



REVALUATION AND RESIZING OF MONETARY FINANCIAL INSTITUTIONS OF THE EUROPEAN UNION

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Abstract

We approach in the pages of the present article that is part of the wider financial dimension of the European community construction. We start from the idea that the EU financial system plays a key role in the European process, being the guarantee and foundation of achieving the objectives set by the EU treaties which ensured in time the legal frame of the European process. We insist particularly upon the budgetary-monetary competences, which belong to the Community's institutions that were confirmed and reconfirmed through the Lisbon Reform Treaty 2007 (2009). This treaty reaffirms the legal status of this basic institution of the EU for the structures which make up the "Community structural triangle", the EU Council, the Commission and the European Parliament to which is added the European Court of Justice and the Court of Auditors. The same treaty ranks as important institutions of the EU: the European Council and the European Central Bank,

In budgetary-monetary terms each of the mentioned institutions fulfills some specific tasks, individually or in co-decision and upon these we will insist in the followings.

Keyword: monetary financial institution, European Union, European process, European community, EU Council

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I. Introduction

Until the entry into force of the Treaty of Lisbon (2007-2009), the monetary and financial institutions which are the subject of our research, were placed among the auxiliary institutions of the European Union together with some advisory bodies (Economic and Social Committee (ECOSOC) and the Committee of the Regions) or with a linking role between the Community and the monetary states (Committee of Permanent Representatives- COREPER).

Regarding on the monetary and financial institutions we must specify that these were meant to support financially the basic institutions of the European Union for a proper functioning of the Community construction.

So we consider that, for discerning the monetary and financial dimension of the European Union, as it is outlined in the light of the most recent reassessment and the reshaping of its institution, there are necessary brief references to the institutional structure of the EU.

There are currently seven institutions (Art. 13 TUE; Fabian Gyula, Dreptul internațional al Uniunii Europene, Edit. Hamangiu, Buc. 2012, p. 149 și urm.; D. Varela, Guvernarea Uniunii Europene, Edit. Institutul European, Iași, 2008. p. 20) which structures the Common European Home, appreciated to be the emblem of the most dynamic and complex, the most institutionalized and discussed (even controversial) process of regional integration. These validated their legal status in a long and difficult road to enforce the European “idea” through the dialogues between the intergovernmental cooperation and supranational integration (For the development of the idea of European unity, see E. Iftime, Construcția comunitară Europeană, Edit. Didactică și Pedagogică, București, 2003, p.7 and next ; D. de Rougement, The Idea of Europe, Edit. Macmillan, New York, 1965, p. 6-19, citat de D. Chalmers s.a., Unional European Law, Chambridge 2012, p. 4.).

Building of the European Community began with the establishment of the Communities (It is about the Economic Community of Coal and Steel ECSC - 1950 (1952); European Economic Community - EEC - 1957 (1958); European Atomic Energy Community - EAEC (EUROATOM) 1957 (1958).) equipped with political institutions which represented, in the evolution of the integration process, the triangle meant to ensure the coherence and continuity of the Community, namely: Council of Ministers, European Commission(The structure of the ECSC was called the High Authority Commission) and



European Assembly (Parliamentary Assembly). These institutions were joined by the Court of Justice (from the beginning) and from 1974 the European Council having the legal physiognomy of an intergovernmental conference of public international law, with a role of establishing the guidelines and priorities of the EU process but also to boost it (was brought to the rank of a basic institution of the European Union by the Treaty of Lisbon).

The five basic institutions which have formed the Community institutional system and meanwhile had mostly, guidance, direction and decision competences (Council of Ministers, the Commission and the European Council), or control competences (the European Parliament and the Court of Justice). Since 1975, the institutional edifice has been strengthened by the creation of a Court of Auditors called “the financial conscience” of the Communities, with general competences of checking the accounts and discharge in community activity. Maastricht Treaty 1992 (1993) raises this body (complementary until then) to the rank of Community institution without substantially altering its powers.

The six Community institutions were supplemented by validating the status of Community institution of European Central Bank, by Lisbon Treaty 2007 (2009). The European Central Bank together with the central banks of the Member States whose currency is euro make up the Eurosystem (Art. 282 par. (1) the second thesis of TFUE. The Eurosystem will not be confused with the Eurogroup), distinct from the ESCB (composed of the national central banks and the ECB lacking of legal personality) and the Eurogroup.

Thus, according to the changes of name or competences brought by the Lisbon Treaty, the European integration has as a support seven institutions, namely:

The European Parliament called also “voice of the peoples of the United Europe” (Was there since the early process of integration in the basic structure of the European Communities (under the name of ECSC Assembly- 1952, European Parliamentary Assembly in -1958 and from 1962 the European Parliament. At that time and later the European Parliament was the one which had to „translate” the feelings of public opinion and to convince the governments and the executives of States brought together in the Community, that „the European idea is a living reality” „Ch. Zorgbibe. Construcția Europeană, Trecut , prezent și viitor, Edit. Tei. p 145), which has currently an enhanced role for the EU citizens, in other words “a European identity conferred by the membership of Europeans to the Union by a political and legal link of European citizenship.” Also, the European Parliament is invested (in general) with legislative power



(pushed in the back by the Council) and with budgetary competences or in the field of international agreements concluded by the European Union. It is directly elected by the European citizens for a period of five years (currently the number of MEPs being 750 plus the President). In the financial and monetary issues, the Parliament often shares its competences with the Council, in cooperation with the Commission or the other institutions with responsibilities in this area. In adopting the budget is necessary the European Parliament's notice and finally this approves the budget, the refusal of such approval leading to the resumption of the procedure. After completing the budgetary year the European Parliament is the one which approves the discharge to the Commission. In terms of budgetary expenditure, the Parliament has the last word. In this field, but also in others, the co-decision puts somehow on par the European Parliament and the EU Council in matters of law.

The European Council, which until the Lisbon Treaty was neither Community body nor institution of the European Union but only guidance forum, earns a deserved place among the EU institutions, through the mentioned Treaty. It is further composed of Heads of State or Government to which is added its President and the Chairman of the Committee. To its activities participates also the High Representative of the Union for Foreign Affairs and Security Policy. The Lisbon Treaty reiterates the mission of the European Council to boost the development of the Union and to establish the general political guidelines. It adds however duties which concern the prioritizing of general policy without general competences in this field or in any other area. As a novelty it should be mentioned the legislative consecration of vote in the European Council, in a high number in areas such: electing the President of the European Council; appointment of the High Representative of the Union for Foreign Affairs and Security Policy; appointment of the EU Commission on approval of the European Parliament. Also, the first acts adopted by the European Council are subjected to the judicial review of the Court of Justice (in a limited jurisdiction of the Court).

By establishing the general policy priorities, the European Council enters in the area of the financial system, especially on the thread of ECB's relationship with the Union. On the recommendation of the Council, after the consulting of European Parliament, the European Council disposes with a qualified majority the appointment of the President, Vice President and of other members of the Executive Board of the European Central Bank. As shown, it is consulted also the European Central Bank Governing Council.



Considering the material and skills of the named functions, the employed persons must show guarantees of experience and authority in the monetary or banking system (Art. 283 TFUE).

The Council (or the Council of the European Union) which expresses the voice of the member states of the European Union maintains its traditional main skills as legislator in legislative and budgetary matters which are performed with the European Parliament. To these, the Lisbon Treaty adds the function of defining policies and coordination, in accordance with the new conditions provided by the Treaties. It is composed of one single representative of each Member State, authorized to commit the government of the Member State in which they represent and to exert the right of veto.

Voting in this forum has seen substantial changes because the vote with a qualified majority was extended to other area and other fields than the previous ones, to ensure a more efficiency and dynamic decision. The novelty is the calculation of the qualified majority based on the system of a double majority (a decision by a vote of 55% of the Member States representing at least 65% of Union population).

In matters of importance to community life, such as the acceptance of new member states, the modification of treaties or triggering a common policy, the decisions are taken by unanimity. As a main legislator of the European Union, the Council deliberates and votes the draft legislation publicly.

In the field on which we stopped, particularly on EU Council as a main legislator which has important budgetary powers in the first place. The Community budget is adopted by the EU Council on the proposal of the Commission, with European Parliament's opinion.

In the procedure for approval of the budget, the Council (as the Parliament, in fact) has the opportunity to intervene with some modifications. In terms of budget revenues the Council has the final word.

Also in this field, the Council has the competence to adopt legal acts with a mandatory decision, however derived, fact that indicates the question of harmonizing them with the main sources.

The European Commission, called till the Maastricht Treaty the European Communities Commission, is the executive body of the Community or "the union government" which fulfills specific tasks, multiple and complex. As a supranational institution and "guardian of the Treaties", the Commission is composed of commissioners



(The number of Commissioners varied in time. By 1st May 2004, the Commission had in its competence 20 members, to which were added 10 Commissioners of the states that joined on 1st May 2004. On 1 January 2005, the number of the Commissioners was fixed at 25, after the rule 1 country 1 Commissioner, and after 2007 (the accession of Romania and Bulgaria) and in 2015 (Croatia) reached the number of 28 commissioners.), chosen on the basis of their general competences and of the commitment of European idea. The condition of European commitment is introduced by the Treaty of Lisbon, in addition to the conditions above. The same Treaty highlights the value and functions of the Commission aiming: to promote the general interest of the Union, taking appropriate initiatives in this regard; to ensure the application of the treaties and of the adopted measures by the institutions based on them; supervise the application of Union law under the control of the Court of Justice of the European Union; budget execution and program management; conclusion of inter-institutional agreements; external representation of the Union, except for the Common Foreign and Security Policy. As seen, the Commission has the physiognomy of a true “European government”, which ensures the identity of the Union highlighting, beyond or above the interests of the Member States, the objectives and tasks of community life. The Commission’s mandate is 5 years, during which time holds the monopoly of legislative initiative. The Lisbon Treaty provides that “the Union legislative acts can be adopted only on Commission’s proposal, unless the Treaties provide otherwise”. The other acts (non-legislative) are adopted at the Commission proposal only if the Treaties provide so.

In certain cases provided by the law (Art. 290 TFUE), by a legislative act, the Commission can be empowered to adopt non-legislative acts and of a general application, through which are completed or modified certain non-essential elements of the legislative act. It is the so-called “legislative power by delegation” which involves the explicit and precise establishment of the objectives: content, area of application and duration of the delegation. Also, when required, the Commission exercises “legislative” competences.

To these legislative powers are added administrative competences of control, representation and development of some annual and long term strategies regarding its activity. As shown, the Commission represents the executive body of the EU, as they enforce normative acts enacted by the EU Council or this in co-decision with the European Parliament and which regard inclusively the financial system of the Community. Exercising these powers, the European Commission has its own regulatory



power, and may adopt: regulations, directives, decisions (legally binding) or recommendations and opinions (optionally).

Among the areas where the Commission has a regulatory subordinated power is included the implementation and execution of the Community budget, of which draft falls within its competence.

The own-decision making powers it is conferred by the provisions of the Treaties or by delegation of powers, by the Council.

The Commission manages the EU budget and the special funds assigned to it. In addition to managing the budget, the Commission fulfills also the function managing the Endowment and Guarantee Fund for Agriculture, of the European Regional Development Fund, the European Social Fund, and the Cohesion Fund. In the Commission's competence falls also the management of funds for administration.

Also, in the monopoly of legislative initiative held, the Commission is advancing proposals for legislation including the financial life.

In the next budgetary year, the European Parliament, at the proposal of the Council and on the basis of the Court of Auditors report, approves the discharge to the European Commission, regarding the union budget.

The Court of Justice is the main institution of the European Union which guarantees the application and interpretation of law union, considered to be the binder of European integration. European Union law originality imprints and original character to the Court of Justice, as a specialized institution to which can address both the EU states and individuals and legal entities from the EU, directly. It is a distinctive note to other international courts (International Court of Justice in The Hague, for example) that are available only to the member states. In the same time, the Court of Justice of the European Union doesn't have an international vocation as the International Court of Justice, being the Union's internal justice, conceived on the model of state's jurisdiction. Nor has an optional jurisdiction (as the International Court of Justice) but a mandatory one.

What should be noted is that, like in the case of other institutions, the Lisbon Treaty moves in the transfer of sovereignty from the Member States to the European Union, on the union justice. The system itself remains more or less unchanged as a composition, but the names and competences support some modifications. As a name, the Court of Justice of the European Union includes: Court of Justice, the Court and specialized courts. Its job remains the same (Fabian Gyula, op. cit. p. 237), to ensure the



compliance of the law and application of the treaties, watching over: the balance between the delegated powers of the Union and the remaining countries, on the correct interpretation and coherent union rights, protecting the states, natural or legal persons of any abuses in the interpretation process. Having a compulsory jurisdiction, the Court of justice of the European Union ensures a uniform interpretation of the law throughout the European Union. The entire judicial system blends harmoniously the valences of a judicial body (having as litigants the states) to those of a national court (having as litigants legal or natural persons). To this is added the likeness of the Court with a Supreme Court in the sense of national law, to the extent in which these are final and can't be attacked by ordinary means of appeal. Combining the consecrated features of the two legal ordinances (national or international), Court of Justice of the European Union "is a sui generis court, being the judicial authority of a legal interdependent order, unseen in public or international law". The supranational character of this court competes with the attributes of: classical international court, Constitutional Court, administrative court, court of appeal or Supreme court; civil or employment court (Apetri N.A., Hlaciuc A.M., Morosan G., 2014). In the matter under consideration, shall be brought for discussions the financial jurisdiction which belongs only to these, without in the first instance, the settlement of tax disputes to be entrusted to a specialized body by the financial judges (D. C. Dragoș, Uniunea Europeană, Uniunea Europeană. Instituții. Mecanisme, Edit. C.H. Beck., 2007, p. 75). Currently, the Court of Justice, the Court and the Civil Service Tribunal, make up a system, having only union judicial competences, among which a very special place deals with financial and monetary problems.

Court of Auditors

This institution is closer to the monetary-financial area to which we refer, through its competence of checking the accounts and discharge in Community activities. Court of Auditors is not what the name seems to imply, namely a Community jurisdiction. Until the Treaty of Maastricht 1992 (1993), the Court of Auditors, which replaced a common accounting body for the three communities, acted as a complementary body with a technical character. Without substantially altering its powers the Treaty of Maastricht 1992 (1993) raises the rank of this institution to the rank of Community institution. The subsequent treaties (It is about the Treaty of Amsterdam 1997,(1999), Treaty of Nice, 2001(2003), the Treaty establishing a Constitution for Europe 2004(blocked in its application) Lisbon 2007 (2009) gave it some more power, such as enlarging its capacity and financial control over public bodies or private recipient of funds.



It consists of 28 members, appointed for a term of six years by the Council, acting unanimously after consulting the Parliament. The members are chosen among the persons who belong or have belonged to the Court of Auditors or to some similar bodies from the respective country which offers guarantees of professionalism and independence and which exercise their functions in the interests of the Union. The President is appointed by the Court even over a period of 3 years. It functions by organizing the Chambers, its members being assigned to 4 vertical Chambers and one horizontal Chamber. It also has a general Secretariat consisting of specialized personnel. Duties are fixed by intern rules (For details see, D. Chalmers, *s.a.*, op.cit. Chambridge, 2010,p. 89) and they mainly concern: control and expenditure of all members accounts and expenditures of the Union, examining the legality and regularity of incomes and expenditures to ensure a sound financial management; preparing an annual report at the end of each financial year; presentation in front of the Parliament and the Council of a statement certifying the reliability of the accounts, legality and regularity of the transactions, preparation of special reports covering any comments. It is important also, the Court's competence to issue opinions at the request of each EU institutions and to approve the Financial Regulations. There are neglected either the legislative powers of the Court in its own area of competence.

II. European Central Bank (ECB)

The emergence of this institution must be analyzed in a broader context namely, the process of achieving the Economic and Monetary Union (See F. Gyula, op.cit. 2012, p.203), guided by three principles: the irrevocable fixing of exchange rates and the establishment of a single currency; creation of a common authority responsible for defining a single monetary policy and directing within the Community of the market interventions toward a third foreign currency (dollar, yen, etc.); determining a common monetary policy. The joint, to which the second principle was referring, is the European Central Bank (BCE) having a shared capital between the member states according to the criterion of population gross domestic product (GDP). It was endowed with exchange reserves of the national banks, together with which forms the Eurosystem, with no legal personality. In relation to EU political authorities, ECB has enjoyed of a great autonomy, being equipped with two decision-making bodies: a Board of Governors tasked to set guidelines and to take appropriate measures, especially in monetary policy and a board of Directors, composed of a Chairman and a Vice President for appropriate measures. It was



also necessary to adopt the Statute of the national central banks to the new realities to ensure their independence.

Founded on 1st January 1999, the ECB replaced the European Monetary Institute, with a role to coordinate the monetary policy of the member states, of monitoring the European monetary system and preparing the conditions for creating ECB. In the Council of Amsterdam (June 1998) was approved an agreement between BCE and the central banks of the Member States (Sept. 1998). So being from 1998, BCE headquartered in Frankfurt has begun its activity as a bank of emission for the single European currency, euro. Implementation of the banknotes began on 1st January 2002, in 12 European countries, members of the UE, currently the number of the states with Euro being of 17. Euro is in circulation also in some non-member states (D. Niță, E. Dragomir, Instituțiile Uniunii Europene conform Tratatului de la Lisabona, Edit. Nomina Lex. Buc. 2010, p. 680). In Romania, the introduction of the single currency was postponed until 2017, date by which some criteria will be fulfilled regarding: price stability, exchange rate stability, state debts, interests on long-term loans, budget deficit.

The Lisbon Treaty brings some substantial changes in the legal regime of the ECB, the most important regarding its inclusion among the basic institutions of the EU, having as a main objective the establishment and conduct of monetary policy. Along with the central banks of the Member States whose currency is euro, BCE structures the Eurosystem. Some changes have been made concerning the name of the executive bodies and the delimitation of these competences. Given the importance and complexity of the management activity, coordination and control of the monetary policy of the EU, the ECB comes with expanded body, consisting more from directions. The ECB has a legal personality, being the only one authorized to issue euro currency. In exercising the powers and the management of its finances, has a complete independence so that the institutions, bodies, offices and the agencies of the Union, cannot in any way affect its duties. However, the Council (acting unanimously), after the consulting of the European Parliament and obtaining the consent of the ECB may assign to this, specific missions regarding the policies relating to the prudential supervision of the credit institutions and other financial institutions. Are excluded to this missions the insurance companies.



III. Conclusion

In summary, as they were presented in the preceding, the seven institutions have important powers regarding the monetary and financial policy of the EU. Through the competences and independent duties, the mentioned institutions contribute to the formation of budgetary resources, adoption of the budget and its judicious distribution. The EU budgetary sources come from: agrarian surcharges (active and passive); customs duties, a percentage of the value added tax collected in the Member States; part of the contribution of each state according to GDP. To this sources are added the wage tax to the Community officials, other administrative revenues (taxes, fines). The sources thus collected are distributed on compulsory expenditure (established by treaties or the sources derived from these) and non-compulsory expenditure, but justified. In the procedure for adopting the budget have competences the Commission, Parliament and the EU Council.

The procedure begins by identifying of the Commission's budgetary needs of each community structures, in relation to which elaborates the draft budget together with their views. This project is submitted to the Council, which in turn completes it and then send it within the period prescribed by law for Parliament to be voted or eventually, modified (case in which it will trigger a specific procedure). Once voted (by the end of December of the year which provides the budgetary year) it follows the ordering of Union's expenditure, within the limits of own resources, subject to a multiannual financial framework. The financial framework Council is established for a period of five years. Regarding this issue, have competences both the Council which acts unanimously, after the approval of Parliament (which shall act by majority of its members). As for the European Council, this exercises general competences, setting priorities, skills or boosting budgetary powers of the other institutions. Moreover, in justified cases, may unanimously adopt a decision which to authorize the Council to decide with a qualified majority some budgetary issues (such as the adoption of the Regulation).

From the above it is clear the cooperation of the community bodies involved in financial and monetary matters. In the monetary policy, the central role is played by ECB and the financial and monetary structures which make up: ESCB –Eurosystem, the Eurogroup.



References

1. Apetri N.A., Hlaciuc A.M., Morosan G., 2014. Institutions and Instruments of Fiscal Policy in the European Monetary Union (EMU), "Ovidius" University Annals, Economic Sciences Series, 2014, "Ovidius" University Annals, Economic Sciences Series, Volume XIV, Issue 1, 2014, ISSN 1582-9383, p. 87-92, <http://stec.univ-ovidius.ro/html/anale/RO/index.php>
2. D. C. Dragoș, 2007. *Uniunea Europeană, Uniunea Europeană*. Instituții. Mecanisme, Edit. C.H. Beck.
3. D. Chalmers s.a., 2012. *Unional European Law*, Chambridge
4. D. de Rougement, 1965. *The Idea of Europe*, Edit. Macmillan, New York
5. D. Niță, E. Dragomir, 2010 *Instituțiile Uniunii Europene conform Tratatului de la Lisabona*, Edit. Nomina Lex., Bucuresti
6. D. Varela, 2008. *Guvernarea Uniunii Europene*, Edit. Institutul European, Iași
7. E. Iftime, 2003. *Construcția comunitară Europeană*, Edit. Didactică și Pedagogică, București
8. Fabian Gyula, 2012. *Dreptul internațional al Uniunii Europene*, Edit. Hamangiu, Bucuresti