



Content:

- * *About Need of Styding European Monetary Law at Sepbian Law Faculties, p. 1*
- * *Monetary Disputes in EU Law, p. 2*
- * *New Economic Governance in European Monetary Union, p. 3*
- * *Committee for International Monetary Law, p. 4.*

About the Need of Styding European Monetary Law at Serbian Law Faculties

The process of evolution of European monetary law, and in particular its key institutions such as monetary sovereignty, best illustrates the need for profound academic research in this field of law in domestic curricula. Namely, in the conditions of the debt crisis, Member States have become especially aware of the significance of the legal concept of economic (monetary) policy coordination for the normative and economic efficiency of monetary solutions. Also, the primary sources of monetary law, due to their rigidity and difficult process of a roll-over, in some ways became a relic of traditional economic integration, and therefore had to be supplemented by provisions of secondary legislation embodied in new institutional models of economic governance, such as the European Semester, European Stability Mechanism and the Fiscal Agreement that initiated monetary and fiscal disputes before the European Court of Justice. The handling of the Court in fiscal disputes (related to the application of fiscal rules) and monetary disputes (in which the European Central Bank's active and passive procedural legitimacy was fully realized) pointed to the urgent need to educate judges, advocates, and lawyers for acquiring specialized knowledge in the field of monetary law. The role of soft law in optimal regulation of monetary relations is crucial because it balances between extremely dynamic monetary events that require the intervention of public authorities, on the one hand, and insufficiently adaptable primary monetary legal sources whose slow adaptation (reforming) potentially threatens to deepen the external time-lag in fulfilling desired results, on the other hand. This does not mean that secondary legal sources conflict with the primary ones since we must not forget that the primary legal projections are *conditio sine qua non* for the determination of the monetary order in dimensions of its legitimacy and legitimacy. The hybrid character of monetary law in certain circumstances can also give major importance to the precedents presented in secondary legislation (for example, the no-bailout clause for public debt that is relativized in practice).

A very important step in the introduction of the discipline of Monetary Law at Serbian law faculties as an independent course refers to the fact that in September 2020, the Faculty of Law of the University of Nis was awarded a three-year project within the Erasmus + Jean Monnet program of the European Union, to organize teaching and scientific research in the field of European monetary law. The Jean Monnet Module entitled "Jean Monnet Module for European Monetary Law" was established within the bachelor academic studies of law, but is also intended for students of master's and doctoral studies in law, as well as lawyers in practice (judiciary, law, public authority). In the Jean Monnet module, students will study the issue of normative and economic efficiency of fiscal rules in the European Union and their impact on domestic monetary legislation, as well as the law of the European Central Bank, which in the conditions of globalization of economic and monetary flows disintegrated from general monetary law as an independent scientific discipline. Also, for the first time, students will have the opportunity to get detail acquainted with the characteristics and outcomes of monetary disputes in which the implementation of active and passive procedural legitimacy of European monetary agents is fully implemented and the monetary jurisdiction of the European Court of Justice, as well as legal mechanisms of European economic governance in the European Union, i.e. interstate agreements that are in the function of ensuring legal and economic stability in the EMU. The courses will be attended by students of all levels of study, as well as lawyers from practice.

It is expected that by mastering the Jean Monnet module, course participants can successfully: monitor, critically research and analyze both classical and contemporary trends in the legal regulation of EU monetary flows and





policy; competently, scientifically, and argumentatively discuss, research and present the results of their scientific work that will contribute to the development of scientific thought in the field of studying EU monetary law; and work on research, organization and optimal monetary management, monetary advisory and similar activities that are covered by the content of the Jean Monnet module. In the indicated relations, with the appropriate supplementation of knowledge from other subjects, course participants should be able to work on signing and implementing international agreements and documents in the field of European monetary law and be able to participate in the work of international monetary institutions.



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Monetary disputes in EU law

Legal subjectivity The ECB is very developed and specific, given its role in the international monetary order, and is not so preset. Institutional structure ECB has always developed and adjusted to current events on the monetary scene since the most formal and essential elements, which largely influenced its competencies were built in the first years of the Union based on classical monetary Settings on what are the tasks of the Central Bank, through modernization of classical postulates from the field of fiscal and other segments of general economic policy (for some of the theorists a little radical) views on the understanding of ECB as their legislator Whose right exists outside the EU community carpool and exists independently of it (or at least equal to it).

Monetary disputes represent a special category of administrative disputes which is addressed to the actions of the Central Bank, more precisely, decides on the administrative nature of acts of the Supreme Independent Monetary Institution. The fact is that in the modern monetary law of the Central Bank, they are increasingly residing in the country's constitutional order and whose decisions have important implications for budget and public finances, where their competencies are elaborated with special laws and bylaws. In considering monetary disputes by the Court, it is necessary to point out that there are certain similarities in the method of constituting both judicial bodies and most monetary institutions, which are reflected in the fact that the reflection of the promise given by their and citizens and that the conceptual elements of the legislator are present in both institutions present in part, guarantee independence in the work and showing the consequences of possible intimidation by the holder of other forms of government. The essential difference concerns the status of the main objectives of these two institutions, because the implementation of monetary stability is the economic situation in general public policy, while the principle of the rule of law for which the Court is committed to the basic setting of each public policy. Empirical research that has been establishing correlations between judicial independence and independence in the work of the Central Bank, in the countries in which a higher degree of court independence, usually exists institutional solutions that guarantee a higher degree of independence in the central bank independence. On the other hand, there is a multi-stop protection system in all countries, regardless of whether it is disputed from general or special judicial competencies, while in the case of monetary policy, all decisions adopt a central bank within a single structure that is not differentiated as judicial. The difference, also exists in the agency costs, because judges and central banks implement their Inateres who consider the best (not personal, already interesting waste for the conservation of public goods such as the judiciary and monetary stability) which does not always have (and not Expected) to cover with the interests of those who delegated them, ie they chose to this position because more well for individuals (sometimes must "sacrifice") something that implies implied in the work of these bodies.

The competence of the ECB in the field of creating the so-called. Soft legislation is invaluable for the science of contemporary monetary law because its factual effect in legal traffic is far from the usual language meaning of the "soft" attribute contained in the generalized classification of legal acts. Guidelines, instructions, measures, announcements, understandings, and programs implemented by the European Central Bank represent indispensable and unavoidable factual material for filling out legal gaps in EMU regulations, which cannot be replaced with any other type of legal action. Primary monetary legislation has not been successfully implemented during the crisis due to its rigidity and overdue formalism (which did not exist at the time of writing the solution contained in them), but also the problem of complying with the work and behavior of different subjects of different entities participating into his adoption. The ECB has shown the willingness to make ready for the problem of social cost in its programs and thus realizes its operations in the "humane manner" of the EU monetary policy that the economic categories contained in legal instruments provide justification and refuge with a kind of spirit.

See:

- Rene Smits and Al., *The Banking Union and Union Courts: Overview of Cases as of 20 April 2022* (<https://ebi-europa.eu/publications/eu-cases-or-jurisprudence/>).
- *Building Bridges: Central Banking Law in an Interconnected World*, ECB Legal Conference 2019, Frankfurt am Meine. <https://www.ecb.europa.eu/pub/pub/legal/html/index.bg.html>

Institutional models of new macroeconomic governance in EMU

The problems observed in the law of the European Union in the conditions of the global economic and financial crisis impose the need to reform the institutional framework of governance in the EMU. The institutional framework of the new economic governance was created outside the framework of primary law and acts of secondary legislation and was shaped by the provisions of the European Semester, the Agreement on the Constitution of the European Stabilization Mechanism, and the Treaty on Stability, Coordination, and Governance in the Economic and Monetary Union. The concept of new economic governance is based on redefining the functioning of EMU on the principle of reaching broad consensus of different content and specific legal nature. In this sense, some authors propose an approach based on European federalism, where the coordination of economic policies is achieved through financial transfers from the center to peripheral points. Such an institutional mechanism would mean, in practice, a departure from the value of traditional instruments of economic management and a change in the normative basis for the formation of representative political institutions of the Union. The European Semester can be seen as an annual cycle of directing and monitoring economic policy. The European Semester signifies a form of ex-ante coordination of the economic policies of the member states following the goals of the Pact on Stability and Growth and the Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth. This mechanism was created after the Commission's initiatives launched in 2010 to change the economic model of management, which in crisis conditions showed significant weaknesses. In the European Semester, the Community's effort to consolidate, synchronize and expand existing forms of economic policy coordination can best be seen. In terms of its legal nature, the European Semester belongs to a form of cross-border and cross-border political cooperation. Elements of cross-border coordination are reflected in the fact that the Commission evaluates national reform plans and programs and evaluates their compatibility. As the Semester connects the goals of fiscal and economic policy integrally, features of cross-political coordination are also observed. When applying for the European Semester, there are no sanctions, which is why it belongs to the form of soft coordination based on methods of fine pressure. Since the implementation of the first European semester, significant community acts have been adopted that have contributed to its better implementation. In this sense, it is very important to analyze the contribution of the package of legislative measures determined by the Six Pack institutional legal arrangements, which should have contributed to the creation of a more favorable legal environment for the application of the new concept of economic management. Package six contains five Regulations and one Directive to introduce sanctions to avoid excessive deficits through supervision of budget execution and ensuring the necessary transparency of public finances. New legislative measures that came into force in 2011 strengthened the mechanism of the European Semester and created legal conditions for deeper fiscal consolidation. It is important to note that Package Six was adopted based on the vigorous initiative of the European Parliament, which for the first time since the formation of the economic policy of the EMU took a leading role in the coordination process, insisting that all measures provided for in this legal arrangement be discussed jointly. Package six was adopted in the circumstances when the traditional coordination mechanisms embodied in the general guidelines and provisions of the Pact on Stability and Growth could not be reformed promptly and adapted to the consequences of the global financial crisis, as a result of which the urgent response of community institutions was required

The treaty on Stability, Coordination, and Governance in the Economic and Monetary Union was concluded on January 30, 2012, during the unsuccessful negotiations of the member states on limited derogations from the founding treaties. This act aims to strengthen the economic pillars of the economic and monetary union by tightening budgetary discipline through the implementation of the rules established by the Fiscal Agreement, establishing tighter coordination of economic policy, and better management of the Eurozone to realize macroeconomic stability, sustainable economic growth, and social cohesion. The agreement establishes an obligation for the contracting parties to bring their budgets to a state of surplus or balance (the so-called "golden rule" of classical public finance), which requires the convergence of medium-term budget goals within the deadlines set by the Commission. The existence of a structural budget deficit of up to a maximum of 0.5% can be tolerated for members whose share of GDP in public debt is above 60% and where there is a greater threat to the sustainability of stable public finances

See:

- https://economy-finance.ec.europa.eu/economic-and-monetary-union/what-economic-and-monetary-union-emu_en
- https://eur-lex.europa.eu/EN/legal-content/summary/treaty-on-stability-coordination-and-governance-in-the-economic-and-monetary-union-also-known-as-the-fiscal-compact_ht

Committee for International Monetary Law (International Monetary Law Committee of International Law Association - MOCOMILA)

A major contribution to the development of modern European and international monetary law is provided by the Committee for International Monetary Law, which operates under the Association for International Law (founded in 1957).

The work of this most influential Committee of the Association includes a comprehensive, reasoned, and critical study of the legal aspects of money, payment systems, currency relations, and the concept of financial stability.

The subject matter of the Committee's study in particular includes the study of the following areas:

- defining international financial standards;
- procedural aspects of their development and implementation;
- applications to different sectors and corporate structures within the broader financial industry;
- adaptation of basic principles from industrialized economies to developing markets and other legal traditions (eg Islamic banking);
- legal issues related to the European Economic and Monetary Union, events in other (non-legal) areas according to areas in the area of currency and the use of foreign exchange (observed from an international perspective);
- cross-border cooperation and challenges in the financial industry's efforts to combat money laundering and terrorist financing, as well as cross-border cooperation to promote resilience in the financial sector;
- issues related to capital control in agreements on free trade and investments (especially in the segment of cooperation with the Committee of the Association for International Law on Foreign Investments);
- restructuring of the state debt (public debt management policy and primarily public loans) and;
- issues of international financial law arising from the insolvency of international financial institutions.

The committee is composed of leading theoreticians of international monetary law, top officials from international monetary institutions, central banks, and distinguished lawyers with many years of experience in the field of monetary disputes, which represent a special category of administrative disputes. Today, the Committee acts as the main initiator of new trends in this branch of law, organizes conferences dedicated to the issue of international monetary relations, and holds regular meetings whose reports are an indispensable source of the correct application of international monetary law at the global level.

In this way, a great contribution is made to shaping the discipline of international monetary law in the way it deserves and demystifies the content of international currency relations, which often seem very abstract to citizens and under the "veil" of financial interests of global actors, incomprehensible to *ordinary citizens, who have the right to live in economic systems that are monetarily stable.*

See:

- www.mocomila.org.

UPCOMING EVENTS:

- **Promotional event "Open Days of Monetary Law of the European Union"**
(04.12.2020 at noon, online Faculty of Law, University of Niš)

We kindly inform all interested undergraduate, master's, and doctoral law students, law graduates, and the public that on Friday, 04.12.2020. at 12:00 p.m. at the Faculty of Law of the University of Niš, a promotional event will be held for the Jean Monnet module for European Monetary Law, entitled "Open Days of EU Monetary Law", during which the project team of the Module will present the project activities to future participants and point out the practical importance of this branch rights to the standard of living of citizens to the interested public. Taking into account the situation caused by the COVID-19 pandemic and the mandatory application of epidemiological measures to protect life and health, the promotional event will be held online via the ZOOM platform, which will be free for participants.

- **Jean Monnet workshop "Legal challenges in the regulation of digital currencies"**
(Thursday, 29 April 2021 at 2 p.m., online Faculty of Law, University of Niš)

We kindly inform all interested undergraduate, master's, and doctoral law students, law graduates, and the public that on Thursday, April 29, 2021. at 2 p.m. at the Faculty of Law of the University of Niš, an online workshop of the Jean Monnet module for European monetary law entitled "Legal challenges in the regulation of digital currencies" will be held (within the framework of which issues related to the use of electronic money in EU monetary law, the concept EU central banking and digital currencies, the position of the European Central Bank, the advantages and disadvantages of using digital currencies, the implementation of monetary sovereignty in the conditions of the digital revolution and analyze the monetary legal aspects of the domestic Digital Assets Act). Taking into account the situation caused by the COVID-19 pandemic and the mandatory application of epidemiological measures to protect life and health, the workshop will be held online via the ZOOM platform, which will be free for participants. All workshop participants will receive certificates of participation.

- **Jean Monnet round table "Monetary disputes in EU law"**
(Thursday, 20/05/2021 at 1 p.m., online Faculty of Law, University of Niš)

We kindly inform all interested undergraduate, master's, and doctoral law students, law graduates, and the public that on Thursday, May 20, 2021. at 1:00 p.m. at the Faculty of Law of the University of Niš, an online round table of the Jean Monnet module for European Monetary Law entitled "Monetary Disputes in EU Law" will be held (within which issues related to the nature and general and special features of monetary disputes in EU law, procedural identification of the European Central Bank, the monetary jurisdiction of the European Court of Justice and analyze the most significant monetary disputes from the practice of the European Court of Justice). Taking into account the situation caused by the COVID-19 pandemic and the mandatory application of epidemiological measures to protect life and health, the round table will be held online via the ZOOM platform, which will be free for participants. All participants of the round table will receive certificates of participation.

- **Jean Monnet guest lecture by prof. Dr. Maje Nastić on the topic "Corporate responsibility for respecting human rights"**
(Monday, April 11, 2022, at 3 p.m., online Faculty of Law, University of Niš)

We kindly inform the participants of the Jean Monnet module for European Monetary Law that on Monday, April 11, 2022. at 15:00 at the Faculty of Law of the University of Niš, a guest lecture by Prof. Dr. Maja Nastić, associate professor at the Department of Public Legal Sciences of the Faculty of Law, University of Niš, under the title "Corporate responsibility for respect for human rights" within the course "Legal regulation of the new economic management in the European Union". Taking into account the situation caused by the COVID-19 pandemic and the mandatory application of epidemiological measures to protect life and health, the guest lecture will be held online via the ZOOM platform, which will be free for participants.

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