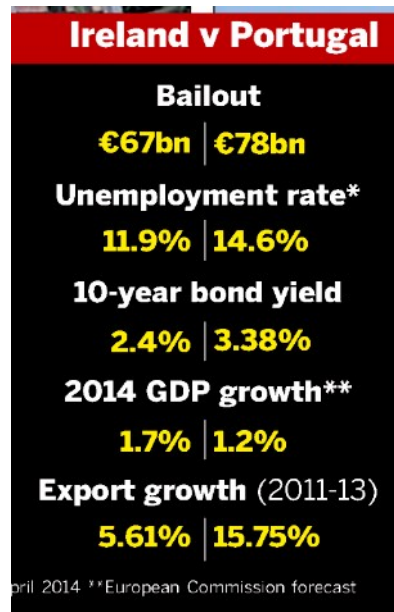


After the rescue

Legal roadblocks on Lisbon's fiscal path



Portugal

Constitutional court rulings raise wider issues of European democracy, write **Peter Wise and Sarah Gordon**

Hardly anyone would recognise them in the street and few know their names, but the 13 black-robed judges that sit on Portugal's constitutional court are assured of an important chapter in the history of the country's three-year rescue programme.

In a series of controversial decisions during the past two years, the court has struck down far-reaching fiscal measures six times. The latest ruling, two weeks ago, is forcing the government to rethink policy as it struggles to keep a demanding adjustment programme on track.

Although Portugal formally exited its three-year bailout programme on May 17, the government remains committed to meeting exacting deficit-reduction targets. In a letter of intent to its lenders, Lisbon said it would cut the budget deficit to 2.5 per cent of national output in 2015, down from

4.9 per cent last year. Economists warn that the court's latest ruling, which punched a €500m-€800m hole in this year's budget, will make this much more difficult to achieve.

In an attempt to regain control of the deficit-reduction strategy, the governing centre-right coalition is considering pre-submitting next year's budget to the court. Maria Luís Albuquerque, finance minister, told the Financial Times in an interview that the government "wanted to make sure that by the time we submit the 2015 budget to parliament we can implement it as designed".

Once a budget is submitted, the judges would need to rule within 25 days on whether the proposals breached the constitution. "We need this clarification," said Ms Albuquerque.

The court's latest ruling has heightened the controversy over the economic impact of its decisions and the extent of political pressure on its judges. A champion of citizens' rights to many and a blinkered barrier to reform to others, the court leaves few indifferent.

Pedro Passos Coelho, Portugal's prime minister, has fanned the flames by saying the court needed "better

Blocchi di natura legale sulla strada fiscale di Lisbona



judges” subjected to “greater scrutiny”. Meanwhile, opposition parties have called on the president to call an early general election because of the coalition’s recurrent breaches of the constitution.

One of the judges wrote in a recent report that, while not constituting “direct pressure”, statements by ministers and European officials had created a “propitious climate” for the court to be blamed if Portugal failed to comply with its bailout, funded by the EU and the International Monetary Fund.

The court’s frequent interventions have raised wider questions over potential clashes between national constitutions and eurozone policy making.

Some see the row in Lisbon as an example of how international rescue programmes can pose a threat to national sovereignty. Others believe that constitutional courts in Portugal, Spain and Germany need to take account of the implications of their rulings for the stability of the eurozone.

In Portugal, the court’s mission is to ensure that legislation does not violate the rights of citizens enshrined in the 1976 constitution, written, with sub-

sequent revisions, when Portugal was emerging from decades of poverty.

Ten of the court’s judges are nominated by parliament and three by the other judges. Although the appointments tend to reflect the balance of party political power, the judges rarely vote along party lines. But to the annoyance of critics, including the prime minister and some EU policy makers, neither do they appear to take international financial commitments into account.

In a measure of how seriously the court’s rulings have derailed government policy, Ms Albuquerque announced last week that Lisbon would forgo payment of the last €2.6bn instalment of bailout loans that would have totalled €78bn. This was to avoid having to rush through measures to compensate for public sector pay cuts overturned by the court.

“Our room for manoeuvre has been reduced,” the minister told the FT. The government was looking at alternative options, but would not make any decisions until after the court had ruled on two other pending issues. “We need to know the size of the problem before we decide what actions to take,” she added.