euro area Member States on 2nd February 2012. Its establishment was conditional on the revision of article 136 of the TFEU, containing the rules specific to Eurozone Member States. The ESM will be established as an international financial institution based in Luxembourg. Its purpose will be to provide financial assistance to its members, who experience or are being threatened by severe financing problems, if indispensable for safeguarding financial stability in the euro area as a whole.

The original version of the treaty was signed on 11th July 2011, but it has been modified to incorporate decisions taken by the heads of state and government of the euro area on 21st July and 9th December 2011, aimed at improving the effectiveness and flexibility of the mechanism, providing for new financing tools similar to those of EFSF, more flexible pricing of the aid, timing of the capital contributions, urgency decision-making procedures and finally also a conditionality link to the Treaty on Stability Coordination and Governance.

2.2. Constitutional requirements in Member States

With the exception of Estonia, most of the Member States will treat ESM as a standard international treaty, and apply the relevant less constraining options for its ratification.

In some Member States ratification were subject to an ex-ante judgement by a constitutional court or similar body (Estonia), in others, *ex post* scrutiny of ratification is currently going on (Germany).

2.3. Entry into force

According to the provisions in article 48 (1), the ESM treaty shall enter into force once parties representing at least 90% of capital subscription (as specified in an annex and based on ECB contribution key) to have ratified it, i.e Euro zone members. The stated objective for its entry into force is 1st July 2012. Under the current circumstances, all countries completed the internal ratification processes with the exception of Germany.

2.4. Recent developments

During the summer, two of three remaining countries completed the ratification process of the ESM treaty:

- Italy on 23rd July.
- Estonia on 30th August, following a dismissal of the legal challenge at the Estonian Supreme Court lodged by the Chancellor of Justice.

On 12th September, the German Constitutional court rejected petitions on the unconstitutionality of the ESM paving the way for its ratification by president Gauck.

The Court brought in two conditions: 1) that the cap of 190 billion Euros of the German participation in the fund cannot be increased without approval by Bundestag; 2) the court also challenged the confidential operation of the ESM board indicating that confidentiality "must not stand in the way of the comprehensive information of the Bundestag and of the

Bundesrat", meaning both chambers would have the right to be consulted on the ESM's activities.

Following the ruling, the Eurogroup president - Jean-Claude Juncker - announced that ESM governing board should hold its inaugural meeting on 8th October 2012.

Irish High Court, following a complaint by Thomas Pringle, TD, referred for a preliminary ruling to CJEU those of the claims of his case that concern the compatibility of the ESM treaty with the EU law (Case C-370/12).

3. TREATY ON STABILITY, COORDINATION AND GOVERNANCE IN THE ECONOMIC AND MONETARY UNION

The Treaty on Stability, Coordination and Governance (TSCG) was signed on 2nd March 2012 by all the heads of State and government of the EU Member States with the exception of the Czech Republic and the United Kingdom.

3.1. Ratification procedure

The only country that to date announced its intention to submit the treaty ratification to referendum was Ireland. The Irish referendum will take place on 31st May 2012. Three countries consider its ratification via an act of government (Cyprus, Malta, Poland). The majority of the Member States will opt for ratification along the lines of the provisions for international treaties.

3.2. Transposition of the balanced budget rule into the national legal order

By virtue of article 3 paragraph 2 of the treaty, the Contracting Parties have the obligation to transpose the rules on balanced budgets "through provisions of binding force and permanent character, preferably constitutional" at the latest one year after the entry into force of the Treaty. Several Member States already have such rule embedded in the constitution (Germany, Austria, Poland, Hungary, and Spain); in some cases more stringent than the requirements enshrined in the treaty (Germany), other countries indicate their intentions to upgrade the related provision (Austria).

3.3. Entry into force

According to article 14(2) and (3), the TSCG needs to be ratified by at least twelve euro area Member States to enter into force among them. At the time of the signing the objective date for its entry into force was 1st January 2013.

3.4. Intertwined ratifications

Several Member States started the process of adopting the decision on the amendment of article 136(3) in earnest (Slovenia, Portugal), but temporarily suspended or delayed the procedure in waiting for the modifications of the ESM treaty.

During the revision of the ESM treaty a recital was inserted stating: "It is acknowledged and agreed that the granting of financial assistance in the framework of new programmes under the ESM will be conditional, as of 1st March 2013, on the ratification of the Treaty on Stability, Coordination and Governance by the ESM Member concerned". Therefore several countries intend to ratify both treaties as well as the amendment of the article 136 TFEU at the same time, such as Greece already did on 19th April 2012 (Germany, Italy). So far, where the country ratifies both ESM and amendment of article 136, this is usually done simultaneously (France, Greece). Some other countries, due to the obvious element of conditionality enshrined in the ESM treaty, indicated their preference to ratify the TSCG first. The Irish parliament voted on the ESM treaty and the article 136(3) only after 31st May referendum on TSCG.

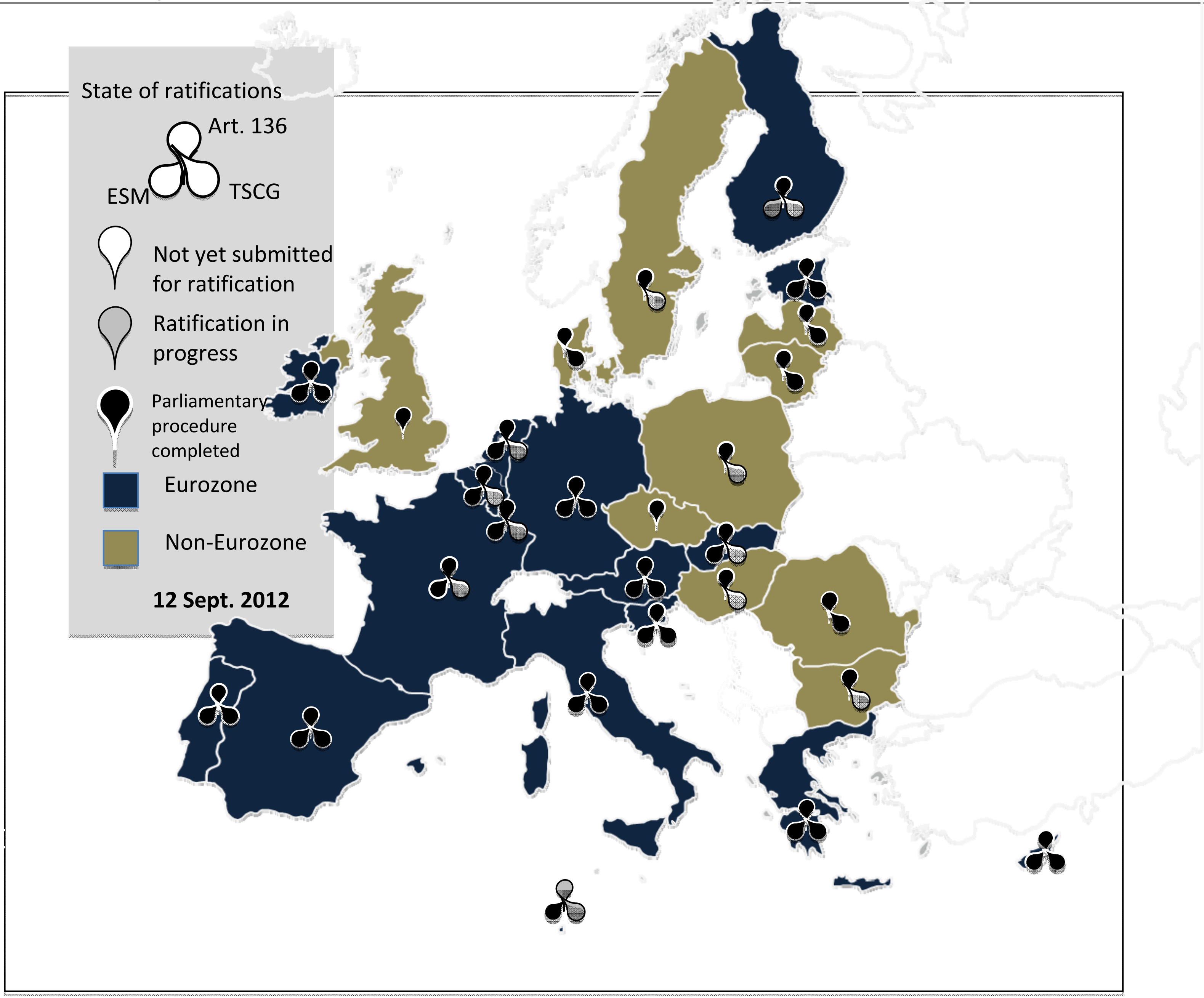
Several Member States also tend to include (although in separate procedure) an amending vote on the budget regarding their capital contribution (paid-in capital) to the ESM (Germany, Austria), that are to be divided into 5 equal parts, with the first being foreseen for July 2012, second for October 2012, two following in 2013 and the last one in 2014.

3.5. Recent developments

At the time of writing this note's issue, parliamentary ratification of TSCG were completed in 12 of 25 signatory countries, out of which eight in the Eurozone. Cyprus, another Eurozone member, adopted the treaty by an act of the Council of Ministers; this is also an option under consideration by the Polish government.

To date the Council received only eight ratification instruments together with one interpretative declaration from Denmark concerning the applicability of the title III and IV (its application is restricted to Eurozone members). In several countries the procedure was initiated by the ex-ante check of the treaty by the Council of State or similar body (i.e. Luxembourg, Netherlands). TSCG has been cleared by the French *Conseil constitutionel* on 9th August and the government should soon present a draft to the National Assembly (see page 15).

Most of the remaining countries plan TSCG adoption in the fall of this year. In principle, for the entry into force of the treaty by the 1st January 2013, three more Eurozone countries have to complete the ratification.


State of ratifications
Art. 136
ESM
TSCG
Not yet submitted for ratification
Ratification in progress
Parliamentary procedure completed
Eurozone
Non-Eurozone
12 Sept. 2012

General overview: Calendar of ratifications[1]

Country	Article 136 decision	European Stability Mechanism	Treaty on Stability, Coordination and Governance
Austria	Approved by *Nationalrat* 04/07/2012 Approved by *Bundesrat* 06/07/2012 Ratification completed 30/07/2012	Approved by *Nationalrat* 04/07/2012 Approved by *Bundesrat* 06/07/2012 Ratification completed 30/07/2012	Approved by *Nationalrat* 04/07/2012 Approved by *Bundesrat* 06/07/2012 Ratification completed 30/07/2012
Belgium	Approved by the Senate 10/05/2012 Approved by the Chamber 14/06/2012 Ratification completed 16/07/2012	Approved by the Senate 07/06/2012 Approved by the Chamber 14/06/2012 Ratification completed 26/06/2012	Not yet submitted.
Bulgaria	Approved by the National Assembly 13/07/2012 Ratification completed 06/08/2012	--	Not yet submitted.
Cyprus	Approved by the House of Rep. 30/05/2012 Ratification completed 03/07/2012	Approved by the House of Rep. 30/05/2012 Ratification completed 28/06/2012	Approved 20/04/2012 (act of the Council of Ministers) Ratification completed 26/07/2012
Czech Republic	Approved by the Senate 25/04/2012 Approved by the Chamber 5/06/2012 Awaiting presidential assent	--	--
Denmark	Ratification completed 07/05/2012	--	Approved by *Folketinget* 31/05/2012 Ratification completed 19/07/2012 Added interpretative declaration
Estonia	Approved by *Riigikogu* 02/08/2012 Ratification completed 07/09/2012	Approved by the *Riigikogu* 30/08/2012 Awaiting presidential assent	Submitted to *Riigikogu* on 11/06/2012 Adoption planned Fall 2012
Finland	Approved by *Eduskunta* 29/05/2012 Ratification completed 29/05/2012	Approved by *Eduskunta* 21/06/2012 Ratification completed 29/06/2012	Not yet submitted. Adoption planned Fall 2012
France	Approved by the Assembly 21/02/2012 Approved by the Senate 28/02/2012 Ratification completed 02/04/2012	Approved by the Assembly 21/02/2012 Approved by the Senate 28/02/2012 Ratification completed 02/04/2012	Not yet submitted.
Germany	Adopted by *Bundestag* and *Bundesrat* 30/06/2012 Awaiting presidential assent	Adopted by *Bundestag* and *Bundesrat* 30/06/2012 Awaiting presidential assent	Adopted by *Bundestag* and *Bundesrat* 30/06/2012 Awaiting presidential assent
Greece	Ratification completed 17/04/2012	Approved by the Parliament 28/03/2012 Ratification completed 10/05/2012	Approved by the Parliament 28/03/2012 Ratification completed 10/05/2012
Hungary	Ratification completed 19/04/2012	--	Not yet submitted.
Ireland		Approved by *Dail* 20/06/2012 Approved by *Senad* 27/06/2012	Ratified by referendum on 31/05/2012 Constitutional amendment 28/06/2012
Italy	Approved by the Senate 12/07/2012 Approved by the Chamber 19/07/2012 Presidential assent 23/07/2012	Approved by the Senate 12/07/2012 Approved by the Chamber 19/07/2012 Presidential Assent 23/07/2012	Approved by the Senate 12/07/2012 Approved by the Chamber 19/07/2012 Presidential Assent 23/07/2012
Latvia		--	Approved by *Saemas* 31/05/2012 Ratification completed 22/06/2012

[1] The overview was produced with the kind cooperation of Legislative Dialogue Unit, Directorate for the Relations with National Parliaments and with the representatives of National Parliaments in Brussels.

Lithuania		--	Approved by *Seimas* 28/06/2012 Ratification completed 06/09/2012
Luxembourg	Submitted 27/09/2011 Approved by the Chamber 1-vote 26/06/2012 Dispensed of second vote 03/07/2012 Ratification completed 24/07/2012	Submitted 05/03/2012 Approved by Chamber 1st vote 26/06/2012 Dispensed of second vote 03/07 Ratification completed 31/07/2012	Awaiting ex-ante opinion of the Council of State
Malta	Submitted to the House 02/07/2012	Submitted to the Parliament 18/06/2012 Approved 06/07/2012 Ratification completed 19/0//2012	Submitted to the House of Representatives 05/03/2012
Netherlands	Adopted by *Tweedekamer* 24/05/2012 Approved by *Eerste Kamer* 03/07/2012 Awaiting Royal assent	Approved 24/05/2012 by *Tweedekamer* Approved by *Eerste Kamer* 03/07/2012 Awaiting Royal assent	Awaiting ex-ante opinion of the Council of State
Poland	Approved by *Sejm* 11/05/2012 Approved by the Senate 30/05/2012 Presidential assent 28/05/2012	--	Not yet submitted. Might be approved by an act of government.
Portugal	Approved by *Assembleia* 09/12/2012 Ratification completed 06/02/2012	Approved by *Assembleia* 13/04/2012 Ratification completed 04/07/2012	Approved by *Assembleia* 13/04/2012 Ratification completed 13/04/2012
Romania	Approved by Senate & Chamber 12/06/2012 Presidential Assent 19/06/2012	--	Adopted by the Chamber 08/05/2012 Adopted by the Senate 21/05/2012 Presidential assent granted 20/06/2012
Slovakia	Approved by *Narodna Rada* 16/05/2012 Ratification completed 13/06/2012	Approved by *Narodna Rada* 22/06/2012	Not yet submitted. Planned early Fall 2012
Slovenia	Ratification completed 17/10/2011	Ratification completed 30/05/2012	Ratification completed 30/05/2012
Spain	Approved by the *Congreso* 17/05/2012 Approved by the *Senado* 06/06/2012 Ratification completed 15/06/2012	Approved by the *Congreso* 17/05/2012 Approved by the *Senado* 06/06/2012 Ratification completed 02/07/2012	Approved by the *Congreso* 21/06/2012 Approved by the *Senado* 18/07/2012 Royal Assent 25/07/2012
Sweden	Approved by *Riksdag* 30/05/2012 Ratification completed 15/06/2012	--	Not yet submitted. Planned Fall 2012.
United Kingdom	Approved by the House of Lords on 04/07/2012 Approved by the House of Commons 10/09/2012 Awaiting royal assent	--	--
	Parliamentary procedures concluded in 23 countries 20 countries notified the Council of the EU	Parliamentary procedures concluded in all Eurozone countries, 14 notified the Council of the EU	Parliamentary procedures concluded in 12 countries, CY adopted TSCG via an act of government 9 Eurozone countries ratified 8 countries notified the Council of the EU

Detailed overview: Ratifications in EU Member States

Country	Ratification Procedure	ESM treaty & article 136	Treaty on Stability, Coordination and Governance
Austria	Constitution of Austria Modification or amendment of laws requires a majority of votes in the parliament (the second chamber – *Bundesrat* – has limited veto powers) art. 50, 31, 9 (2). Should constitutional law be modified or complemented by the treaty, a majority of 2/3 of votes from parliament is required (from the *Bundesrat* if its competencies are concerned) art. 50(1), (3), 44 (1), (2), 9 (2). Modification or amendment of EU-primary law requires a 2/3 majority in parliament (art. 50 (1), (4)); the ratification of all other international treaties requires a simple majority of the votes in the *Nationalrat* *Bundesrat* if competencies. concerned) (art. 50 (1), (2)). The ratification of int. treaties may be accompanied by by-laws, i.e. in case of transferral of significant powers or the necessity of constitutional amendments (art. 9 (2) etc.).	The draft law on the adoption of the ESM was submitted to *Nationalrat* on 27th March 2012. The treaty is to be ratified only by the lower chamber by an assent of a simple majority of its members following the Art. 50(1). The Instrument for the adoption of the Council decision on the modification of the article 136, was submitted on 21st March 2012 and should be adopted by constitutional majority of 2/3 in both chambers of the Parliament (*Nationalrat* and *Bundesrat*) according to art. 23i(4) and 50(4). Amending Financial law was submitted to the *Nationalrat* on 28th March. ESM was approved by *Nationalrat* on 04th July 2012 by 126 votes in favour, 53 against with no abstentions. The ruling Social democrats and conservative People's Party secured the backing of the opposition Greens. On 6th July, it was also approved by *Bundesrat* and received presidential assent on 17th July 2012.	According to the draft law the treaty will be adopted by a simple majority in *Nationalrat* and *Bundesrat* (art. 50(1)1 and 50(2)2) which the government coalition of SPÖ and ÖVP is confident to obtain. A balanced budget rule was already passed into law in November 2011, but the government promises to present an additional amendment to upgrade it to the constitutional level. TSCG was approved by *Nationalrat* on 04th July 2012 by 103 votes in favour (Social Democrats, People's Party, Greens), 60 against with no abstentions. On 6th July, it was also approved by *Bundesrat* and received presidential assent on 17th July.
Belgium	Constitution of Belgium Majority in both chambers, Art. 167(2), 77(1) Nr. 6, 53, 34. In all three cases powers of the Community and Regional Governments are concerned and their approval is also required (Art 167(3)). A revision of the constitution requires a majority of votes of at least 2/3 from both chambers after the dissolution of both chambers and their re-election (Art. 195).	The draft law concerning the ratification of the article 136 was put to the *Sénat* on 13th March 2012. It was voted by the Senate on 10th May 2012 and subsequently by the Chamber on 14th June 2012. The ESM treaty was submitted on 29th May to the Senate and voted on without amendment by 46 votes in favour, 4 against and 14 abstentions. *La Chambre* has voted the text with 90 votes in favour, 14 against and 24 abstentions. Although it was indicated that the 136 Amendment would have to pass all regional and community Parliaments, the Council was notified of the completion of the ratification on 16th July 2012	The draft law should be submitted to the Parliament in early Fall. The treaty has to be ratified by all seven parliaments (following the art. 167(3)), which might bring substantial delays. Conference of the presidents of assemblies has set up a working group that should coordinate the process. The balanced budget rule into should be adopted as a constitutional bill and will require 2/3 majority.
Bulgaria	Constitution of Bulgaria Majority of the members of parliament (Art 85 (1)2 81(1), (2). A revision of the constitution requires a majority of 3/4 of members of parliament (Art. 155 I).	The Ministry of Foreign Affairs submitted the ratification instrument on the art. 136 to the Chamber on 16th June 2012, which adopted the text on 13th July 2012.	Ratification of the treaty should require a simple majority in the national assembly. Agenda of adoption is not yet established.

Cyprus		Cypriot Parliament ratified the both ESM and amendment of the Art. 136 TFEU on 31st May 2012.	TSCG was approved by an act of the Council of Ministers on 20th April 2012. The ratification was completed by the notification to the Council of the EU on 03rd July 2012. The government currently explores whether the balanced budget rule will be inserted at the constitutional level.
Czech Republic	Constitution of the Czech Republic Constitutional majority of 3/5 is required for the ratification (Art. 10a (1), 39(4)).	The project of modification of art. 136 was submitted for the ratification on 18th May 2011. On 25th April, the Czech Senate voted its consent to the modification by 49 votes in favour and 9 against. The Chamber of Deputies adopted the decision on 5th June 2012 by 140 votes in favour, 18 against (mainly VV - Public Affairs party) and 31 abstentions (mainly Communist party). The adopted law still requires the signature of the known eurosceptic president Vaclav Klaus, who appears to be delaying the ratification although his office made no public statement on his intention to conclude the internal ratification process.	
Denmark	Constitutional Act of Denmark A 5/6 majority in the parliament is only required if a transfer of sovereignty occurs (Art. 20). Otherwise, simple majority is sufficient. Constitutional revision would require a majority in the parliament after its dissolution and re-election as well as a mandatory and binding referendum (Art. 88).	*Folketinget* adopted the decision on modification of the article 136 on 23rd February 2012. The procedure was concluded by the notification of the adoption to the Council of the EU on 07th May 2012.	The draft law was submitted to *Folketinget* on 11th April 2012. The analysis of the ministry of Justice concluded that ratification of the treaty does not represent a transfer of sovereignty and therefore a single majority will be required (art. 19 of the constitution applies). *Folketinget adopted the law on 31st May 2012 by 80 votes to 27.* *Denmark deposited with the ratification instrument an interpretative declaration, based on art. 14(5), and related to the applicability of the Titles III and IV only to the Eurozone members.* The expectation is that the budget brake will be inserted into new budget law of general nature.

Estonia	Constitution of Estonia A majority of votes in parliament is required (Art. 121, 73, 70); if a constitutional amendment is required the parliament endorses it by two successive approval votes, the first with a majority of its members, the second with a majority of 3/5 of its members or, in case of urgency, by a majority of 2/3 of its members (Art. 163, 165, 166). Referenda on international treaties are ruled out (Art. 106). Also only secondary legislation can be modified when in conflict with the treaties.	The draft bill on adoption of Article 136 was submitted to Riigikogu on 24th May 2012. The draft bill on ESM was submitted to the *Riigikogu* on 28th May 2012. Its adoption was conditional on the clearance by the Supreme court. The treaty was challenged by the Chancellor of Justice Indrek Teder in the Supreme court, on the basis that the emergency voting system is contrary to constitution. Chair of the Constitutional Affairs Committee of *Riigikogu* suggested an option of singing up to the treaty with reservation of not committing to the emergency voting system. Pursuant to art. 104(2)(15) on acts pertaining foreign and domestic borrowings, may be passed only by majority of the component members. In case of conflict with national secondary legislation, the treaty automatically takes precedence, but Estonia cannot ratify treaties that are in conflict with its constitution (art. 123). The court cleared the treaty for ratification by the Parliament in urgency procedure on 12th July and found that the restrictions on the use of budgetary power stemming from emergency voting procedure are outweighed the principle of stability provided by an efficiently functioning mechanism. English version of the judgement is available here. *On 8th August 2012, Riigikogu adopted the 136(3) amendment by 86 votes in favour, 11 opposed and 2 abstaining.* The ESM treaty was adopted by the votes of the Reform Party and IRL. The opposition, including some Social Democrats and the Centre Party voted against.	The Government received a mandate from *Riigikogu* European Union affairs committee to sign the treaty on 27th January. A majority of members (art. 70 and 73) is required for the ratification. The ratification instrument was drafted by the government in June and was submitted to *Riigikogu* on 11/06/2012, but its adoption was postponed until autumn. The balanced budget rule should be provided by the standard legislative process.
Finland	Constitution of Finland Majority of votes in the parliament (Art. 93, 94, 95); if a proposal concerns modification of the Constitution a 2/3 majority of votes is required (Art. 94(2), 95(2)).	The draft bill on the ratification of the article 136 treaty was put to *Eduskunta* on 15th May 2011. The bill was adopted on the 9th May 2012. The draft bill seeking the approval of the ESM treaty was submitted to *Eduskunta* on 27th April 2012 and referred to the Committee on Finance with requests for opinion from Constitutional Affairs and Audit committees. The bill on ESM was adopted by *Eduskunta* on 29th may 2012.	The ratification bill was not yet forwarded to the Parliament. It is expected to be submitted for the autumn session. Finnish government already sought mandate of the Parliament to sign the treaty. The process of ratification is expected to be completed before the end of summer by a simple majority. The governing six-party coalition has a majority of 124 seats (out of 200).Balanced budget rule should be dealt with by a means of a standard law.

France	Constitution of France Majority in both chambers (Art. 53, 46); a revision of the constitution requires a majority from both chambers and a referendum on the constitutional amendment (Art. 89 II) unless both chambers approve the amendment by a 3/5 majority (Art. 89 III) in case of a constitutional amendment a referendum must be held unless both chambers approve the constitutional amendment with a majority of 3/5 of votes (Art. 89 I 1).	Two draft laws (article 136 modification and ESM treaty) were submitted to the French Parliament on 8th February under accelerated procedure. *Assemblée nationale* voted on 21st February on the treaty by 256 votes in favour, 44 against and 131 abstentions (mainly Socialist party). *Sénat* voted on the treaty on 28th February, with 169 votes in favour, 138 abstention (in majority Socialist party) and 35 against. The amendment of article 136 TFUE was adopted 168 to 27.	The president François Hollande announced his aim supplement TSCG with provisions supporting growth. The agreement of the European Council of 28-29th June 2012 provided sufficient guarantees for president Hollande to submit a draft law ratifying the TSCG and aim for it accelerated adoption. The treaty was transmitted to the *Conseil constitutionel* for an ex-ante control. Via an accelerated procedure, the treaty was declared to be in conformity with the constitution in 9th August. The outgoing government maintained the intention to insert the debt brake rule since summer 2011. The measure has been approved by both houses but awaited the passage before the special congress session of both houses required to change the constitution by 2/3 of its members. Nevertheless, François Hollande declared his formal opposition to a change of the constitution suggesting instead measures to be embedded in an organic law. Viability of this option was *confirmed by the Conseil Constitutionel.* Nevertheless several doubts were expressed by leading constitutionalist about this option with regard to the guarantees of the controls of its application. The vote on the text can be expected a the earliest by the end of September. Both draft laws - on the ratification of the fiscal compact and the organic law entrenching the golden rule should be presented simultaneously. The Left Front, some MPs of the Europe-Ecology-Greens (EELV) party and also several socialists are opposed to the treaty.

Germany	Basic Law Germany Majority in both chambers (Art. 23(2)2); for changes of basic rules of the EU treaty a majority of 2/3 from both chambers is required (Art. 23(1) 3, 79 (2)).	The draft ratification bill on the article 136 and ESM financing law were sent to *Bundesrat* on 20th March. On 14th May 2012 the German government approved the ESM bill itself. The ESM bill also incorporates the principles regarding the powers of the special Bundestag panel (*Sondergremium*), with regards to the Constitutional Court ruling of 28th February 2012. Both ESM and Art. 136 amendment were approved by Bundestag and *Bundesrat* on 29th June 2012. Several constitutional complaints were lodged with the German Constitutional Court from associations such as *Mehr Demokratie* to parties such as *Die Linke*. Submissions included several applications for the remission of the interim decree preventing president Gauck from signing before the decision of the Constitutional court. On 19th June Court addressed a request to Bundespräsident Gauck to defer the signature of the both laws in order to give the Court sufficient time for consideration. At the hearing organized on 10th July 2012, the indicated that it would hand a preliminary verdict on the September 12th. Peter Grauweiler (CSU) submitted an additional petition linking ESM to ECB decision to launch its Outright Monetary Transactions (government bond purchasing scheme). In its decision of 12th September, the court rejected all the petitions, but put the following conditions (1) any exposure beyond the current share of 190 billion euro has to be authorized by *Bundestag*, (2) decisions concerning ESM would have to be submitted for approval of the *Bundestag* (rejecting de facto the confidentiality clause).	Germany aims to ratify the treaty together with the ESM treaty, ESM financing law and amendment of the article 136. For TSCG, the Government took decision to apply the 2/3 constitutional majority. The draft bill was tabled to Bundestag on 20th March and after lengthy negotiations adopted by both *Bundestag* and *Bundesrat* on 29th June 2012 Several constitutional complaints were lodged with the Karlsruhe Court and included submissions with applications for the remission of the interim decree preventing president Gauck from signing before the decision of the Constitutional court. In its decision of 12th September, the court rejected all the petitions directed against the treaty and cleared the way for the completion of the ratification procedure of the treaty. Germany already has a balanced budget rule that was inserted in the constitution in 2009. "S*chuldenbremse*" inserted in art. 109 of the Basic Law is more stringent than the rules in the treaty and applies both to the federal government and to the *Länder*.
Greece	Constitution of Greece Majority in parliament for "limiting the exercise of national sovereignty" (Art 28(3); if "authorities provided by the Constitution are vested to International Organisations" a majority of 3/5 of the members of the parliament is required (Art. 28(2)).	On 28th March 2012, the Greek Parliament with the majority of PASOK, Democratic Alliance and New Democracy adopted the Council decision on Art. 136 as well as the ESM treaty by 194 votes in favour, against 59 of other parties. The ratification was approved by roll-call vote. The ratification was notified to the Council of the EU on 17th April 2012.	Greece was the first country to ratify the treaty on 28th March by 194 votes in favour, 59 against with 47 MP not voting. The ratification was notified to the Council of the EU on 17th April 2012.

Hungary	Constitution of Hungary The transfer of constitutional powers to the European Union requires a 2/3 majority from the parliament (Art 2a); a 2/3 majority of votes in the Parliament is required to amend the Constitution (Art. 24(3))	Hungarian Parliament adopted the decision on the modification of the article on 27th February 2012. Ratification was notified to the Council of the EU on 19th April 2012.	The draft bill for the ratification of the treaty was not yet submitted. The governing party FIDESZ has a constitutional majority in the monocameral Parliament. Opposition socialist party also supports the fiscal treaty. Both supported the mandate to the government to conclude the treaty. The new Hungarian constitution that entered into force on the 1st January 2012 already contains a balanced budget rule (article 36 and 37).
Ireland		The decision of Art. 136 should be incorporated into the national law by amendment of the European Communities Bill, submitted to *Dail* on 04th May 2012. The ESM bill, was submitted to *Dail* on 3rd May 2012. Approval of both is scheduled before the end of the Summer session *Thomas Pringle, TD, logged a complaint with the Irish Supreme Court against the art. 136 ratification with five substantive claims. Two of them were submitted to the Court of Justice of the European Union for a preliminary ruling. claim that ESM treaty is incompatible with TEU and TFEU provisions on Economic and Monetary Policy, and the claim that Council's Decision 2011/119 was unlawfully adopted as it lead ultimately to the increase of competencies, which is contrary to the condition of Art. 48(6) TEU. He didn't succeed in obtaining the preliminary injunction to delay the ratification pending the judgement.*	Ireland ratified the TSCG by referendum held on 31st May by 60.29% votes in favour, 39.71 against with a participation rate of 50.6%. On 10th May, commissions of both houses of *Oireachtas* (Joint Committee on European Union Affairs and Sub-committee on Referendum on TSCG) submitted a common report on the Treaty. The government intends to provide for a balanced debt rule by a standard legislative procedure.
Italy	Constitution of Italy Majority from both chambers (Art. 80, 72(4), 64(3); any revision of the constitution requires two successive approvals from both chambers having at least three month in between. The majority of votes must be achieved in the first vote and the majority of members in the second (Art 138(1)). If a 2/3 majority could not be obtained in the second vote and a request is made by one fifth of the members of either chamber, by 500 000 electors, or by five regional councils, a referendum must be held (Art 138(2)(3).		The draft bill N 3239 authorizing the president to ratify the stability treaty was sent to the Senate for consideration on 3rd April 2012. The government indicates that the ratification has to obtain a simple majority. The Committee stage was concluded in the Senate on 3rd July 2012 and 19th June in the Chamber and has consequently received presidential assent on 23rd July. Balanced budget rule was integrated via a constitutional bill passed by the Senate on 18th April.

Latvia		On Thursday, 19 April, the *Saeima* supported the ratification of the article 136 amendment by 79 votes in favour, no votes against and no abstentions.	The *Saeima* approved the treaty on 31st May by 67 votes in favour and 29 against (Haromny Center). According to the draft law, majority of 2/3 was required (art. 68(2)) for TSCG approval.
Lithuania	Constitution of Lithuania Majority of parliament (Art. 138, 67 nr. 16, 69(2)); the amendment of constitutional laws requires two successive approvals from parliament with majority of 2/3 its members (Art. 147, 148(3)).		TSCG draft law was submitted on 05th June 2012 and adopted by *Seima* on 28th June 2012 by 80 votes in favour, 11 against and 21 abstentions. Government might request opinion of the constitutional court on the treaty and debt brake requirement.
Luxembourg	Constitution of Luxembourg Majority of the parliament (Art. 37(1), 46, 62). If powers reserved by the constitution for the legislature, executive, and judiciary are transferred, a 2/3 majority of votes in the parliament is required (Art. 37(2), 49a, 114 (5)).	The draft law on the adoption of the modification of the article 136 was submitted to the *Chambre des députés* on 27th September 2011. The draft law on the participation of Luxembourg at the ESM was forwarded to the Parliament on 5th March 2012. Both were approved on 26th June in la *Chambre des députés*. The Constitutional Council dispensed the bill of a second reading on 03rd July, which amounts to its adoption and publication.	The law of ratification was not yet submitted to the parliament and is now in the proceedings in the Council of the State. The debt brake will be implemented via an organic law that has to be approved by 2/3 majority.
Malta	Constitution of Malta Procedure for a revision of the constitution varies according to which constitutional amendments are required (Art. 88).	Maltese parliament - *Kamra tad-Deputati* approved ESM treaty in Second reading on 04th July 2012, it was then forwarded to the Committee and was approved in third and final reading on 19th July 2012. The Council decision on the amendment of the Article 136 was submitted to the House on the 2nd June. Its adoption can be expected after the recess in October. There is no procedure for presidential assent.	Malta Star reported that Maltese government wants the TSCG to be introduced automatically as part of the European Act about Malta's membership of the EU without the need to go through the parliamentary process. This would mean that the Prime Minister to declares the EU Fiscal Compact as part of the EU Treaty for it to bind Malt automatically and without any parliamentary scrutiny and approval: "If the Prime Minister by order declares that a treaty specified in the order being a treaty entered into by Malta after the 16th April, 2003, or that a decision specified in the order, being a decision that amends the Treaty, is to be regarded as one with the Treaty as herein defined, the order shall be conclusive that it is to be regarded".

Netherlands	Majority from both chambers by at least more than half of members present (Art 92, 91(1)(2), 67(1)(2)); if a constitutional amendment is required a 2/3 majority from both chambers is necessary (Art. 92, 91(3)).	The Council of State in its opinion of 1st March 2012 endorsed the intent of the bill, but pointed to the discrepancies between the wording art. 136(3) and ESM treaty and necessity to maintain the integrity of EU institutional architecture. Whereas 136 allows for measures indispensable for the safeguard of the stability of the Eurozone, Art. 14 of ESM allows for preventive financial assistance. The draft law for the ratification of ESM and article 136 was discussed on 23rd May. The Art. 136 amendment was approved on 24th May in the *Tweede Kamer* by 100 votes in favour and 46 against and the ESM by 100 votes in favour (VVD, PvdA, CDA, D66 and Greens) and 47 against (PVV, SP, SGP, PvdD). Both transmitted to the *Eerste Kamer* for approval. The *Eerste Kamer* approved the ESM and Art. 136 bills by 50 votes in favour (VVD, CDA, PVdA, D66), GroenLinks, 23 against	Political situation is unstable due to resignation of the government on 23rd April and no procedure will be engaged before the new government emerges from September 12th elections. *Tweede Kamer* voted earlier this year on 29th February against proposals to hold the referendum on the treaty deposed by Freedom Party (PVV) of Geert Wilders and Socialist Party (UEL/NGL). Both parties are opposed to its ratification. In spite of the government collapse, Finance minister Jan Kees de Jager indicated that he won support for the measures from three smaller opposition parties on 27th April, this consensus with smaller parties is expected to prevail after the elections.
Poland	Constitution of Poland A 2/3 majority from both chambers is required (Art 90(1)(2)) when the treaty implies transfer of sovereignty. Additionally, a referendum can be called for according to Art. 90(3) if ordered by the parliament with a majority of votes of its members or the President and approved by the senate again with a majority of its members (Art. 125 (2)). The result of the referendum is binding if more than half of those having the right to vote have participated (Art. 125(3)). A revision of the constitution requires a majority of 2/3 of votes from the parliament and a majority of votes from the senate (Art. 235 (4)).	Modification of the article 136 was discussed in the plenary of the *Sejm* on 9th May and approved for the ratification on 11th May. It was forwarded to the Senate, which approved the bill on 30th May by 55 votes in favour, 30 against. The bill has to be signed by the President of the Republic to complete the ratification process.	Two options for ratifications are being explored by the government while awaiting legal opinion. The PM's preferred option would be approval for ratification by the president through a simple act of government (art. 89) as many of the provisions of the pact apply to the Eurozone members and would not imply a transfer of sovereignty. Alternatively art. 90 would have to apply, requiring 2/3 majority in both chambers. The balanced budget rule is already in the Polish constitution (Article 216 (5)), but it does not include the provisions concerning limit of annual structural deficit.
Portugal	Constitution of Portugal Majority of votes from the parliament (Art. 166 (5), 161-i, 116, 168). A revision of the constitution requires a majority of 2/3 from members of parliament (Art. 286(1))	Portugal ratified the ESM treaty and the article 136 modification on 13th April 2012.	Portugal was the second country to ratify the treaty on 13th April by 204 in favour, 24 against and 2 abstentions. Rule on balanced budget will take a form of a separate organic law.

Romania	Constitution of Romania Majority of votes from both chambers (Art. 91(1), 75, 11(2)). A revision of the constitution requires a 2/3 majority from both chambers (Art 151(1)). Additionally, a binding referendum must be held.	Following a favourable opinion of the Legislative council, the draft law for the ratification of article 136 decision was forwarded to the both *Chamber of Deputies* and *Senate* on 12th December 2011. European Affairs committees and Committee on Legal Affairs of both chambers produced a joint report submitted on 7th May. The bill was put on the agenda of the joint session of both chambers and adopted on 12th June 2012. The presidential assent was granted on 19th June 2012.	The government submitted a draft law for the ratification of the treaty on 20th March and president Basescu signed on March 29th a decree to submit the treaty for parliamentary ratification. It was put on the plenum agenda of the *Chamber of Deputies* on 24th April in an emergency procedure (Art. 74(3)). There was no final vote as the quorum was lacking. The bill was finally adopted by the Chamber on 8th May and by the Senate on 21st May and ratified by president Basescu on 20th June. Romania maintains its commitment since 2009 to join Eurozone by 2015.
Slovakia	Constitution of Slovakia 3/5 majority from all members of parliament (Art. 7(2), 84(4)). The revision of the constitution requires a 3/5 majority vote from all members of the parliament (Art. 84(4)). Referenda can be called for on important issues of public interest (Art. 93).	The governing party Smer-SD commands majority in mono-cameral *Narodna rada*. *Narodna rada* adopted on 15th May the European Council decision on the article 136 modification by 130 votes in favour, 11 against and 1 abstention. ESM was approved by *Narodna Rada* on 22nd June 2012 by 118 votes in favour, 20 against and 5 abstentions.	Before the elections all coalition parties, have given their support to the ratification of the treaty. Governing SMER-SD, raised from March 2012 elections, supports the adoption in its government program. The party commands majority of 83/150 votes in the monocameral Parliament (*Narodna rada*) and expects its adoption in the fall of 2012. Balanced budget rule will be inserted into the constitution.
Slovenia	Constitution of Slovenia Before ratification the parliament can call for a binding referendum (Art 3a (2). The revision of the constitution requires a majority of 2/3 from parliament (Art. 169). If required by at least 30 members of parliament a binding referendum on the revision of the constitution must be held (Art. 170 (1)). In case of a revision of the constitution a binding referendum must be held if at least 30 members of parliament request it (Art 170(1).	Slovenia was the second Member State to ratify the ESM treaty on 19th April 2012, through the vote in Drzavni Sbor, by 74 votes in favour our of 75 present. Amendment of the article 136 was ratified in July 2011.	National Assembly (*Drzavni sbor*) ratified the treaty on 19th April by 74 votes in favour out of 90, with 76 members present at the vote. Earlier in April, the Assembly started the procedure to change the constitution in order to include the balanced budget rule (amendment of art. 148).
Spain	Constitution of Spain A majority vote from both chambers is required (Art. 94, 74 (2), 79(2)). Any revision of the constitution requires a majority of 3/5 from both chambers (Art 167(1)). A referendum on the constitutional amendment is required if requested by 1/10 of the members of one chamber (Art. 167(3)). Binding referendums can be called for in case of a constitutional amendment if requested by 1/10 of the members of one of the chambers (Art. 167(3)),	Request for approval of the ESM treaty was submitted to the *Congreso de los Diputados* on 20th February 2012. The Committee on Foreign Affairs recommended the plenary of the House to give its consent on 18th April. Both the amendment to the Article 136 and the ESM treaty were approved by the *Congreso de los Diputados* on 17th May 2012 by 292 votes in favour, 17 against and 7 abstentions and transmitted to *Senado*. *In the Senado*, the Art. 136 was approved by 237 votes in favour 1 against and the ESM Treaty received approval of 234 members, with 1 opposed.	The draft bill on the TSCG was submitted to the *Congreso* on 14th May 2012 and referred to the Committee on Foreign Affairs. Deadline for amendments was reopened until 12th June. The approval shall require simple majority in both chambers and *Partido Popular* commands a majority in both chambers. *Congreso de los Diputados* approved the treaty on 21st June and subsequently the *Senado* on 18th July, which was closely followed by Royal Assent on 25th July. The reform package of November 2011 already inserted balanced budget rule at both national and regional level.

Sweden	Instrument of Government of Sweden Any judicial or administrative sovereignty not directly based on the constitution may be transferred to an international organisation if approved by a 3/4 majority of votes from the parliament or by the procedure for the revision of the constitution (Chapter X § 5(3)). The transfer of any right of decision-making which is directly based on the constitution, the use of State property or the conclusion or denunciation of international treaties or commitments requires the approval by parliament in the way of a constitutional amendment (Chapter X § 5 (1) 1, 3). A revision of the constitution requires two successive approvals with a majority of votes from parliament before and after re-election of the parliament (Chapter VIII § 15 (1) 1, Chapter IV § 5).	The instrument for approval was submitted to *Riksdag* on 23rd February 2012. The Constitutional affairs committee concluded in its opinion of 26th April 2012 that the modification of article 136 does not represent a transfer of sovereignty and only simple majority will be needed. The plenary of *Riksdag* debated the article 136 amendment on the 30th May and adopted it by subsequent vote with 276 votes in favour, 19 reservation, 19 abstentions.	The draft law will not be submitted to the Parliament before Fall 2012 (18th September at the soonest). The legal assessment by the government for the required majority is not yet concluded. The governing centre-right Alliance for Sweden - the Moderate Party, People's Party Liberals, Christian Democrats and Centre Party - has been supportive of the pact. However, with the opposition Left Party, Greens and Sweden Democrats opposed, support from the Social Democratic Party (SAP) was necessary to reach a parliamentary majority. It eventually supported the signing of the treaty against the guarantees that Swedish labour market will be maintained and that no decision-making powers would be transferred from *Riksdag* to EU institutions. The treaty should be ratified according to regular legislative procedure. The balanced budget rule should not be in principle included at the constitutional level.
United Kingdom	European Union Act 2011 Simple majority in both chambers. The parliamentary ratification process in the UK requires the government to defend its Bill in three readings in the House of Commons and the House of Lords, respectively. Before submitting the bill, the Government must provide a statement to the Parliament whether the ratification does not fall within the section 4 of the EU Act of 2011 and therefore does not require a referendum.	Foreign Office made the statement to the Parliament regarding the section 4 of the European Union Act (referendum test) - concluding that referendum will not be required. Announced in the Queen's speech on 9th May. The ratification Bill for the amendment of the Art. 136 was submitted to the Lords on the 10th May, second reading took place on 23rd May and begins the committee stage on 13th June. The bill received its third reading in the House of Commons on 10th September and was sent to House of Lords to await the Royal assent. It is to be noted that the draft treaty change decision has already been examined by Parliament as a result of the previous scrutiny process and approved by both House of Commons and House of Lords in 2011. Lords Select Committee published an opinion concerning the art. 136.	

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