

Is the Time ripe for a Sovereign Resolvency Proceeding?

The big temptation

- loans vs. taxes

- purchase: antiquity vs. modernity

- State financing: taxes vs. Loans

- a win-win-situation

- but: „medicin turns into poison“

consequence: need for discipline

note Prevention measures: Odious debts and responsible bilateral lending and borrowing

Historical Overview I

- Long lasting history goes back into antiquity
- solutions – internal:
 - Inflation
 - tax increase
 - compulsory loans
 - but: capital flight

Historical Overview II

- solutions – external:
 - canon boat policy
 - Paris Club
 - London Club
 - negotiations
 - SDRM
 - Collective Action Clauses
 - (in Europe: ESM)

Resolvency Proceeding

- Terminology
- three requirements
 - Contractual clause
 - resolvency court
 - rules of procedure

Contractual Clause

- since 2003 CACs are a kind of global standard
- three categories of lenders
 - States
 - private banks
 - Private sector (PSI)

Resolvency Court

- politicians as deciders -> conflict of interests
- Neutral instance
 - President
 - pool of judges: diversification, limited amount
 - nomination

Procedural Rules I

- petition
- presentation of plan
- appointment of judges
- control supported by IMF
 - test: fair and reasonable?
- refusal or acceptance
- formation of groups + creditors' organization

Procedural Rules II

- competences of the court
 - Control of the original plan
 - Surveillance
 - claims verification
 - dispute resolution, mediation
- duration
- voting
- rejection → repetition
- acceptance → ongoing control

Future

- German coalition agreement from 2009
- Swiss idea from 2012; Scotland; Russia G 20
- symbolic legislation