

**PEDTR 2019****18<sup>th</sup> International Scientific Conference “Problems of Enterprise Development:  
Theory and Practice”****DEVELOPMENT TRENDS OF LEGAL AND INSTITUTIONAL  
FRAMEWORKS OF ECONOMIC AND MONETARY UNION**

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***Abstract***

The subject of this research is trends in the development of the legal and institutional foundations of the Economic and Monetary Union (EMU) in the framework of the anti-crisis regulatory paradigm. The research purpose is to study current development ways of the legal and institutional foundations of the Economic and Monetary Union paying special attention to prerequisites, legal and institutional aspects of its evolution. The author also focuses on the correlation of integration in the monetary sphere with integration in the fiscal sphere and the financial markets area. This study is predominantly based on foreign scientific papers and documents issued by international financial regulators. The analysis of legal and other documents of the EU bodies plays a significant role in the study. The research methodology comprises historical, comparative, formal-legal and functional methods, systemic approach. According to the results of the study, it was concluded that the purpose of reforms is to ensure the financial stability of the European space through the rational allocation of risks among regulation sectors and levels, advancement of stabilization mechanisms, enhanced coordination of regulators, balanced policies in the financial and monetary spheres. The study of processes of the European integration in the financial and monetary spheres is of great practical importance for the development of integration within the framework of the Eurasian Economic Union.

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## 1. Introduction

One of the anti-crisis areas of supranational regulation at the European Union level was the creation of a system of supranational financial supervision bodies (European System of Financial Supervision – ESFS), to which since January 1, 2011, the authority was transferred to regulate financial markets, earlier this had been partially within the competence of national authorities. The new bodies are accountable to the European Parliament and the Council of the EU, as well as to the European Commission. One of the key tasks of the new supervisory structure is to develop common regulatory standards that are mandatory for all EU countries ("European Single Rulebook").

Thus, a new system of European Supervisory Authorities (ESAs) has been established for the implementation of microprudential supervision within the framework of the ESFS, consisting of three organizations operating on a sectoral basis: the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), the European Insurance and Occupational Pensions Authority (EIOPA).

The European Systemic Risk Board (ESRB) was established as a macroprudential supervisory body. As it was noted in the European Commission documents, the asymmetry between integrated financial markets, on the one hand, and the still nationally segmented architecture of the financial stability, on the other, has led to inadequate coordination of competent authorities at all stages of the crisis (European Commission, 2012a).

## 2. Problem Statement

The global financial crisis, that began in the United States and went devastatingly through Europe, had several important institutional and legal consequences, which, after the acute phase of the crisis, still continue its development. In general, there are several areas for implementing anti-crisis and post-crisis reforms in the EU:

- Unconventional monetary policy of the European Central Bank (ECB);
- Reform of the financial supervision system in the European Union (EU);
- Development of the Economic and Monetary Union (EMU) in projects of deeper integration.

Legal and institutional reforms in the European Union (EU), and in the Eurozone in particular, are developing in complex stages, with changes in project names and deadlines. At the same time, the scientific reflection and regulatory practice that accompany these reforms are the most valuable material for the scientific analysis and practical application in the integration associations.

## 3. Research Questions

In the framework of this research, the author considers the following questions: anti-crisis and post-crisis reforms in the EU area, new supervisory structures in this sphere, development stages for the Economic and Monetary Union, and documents regulating the development of EMU. The author emphasizes that the analyzed experience can be useful for legal and institutional transformations in the Eurasian Economic Union (EAEU), taking into account historical, political, economic and other features of integration processes in the Eurasian space.

#### **4. Purpose of the Study**

The purpose of this study is to consider actual development directions for legal and institutional basis of the Economic and Monetary Union. The author pays special attention to prerequisites, legal and institutional aspects of its evolution, and also focuses on the correlation between the integration in the monetary sphere and the integration in the fiscal sphere and the financial markets area.

#### **5. Research Methods**

This research is primarily based on scientific papers and documents issued by international financial regulators. The author analyzes legal and other documents of different bodies of the European Union. Systemic approach, as well as historical, comparative, formal-legal and functional methods build the research methodology of this study.

#### **6. Findings**

The global economic crisis that affected the European economy affected not only the creation of a new financial architecture (ESFS), but also influenced further anti-crisis projects that generated the CRDIV/CRR Package (in the banking sector), the MiFID-2 and EMIR directives (in the securities market), and the Solvency II directive (in the insurance market) in the financial markets.

The subsequent post-crisis transformation of financial regulation in the European Union was reflected both in the reform of the architecture of European financial regulators and in the launch of anti-crisis models of "flexible" integration in the financial sector.

The first of these initiatives was a Deep and Genuine EMU. It was declared that the goal of the Deep and Genuine EMU project is to move towards a full financial and economic Union (Full Fiscal and Economic Union). This fundamental reform of the Economic and Monetary Union was declared to be based on four building blocks: an integrated financial system, an integrated budget system, an integrated economic policy system, and measures to ensure the necessary democratic legitimacy and accountability.

The following *stages* of moving towards a "genuine EMU" were envisaged:

1. At the first stage, priority should be given to the full deployment of new economic management tools and the application of a single supervisory mechanism, and the application of a single mechanism in the work with problem banks (single resolution mechanism for banks).

2. The second stage involved budgetary integration (including the possibility of requiring a revision of the state budget in accordance with European obligations), and greater coordination in the areas of taxation and employment.

3. The third stage is the establishment of an autonomous Euro zone budget that provides for budget security for EMU (European Commission, 2012a).

From this initiative, two further projects are being developed – the Banking Union and the Fiscal Union. In the hope of breaking the "vicious circle" of dependence between banking and public finances (which led to the need to save problem banks at the expense of taxpayers), the EU authorities decided to tighten supervision in both the fiscal and banking sectors within the framework of these projects.

Although the European Union has now passed the stages of banking integration, which were expressed in the adoption of the first and second banking directives, a consolidated banking directive, and a CRDIV/SRR Package, the level of integration of EU states in the banking sector has been recognized by Europeans as insufficient to counter systemic risks and crises.

The idea of a Banking Union was put forward in May 2012 by the European Central Bank (ECB). It was assumed that the Banking Union would strengthen national banks and reduce their dependence on government finances provided for the redemption of sovereign debts. In addition, the objectives of the Banking Union were stated as to tighten supervision in the banking sector of the Eurozone, as well as to create a pan-European deposit guarantee system (European Commission, 2012b). Two pillars of the Banking Union have already been implemented: the Single Supervisory Mechanism (SSM) was launched in November 2014 and consists of the ECB and national regulators. The Single Resolution Mechanism (SRM) was launched on January 1, 2016 (Osokina, 2019).

Soon, the strengthening of financial stability in the EU continued with a new, modernized project called "A Deeper and Fairer EMU". This has led to the reformatting of more private projects (Sidorenko, 2020), which now generally look like an economic union, a financial union (including a banking union and a capital markets union), a fiscal union (Turkina, 2019); and a political union. As documentary (political and legal) milestones of the movement to this project, the following can be called:

- Stability and Growth Pact (European Commission, 2019);
- The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) (the Fiscal Compact) (European Commission, 2012c);
- The Five Presidents' Report (European Commission, 2015);
- White paper on the future of Europe and the way forward. Reflections and scenarios for the EU27 (European Commission, 2017a);
- Reflection paper on the deepening of the Economic and Monetary Union (European Commission, 2017b);
- Completing Europe's Economic and Monetary Union – Policy package (European Commission, 2017c).

In 2015, the heads of the European Commission, the European Parliament, the European Central Bank, the European Council and the Eurogroup published the *Five Presidents' Report* (European Commission, 2015). This document describes the evolution of EMU in the most structured and consistently reasoned way and provides a road map for deepening the Economic and Monetary Union in two stages and its completion no later than by 2025.

The report states that the new project should be able to absorb economic shocks by having appropriate elastic economies and sufficient financial buffers. It is noted that monetary policy is unified for the Eurozone, but national fiscal policies are vital to stabilize the economy in times of crisis.

Economies should be able to mitigate the impact of shocks through *risk sharing* in EMU. In the short term, this risk distribution can be achieved through capital markets (private risk distribution) and the Banking Union support systems. In the medium term, public risk allocation should be strengthened through a financial stabilization mechanism for the Eurozone as a whole. All four of the above mentioned

unions depend on each other. Therefore, they should develop in parallel, and all Eurozone member states should participate in all these unions.

To ensure a gradual development to a true Economic and Monetary Union, the Eurozone needs to move from a system of rules and recommendations to a system of further division of sovereignty in favor of supranational bodies, most of which already exist and can progressively fulfill this task.

The stages of this process are:

Stage 1 (July 1, 2015-June 30, 2017): "deepening by doing". European institutions and Eurozone member states should base their actions on existing instruments and improve the effectiveness of existing agreements. At this stage, there should be:

- Improving competitiveness and structural convergence;
- Finalizing the Financial Union project (to complete it, it is important to implement a single deposit insurance scheme and the Capital Markets Union);
- Maintaining responsible fiscal policies at the national and Eurozone levels.

Stage 2: "completing EMU". Design of the new economic and institutional architecture of EMU. Specifically, during this second stage, the convergence process becomes mandatory through a system of assessments that can be given a legal character. At this stage, this convergence process is formalized and based on a set of agreed standards.

Final stage (by 2025 at the latest): a deep and genuine EMU provides all citizens of the Eurozone member states with a stable and prosperous space that is attractive for other EU members to join the project.

The document on deepening the Economic and Monetary Union of May 31, 2017 revealed the content of five scenarios for the development of the Union presented in the *White Paper*, depending on the choice made by the European leaders, and also focused on the relation between the monetary policy and the integration of financial markets and the fiscal sphere (European Commission, 2017).

The document indicates that the EMU monetary "pillar" is well developed, which is determined by the role of the European Central Bank. However, the "economic" component of integration is lagging behind, which hinders its ability to support efforts by the monetary policy and national economic policies.

The monetary policy is centralized at the Eurozone level, while decentralized budget and sector rules mainly reflect national circumstances and preferences. This overloads the monetary policy, leaving member states, businesses, and citizens unable to take full advantage of EMU.

The Five Presidents' Report states in addition that the EMU financial system should be truly unified, or the impulses from the monetary policy (for example, changes in interest rates) will not be uniformly transmitted to its member states (European Commission, 2015).

In his speech on the state of the union in 2017, President of the European Commission Jean-Claude Juncker announced concrete measures to address some of the remaining shortcomings identified during the previous stages of this process. On 6 December 2017, the European Commission presented a package of initiatives to implement these promises. Main ideas of the package are:

- Further steps towards completing the Economic and Monetary Union;
- A proposal to include the European Stability Mechanism (ESM) in the EU legal framework, transforming it into the European Monetary Fund;

- A proposal to include the content of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) (the Fiscal Compact) in the framework of EU legislation and others (European Commission, 2012c).

In the published six priorities of the European Commission for the period 2019-2024 (von der Leyen, 2019), the project of deepening EMU is supported and will probably develop dynamically.

## 7. Conclusion

We can conclude that the anti-crisis reforms of the financial regulation in the EU have not yet been completed and are developing in stages within the framework of the "project" ideology, which implies a conceptual-ideological and lexical "substrate" for reforming the three main areas: monetary, fiscal, and financial markets.

The main goal of these reforms is to ensure the financial stability of the European area through the rational distribution of risks by regulation sectors and levels, the development of stabilization mechanisms, more effective coordination of regulators, and a balance between policies in the financial and monetary spheres.

European regulators emphasize that integration in the monetary sphere is ahead of integration in other financial sectors, which leads to its overload and inefficient transfer of monetary impulses to the financial systems of the Eurozone countries. This disparity should be resolved, including by transferring greater powers to the supranational level in the fiscal sphere and in the sphere of financial markets. This should also be facilitated by institutional changes: the creation of the European Monetary Fund, the European Ministry of Finance, and a Single Supervisory Authority on the capital market.

The study of European integration processes in the financial and monetary spheres is of great practical importance for the development of integration within the Eurasian Economic Union. Integration of financial markets in the EEU is developing slowly and asynchronously with integration in the monetary and fiscal spheres. Moreover, these projects, unlike the European Union, are not united conceptually and ideologically. The author believes that the studied EU experience can serve as a useful example for legal and institutional transformations in the Eurasian Economic Union (EAEU), taking into account historical, political, economic and other features of integration processes in the Eurasian space.

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