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Legal Perspectives of Public Debt Management in South Eastern Europe

This study examines the legal and institutional underpinning of public debt management in six South East European transition countries and highlights the short- and medium-term challenges for law- and policymakers. The more specific research goals of the study are: (1) to contrast and compare the structure of legal frameworks for public debt management in the South Eastern European countries, (2) to assess the important factors for developing a sound institutional structure for an effective debt management, and (3) to offer policy relevant conclusions for the observed countries. The study attempts to provide a comprehensive analysis of the institutional arrangements influencing the prudent public debt management in the region of South East Europe and to highlight the main challenges for efficient, transparent and accountable debt management policies in these countries. Due to the low political culture in many South East European countries, the legal provisions relating to fiscal transparency in the debt management law must be much more detailed and explicit. Several areas of fiscal transparency call for urgent action. The deficiencies exist in many areas starting from the definitional point of view (e.g. the coverage of the officially published general government and public debt) to legal ambiguities to the extraordinary (ad hoc) issuance of government securities to the problematic quality and timeliness of the debt reports to the lack of audit of the public debt.

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1. Introduction

Ephraim Kishon's quote that being a successful Minister of Finance essentially means to acquire new government borrowing appears to be more relevant than ever for Europe today. The recent European sovereign debt crisis revealed a number of shortcomings in the governance framework for public debt management among the European Union (EU) member states. To a certain extent, the crisis is not only a consequence of the sizeable macroeconomic imbalances and lax policies, but also of the serious deficiencies in the legal and institutional structure supporting the public debt management (PDM) (Gligorov and Landesmann 2010). Although this is a much more pressing issue for the peripheral Euro area members, it is important to stress that the high and rising public debt levels among South Eastern European (SEE) transition countries also impose medium-term fiscal sustainability concerns. In certain countries, such as Romania, the problem is not imminent, but that does not imply a lack of interest for reforming the legal and institutional framework for PDM.

The central objective of the paper is to examine the legal and institutional underpinning of PDM in SEE transition countries and to highlight the short- and medium-term challenges for law- and policymakers. The geographical context of investigation is confined to six SEE countries: Albania, Bulgaria, Croatia, Macedonia, Romania, and Serbia. This constitutes an interesting mix of countries, as they are at a similar level of economic development, but with different progress on the EU integration front. Three countries are already EU member states (Bulgaria, Croatia, and Romania), Macedonia and Serbia are EU candidate countries, whereas Albania is a potential EU candidate country. The more specific research goals of the study are: (1) to contrast and compare the structure of legal frameworks for public debt management in the SEE countries, (2) to explain the nexus between the institutional capacity building and the composition of the public debt, (3) to assess the importance of several PDM factors (borrowing limits, sub-national borrowing, and transparency and accountability), and (4) to offer policy relevant conclusions for the observed countries. The study contributes to the existing body of relevant literature in several ways. To the best of our knowledge, this is the first attempt to provide a comprehensive analysis of the institutional arrangements influencing the prudent public debt management in the region of South East Europe. The second intended contribution of the paper is to highlight the main challenges for efficient, transparent and accountable debt management policies in these countries.

The structure of the paper is as follows. The first research objective is dealt with in the first two sections: section 2 offers an overview of the legal framework for PDM in SEE countries, whereas section 3 critically examines the institutional arrangements and the status of the debt management office. The second research objective is addressed in section 4, which explores the nexus between the institutional capacity for debt management and the structure of public debt. The third research goal is pursued in the forthcoming three sections: the different approaches to introducing debt ceilings endorsed in the legislation are elaborated in section 5. The newly designed legal framework for sub-national borrowing is critically examined in section 6. Section 7 elaborates on the main challenges for PDM transparency and accountability. The final section conveys policy relevant recommendations expressed as conclusions.

2. The Legal Framework for Public Debt Management

Sound public debt management has obviously climbed relatively high on the policy agenda of many European countries due to the recent sovereign debt crisis. Faced with heightened risks, the SEE countries have also made efforts to reform and strengthen their legal frameworks underpinning the public debt management. Most SEE countries have consolidated the legislation through debt management laws (Albania, Bulgaria, Macedonia, Romania and Serbia), whereas Croatia has included the relevant provisions in the budget system law. The different approaches in designing the legal framework of public debt management are of minor importance, if the institutional and political realities impede the autonomy of the debt management office (DMO) (Melecky 2007; Panizza, Sturzenegger, and Zettelmeyer 2009; Prasad, Pollock, and Li 2013). In order to streamline the analysis, the legal framework for PDM is analysed along the following lines: (1) the general debt management objectives; (2) the authority to borrow and to issue new debts; (3) the emphasis on medium term, and (4) the priority given to the fiscal responsibility.

The explicitly stated general objective of the debt management law of the SEE countries is to ensure the needs for government financing, against the background of minimizing the medium- and long-term costs at a reasonable risk level. The Law on state borrowing, state debt and state's loan guarantees of Albania has an even broader focus, i.e. "to promote market development of government securities by increasing the instruments and enlarging the investors' base" (Art. 6). This is also the case with the Macedonian law, which furthermore aims to develop and maintain an efficient domestic financial market (Art. 7). The Bulgarian Law on government debt attaches special importance to risk minimization considerations by stipulating that "the Minister of Finance may effect financial transactions in view of reducing the risk in relation to the government debt structure" (Art. 17), whereas the Romanian debt management law and the Croatian Budget Act put more emphasis on the cost-saving measures by encouraging a premature purchase of government bonds and early repayment of bank and other loans (Art. 4 and 77, respectively). What matters more is the discrepancy between the law and the enforcement of the sovereign debt management. Despite the legally binding commitment to minimize the costs of borrowing, there have been practices when governments in the SEE region have borrowed at exceptionally high interest rates. These borrowing decisions have either been made to finance lax pre-electoral budgetary spending or to avoid the conditionality attached to the loans by the official creditors (such as the International Monetary Fund).

The relevant debt management laws of all SEE countries clearly define and publicly disclose the authority to borrow and to issue new debt, invest, and undertake transactions on the government's behalf. Even so, in the early stages of transition, many SEE countries witnessed serious coordination and informational problems in developing and implementing a sound debt management strategy (IMF 2007). As documented by Currie, Dethier, and Togo (2003, p. 41), "debt management systems were fragmented, debt records were very unreliable, and information systems were not connected across departments". With regard to the powers in relation to the government debt, all SEE debt management laws stipulate that the Ministry of Finance shall undersign, on behalf of the government, the government loan agreements on the grounds of a decision of the Council of Ministers pursuant to the International

Agreements Law. An interesting legislative innovation is introduced in the Bulgarian Law on government debt, which entitles the Minister of Justice to prepare a legal statement of opinion on the fact of ratification (Art. 13). In turn, the Albanian law requires the authorization to hold negotiations with the creditors to be signed by the Prime Minister and the Minister of Foreign Affairs (Art. 26).

In terms of the medium-term focus, all SEE countries adopt a three-year government debt management strategy, which is approved by the Government cabinet or Council of Ministers and submitted for information purposes to Parliament. In most cases, the framework works on a rolling basis so that an additional year is added each year at the end of the period covered by the previous projection. The medium-term debt management strategy appears to be a useful tool to make operational the high-level objectives for debt management (Horváth and Székely 2003; Roy and Williams 2010). However, quantitative fiscal rules must be realistic to ensure the general public and investors that adequate political commitment and appropriate compliance mechanisms are in place to achieve the targets (Melecky 2012).

In order to maintain fiscal discipline and ensure debt sustainability, some SEE countries have introduced separate fiscal responsibility laws (Romania in 2010 and Croatia in 2012) (e.g., Barbone, Islam, and Sanchez 2010). These laws appear to be more popular than ever, particularly in the context of the recent sovereign debt crisis and volatile capital markets. In essence, they are limited-scope laws that elaborate on the rules and procedures relating to the budget principles of accountability, transparency and stability. The aim of the fiscal responsibility laws has often been to address the weaknesses in the fiscal institutional framework (Das et al. 2010). In particular, these fiscal rules are used to limit discretionary policy-making and enhance fiscal discipline. As part of the legislative innovations, several SEE countries have established a Fiscal Council (e.g., Romania and Serbia). The fiscal council in Romania is attached to the Romanian Academy of Sciences, but it is largely an autonomous body. The task of this independent body is to issue opinions and recommendations on the official macroeconomic and fiscal forecasts as well as to assess the compliance with the fiscal responsibility law. As most of these new reforms were mostly adopted from 2010 onwards, it is difficult to assess their effects. The potential shortcomings of the fiscal councils are the insufficient human and financial resources for an in-depth analysis of the fiscal and debt policies.

3. The Institutional Framework for Debt Management

The cross-country experience with the institutional location and arrangement of the public debt management office is mixed. Some OECD countries – such as Austria, Ireland, Portugal, Sweden, Germany, Hungary, and the United Kingdom – have a public debt management office that is institutionally separated from the Ministry of Finance (e.g., Wheeler 2004; Moskalyuk 2012).[1] This is the so called separate debt management office (SDMO) or one unit model. Even though the debt management

[1] Austria: Austrian Federal Financing Agency (Österreichische Bundesfinanzierungsagentur, ÖBFA); Ireland: National Treasury Management Agency; Portugal: Public Debt Management Agency (Instituto de Gestão do Crédito Público, IGCP); Sweden: Swedish National Debt Office (Riksgälden); Germany: German Finance Agency (Finanzagentur GmbH); Hungary: Government Debt Management Agency Ltd. (Államadósság Kezelő Központi Zrt., ÁKK); United Kingdom: UK Debt Management Office.

unit is separate, it is not 'autonomous' or 'independent', as it is still in a principal-agent relationship with the Ministry of Finance. An interesting case in point is the experience of the United Kingdom before 1997, when the debt management operations were carried out by the Bank of England. Due to the conflicting goals between the debt management and the monetary policy, this office was later institutionally separated from the central bank. Surprisingly, some EU countries (such as Cyprus) still have their public debt management department located in the central bank. This is a reminiscence of the public debt management policies until the late 1980s, when most OECD countries considered the management of the debt portfolio an extension of the monetary policy. Nevertheless, the advantage of the institutional separation of the DMO from the Ministry of Finance is to provide sufficient autonomy from political influence, to ensure greater efficiency in managing debt, to increase the capacity to attract qualified staff with higher salaries and to rely on private sector management practices and debt techniques.

In contrast, many other advanced countries – such as Australia, Belgium, New Zealand, France, the United States, Poland and Canada – have a debt management office within the Ministry of Finance. The consolidation of debt management functions into one department or directorate reduces coordination problems, increases accountability and avoids the duplication of functions. Hence, the advantages of the second institutional arrangement (the DMO-within-the-MoF model) are associated with the need to improve the coordination between the debt management and the public policy. Nowadays there is a wide consensus in the academic and policy-making community that what matters is the operational independence of the debt management office and the focus on the strategic policy objectives.

The present institutional arrangements in South Eastern Europe are in favour of the second type (the DMO-within-MoF model). The debt management functions in Croatia and Bulgaria are performed by the public debt management department; the responsible body in Romania is the General directorate for public debt and treasury, and the General directorate of public debt management in Albania. In Serbia, the public debt management falls under the competences of the Public debt office which is a body within the Ministry of Finance. Finally, in Macedonia, the responsible institution for the debt management is the Department for International Financial Relations and Public Debt. The latter case is unique in terms of an institutional downgrading of the DMO.

From an organizational point of view, there are a variety of experiences which reflect the different progress in the institutional capacity building. The operational responsibility within the DMO is often separated into front and back office, although the more advanced agencies have also a middle (or risk management) office. The front office is commonly responsible for executing the transactions on the financial markets, including the management of auctions and other forms of borrowings. The back office deals with the settlement of the transactions and the maintenance of financial records (IMF 2001). In particular, it centralizes operations related to the registration of the operations of public debt, monitoring, control of disbursements and subscriptions, execution, management of public debt service operations, and production of statistical information. Finally, the role of the risk management office is to undertake a rigorous risk analysis and to monitor the portfolio-related risks. The IMF guidelines for public debt management (IMF 2002, p. 32) underscore that the role of the middle office is to:

"ensure that all transactions done by the front office are within predetermined risk limits, assess the performance (where relevant) of the front office's trading against a strategic benchmark portfolio, set proper operational procedures and ensure that they are followed, and, in some countries, play a leading role in the development of the debt management strategy."

The debt management office in Croatia has functional front, back and middle offices. In contrast, the public debt administration in Serbia was established in October 2009 and it still functions without organizational (office) delineation of the financial transactions. The organizational and functional structure of the Ministry of Finance in Macedonia recognizes the three offices, but the middle office operations are not yet developed. Bulgaria seems to be most advanced in terms of the organizational delineation of the debt management functions, as the department is comprised of five divisions: issues division; strategies, analyses and statistical reporting division; coordination, management and provision of information on the government debt division; payments division; and regulation of financial markets division. The Albanian DMO is comprised of the borrowing directorate (front office), the strategy and risk directorate (middle office), and the registration and debt service directorate (back office).

One of the main shortcomings of the government debt management institutions in Southeast Europe is the inadequate human and physical capital endowment. Due to the relatively low salaries in the public sector, these institutions experience a significant employee turnover during the transition period. It is even more difficult to hire specialists with skills in portfolio and public analysis, as the competition with the private sector for them appears to be fierce.

4. The Nexus between Institutional Capacity and the Composition of Public Debt

The composition of the public debt in SEE countries has not always been entirely consistent with the efficiency and cost considerations. The borrowing decisions have been strongly influenced by the institutional capacity of DMO to issue and manage the debt portfolio and the level of development of the domestic capital market.

In the early stages of the transition, the dominant sources of budget deficit financing were the foreign loans, primarily from the official creditors. Although the reliance on external borrowing was justified by the favourable terms on those loans, the borrowing decisions also reflected the insufficient capacity for effective debt management. At this stage, a significant portion of the debt remains external – mostly to multilateral creditors – and at highly favourable conditions. The reliance on external borrowing has often been justified by the credibility and scrutiny made by the official creditor, even though it has come with the bitter taste of conditionality. In many cases the obstacles to the private capital markets was the inexperience with the operational risks of debt management.

In the next stage of the institutional development, most DMOs were staffed with recently trained financial specialists with some experience in portfolio risk management. In many instances, the more sophisticated debt management operations were outsourced to consultants from renowned financial intermediaries. This provided the opportunity for most SEE countries to enter the private capital markets by issuing Eurobonds. Croatia's first international bond was denominated in its domestic currency in December 1996. It was soon followed by another Euro-dollar bond issuance in February 1997. Bulgaria issued the first Eurobond in March 2002, whereas Macedonia followed in 2005. Finally, Serbia successfully issued Eurobonds of 1 billion U.S. dollars in 2011. Yet the country is not a latecomer because previously the State Union of Serbia and Montenegro bonds were issued twice during 2005 on the Luxembourg stock exchange. Albania had its Eurobond debut on the global capital market in October 2010. At this stage, a major portion of the public debt is still owed to external creditors, but with an increasing share of borrowing from private creditors.

Finally, the advanced stages of the institutional development have witnessed significant efforts to diversify funding sources and reduce the reliance on potentially volatile external financing. The composition of public debt has evolved over time with a greater reliance on domestic and fixed-rate borrowing. At this point, the SEE countries have started to develop the domestic debt markets at a much higher pace. The SEE countries have finally been prepared to pay market interest rates.

The domestic yield curve was gradually built up, as the maturities have lengthened. As the debt management capacity gained some credibility, the SEE countries started to tap the financial markets with a more favourable maturity profile (Paalzow 1996). Serbia and Romania managed to issue a 15-year Eurobond on the global capital market. In turn, Croatia issued a ten-year bond on both international and domestic debt markets. The Ministry of Finance of Bulgaria issued government securities with maturities of up to 25 years. These long-term government securities issued for structural reforms with low interest were confronted with disinterest by the financial institutions and therefore were suspended in 2005 (MF-BNB 2012). Macedonia has the shortest yield curve, as the domestic bond issuance is limited to five years and the international bond issuance to seven years. This could be interpreted as a favourable trend, given that the cross-national experience suggests that the government's balance sheet risk would be reduced by mainly issuing debt in long-term, fixed-rate, domestic currency securities (Currie, Dethier, and Togo 2003; Pavelek 2003).

5. Borrowing limits

In June 2011, the EU countries approved fiscal rules for a more sound public debt management. The debt levels and trajectories are now an explicit criterion when assessing the quality of public finances. In particular, "[...] member States with debt in excess of 60 % of gross domestic product (GDP) must reduce the amount by which their debt exceeds the threshold by at least 1/20th per year over three years. If they do not, they will be placed in the excessive deficit procedure."[2] This debt rule seems to be relevant for Albania, Serbia and Croatia, which are the most indebted SEE transition countries (Figures 1 and 2).

2 ECFIN. 2011. Memo/11/364. Memo, EC-DG Economic and Financial Affairs.

FIGURE 1: The Size of General Government Gross Debt in the EU27, the Euro Area and SEE countries (in percent of GDP, end of 2012)

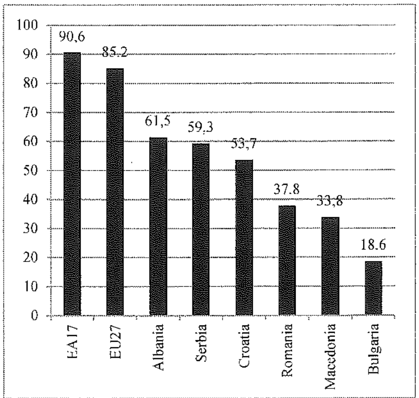
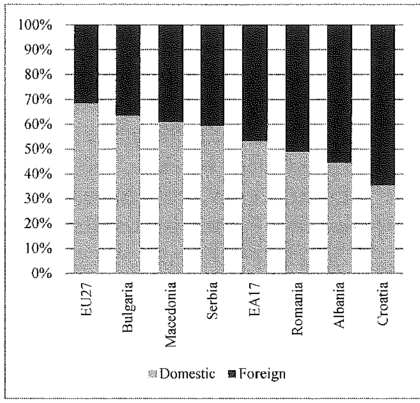


FIGURE 2: The Composition of General Government Gross Debt in the EU27, the Euro Area and SEE countries (in percent, end of 2012)



Notes: Euro area = EA17; European Union = EU27. The general government debt is defined as the consolidated gross debt of the general government sector, which is subdivided into four sub-sectors: central government, state government – where applicable, local government, and social security funds – where applicable. *Source*: EUROSTAT and Ministries of Finance of the selected SEE countries, 2014.

With respect to the public debt limits, the Albanian and Croatian legislation stipulates that the consolidated government debt at the end of each year as a ratio of the projected gross domestic product may not exceed the previous year's ratio as long as this ratio is more than 60 percent. While the debt ceiling is determined in the Budget Act of Croatia (Art. 74), the respective debt rule in Albania is determined in the annual budget law. An even more interesting case in point is Romania. This SEE country has one of the lowest debt levels in the European Union and it is highly committed to continue with the conservative debt management strategy. More precisely, Romania plans to change its public debt law in 2013 and to introduce three debt thresholds (at 35 percent, 40 percent and 45 percent of the GDP), which if exceeded, would put into operation a set of budget restrictions. If the first threshold is exceeded, it will trigger a cap on public spending growth in line with inflation, the second threshold contains a rule to balance local administration budgets and restrict government transfers, while the 45 percent ceiling will prevent the government from granting subsidies and state aids.

The legal provisions on the debt ceiling in Bulgaria have had an interesting evolution. The State Debt Law from 2002, amended several times throughout 2007, introduced three types of debt ceilings on: (i) annual additions to the debt stock; (ii) new sovereign guarantees; and (iii) the outstanding debt at the end of the year. It explicitly required consolidated government debt shall not to exceed 60% of GDP (Art. 10). This was in full accord with the Maastricht criterion for economic convergence. Yet, with the recent legal amendments in early 2013, the debt ceiling provisions were repealed, which can only be interpreted as taking a step back in the effective PDM.

With the amendments of the Budget System Act, Serbia also introduced provisions stipulating that the state debt, excluding contingent liabilities, shall not exceed 45 % of GDP. In contrast, Macedonia shows borrowing limits not stipulated by law, but announced in the public debt management strategy. Although not in the SEE region, the Polish experience offers valuable insights. It is an example of an ambitiously set legislative debt ceiling, since Poland inserted into its Constitution a requirement that total government debt, including the amount of anticipated disbursements on guarantees, is not allowed to exceed the Maastricht threshold of 60 % of the GDP. Finally, Macedonia has only indicative medium-term debt ceilings that are mentioned only in the fiscal strategy paper and that do not have any implications for the budget execution or the debt service (Art. 9). However, at the end of 2014, the Government of Macedonia initiated constitutional changes which impose a public debt ceiling of 60 % of the GDP and a limit for the annual budget deficit of 3 % of the GDP.

The inclusion of debt ceilings endorsed in the debt management laws is obviously a feature of those SEE countries that are EU member states with an eye to joining the euro area. Their intention is to build credibility and to reassure the investors that fiscal prudence and sustainability represent a key government priority in the medium term.

6. *Sub-national borrowing*

The access to finance of municipalities in all SEE countries is very restricted. In Romania, sub-national governments cannot contract or guarantee loans if their annual public debt service (principal payment, interest, commissions) including the loan they want to contract, amounts to more than 30 % of their own revenue. The country's medium-term budgetary framework specifies ceilings on reimbursable funding that can be contracted as well as on the drawings from reimbursable funding that have been, or will be, contracted by local governments. It also specifies ceilings on the issuance of guarantees by local governments (European Commission 2012).

Bulgaria acts in a somewhat different way as its legislation focuses more on the debt service capacity of the subnational governments. The Municipal Debt Law limits local government borrowing to the financing of infrastructure investment and restructuring (or rollover) of the previously accumulated debt. Presently, there are no explicitly stated limits on the amount of borrowing of local governments; however, there are limits on the debt service payments: (i) the annual amount of payments on the debt during each particular year may not exceed 15 % of the sum of the total revenue from own sources and the balancing transfer from the central budget under the last audited report on the implementation of the budget of the municipality; (ii) the nominal value of the guarantees may not exceed 5 % of the above mentioned sum.

Municipal borrowing in Macedonia remains a problematic area. The law on financing on the local self-government units requires the following pre-conditions for long-term borrowing by a municipality: (1) it has regularly submitted positively assessed financial reports for the period of at least 24 months from the day of the entry into force of the relevant law, and (2) it has not had any arrears towards the creditors in the past two years from the day of the entry into force of the relevant law. Since many municipalities accumulated sizeable arrears in the past, the latter clause restricts local borrowing in practice. The municipalities could not borrow from commercial banks without strong support by the central government budget. The acceptable interest rate for the municipalities is between 5 and 6 % per annum, but the commercial banks require an additional risk premium of 5–6 %.

In Croatia, a local and regional self-government unit may make long-term borrowings only for an investment financed from its own budget and approved by its representative body with the consent of the Government and at the proposal of the Minister of Finance (Art. 87).

The overall conclusion would be that the SEE transition countries are very efficient in determining the limits on the use of local government borrowing. Municipalities in most SEE countries are still not prepared to enter the capital markets, neither by bond issuance nor by commercial bank loans.

7. Transparency and Accountability

Fiscal transparency is essential for a better informed debate by both policymakers and the public about the design and outcome of fiscal policy. An important component of the fiscal transparency is related to the reporting on the level and composition of the general government debt, and more importantly, on the effective use of the borrowed funds. In particular, the IMF's Manual on Fiscal Transparency (2007) suggests a number of good practices relating to: (1) the coverage of the annual budget; and the provision of information on (2) outturns and forecasts, (3) contingent liabilities, tax expenditures, and quasi-fiscal activities, (4) debt and financial assets, and (5) the consolidated position of the general government. Yet there have been numerous occasions when the general public and the media expressed harsh criticism on the lack of fiscal transparency in SEE countries. For illustration only, the new governing coalition in Serbia complained on the true size of the debt (Balkan Insight, September 18^{th} 2012), while the Macedonian opposition protested against the "fiscal opportunism" and lack of transparency of policymakers (CNN, December 27^{th} 2012). These debates not only gained domestic political visibility, but also a strong international media coverage.

It has to be underscored that due to the low political culture in many SEE countries, the provisions in the debt management law relating to fiscal transparency must be much more detailed and explicit. The Albanian law-maker requires only that the registries of the state debt and state's loan guarantees are published quarterly (Art. 46 and 47). The Macedonian Law on public debt has only one article on fiscal transparency and requires, apart from the standard debt reporting procedure, only "detailed" information on the public debt (Art. 27). There is no further reference on the minimum amount of information for a decent and informed debate. The Bulgarian Law on government debt requires that official information on the government and government guaranteed debt is published on a monthly basis by the Ministry of Finance on its website (Art. 38). In Romania, Art. 8 of the Emergency ordinance on public debt obliges the Ministry of Economy and Finance only to issue an annual report regarding the government debt and to submit it to the Government for approval.

Since these countries are considered to be consolidating democracies, the lawmaker must ensure that well-elaborated and detailed legal provisions do exist in the debt management laws. The practice of publishing high-quality data and reports on the public debt on a monthly basis is a step in the right direction. Moreover, these provisions have to be developed in a close coordination with the civil society organizations in order to enhance the credibility and accountability of the fiscal and debt management policy in particular.

Several areas of fiscal transparency call for urgent action. The deficiencies can be detected in many areas starting from the definitional point of view (e.g., the coverage of the officially published general government and public debt) to legal ambiguities to the extraordinary (ad hoc) issuance of T-Bills or T-Bonds to problematic quality and timeliness of the debt reports to the lack of audit of the public debt.

There is a broad agreement in the region that the government debt's level and structure should be carefully monitored and evaluated. Still, there seems to be a 'disagreement' on the relevant debt indicator. The Ministry of Finance of Macedonia publishes only the central government budget debt in absolute and relative terms at monthly basis, yet with scant information on the composition of the debt stock and the debt repayment plan. Similarly, Croatia's public debt management strategy does not cover guarantees and aims to stabilize only the direct debt. Hence, there is currently no mechanism to prevent a continued rise in the guaranteed debt stock, which are mostly in foreign currency, and associated vulnerabilities. Detailed information about the structure of the debt, past activities of debt management, plans or calendars of auctions are not provided by the public debt management directorate within the Ministry of Finance of Croatia (Badurina and Svaljek 2012). The structure of active guarantees and their influence on the Croatian public debt are still unknown to the public (Bajo and Primorac 2011). The lack of a sound internal control framework in the Croatian Ministry of Finance's Public Debt Management Section was also explicitly criticized by the World Bank (2005). In contrast, the Serbian law appears to be even stricter than the Maastricht criteria since the guaranteed debt is fully included in the public debt definition.

An interesting example of legislative ambiguities is the legal basis for the Eurobond issuance. Due to different interpretations of the meaning of "international agreements" within the Albanian legal community, it was decided that the Eurobond issue also should be ratified by the Assembly (World Bank 2011). In the other SEE countries, foreign borrowing through loans requires mandatory approval by the Parliament, whereas the issuance of Eurobonds is treated as being implicitly endorsed in the annual Budget Law, which also envisages the sources of financing of the budget deficit.

Despite the official auction calendar, some SEE countries (e.g. Macedonia) often resort to extraordinary issuance due to unpredicted and immediate liquidity constraints. Such a practice is a serious indicator of the unsatisfactory institutional capacity for revenue forecasts and short-term debt and liquidity management.

Some SEE countries still have problems with the quality and timeliness of their debt reports. The data for the level and composition of public debt are not published in a timely manner, and occasionally the figures are revised due to "methodological changes". In other cases, the debt statistics lack information on some of the basic risk measures such as holders of government securities by residency, and residual maturity of domestic and external debt (e.g. Albania). In turn, the Bulgarian Law on Government Debt only requires that "official information on the government and government guaranteed debt shall be published on a monthly basis by the Ministry of Finance on its website" (Art. 38), without referring to a more detailed public debt structure.

Not all SEE countries' debt management activities are audited annually by the supreme audit institutions that would report its findings to Parliament. State audit of the public debt is conducted in Albania, Bulgaria, Romania and Serbia. Interestingly, neither country practices an external peer review, apart from the regular surveillance under the Article IV Consultation by the International Monetary Fund and the financial accountability assessment or the debt management performance assessment by the World Bank.

8. Concluding remarks

In this day and age, when public debts are soaring in most countries as a consequence to the 2008 financial crisis, we observe large differences in the public debt management practices. Is this only a temporary debt phobia caused by the problems of neighbouring peripheral Euro area countries? Are SEE countries simply exaggerating the potential debt service problems? Aren't these economies small enough to be easily bailed out by the international financial institutions? And is the legal and institutional framework for public debt management so important at low or moderate levels of public indebtedness? Ultimately, what makes the SEE region so interesting in terms of public debt management? Our study neither focuses on the capacity of these countries for debt service nor on their fiscal sustainability concerns, although we touch upon these issues in several sections.

Several reasons explain the lower risk premiums asked by the financial markets from the countries, such as growth potential or perceived reassuring economic policies. In this paper, we shed some light on the legal framework and institutional capacity. These prerequisites play a role in improving the credibility of a country to plan ahead in terms of economic policies as well as being able to refinance its debt at the right time to seize market opportunities and thus get a lower rate.

Although most SEE countries have made considerable progress in the debt management practices, there still is considerable room for improving the legal and institutional framework. The present legal framework of PDM in the SEE countries has to be redesigned in order to improve transparency and accountability. Government debt management is particularly weak in the area of debt coverage, debt records and reporting. In terms of debt coverage, the current debt management strategies in SEE countries must be strengthened to take account of the guaranteed debt. The heightened risks associated with the contingent liabilities are downplayed in most SEE countries, therefore the monitoring of the guaranteed debt must be reinforced.

SEE countries should revise the present DMO-within-MoF model and reassess the benefits of having an organizationally independent body. For instance, the inability to attract skilled staff with expertise in financial market and public policy analysis suggests that the costs of the present model may outweigh the benefits.

The EU member states are expected to provide comprehensive fiscal and debt forecasts accompanied by a statement on the consistency or the differences with the forecasts from the European Commission. In particular, the debt management strategy in Bulgaria should be complemented with a review of how the fiscal reserve is structured and funded to meet the need for a liquidity buffer. The role of supreme audit institutions in the region must be strengthened in order to improve the public scrutiny over the efficiency and effectiveness of the public debt management.

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ZUSAMMENFASSUNG

Der Beitrag untersucht die rechtlichen und institutionellen Strukturen der Verwaltung öffentlicher Schulden in sechs südosteuropäischen Transitionsstaaten und konzentriert sich dabei auf die kurz- und mittelfristigen Herausforderungen für Politik und Gesetzgebung. Die Studie vergleicht die rechtlichen Strukturen der einzelnen untersuchten Staaten miteinander und benennt die Faktoren, die für die Entwicklung gesunder institutioneller Strukturen einer effizienten Verwaltung öffentlicher Schulden von Bedeutung sind, um schließlich hieraus praxisrelevante Schlussfolgerungen zu ziehen. Sie bietet eine vergleichende Analyse des institutionellen Designs der soliden öffentlichen Schuldenverwaltung in der Region und identifiziert die zentralen Herausforderungen an eine effiziente, transparente und verantwortliche Schuldenverwaltungspolitik. Wegen der niedrigen politischen Kultur in der Region müssen die Gesetze über finanzielle Transparenz sehr detailliert und ausführlich sein. In einigen Bereichen der finanziellen Transparenz ist schnelle Abhilfe dringend geboten: von den einschlägigen Definitionen (z.B. der als Schulden zu publizierenden Faktoren) über Zweideutigkeiten in den gesetzlichen Formulierungen, die Ausgabe von Ad-hoc-Schuldverschreibungen außer der Reihe, die zweifelhaften Inhalte und Pünktlichkeit offizieller Schuldenberichte bis hin zum Fehlen einer Rechnungshofskontrolle.