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Visegrad Group countries and the EU's Economic and Monetary Union: an analysis of legal convergence[1]

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Abstract
The analysis is based on the synchronic and diachronic review of Convergence Reports pertaining to Visegrad Group (V4) countries undertaken in order to investigate dynamics of the European Commission's and the ECB's approach to the EMU legal convergence criterion assessment. The research indicates that these EU institutions apply the same analytical template to each EU Member State with derogation (which implies also Visegrad EU Member States not being the Eurozone members). The template has a stable structure and is observed quite obstinately, yet sometimes with exceptions which do not seem to be intended. An important feature of the European Commission's and the ECB's assessment of the legal convergence criterion is the recurring nature of some of its argumentation and its openness to any new points introduced in response to the developments of the national legislation under scrutiny. This tendency has been especially manifested – yet for different reasons – with respect to Hungary and Poland.
The assessment of the national legislation's compatibility with the need to integrate the national bank with the ESCB is structurally and ontologically different from the assessments of other regulatory areas. Moreover, various arguments differ in terms of expectations of reaction, because it does not necessary reflect on immediate actions, which have to be undertaken as soon as possible (as they would contribute to the improvement of the entire financial sector performance), but the ones which could be postponed until the very moment of the assessed country's entry to the Eurozone. All other recommendations would have to be implemented as soon as possible.
Keywords: Visegrad Group countries (V4), Economic and Monetary Union (EMU), central bank independence, legal convergence criterion, Maastricht criteria

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Państwa Grupy Wyszehradzkiej a Unia Gospodarcza i Walutowa UE: analiza konwergencji prawnej

Streszczenie

Analizę oparto na przeglądzie – w układzie synchronicznym i diachronicznym – Raportów Konwergencji dotyczących państw Grupy Wyszehradzkiej (V4). Celem badania była identyfikacja stopnia dynamiki podejścia Komisji Europejskiej i EBC do oceny spełniania prawnego kryterium konwergencji. Badanie wykazało, że instytucje oceniające wykorzystują ten sam wzorzec oceny do wszystkich państw z derogacją UGiW (a więc i tych państw V4, które nie przyjęły euro). Wzorzec ten ma stałą postać i jest konsekwentnie stosowany od samego początku ocen, niekiedy z drobniejszymi odchyleniami, które nie wydają się zamierzone. Istotną cechą oceny prawnego kryterium konwergencji jest powtarzalność argumentacji instytucji oceniających oraz silna tendencja do wprowadzania nowych punktów w odpowiedzi na zmiany regulacji prawnych państw ocenianych. Tę skłonność szczególnie dostrzega się w odniesieniu do ocen Polski i Węgier – choć jest ona tutaj różnie motywowana.

Ocena zgodności prawa krajowego z wymaganiami kryterium konwergencji prawnej jest strukturalnie i ontologicznie różna od ocen kryteriów ekonomicznych. W dodatku poszczególne argumenty różnią się w zakresie oczekiwania reakcji, które muszą mieć miejsce tak szybko, jak to tylko możliwe (z uwagi na fakt, że to przyczyniłoby się do polepszenia funkcjonowania całego sektora finansowego), i tych, które mogą być przesunięte w czasie na moment przystąpienia państwa do strefy euro. Wszystkie inne zalecenia muszą być zrealizowane tak szybko, jak to możliwe.

Słowa kluczowe: państwa Grupy Wyszehradzkiej (V4), Unia Gospodarcza i Walutowa (UGiW), niezależność banku centralnego, prawne kryterium konwergencji, kryteria z Maastricht

The aim of this article is to analyse the legal issues, which have emerged in the process of the Visegrad Group (V4) countries' integration in the Economic and Monetary Union (EMU). Thus, the author focuses on the Maastricht legal convergence criterion (set forth in Article 131 TFEU) assessment undertaken on the basis of Article 140 TFEU. In this context, it is an attempt to identify any modifications in the European Commission's approach to this form of V4 countries evaluation.

Article 131 TFEU provides that: "[e]ach Member State shall ensure that its national legislation including the statutes of its national central bank is compatible with the Treaties and the Statute of the ESCB and of the ECB".

The already mentioned Article 140 TFEU requires the European Central Bank and the European Commission to at least biannually report to the EU Council (in practice – to the ECOFIN Council) "on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of economic and monetary union." (Art. 140(1) TFEU). This provision contains a specific reference to the EMU legal convergence criterion, because it requires that the report developed by the ECB and the European Commission "shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its central bank, and Articles 130 and 131 TFEU…" (Art. 140(1) TFEU). The former Treaty's provision mentioned in Article 140 TFEU sets forth the basic rules concerning the central bank independence. Article 130 TFEU requires

that, in the context of execution of the powers, as well as the tasks and duties conferred upon EU national central banks by the Treaties and the Statute of the ESCB and of the ECB "neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body." (Art. 130 TFEU: first sentence).

Further, Article 130 TFEU also contains a provision requiring the EU institutions and bodies, as well as the governments of the Member States to abide by the said rule and abstain from seeking "to influence the members of the decision-making bodies of […] the national central banks in the performance of their task" (Art. 130 TFEU: second sentence).

The most important objective of the analysis intended in this article is to find out what analytical approach was adopted by the European Commission and the EBC, and whether it has evolved over time. Thus, the research presented in this article intends to contribute to the line of the EMU study concerning the Maastricht legal convergence criteria, which upholds that although the EMU convergence criteria have not been changed since their adoption, their interpretation and application in practice have evolved reflecting:

a) the European Commission and EBC's experience with the entire EMU convergence assessment;
b) the development of the underlying EU law (e.g. Nowak-Far 2017).

Literature review

The intended analysis is to contribute to a better understanding of the legal aspect of the Maastricht convergence model in the situation, where the overwhelming majority of research is usually devoted to the economic aspect of it. It is quite noticeable that even the legal or law-oriented EMU-related literature presents this aspect of the EMU in a relatively static manner. Among the rather rare studies, which did not ignore the dynamic nature of this phenomenon, are these presented by Langner (2020), Creel (2018), Townsend (2007), de Haan, Eijffinger and Waller (de Haan et al. 2005), Padoa-Schioppa (2004), Zilioli and Selmayr (2001), Andenas et al. (1997). The common feature of these studies is that they (for all good reasons) consider the EMU legal convergence criterion as the one which contributes to the stability of the EMU. Most of them reflect on a wider scope of research, which emphasises beneficial impact of central bank independence on inflation performance (see e.g. Padoa-Schioppa 2004). Only a handful studies take a more adequate account of the EU Member States with derogation assessment (Townsend 2007: p. 222–247; de Haan et al. 2005: p. 169–212). Some authors consider the EMU legal convergence criterion as the one which contributes to the overall institutional arrangement, which reduces transactional cost of conducting economic and monetary policies in the EMU (Creel 2018). None of these studies attempts to investigate the dynamic side of the EMU legal convergence assessment. They simply assume that the

model applicable is static. Therefore, the objective of the analysis presented in this article is, thus, to verify whether such assumption is adequate.

Materials and methods

The research outcomes presented in this article is a result of the analysis of all available *Convergence Reports* (2008, 2010, 2012, 2014, 2016, 2018, 2020, 2022) with the view of their approach to the EMU legal convergence assessment (yet with a special emphasis on the most recent ones). The analysis was conducted in the context of a rather expansive EU and national regulation pertaining to central banks of V4 countries. Therefore, for the purposes of this analysis, the national regulations and findings presented in *Convergence Reports* were compared in a static (or, more specifically, synchronic) as well as dynamic (diachronic) manner. The former type of analysis implies that the evaluation is to be performed for a given moment; the latter implies that worthwhile changes in the approach over time are to be identified.

Results and discussion

1. General rules of participation in the EMU

Being already EU Member States, all V4 countries participate in the EMU. Yet, this group of countries is differentiated on the grounds of their participation in the ESBC/Eurosystem. Slovakia is the only V4 state, which has adopted the euro on 1 January 2009. All other V4 countries (the Czech Republic, Hungary, and Poland) do not participate in the Eurosystem, which implies that they are considered as "Member States with derogation" under Art. 139 TFEU. First and foremost, this specific status of the three countries implies that they were unable and/or unwilling (the question remains to be investigated in this article) to achieve the requirements, which must be fulfilled to join the "complete" EMU, i.e. the convergence criteria set forth, in a general format, in Art. 140(1) TFEU.

As it has already been highlighted in this article, pursuant to Art. 140(1) TFEU, the transition of each EU country to the complete EMU is conditional. It depends on whether such a country has achieved, in a sustainable manner:

a) compatibility between its national legislation (including, especially, the statutes of its national central bank) and Art. 130–131 TFEU, as well as the Statute of the ESCB and of the ECB;
b) high degree of sustainable economic convergence.

Therefore, every EU Member State aspiring to join the complete EMU is bound to verify whether its national legislation concerning its central bank's organisation and monetary policy framework meets the EU standards of independence. It is essential for an effective and efficient policy of price stabilisation, where the central bank cannot be impelled by the actors invested with the power to formulate and perform fiscal policy to contribute to fiscal or quasi-fiscal functions that such actors may wish to perform (see e.g. Issing 1996: p. 22–23).

The most important body of legislation designed to safeguard the national central banks' independence is that directly concerning specific attributes of it. In an important rectification of this concept, the Court of Justice of the European Union (in a judgement C-11/00 *Commission v. ECB*) reconfirmed that independence of any central bank in the EU has the following dimensions:

a) *the institutional dimension*, specified in Art. 28 TFEU and requiring that the central bank is not bound by any rules or requirements originating from the executive branches of national governments or EU executive authorities;

b) *the personal dimension*, specified in Art. 11.2 and 14.2 of the ESCB and ECB Statute, which stipulates that the term of office of governors of national central banks should not be less than 5 years; in addition, the requirement is that these officers could be relieved from office "only if they no longer fulfil the conditions required for the performance of their duties or if they have been guilty of serious misconduct" – which is not a very clear requirement bound to be rectified by the Court of Justice of the EU, if it would be called to decide upon the applicability of this rule;

c) *the functional dimension*, concerning specifically national central banks, which requires that the statutory competencies invested with them must be materially and formally compatible with all the provisions of the Treaty as pertains to goals and objectives of the ESCB, and must allow them to effectively perform the tasks arising from their participation in the ESCB;

d) *the financial dimension*, related to the requirement that all component institutions of the ESCB must be properly furnished with financial and other material resources to perform their functions within the ESCB.

With regard to the economic convergence criteria, Art. 140(1) TFEU stipulates that each EU Member State shall achieve a high degree of sustainable convergence prior to the transition to the complete EMU. This convergence is measured by the reference to the following standards:

a) budgetary standards, referring to the government deficit and public debt volume;
b) monetary standards formulated in terms of the high degree of price stability, the foreign exchange stability, and the interest rate stability.

Art. 126 TFEU provides for concrete budgetary convergence criteria, but further analysis of them is redundant considering the scope of the analysis presented in this article.

The very first procedure of qualification of the Member States to the complete EMU in May 1998, made it clear that the Council (which, by virtue of Art. 121 TFEU is the ultimate assessment body) had adopted a significantly relaxed interpretation of Articles 140 and 126 TFEU, thus, allowing countries with relatively high public debt to GDP ratios to adopt the euro and introduce the single monetary policy (in the ESBC framework). In contrast, from the very outset of the legal convergence assessment, the European Commission and the ECB adopted a rather stringent approach to central bank independence. This approach implied that the Member States under evaluation were expected to meet this standard not only materially (where they would e.g. demonstrate no infringement of

rules set forth in Art. 131 TFEU), but – even more importantly – also by making expressly evident that the national legislation strictly conforms the EMU legislative standard (Nowak-Far 2021: p. 229–231).

The legal compliance, to which Art. 131 TFEU refers, includes also the prohibition of assuming by the national central bank fiscal or quasi-fiscal functions in a form of a bail-out, or providing overdraft facilities to the government, or direct purchasing of debt instruments issued by the government. Thus, Article 125(1) TFEU sets forth the strict division of liability between the governments and the central banks, and the prohibition to assume financial commitments of the former by the latter. This prohibition was rectified as early as in the Council Regulation (EC) No. 3604/93 of 13 December 1993, which contained the critical for the application of Article 125(1) definitions regarding privileged access. Pursuant to Article 1 of this act, such a privilege is established by "any law, regulation or any other binding legal instrument adopted in the exercise of public authority", which distorts normal (i.e. open market) relationships between financial institutions and the public sector[2] by:

a) giving rise to obligations of financial institutions to acquire or to hold liabilities of the public sector; or
b) encouraging these institutions to acquire or hold such liabilities by conferring to the former such tax advantages, which may benefit or create other financial advantages only to those of them who do not comply with the principles of a market economy in a given relationship.

The basic function of prohibition of overdraft facilities and direct purchasing of debt instruments was set forth in Article 123(1) TFEU. The prohibition was to assure that the national central banks have on their balance sheets claims negotiable under market conditions.

Nevertheless, by virtue of Article 123(2) TFEU, the prohibition set forth in paragraph 1 of this provision does not extend to the relationship between the ESCB and credit institutions (which represent a type of "undertakings" under more general TFEU provisions) even if they are publicly owned. This exemption from the prohibition of overdraft facilities and direct purchasing of debt instruments is granted on the condition that the public sector institutions are treated on equal footing to the private sector ones.

Under *acquis de l'Union*, the rules concerning the central bank independence were interwoven into the ever expanding "safety network" of regulations meant to increase the EMU (and, within it, the Eurozone) stability consisting of an extensive *Stability and Growth Pact* from 1997 (largely reformed in 2005, see more: European Commission WWW), two procedures which were meant to encourage the Member States to observe the EU Treaty rules on the EMU,[3] the "no-bail out" rules (Article 125 TFEU), and the rules

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[2] "Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law or public undertakings of Member States" (Council Regulation (EC) No. 3604/93: art. 1(1), p. 4–5).

[3] i.e. the Multilateral Surveillance Procedure (MSP) under Art. 121 TFEU, and the Excessive Deficit Procedure (EDP) under Art. 126 TFEU.

on the prohibition of privileged access of the state authorities (of every level) to financial institutions (Article 124 TFEU). The "safety net" includes the European Stability Mechanism (ESM) – established in 2012 under the instrument not being a part of *acquis de l'Union,* which is an international organisation (international financial institution) that is functioning on the basis of the agreement signed by the EU States of the Eurozone and is meant to provide for financial support to these states of the Eurozone, which are in danger of "serious financial problems".

Later reform of EMU consisted also of adopting a number of regulations of secondary EU legislation, which reformed the SGP in a fundamental way. In this respect, the provisions of the so-called "Six Pack" and "Two Pack" are of great importance. The so-called "Six Pack" consisted of six binding EU legislative acts: five regulations and one directive – all adopted on 16 November 2011 (and all promulgated in Official Journal L 306). It included regulations which pertained to the enforcement of budgetary surveillance in the euro area, the enforcement measures to correct excessive macroeconomic imbalances in the euro area, the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, the prevention and correction of macroeconomic imbalances, the speeding up and clarifying the implementation of the excessive deficit procedure. The package also included the directive setting forth requirements for renewed budgetary frameworks in the Member States. The "Six Pack", was complemented by two additional regulations, which were adopted in March 2013 (i.e. the so-called "Two Pack").

The "Two Pack" consisted of two regulations. One of them was related to the strengthening of economic and budgetary surveillance of the Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability; another regulation was related to the monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area (see: European Commission WWW).

The programme for reforming the economic governance included the Fiscal Compact (FC) and the banking union. The main objective of FC was to strengthen budgetary discipline in the EMU as well as the coordination of economic policies and governance of the euro area. The FC established a number of mechanisms regarding the principles of budgetary management.

The so-called banking union was an institutional regulation on shaping of the relationship between the banking sector and public authorities, concerning the issue of supervision. It focused on the key issue for these relationships, i.e. on the oversight and the responsibility for the stability of the system. It included the so-called *Single Supervisory Mechanism* (SSM), a unified repair, restructuring and orderly liquidation mechanism (the so-called *Single Resolution Mechanism*, SRM) and a single deposit guarantee scheme. These regulations were complemented by the Single Resolution Fund (SRF) created from the contributions made by all the banks from the countries participating in this fund.

2. Legal obligation to pursue complete EMU membership

At the beginning of their membership in the EU, all the V4 countries had the status of "the Member States with the EMU derogation. Article 4 of the Act concerning the conditions of accession (2003 Accession Treaty, OJ L 236/17, 23.09.2003) provided that: "Each of the new Member States shall participate in Economic and Monetary Union from the date of accession as a Member State with a derogation within the meaning of Article 122 of the EC Treaty."

Now, the status of such countries shall be construed by reference to Articles 139–140 TFEU. Article 139 TFEU defines the EMU derogation, whereas Article 122 TFEU pertains to the procedure of abrogation (i.e. abolishing the EMU derogation). The scope of EMU derogation under Art. 139 TFEU can be presented in the following table:

Table 1: The EMU derogation: Applicability of Treaty provisions under Article 139 TFEU

TFEU Article	Legal content
121(2)	Exclusion from the (ECOFIN) Council's decision-making with respect to the broad economic policy guidelines (BEPGs), which are related to the Euro area generally.
121(4)(a)	Exclusion from the procedure of adoption of recommendations made within the MSP to the EU Member States partaking in the complete EMU.
126(4)(b)	Exclusion from the procedure of adoption of "hard" EDP measures (which may concern only the complete EMU countries (i.e. the measures specified in Article 126(6)-(8), (12) and (13) TFEU.
126(9)	Immunity from the Council's power to specify (in its notice addressed to a Member State) measures of economic policy for the reduction of excessive budgetary deficit
126(11)	Immunity from the Council's power to apply or intensify sanctions in case of non-compliance with its notice issued under Art. 126(9).
127(1)-(3) and (5)	Applicability of the primary and secondary objectives and tasks of the ESCB (now referred to as "the Eurosystem"); powers of the ECB.
128	Non-applicability of the ECB's powers in the realm of issuing banknotes and coins
132	Non-applicability of the acts of the European Central Bank.
133	Immunity from the measures governing the use of the euro.
137	Exclusion from the Eurogroup.
138(1)	Exclusion from the decision-making on EU common positions on issues of particular relevance for EMU within the competent international financial institutions and conferences.

138(2)	Exclusion from the decision-making on measures on EU unified representation within the international financial institutions and conferences.
218	Exclusion from the decision-making on the EU international monetary agreements and other measures relating to exchange-rate policy of the euro area.
219	Exclusion from the appointment of members of the ECB Executive Board (this exclusion has a bearing on the application of art. 283(2)).
283	Non-participation in the EBC Governing Council.

Source: Nowak-Far 2021: p. 164–166.

Therefore, most importantly, the EMU derogation is manifested in the following aspects:

a) in the decision-making – as the exclusion from selected areas of the open method of coordination of economic policy procedures, as well as from international representation of the euro area; this aspect includes also exclusion from the Eurogroup;
b) in the economic governance – as immunity from harder measures of EDP, inapplicability of the Eurosystem objectives and tasks, as well as EBC's legal acts; non-participation in the EBC Governing Council (with a "surrogate" participation in the EBC General Council (operating under Art. 141 TFEU), i.e. the body whose task is to coordinate convergence efforts rather than to make any binding economic governance decisions.

Regardless of these legal constraints – in line with the very logic of Art. 140 TFEU – the EU countries with derogation have the obligation to pursue EMU convergence. Obviously, this obligation – since the inception of their EU membership – has applied indiscriminately also to V4 countries.

3. V4 general assessments

All V4 countries are EU Member States. As such, they are obliged to follow the same EMU-related rules. Some of these rules set forth uniform standards, which have to be met at the same time by all EU countries. In contrast, some of them set forth rules, which became applicable to respective EU Member States only when they activated the mechanism of their applicability. The selection of a path towards the complete EMU membership is an example of such a regulation. This implies that the achievement of full (nominal, regulatory) convergence, considered as the precondition for the complete EMU participation, depends on the political will of the EU Member State with derogation, despite the fact that, *de iure*, pursuing this goal is its legal obligation. As a result, EU Member States' status vary on a very politically and economically significant count of whether they participate in the Eurozone or not. V4 also differ in this respect: only one state of this group – Slovakia – is the Eurozone participant; three other V4 countries are not. This is indicative of a more fundamental economic divergence among them – manifesting

itself in many indicators of economic performance, not only in the achievement of convergence criteria and its sustainability, but also in other areas where the economic performance is measured.

4. Slovakia's stance in the EMU

As it has already been mentioned, Slovakia is the only V4 country, to which EMU-related abrogation procedure was successfully implemented, yet with some delay: the original date for the euro introduction had been set at 2007, but the country adopted the euro as its single currency on 1 January 2009. The period of simultaneous circulation of the Slovak koruna and the euro was relatively short and lasted until 16 January 2009. Yet, all koruna banknotes can be exchanged for the euro at the premisses of the Slovak central bank (sk. *Národná Banka Slovenska,* NBS) at any time in the future, but the koruna coins were exchanged for a very limited period of time (until 2 January 2014). The applicable conversion rate was: SKK 30,1260 to 1 euro[4].

The National Bank of Slovakia was established on 11 December 1992 on the basis of NBS Law,[5] in the eve of the Czechoslovak state split into two independent states: the Slovak Republic and the Czech Republic. Since 2005 the NBS has been considered to be in conformity with the legal convergence criterion (Gašparik 2005: p. 303–304). Yet, even at the last round of adjustments in 2005, the relevant convergence evaluation indicated that:

a) Art. 2(1) of the NBS Law was considered as not in line with EMU-related rules, because it did not contain expressive reference to the secondary objective of the ESCB, i.e. the wording of Art. 127(1) TFEU (ex Art. 105(1) TEC), specifying that the secondary objective of the ESCB shall be to "support the general economic policies of the Union");
b) specific tasks of the ESBC and EBC were found to be inadequately reflected in the NBS Law, including rules on:
   - the subordination of the NBS to the ECB's legal acts and their legislative powers (Art. 2(2), 6(2), and 30 of the NBS Law were considered as deficient);
   - the definition of monetary policy (which had a negative impact on the assessment of Art. 2(1), 6(1)-(2), and 18 of the NBS Law);
   - the issue of banknotes and coins (Art. 6(2)(e), 16(1), 17, and 2(1)(b) were considered as imperfect);
   - the definition of the monetary unit (Art. 15 of the NBS Law was found not to be in conformity with the EMU legislation);
   - the monetary functions, operations, and instruments of the ESCB (Art. 18 of the NBS Law was considered as deficient);
   - the financial provisions pertaining to the ESCB (Art. 29(2) of the NBS Law was considered as imperfect).

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4 This rule was regulated by *Zákon č. 659/2007 Z. z. o zavedení meny euro v Slovenskej republike a o zmene a doplnení niektorých zákonov, č. 266/2007* with amendments.

5 sk. *Zákon č. 566/1992 Zb. Zákon o Národnej banke Slovenska*.

Even at this stage of Slovakia's convergence with the EMU, Slovak bank deposit guarantee system was considered as defective. Most importantly, Art 24(3) of the NBS Law and Art. 13(2) of the Law of 20 March 1996 on the protection of bank deposits and on amendments of certain laws[6] were considered as problematic. Both regulations were related to the Slovak Deposit Protection Fund (a component part of the public sector), which was to enjoy credit lines from the NBS. Similar (as to the general principles) privileged access was granted by virtue of Art. 24(2) of the NBS Law. This arrangement resulted in granting credit institutions the access to very short term support financing. It was considered as incompatible with the Treaty prohibition under Art. 123 TFEU – at least to the extent, where its costs could be borne by the state rather than covered by credit institutions. Hence, the European Commission and the European Central Bank called for the introduction of a specifically tailored safeguard, which could prevent this effect.

At this very last stage of Slovakia's EMU derogation, the so listed discrepancies with the EMU's *acquis* had largely reflected the existing rules, which had to be in place in order to make the Slovak monetary system viable. These rules were removed from the system at the moment, when the EMU derogation was lifted.

5. The Czech Republic's stance in the EMU

The Czech Republic's stance with regard to the EMU has been hesitant over many years. In response to the President of the Republic, Petr Pavel's call to commence preparatory work for the introduction of the euro, in December 2023, the Minister of Finance and the president of the Czech National Bank (czech. *Česka Narodni Banka,* ČNB) recommended that the government abstain from setting a target date for joining the Eurosystem. Two representatives of authorities argued that such abstaining is necessitated by the Czech Republic's failure to meet all the EMU convergence criteria, which – according to the two officers – had to be interpreted as an evidence of the country's unpreparedness for the euro adoption. In this context, non-sustainability of public finance was especially highlighted as a factor to be solved. At the same time, these two officers argued that the adoption of the euro should remain a strategic objective for the Czech Republic, because achieving it would be beneficial for the Czech economy. In their argumentation, two officers noticed that the institutions and rules of the Euro area have been evolving and that the Eurozone is bound to be a pivot for further EU integration. Consequentially, they argued that the Czech Republic could not afford to stay permanently out of the Eurozone.

The Czech Republic has encountered persistent problems with meeting Maastricht convergence criteria, including the legal convergence criterion. The fundamental legal act pertaining to the ČNB, i.e. the Law of 17 December 1992,[7] was found (in all respective periods of evaluation) not to be in conformity with the basic TFEU regulation concerning the fundamental objective of ESCB, i.e. price stability. In fact, in its Art. 2(1), the ČNB Law provides that the ČNB's primary objective shall be maintaining price stability. In addition,

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[6] sk. *Zákon 118/1996 Z. z. o ochrane vkladov a o zmene a doplnení niektorých zákonov*.

[7] czech. *Zákon č. 6/1993 Sb., Zákon České národní rady o České národní bance* (ČNB Law).

it also provides that national central bank shall also ensure financial stability and the safe operation of the financial system. Moreover, it provides that without prejudice to its primary objective, the ČNB shall also pursue to support general economic policies of the government and the European Union. It was found that such wording might not guarantee a clear supremacy of the primary objective (i.e. the price stability) over any other objective. Throughout various periods of assessment, the European Commission and EBC found also some minor incompatibilities of the ČNB Law regulations (see: European Commission 2022: p. 72–73, 191–192) with respect to:

a) the referrals to the ECB/ESCB monetary policy and monetary functions, operations, and instruments (Art. 2(2)(a), 5(1), 23–26, 28–29, and 32–33 of the ČNB Law) – which were considered as flawed;
b) the coordination of the national exchange rate operations and the definition of exchange rate policy (Art. 35(c), 36, and 47a of the ČNB Law) – which were considered as not to reflect the EMU-related regulation;
c) the failure of recognition of relevant competencies of the ECB with respect to:
   - the issue of banknotes and coins (Art. 2(2)(b), 12–22 of the ČNB Law);
   - the right to impose sanction (Art. 46a of the ČNB Law);
   - the collection of statistic data (Art. 41 of the ČNB Law);
   - the payment systems (Art. 2(2)(c), 38, and 38a of the ČNB Law);
   - the appointment of the external audit of the national central banks (Art. 48(2) of the ČNB Law);
   - the international cooperation in the realm of monetary matters;
d) adequate reflection on the Eurosystems' regime for the financial reporting of national central banks' operations (Art. 48 of the ČNB Law).

It was found that the ČNB Law was not fully compatible with the requirements of central bank independence outlined in Art. 130 TFEU. The ECB's *Convergence Reports* (e.g. European Central Bank 2018) upheld that Art. 9(1) of the ČNB Law must be adopted to fully reflect the provisions of Art. 130 TFUE and Art. 7 of the ECB and ESCB Statute, because it must more specifically prohibit the ČNB and its Board members from accepting instructions concerning their performance of Eurosystem-related tasks. The ECB's *Convergence Report 2018* also highlighted that Art. 47(5) of the ČNB Law created a problem of conformity with the TFEU provisions, because it gave the Chamber of Deputies of the Parliament[8] the power to impose modifications to the ČNB annual financial report in the situation where it had been rejected. It was found that the criteria for the PSPČR intervention were construed in too broad and vague terms, which might negatively affect the ČNB independence. Also Art. 3 of the ČNB Law (related to the dialogue between the ČNB and the Parliament concerning the developments of monetary policy) was found as not conforming the EMU-related convergence standard, because this national provision gave the Parliament the right to demand amendments to the report of the ČNB on monetary policy developments and even decide upon its scope (when amended consequential to the Parliament's "corrective" initiative).

[8] czech. *Poslanecká sněmovna Parlamentu České republiky (PSPČR).*

All the *Convergence Reports* also indicated that the ČNB law rules on the dismissal of the ČNB Governor established by Art. 6(1) were not fully compatible with the *acquis,* because they failed to be explicit enough about his/her right to seek a remedy before the Court of Justice of the European Union. Another problematic area of the ČNB Law regulation – provided by its Art. 11(1)-(2) – was related to:

a) participation of the Minister of Finance (or a member of government nominated by him/her) in the meetings of the ČNB Board in an advisory capacity (yet not excluding submission of motions to be discussed and decided upon);
b) participation of the ČNB Governor (or vice-Governor upon the former's nomination) in the meetings of the government – also in an advisory capacity.

The EBC found that such arrangements setting forth a framework for the mutual dialogue between the national central bank and the relevant government agency, are essentially not prohibited by the EU law. Yet, such rules require rectification to effectively exclude a situation, where any member of the government could be in a position to exert influence on the central bank's decision-making process on monetary policy or any other task of the ESCB.

The Czech legislation was also persistently found not to be fully compatible with other fundamental EMU-related prohibitions enshrined in the TFEU. Thus, the provision of art. 34a(1) of the ČNB concerning overdraft prohibition was considered as not fully reflecting the wording of Art. 123(1) TFEU with respect to the personal scope of its application. In addition, instead of referring to Art. 123 TFEU in its entirety, the Czech legislation makes a narrowed-down referral to Art. 123(1) TFEU.

6. Hungary's stance in the EMU

Hungary's stance in the EMU is the most perplexing and – at the same time – intriguing of the stances of all V4 countries. That is a result of the fact that Hungary's government has had for a long time a well-deserved reputation as the most EU-sceptic of all the EU Member States' governments. Yet, the Hungarian government's lines have been difficult to read because of their practice of the differentiation of its narratives depending on whether it is intended to the EU, international, or domestic audience. Regardless of the audience, the Hungarian government has never discounted its obligation to adopt the euro. Still surprisingly, announcements of some of its high officials in May 2024 even indicated that Hungary would be able to meet the convergence criteria by the end of 2024 (Hungary Today 2023). Yet, these lines could also be read as "showing the muscles", i.e. indicating, that in a short period Hungary would be fit to join the Eurozone, yet joining it would rather be a matter of political process extended over indefinite time. Such understanding is legitimate, because the Hungarian government has failed to set the target date for the adoption of the euro.

Hungary's legal system is not completely compatible with the EMU-related legal convergence criterion. This incompatibility extends from the relevant provisions of Hungarian Fundamental Law (HFL) to a lower level regulation, especially that pertaining to the Hungarian National Bank (hu. *Magyar Nemzeti Bank,* MNB). The latter incompat-

ibility refers to Art. 41 of the Hungarian Fundamental Law (hu. *Magyarország alaptörvénye,* adopted in 2011), which provides, *inter alia*, that:

> "(1) The central bank of Hungary shall be the Hungarian National Bank. The Hungarian National Bank shall be responsible for monetary policy, as provided for by a cardinal Act.
> (...)
> (3) The Governor and Deputy Governors of the Hungarian National Bank shall be appointed for six years by the President of the Republic.
> (4) The Governor of the Hungarian National Bank shall give an account annually to the National Assembly of the activities of the Hungarian National Bank.
> (5) Acting on the basis of authorisation by an Act and within his or her functions laid down in a cardinal Act, the Governor of the Hungarian National Bank shall issue decrees; no such decree shall conflict with any Act. On issuing decrees, the Governor of the Hungarian National Bank may be substituted by the Deputy Governor he or she designated in a decree."

These provisions of HFL need an argumentation about failing to take into account any MNB's obligations, which may arise from its prospective complete participation in the Eurosystem. As a matter of fact, the HFL contains only an indirect reference to EU law. Therefore, any of its clauses cannot support such interpretations of relevant Hungarian domestic laws, which could make them friendly to EU law, including the law related to the EMU. Interestingly, the same arguments were raised with regard to the pre-2011 Hungarian Constitution.

It is also significant, that the so-called CXXXIX Act amendment to the HFL introduced the following rule: "The primary objective of the MNB shall be to achieve and maintain price stability. [...] Without prejudice to its primary objective, the MNB shall support the maintenance of the stability of the system of financial intermediation, the enhancement of its resilience, its sustainable contribution to economic growth; furthermore, the MNB shall support the government's economic policy and its policy related to environmental sustainability, using instruments at its disposal." (Act CXXXIX 2013 on the MNB, hereafter: MNB Act).

Aforementioned rule does not reflect the Treaty wording pertaining to the main objective of the ESCB and its primary role *vis-à-vis* the secondary objective, which shall be supporting the EU economic policies rather than anything else.

Nevertheless, since most of the essential regulations concerning the MNB are included in the secondary regulation, each *Convergence Report* contains their detailed analysis. Referrals to Art. 41 of the HFL (or their equivalent in pre-2011 Constitution) were made in all of such reports, yet seemed to have ritual character. It is important to note, however, that the said secondary legislation was subject to relatively frequent amendments. This "legislative liquidity" has a bearing on the subsequent assessments, because such evolving referral material requires an ever-changing reflection on it from the point of view of EU law. Thus, these reflections are not a function of a change in the European Commission's or ECB's approach, but rather a function of necessary consequential adjustment in the assessment resulting from the changes in the assessed material. However, it is quite

important to note that the instability of the MNB-related regulatory framework has produced a unique evaluatory response: namely, this instability was considered throughout consecutive *Convergence Reports*, a major systemic drawback contributing to instability in the MNB's operations. In this context, the European Commission upheld that: "...a stable legal framework that provides a solid basis for a Central Bank to function is essential for ensuring central bank independence" (European Commission 2022: p. 109).

With regard to specific issues, the European Commission and the ECB indicated that the required level of national central bank's independence was jeopardised in Hungary also with regard to the financial aspect. Namely, the consecutive *Convergence Reports* as early as in 2012 highlighted the fact that, pursuant to Art. 176 of the MNB Act, the MNB had become a legal successor of the (liquidated) Hungarian Financial Supervisory Authority (hu. *Pénzügyi Szervezetek Állami Felügyelete,* PSzÁF) without an evident increase in the funding provided to MNB to carry out the PSzaF's business. The European Commission upheld that, as a rule, tasks taken over from the PSzaF to the MNB should not affect the latter's ability to carry out its statutory tasks related to the monetary policy and other tasks arising from Art. 127 TFEU. Moreover, the European Commission and the ECB noticed, that the PSzaF takeover arrangement (especially considering Art. 177(6) of the MNB Act) exposed the MNB to even larger financial risks[9] – by making the MNB responsible for PSzaF's liabilities exceeding the value of its assets.

With regard to specific Hungarian legal arrangements, significant for the central bank independence required by Art. 130 TFEU, the European Commission and the ECB formulated the following conclusions:

a) The oath, which was to be made by the MNB Governor and the Deputy Governor before the Parliament under Art. 9(7) of the MNB Act, does not make a clear reference to the central bank independence;
b) Extensive arrangements of Art. 153(6) and Art. 153(7) of the MNB Act jeopardises the integrity of the member of the MNB Monetary Council (including the MNB Governor) by potentially allowing and accepting conflicts of interests (where Art. 152(1) would have otherwise applied) and disregarding any EU law, which would have otherwise required a test of adequacy in performing essential MNB's duties). Such conflicts of interests may arise from the fact that these high-ranking MNB's functionaries can assume "roles in the management, boards of trustees or supervisory boards of foundations and business associations under majority ownership of the MNB established by the MNB under Article 162(2) of the MNB Act" (European Commission 2022: p. 109) and can seek engagements in similar business undertakings after their mission in the MNB Monetary Council has been completed. This problem is even aggravated by the arrangements of the already invoked here Art. 153(6) of the MNB Act, according to which such additional corporate involvements are shielded from any scrutiny (European Commission 2022: p. 109).

[9] as well as the risk of breach of Art. 123 TFEU concerning the prohibition of monetary financing and privileged access.

c) An obligation under Art. 157 of the MNB Act, which makes the members of the Monetary Council (as well as the members of their close family) to file declarations of wealth, and it provides for the dismissal of the relevant members of the Monetary Council when they fail to fulfil this obligation – was considered as not in line with Art. 14.2 of the ESCB/ECB Statute (European Commission 2022: p. 110).

The evaluation made by the European Commission and the ECB also found several deficiencies of Hungarian legal arrangements, which pertain to Treaty EMU-relevant prohibitions. They included:

a) the arrangement of Art. 36 of the MNB Act making it possible for the MNB to extend an emergency loan (with no specific requirement of a collateral) to credit institutions in the situation where the financial system stability has been jeopardised as a result of emerging circumstances being beyond control of these credit institutions, which was found to be not in conformity with Art. 123 TFEU;
b) the arrangement of Art. 37 of the MNB Law, which makes it possible for the MNB to grant loans (with no adequate collateral required) to the National Deposit Insurance Fund[10] and Investor Protection Fund,[11] which was found to be not in line with Art. 123 TFEU;
c) the arrangement of Art. 162(2) of the MNB Act making it possible for the MNB to establish business associations or foundations was found as not in conformity with Art. 123 TFEU.

„In order to dispel any concerns from the perspective of Article 123 of the TFEU, the provision should be amended by providing for a clear framework delimiting the operations of such foundations and the volumes or resources which the MNB could endow them with, enabling them to purchase large volumes of Hungarian government securities." (European Commission 2022: p. 111). This problem was only found aggravated by yet another provision of Art. 162(2), which makes it possible for the members of the MNB Monetary Council to have decision-making positions in the said business undertakings and foundations.

With regard to the MNB Act's arrangements relevant to the functioning of the ESCB/ECB, the *Convergence Report 2022* found that the Hungarian regulation's wording concerning the primary and secondary objectives of the MNB are not compatible with the wording of Art. 127(1) TFEU. With this respect, the European Commission and the ECB required more compliance understood to be more stringent reflection of the EU regulation.

Moreover, the following provisions of the MNB Act were identified as deficient from the point of view of TFEU standards (see: European Commission 2022: p. 111–112):

a) Art. 1(2), 4(1), 9, 16–21, 159 and 171 of the MNB Act – as they contain inadequate referrals to the definitions of monetary policy and its functions, operations and instruments of the ESCB/Eurosystem;
b) Art. 1(2), Art. 4(3), (4) and (12), Art. 9, 22, 147, 159(2) of the MNB Act – as they contain inadequate regulations concerning foreign exchange operations in the ESCB/Eurosystem;

[10] hu. *Országos Betétbiztosítási Alap* (OBA).
[11] hu. *Befektető-védelmi Alap* (BVA).

c) Art. K of the HFL, as well as Art. 1(2), 4(2) and 4(12), Art. 9, 23, 26, 171(1) of the MNB Act – as they inadequately reflected on the ECB's powers regarding the issue of banknotes and coins;
d) Art. 12(4)(b) of the MNB Act and some other provisions of national legislation – as they failed to introduce the obligation of MNB's financial reporting to the Eurosystem.

The European Commission and the ECB also noticed the inadequate recognition of the role of the ECB:

a) in the payment system – in Art. 1(2), Art. 4(5) and (12), Art. 9, 27–28, 159(2), 171(2) of the MNB Act;
b) in the collection of statistic data – in Art. 1(2), 30(1) and 171(1) of the MNB Act;
c) in the international monetary cooperation – in Art. 135(5) of the MNB Act;
d) in the mechanism of the appointment of external auditors – in Art. 6(1)(b), 15, and 144 of the MNB Act.

Interestingly, the list of implicit detailed criteria used in the evaluation of the Hungarian legal system with the EMU relevant EU legislation evolved over the period, where the legal convergence assessment was made. As it has already been said, this evolution largely reflected the ever-changing content of the Hungarian legislation; yet to some worthwhile extent, it resulted from the complex nature of the continuously amended regulatory framework.

7. Poland's stance in the EMU

Polish governments made several failed attempts to set credible date for the introduction of the euro. The first one was set at 2006, just two years after Poland's accession to the EU. That deadline was later extended to 2007, yet with no success of those who were to enjoy it. Most recently, the EU-sceptic government, which ruled in Poland in the period of 2015–2023 and managed to nominate its candidate to the position of the National Bank of Poland (pl. *Narodowy Bank Polski,* NBP, established in 1945), also promoted EMU-sceptic agenda. Rather exotically, the Governor of the NBP presented himself as "the Defensor of Poles from the euro".

In this context, it is obvious that no deadline for the changeover to the complete EMU has been set. Instead, that task was set *ad calendas Graecas* by the highest rank *nomenclatura* of the ruling party. The real reason of then ruling political establishment wished to have the EMU agenda in this particular way is that – despite at times quite favourable economic situation – it failed/has been unwilling to meet EMU convergence criteria. Most importantly, the 2015–2023 government was unable to introduce necessary amendments to the Polish Constitution of 1997, which most extensively of constitutions of all V4 countries regulates the NBP's activities and EMU related agenda. The economic convergence criteria were met only ephemerally. The situation was aggravated by the extensive legal crisis of the rule of law in Poland, which caused irregular reactions from the government and the government-dominated Constitutional Tribunal (pl. *Trybunał Konstytucyjny*), which in one of its widely

criticised judgments undermined the validity of the EU's acquis application (according to the standards developed by the Court of Justice of the EU) in Poland. This parochial *status quo* (albeit with no extravagant irregularities in the application of EU law) has not yet changed despite the change of government, which brought to power a coalition of political groupings favourable to EU integration.

The new 1997 Constitution gave the National Bank of Poland responsibility for protecting „the value of the national currency". It also is a legal basis for the creation and operation of the Monetary Policy Council (pl. *Rada Polityki Pieniężnej*). On many counts it is deficient from the point of view of EMU standards. Some of the 1997 Polish Constitution's deficiencies were improved in the NBP Act, which was passed on 29 August 1997 and entered into force on 1 January 1998. That law took into account some of the patterns of central bank independence, which are acceptable, or even necessary, on the grounds of the Treaty of Maastricht. As Art. 3(1) of the NBP Act stipulates, stability of prices shall be the principal objective of the Polish central bank's monetary policy. It also sets forth a rule, according to which, without prejudice to the primary goal, this policy should support the general economic policy of the government. This is a good arrangement from the point of view of EMU standards. The NBP Act gave the NBP a broad range of prerogatives pertaining to the selection of monetary instruments (Chapter 6) and to the establishment of basic reference rates (e.g. discount rate, in Art. 45). Moreover, the Polish central bank, is to a considerable degree, insulated from pressures for financing public debt.

The European Commission and the ECB's response to the legislative and regulatory developments in Poland was quite unique – even considering a rather particular (and dynamic, when it comes to the changes of law) situation in Hungary. Most importantly, the EU institutional notices the already mentioned ruling of the Polish Constitutional Tribunal, in which it expressly challenged the primacy of EU law. In this context the European Commission noticed: "The primacy of EU law is instrumental for assessing the compatibility between the national legislation, including the statute of its national central bank, and Articles 130 and 131 and the Statute of the ESCB and of the ECB. The Commission considers that these rulings of the Constitutional Tribunal are in breach of the general principles of autonomy, primacy, effectiveness and uniform application of Union law and the binding effect of rulings of the Court of Justice of the European Union. Moreover, the Commission considers that the Constitutional Tribunal no longer meets the requirements of an independent and impartial tribunal previously established by law. It should be ensured that the primacy of Articles 130 and 131 and the Statute of the ESCB and of the ECB over national law is fully observed by Polish public authorities and courts." (European Commission 2022: p.127).

In this context, the European Commission noticed that under Art. 23(1)(2) of the NBP Law, the NBP Governor "has to provide draft monetary policy guidelines to the Council of Ministers and the Minister of Finance" (European Commission 2022: p. 127). Such obligation exposes the NBP to potential influence, which is prohibited under Art. 130 TFEU and Art. 7 of the ESCB/ECB Statute.

The European Commission also found that the following arrangements are not in line with the EU law concerning the standards of central bank independence (see: European Commission 2022: p. 127–128):

a) The grounds for the NBP Governor's dismissal and suspension[12] should be rectified in order to more adequately reflect the provision of Art. 14.2 of the ESCB/EBC Statute. The European Commission and the ECB consider it important to make it possible for the NBP Governor to seek a redress to the Court of Justice of the European Union, whenever the NBP Governor is dismissed or suspended.
b) The controlling/auditing functions of the Supreme Audit Office (pl. *Najwyższa Izba Kontroli*, NIK) are too broad and should not extend onto the areas where the NBP fulfils its tasks and duties pertaining to the ESBC monetary policy and other tasks under Art. 127 TFEU.
c) The oath, which is taken from the NBP Governor by the Parliament should take into account the NBP's liabilities as a constitutive part of the ESBC/Eurosystem.

Several arrangements of Polish law were found as incompatible with the prohibition of monetary financing and privileged access (see: European Commission 2022: p. 128–129). They include:

a) the arrangement of Art. 42 of the NBP Act in conjunction with Art. 3(2)(5) of the NBP Act allowing the NBP to extend refinancing loans to credit institutions in order to replenish their funds and/or to support the implementation of their rehabilitation programmes. It is not essentially contravening the EU law, but it should be rectified (as to the criteria of accessibility) to avoid the situation, where the NBP founds are lost because of the insolvency of the credit institution enjoying this form of support;
b) the arrangement of Art. 43 of the NBP Act, which allows the NBP to make its loans available to the Bank Guarantee Fund (pl. *Bankowy Fundusz Gwarancyjny,* representing a component part of the public sector) under the scheme of forced restructurisation[13];
c) the arrangement of Art. 220 of the Polish Constitution concerning the financial relationships between the NBP and the public sector budget, which should be rectified to get rid of uncertainties associated with its application.

In some cases, Polish law was found as not to adequately reflect the ESCB and ECB arrangements concerning the single monetary policy and other tasks to be performed under Art. 127 TFEU (see: European Commission 2022: p. 129). They included:

a) ambiguous provision of Art. 3(1) of the NBP Act, which specifies the secondary objective of the NBP as "supporting the economic policies of the government", where the EU standard would require to support EU economic policies;
b) an arrangement of Art. 2(3) of the NBP Act, which limits the NBP activities to the territory of Poland, which is not compatible with its mandate as a component part of the ESCB/Eurosystem;

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[12] Specified in, respectively, Art. 9(5) of the NBP Act and Art. 11(1) of the State Tribunal Act.
[13] i.e. retrenchment and turnaround conducted according to pre-specified legal rules.

c) the arrangement for holding and management of foreign reserves (Art. 3(2)(2), 3(2)(3), 17(4)(2), 24 and 52 of the NBP Act);
d) the arrangement for issue of banknotes and coins (Art. 4, 31–37 of the NBP Act);
e) the arrangement for the selection of the NBP auditor (Art. 69(1) of the NBP Act);
f) the oath, which is taken from the NBP Governor by the Parliament should take in account of the NBP's liabilities as a constitutive part of the ESBC/Eurosystem.

Conclusions

The most straightforward finding of the analysis presented in this article is that the European Commission and the ECB apply the same analytical template to each EU Member State (which implies also V4 countries) with derogation. The template starts with fundamental assessment of the national provisions of constitutional character and then follows with the assessment of:

a) the central bank independence;
b) the compatibility of the national legislation with the EU prohibition of monetary financing and privileged access;
c) the compatibility of the national legislation with the needs of integration of the national central bank with the ESCB;
d) overall assessment of compatibility.

The so described template is observed quite obstinately, yet sometimes with exceptions, which do not seem to be intended.

An important feature of the European Commission and the ECB's assessment of the legal convergence criterion is the recurring nature of some of its argumentation and the very strong willingness to introduce new points in response to the developments of the national legislation under scrutiny. This tendency was especially manifested – yet for different reasons – with respect to Hungary and Poland. With regard to Hungary, the uniqueness of the approach evidently resulted from (too) frequent amendments of the relevant national regulation and from its relatively low quality (at least from the perspective of the EMU-related benchmarks). In the case of Poland, the European Commission has significantly expanded the scope of its analysis over years and in 2022 reflected on the general (yet having heavy-weight impact on the EMU agenda) rule of law systemic problems caused by the government and the political activity of the Polish Constitutional Court.

The assessment of the compatibility of the national legislation with the needs of integration of the national bank with the ESCB is structurally and ontologically different from assessments of other regulatory areas. It represents a fundamentally different exercise, because it does not necessary reflect immediate actions, which has to be undertaken as soon as possible (because they would contribute to the improvement of the entire financial sector performance), but the ones which could be postponed until the moment of the assessed country's entry to the Eurozone. All other recommendations would have to be implemented as soon as possible.

Some of the convergence recommendations cannot be accepted without any reservation of caveat. This relates especially to the recommendation that the criteria for the dismissal of the national central bank governor should be rectified in order to reflect (allegedly more clear) provisions of the Statute of the ESCB and of the ECB. Such recommendation does not make sense, because the benchmark is as unclear as the provisions referring to it.

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References:

ANDENAS Mads, GORMLEY Laurence, HADJIEMMANUIL Christos, HARDEN Ian (1997), *European Economic and Monetary Union: The Institutional Framework*, London.

COUNCIL REGULATION (EC) No 3604/93 of 13 December 1993 specifying definitions for the application of the prohibition of privileged access referred to in Article 104a of the Treaty, OJ L 332, 31.12.1993.

CREEL Jérôme (2018), *Convergence in EMU: What and How? Euro Area Scrutiny*, Economic Governance Support Unit, Brussels, https://www.europarl.europa.eu/RegData/etudes/IDAN/2018/614504/IPOL_IDA(2018)614504_EN.pdf (30.06.2018).

ECB, EUROPEAN CENTRAL BANK (2018), *Convergence Report,* May 2018, https://www.ecb.europa.eu/pub/pdf/conrep/ecb.cr201805.en.pdf (31.05.2018).

EUROPEAN COMMISSION (2022), *Convergence Report 2022: Economic and Financial Affairs*, Institutional Paper 179, June 2022. DOI: 10.2765/804537

EUROPEAN COMMISSION (WWW), *Legal basis of the Stability and Growth Pact,* https://economy-finance.ec.europa.eu/economic-and-fiscal-governance/stability-and-growth-pact/legal-basis--stability-and-growth-pact_en (30.05.2024).

GAŠPARIK Milan (2005), *Slovakia*, in: Liber Amicorum, Paolo Zamoni Garavelli (eds), *European Central Bank, Legal Aspects of the European System of Central Banks,* Frankfurt am Main.

De HAAN Jakob, EIJFFINGER Sylvester C. W., WALLER Sandra (2005), *The European Central Bank: Credibility, Transparency, and Centralization*, Cambridge.

HUNGARY TODAY (2023), *Hungary Can Meet Conditions for Adopting Euro*, https://hungarytoday.hu/hungary-can-meet-conditions-for-adopting-euro (05.05.2023).

ISSING Otmar (1996), *Europe: Political Union Through Common Money?*, IEA Occasional Paper No. 98, London.

LANGNER Julian (2020), *ESCB/Eurosystem/National Central Banks*, in: Fabian Amtenbrink, Christoph Herrmann (eds), *The EU Law and Economic and Monetary Union*, Oxford.

NOWAK-FAR Artur (2017), *Economic and Financial Crisis in the European Union*: *The Definition of the Concept and Scholarly Discussion Over It*, in: Tomasz Grzegorz Grosse (ed.), *European Union Policies at a Time of Crisis*, Warsaw.

NOWAK-FAR Artur (2021), *European Economic and Monetary Union: A legal perspective on the EU economic governance model development*, Rome.

PADOA-SCHIOPPA Tommaso (2004), *The Euro and Its Central Bank: Getting United After the Union*, The MIT Press Cambridge. DOI: 10.7551/mitpress/2846.001.0001

TEU, Treaty on European Union, OJ C 202, 07.06.2016.

TFEU, Treaty on the Functioning of the European Union, OJ C 202, 07.06.2016.

TOWNSEND Malcolm (2007), *The Euro and Economic and Monetary Union*, London.

ZILIOLI Chiara, SELMAYR Martin (2001), *The Law of the European Central Bank*, Oxford.

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