

AEDBF

**Association Européenne pour le Droit Bancaire et Financier
European Society for Banking & Financial Law**



25th ANNIVERSARY

**25 years of Banking and Financial Law –
General trends**

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**The registered seat as inherent discriminatory factor in
the internal market: as to the deposits'
attractiveness for banks and the financing ability for
firms**

**Dr. Dimitris Tsibanoulis
AEDBF Chairman**

- **The financial crisis enhanced European market fragmentation**
 - Post-crisis banking integration has reversed
 - Institutional disequilibria led to the fragmentation of the European Market in the aftermath of the financial crisis and the Eurozone crisis
 - A de facto re-fragmentation and segmentation as a collateral effect of the institutional insufficiencies.

- **definition of segmentation:**
 - the situation in which an issuer / undertaking is required to pay a premium only because it belongs to a specific jurisdiction, irrespective of the issuer's / undertaking's own risk profile
 - the specific conditions related to the local environment of a bank determinating its attractiveness for depositors
- **country driven criteria as decisive factors for economic decisions, e.g.**
 - for depositors as to the choice of the bank with which they will hold accounts
 - for banks as to the financing of enterprises

➤ **Financial trilemma:**

the three policy objectives

- 1) maintaining global financial stability;
 - 2) fostering cross-border financial integration; and
 - 3) preserving national authority for financial policies;
- are not compatible. Any two of the three objectives can be combined but not all three together; one of the three objectives has to be abandoned.

- Urgent need for a new post financial crisis New European Financial Services Action Plan [FSAP] addressing and restoring the disequilibria created due to the imbalances inherent to the Eurozone framework

➤ Initial **lack of Institutions to absorb shocks**

➤ **Reaction:**

Creation of

- The ESM
- A banking union
- Towards a Single Resolution Mechanism (July 2013)
- A pan-European Deposit Guarantee Scheme [?]

as core requirements for the restoration of level playing field in the European financial services market and, consequently, for a sound development of the banking sector, which would be capable of financing the real economy.

- Approval of the European stability mechanism (ESM) by the ECJ Judgment in the Pringle Case C-370/12
- The Court holds that the provisions of the TEU and the TFEU and the general principle of effective judicial protection do not preclude the conclusion and ratification of the ESM Treaty.

Towards a Banking Union

- On 13 October 2013 the Council adopted regulations creating a single supervisory mechanism for the oversight of banks and other credit institutions, thus establishing one of the main elements of the European banking union.
- The single supervisory mechanism (SSM) will be composed of the European Central Bank (ECB) and the supervisory authorities of the member states.
- “The future of EMU & Economic growth perspectives for Europe” (DG ECFIN), Economic Papers

- The Single Resolution Mechanism would complement the Single Supervisory Mechanism (SSM) and would ensure that – notwithstanding stronger supervision – if a bank subject to the SSM faced serious difficulties, its resolution could be managed efficiently with minimal costs to taxpayers and the real economy. The Single Resolution Mechanism would consist of a Single Resolution Board and a Single Bank Resolution Fund.
- Proposal for a Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council.
- A European Deposit Insurance and Resolution Authority ?

- Economic growth perspectives for Europe
- Interrelation between sovereign debt and banking sector
- A fight against a Lernaean Hydra impeding any growth prospects:
 - The vicious circle of sovereign debt / banking crisis
 - The recession spiral due to structural inefficiencies and low competitiveness, deepened as a result of the austerity measures

- Euro area summit statement, 29 June 2012
 - "We affirm that it is imperative to break the vicious circle between banks and sovereigns"*
- Unlocking the growth potential of the Single Market!
- Banking Union
- Further targets:
 - a fiscal union
 - an economic union
 - a deep-rooted political union