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EVROPSKA MONETARNA UNIJA I SRBIJA

Rezime

U radu se analizira nastanak i razvoj EMU i uslovi, propisani Ugovorom o funkcionisanju EU, za članstvo u EMU - kriterijumi za ekonomsku i pravnu konvergenciju. Navode se referentne vrednosti kriterijuma za ekonomsku konvergenciju iz najnovijeg Izveštaja o konvergenciji ECB iz 2010. godine, a koje je operacionalizovao još EMI 1995. godine. U Radu se akcenat stavlja na pravnu konvergenciju i navode odredbe Zakona o NBS kojima se ostvaruje pravna konvergencija Srbije za članstvo u EMU. Autor konstatuje da je za Srbiju, u ovoj fazi pristupanja evropskom integracionom procesu, transponovanje odredbi Ugovora o EU u Zakon o NBS preuranjeno i nepotrebno i da bi moglo biti štetno. Takođe, autor ističe značaj prethodnog dostizanja održivog nivoa kriterijuma ekonomske konvergencije pre zakonodavnog preuzimanja odredbi Ugovora o EU. Zakonom o NBS eksplicitno je zabranjeno finansiranje kratkoročnih budžetskih neravnoteža sredstvima monetarne vlasti Srbije, mada efekti ovakvog zaduživanja ne mogu da se izjednače sa efektima koje može da proizvede dugoročno deficitarno finansiranje budžeta. Srpski budžet upućen je na zaduživanje, i na kratak rok, po tržišnim uslovima. U radu se navodi suprotan primer Švedske, koja „za svaki slučaj“, ni posle 13 godina u statusu države sa odstupanjem, nije preuzela tako doslovno u svoje zakonodavstvo zabranu monetarnog finansiranja budžeta.

Ključne reči: EMU, Ugovor o funkcionisanju EU, kriterijumi konvergencije, ekonomska konvergencija, pravna konvergencija, Zakon o NBS, finansiranje kratkoročnih budžetskih neravnoteža, deficitarno finansiranje

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Summary

The paper analyzes the creation and development of the EMU, along with the preconditions, prescribed by the Treaty on the Functioning of the EU, for EMU membership - i.e. economic and legal convergence criteria. The paper also lists the reference values of economic convergence criteria from the latest ECB Convergence Report 2010, which were operationalized back in 1995 by the EMI. The paper focuses on legal convergence and states the provisions of the Law on NBS, whereby the legal convergence of Serbia for membership in the EMU has been achieved. The author expresses his opinion that for Serbia, at this stage of joining the European integrations process, the transposition of provisions from the Treaty on the EU into the Law on NBS might be premature, unnecessary and potentially detrimental. Also, the author underlines the importance of reaching the sustainable level of economic convergence criteria before transposing the legislative provisions of the Treaty on the EU. The Law on NBS explicitly forbids the financing of short-term budgetary imbalances by means of funds provided by the monetary authorities of Serbia, although the effects of such borrowing cannot be equal to the effects caused by long-term deficit financing of the budget. The Serbian budget is directed to borrowing, short-term, at market conditions. The paper states an opposite example - that of Sweden - which, "just in case", even after 13 years of being a Member State with a derogation, has not transposed the ban on monetary budget financing into its legislative system so literally.

Key words: EMU, Treaty on the Functioning of the EU, convergence criteria, economic convergence, legal convergence, Law on NBS, financing of short-term budgetary imbalances, deficits financing

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EUROPEAN MONETARY UNION AND SERBIA

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Uvod

U ovom radu analizira se nastanak, razvoj i legislativa Evropske monetarne unije (EMU), a u cilju sagledavanja da li je i koliko Srbija pripremljena za priključivanje EMU sa aspekta ispunjavanja predviđenih uslova. Ova analiza podstaknuta je izmenama Zakona o NBS iz 2010. godine kojom je izvršeno usklađivanje našeg zakonodavstva sa Ugovorom o EU u pogledu ekonomske i monetarne unije i Statutom ESCB i ECB. Rad pored Uvoda i Zaključka sadrži tri poglavlja sledećih naslova: 1. Nastanak i razvoj EMU, 2. Odredbe Ugovora o EU od značaja za sticanje prava država članica EU na uvođenje evra i učešće u Evrosistemu i 3. Evrosistem i Srbija.

Cilj analize je da ukaže na složenost i dužinu procesa formiranja same Evropske monetarne unije i proceduru predviđenu za pristupanje ovom nivou integrisanosti članica EU. Takođe, cilj analize je i da ukaže da je za Srbiju, u ovoj fazi pristupanja evropskom integracionom procesu, doslovno prepisivanje i transponovanje svih odredbi iz Ugovora o funkcionisanju EU, kojima je regulisana ekonomska i monetarna unija, u Zakon o NBS, a pre ispunjavanja predviđenih ekonomskih kriterija za članstvo, preuranjeno i nepotrebno i da bi moglo biti štetno.

U Zakonu o NBS izričito je zabranjeno finansiranje Budžeta Srbije sredstvima monetarne vlasti Srbije i na kratak rok, za potrebe finansiranja kratkoročnih budžetskih neravnoteža, ina dugi rok, deficitarno finansiranje budžeta. Iz tog razloga, Srpski budžet upućen je na zaduživanje, i na kratak rok, po tržišnim uslovima. Treba znati da efekti kratkoročnog zaduživanja budžeta kod sopstvene monetarne vlasti ne mogu da se izjednače sa efektima koje može da ima dugoročno deficitarno finansiranje. U radu se navodi primer Švedske, koja „za svaki slučaj“, ni posle 13 godina u statusu države sa odstupanjem (države koja se priprema za članstvo u EMU), nije preuzela tako doslovno u svoje zakonodavstvo ovu odredbu iz Osnivačkog ugovora. U radu se ističe značaj prethodnog dostizanja održivog nivoa kriterija ekonomske konvergencije pre zakonodavnog preuzimanja odredbi Ugovora o EU iz monetarne oblasti i značaj utvrđivanja prioriteta i sinhronizacije između transponovanja prava EU iz monetarne

sfere i ostalih oblasti, a kako je i navedeno u Programu stabilizacije i pridruživanja Srbije EU.

Nastanak i razvoj Evropske monetarne unije

Evropska ekonomska zajednica (EEZ) formirana je u vreme kada je Međunarodni monetarni standard u sistemu Međunarodnog monetarnog fonda (MMF) garantovao stabilnost deviznih kurseva. To je bio razlog zašto u osnivačkim ugovorima nije bila predviđena precizna odredba o monetarnoj saradnji u EEZ. Osnivačkim ugovorom bio je predviđen samo slučaj neravnoteže u kojoj su, ako bi ona postala ozbiljna, zemlje EEZ mogle da ostvare veću stabilnost deviznih kurseva te bližu saradnju u monetarnoj i ekonomskim politikama. Prvi pokušaj formiranja Evropske monetarne unije (EMU) učinjen je krajem šezdesetih godina. Odluci SAD o ukidanju konvertibilnosti dolara za zlato i ukidanju fiksnih deviznih kurseva u sistemu MMF, prethodili su ekonomski i monetarni problemi o kojima se u EEZ raspravljalo. Iz tog perioda datira Odluka Saveta o koordinaciji tekućih ekonomskih politika država članica, koja je doneta na osnovu Memoranduma o koordinaciji ekonomskih politika i monetarnoj saradnji u okviru Zajednice, koga je Komisija dostavila Savetu 12. februara 1969. godine (Secretariat of the Commission, 1969). Predsednici država ili vlada država članica saglasili su se o potrebi pravljenja plana o stvaranju ekonomske i monetarne unije po fazama do kraja 1970. godine. Na osnovu brojnih različitih predloga o ustanovljavanju ekonomske i monetarne unije, ekspertska grupa na čelu sa Pjerom Vernerom (Pierre Werner) tadašnjim premijerom i ministrom finansija Luksemburga, sačinila je prvi zajednički dogovoreni monetarni plan koji je izložen u Izveštaju o faznoj realizaciji ekonomske i monetarne unije u Zajednici (Council-Commission of the European Communities, 1970). Ocena ekspertske grupe bila je da je u Zajednici napravljeno nekoliko značajnih koraka u ekonomskoj integraciji, kompletirana carinska unija i definisana zajednička poljoprivredna politika, međutim da opšta ekonomska neravnoteža u državama članicama ima direktne i indirektno posledice na

Introduction

This paper analyzes the creation, development and legislation of the European Monetary Union (EMU), in order to view whether, and to which extent, is Serbia ready to join the EMU in terms of meeting the prescribed preconditions. This analysis was inspired by the amendments to the Law on NBS from 2010, whereby our legislation has been harmonized with the Treaty on the EU concerning the economic and monetary union, and with the ESCB and ECB Statutes. In addition to Introduction and Conclusion, the paper contains three chapters titled: 1. Creation and Development of the EMU, 2. Provisions of the Treaty on the EU relevant for the acquisition of right to the introduction of the euro and participation in the Eurosystem by the EU member states, and 3. Eurosystem and Serbia.

The objective of this analysis is to underline the complexity and length of the formation process of the European Monetary Union itself, along with the procedure prescribed for joining this level of EU member integration. Also, the analysis aims to point out that for Serbia, at this stage of joining the European integrations process, literal copying and transposition of all provisions from the Treaty on the Functioning of the EU, regulating the economic and monetary union, into the Law on NBS, before meeting the prescribed economic membership criteria, might be premature, unnecessary and potentially detrimental.

The Law on NBS explicitly forbids the financing of the Budget of Serbia by means of funds provided by the monetary authorities of Serbia, both short-term, for the purpose of financing short-term budgetary imbalances, and long-term, for the purpose of deficit financing of the budget. Therefore is the Serbian budget directed to borrowing, short-term, at market conditions. One should be aware that the effects of short-term borrowing from one's own monetary authorities cannot be equal to the effects caused by long-term deficit financing of the budget. The paper states the example of Sweden, which, "just in case", even after 13 years of being a Member State with a derogation (i.e. a country preparing to gain membership in the EMU), has not transposed this provision from

the Treaty Establishing the EEC so literally. The paper underlines the importance of reaching the sustainable level of economic convergence criteria before transposing the provisions of the Treaty on the EU in the monetary field, along with the importance of defining the priorities and synchronization between the transposition of monetary provisions of the EU legislation and EU legislation in other fields, as is stated in the EU Stabilization and Association Agreement for Serbia.

Creation and Development of the European Monetary Union

The European Economic Community (EEC) was established at the time when the International Monetary Standard within the system of the International Monetary Fund (IMF) guaranteed the stability of foreign exchange rates. This is why the Treaty Establishing the EEC was not supposed to contain a precisely defined provision on monetary cooperation within the EEC. The Treaty Establishing the EEC covered only the case of an imbalance during which, if it became serious, the EEC countries could achieve greater stability of FX rates, and thus closer cooperation in their monetary and economic policies. The first attempt to establish the European Monetary Union (EMU) took place in late 1960s. The decision of the US to suspend convertibility of the dollar for gold and to suspend fixed exchange rates in the IMF system, was preceded by economic and monetary problems discussed within the EEC. This period brought about the Council Decision on Coordination of Current Economic Policies of the Member States, adopted based on the Memorandum on Economic Policy Coordination and Monetary Cooperation within the Community, submitted by the Commission to the Council on February 12th 1969 (Secretariat of the Commission, 1969). Presidents and Prime Ministers of the Member States agreed on the necessity of designing a plan for the creation of an economic and monetary union in stages by the end of 1970. Based on numerous and diverse proposals concerning the establishment of the economic and monetary union, an expert group led by Pierre Werner, the then Prime Minister and Minister of Finance

globalni razvoj Zajednice i ometa liberalizaciju kretanja roba, usluga i kapitala. Monetarna unija podrazumevala bi totalnu i neopozivu konvertibilnost valuta, eliminisanje fluktuacija i neopozivo fiksiranje kurseva i kompletnu liberalizaciju kretanja kapitala. Izložena je ideja o paralelnom sprovođenju monetarne integracije i približavanju ekonomskih politika. U planu za povećanje stepena monetarne integrisanosti među državama, predlagalo se postepeno smanjenje margina fluktuacija deviznih kurseva i harmonizacija različitih instrumenata monetarne politike, dok se za jačanje integrisanosti ekonomskih politika predlagao ceo niz reformi sa ciljem postizanja uniformnosti sa aspekta fiskalne politike, tržišta kapitala i finansiranja javnog duga, odnosno deficita nacionalnih budžeta. Savet je prihvatio Vernerov plan, ali on tada nije i praktično primenjen. Razlozi za to su bili veliki ekonomski i strukturni dispariteti između država članica. Međutim, kada se razmatrao Plan koga je predložio Žak Delor 1988. godine, Vernerov plan bio je „kamen temeljac“ za monetarnu integraciju u EEZ.

Kada su Sjedinjene Američke Države 1971. godine suspendovale kovertibilnost svoje valute za zlato, te je nakon toga ukinut Međunarodni monetarni zlatno-dolarski standard i sistem fiksnih kurseva u sistemu MMF, te iste godine, države članice EEZ potpisale su Evropski sporazum o ograničenim fluktuacijama deviznih kurseva, poznat kao Evropska monetarna zmija. Sporazum je stupio na snagu 1972. godine i imao je za cilj da obezbedi najveću moguću stabilnost za valute EEZ. Države su prihvatile Sporazum o deviznim kursovima koji je omogućavao održavanje međusobnih fluktuacija deviznih kurseva u okvirima margina od 2,25% u odnosu na indirektnu paritetu. Sporazum nije dao očekivane rezultate zato što su se države članice EEZ podelile, pa su neke sledile potpisani Sporazum a neke vodile politiku deviznog kursa mimo njega. Zbog toga se od „Zmije u tunelu“ prešlo na „Zmiju van tunela“. Države su između 1972. godine i 1979. godine često poravnavale paritete, a „Zmija“ je 13. marta 1979. godine reapsorbovana u Evropski monetarni sistem (EMS).

Evropski savet usvojio je temelje Evropskog monetarnog sistema (EMS) u 1978. godini u

Bremenu i naredne godine doneo potrebne odluke o ustanovljavanju zone monetarne stabilnosti u Evropi i implementaciju EMS (European Commission, Directorate-General for Economic and Financial Affairs, 2005). Odlučeno je da se EMS razvija uz tri simultane smernice: 1. preko unapređenja mehanizma deviznih kurseva ERM, 2. osnivanja Evropskog monetarnog fonda (EMF), tačnije transformacije Evropskog fonda za monetarnu saradnju (*European Monetary Cooperation Fund - EMCF*) koji je formiran 1973. godine u EMF i 3. odobravanja olakšica manje razvijenim državama. Evropski mehanizam deviznih kurseva (ERM) zasnivao se na novouvedenoj evropskoj valutnoj jedinici (ECU). ECU je definisana prema strukturi evropske mere vrednosti koja je na bazi korpe valuta komponovana od valuta država članica EEZ i, u narednim godinama, menjala se po potrebi. ECU se koristio kao mera vrednosti i pokazatelj odstupanja, dok su pariteti i početne intervencije determinisani na bilateralnoj bazi i intervencije na deviznim tržištima postale su obavezne po istim principima kao i kod monetarne zmije (fluktuaciona margina zadržana je na nivou od $\pm 2,25\%$ sa izuzetkom italijanske lire kojoj je dopušteno da na određeno vreme fluktuiru u okviru širih granica od $\pm 6\%$).

Vrlo brzo nakon ustanovljavanja Evropskog monetarnog fonda postalo je uočljivo da njegovo funkcionisanje zavisi od radikalnijih reformi EMS, odnosno ECU. Na treću smernicu - podrška manje prosperitetnim ekonomijama - gledalo se kao na suštinski važnu za uspeh Evropske zone monetarne stabilnosti. Progresivna monetarna integracija pretpostavljala je stvaranje brojnih nadnacionalnih fiskalnih instrumenata kako bi se kompenzovao delimičan gubitak finansijske i monetarne autonomije i garantovalo ravnotežno rešenje za probleme platnih bilansa država članica. Međutim, ovaj mehanizam se retko i delimično primenjivao i nije napravljen značajni pomak u usvajanju mera za manje razvijene zemlje.

Zadatak da predloži novi monetarni plan, odnosno plan za realizaciju ekonomske i monetarne unije (EMU) dobila je Komisija guvernera centralnih banaka država članica EEZ pod predsedništvom Žaka Delora (*Jacques Delors*), tada predsednika Evropske komisije.

of Luxembourg, composed the first common monetary plan, disclosed in the Interim Report of the Werner Group on the Attainment by Stages of Economic and Monetary Union within the Community (Council - Commission of the European Communities, 1970). The expert group assessed that several important steps had been made within the Community in terms of economic integration, the customs union had been completed and common agricultural policy defined, but that the general economic imbalance in the Member States had had direct and indirect consequences for the global development of the Community, standing in the way of liberalization of movements of goods, services and capital. The Monetary Union would entail total and irrevocable convertibility of currencies, elimination of fluctuations and irrevocable fixing of exchange rates, along with the complete liberalization of capital movements. The idea of parallel implementation of monetary integration and economic policy harmonization was put forward. The plan to increase the level of monetary integration among the countries included the proposal to gradually reduce the margins of FX rates fluctuations and harmonize various monetary policy instruments. For the purpose of strengthening the economic policy integration, there was a whole range of reforms proposed in order to achieve uniformity in terms of fiscal policy, capital market and public debt financing, i.e. national budgets' deficits. The Council accepted the Werner Report, but it was not implemented in practice at the time. The reasons behind this were large economic and structural disparities among the Member States. However, when the plan proposed by Jacques Delors was being considered in 1988, the Werner Report was the corner stone for monetary integration within the EEC.

When the United States of America suspended convertibility of their currency for gold in 1971, after which the international monetary gold-dollar standard was abolished, along with the fixed exchange rates system in the IMF, the EEC Member States signed the European Treaty on Limited Foreign Exchange Rates Fluctuations, also known as the European Monetary "Snake". The Agreement came into effect in 1972 and had the objective

of providing the greatest possible stability for the EEC currencies. The countries accepted the Agreement on Foreign Exchange Rates which enabled the bilateral FX rates fluctuations to be kept within 2.25% margins in relation to indirect parities. The Agreement did not yield the expected results because the EEC Member States were divided, some of them following the signed Agreement, and some of them leading an exchange rate policy regardless of its provisions. This is why the transition from the "Snake in the Tunnel" to the "Snake outside the Tunnel" occurred. In the period between 1972 and 1979 the states often readjusted the parities, and on March 13th 1979 the "Snake" was re-absorbed into the European Monetary System (EMS).

The European Council adopted the fundamentals of the European Monetary System (EMS) in 1978 in Bremen, and the following year adopted the necessary decisions concerning the establishment of a monetary stability zone in Europe and the EMS implementation (European Commission, Directorate-General for Economic and Financial Affairs, 2005). It was decided for the EMS to develop in three simultaneous directions: 1. through the advancement of the Exchange Rate Mechanism (ERM), 2. through the establishment of the European Monetary Fund (EMF), or more precisely the transformation of the European Monetary Cooperation Fund - EMCF, formed in 1973 into the EMF, and 3. through the extension of facilities to the less developed countries. The European Exchange Rate Mechanism (ERM) was based on the newly-introduced European Currency Unit (ECU). The ECU was defined according to the structure of the European measure of value, composed on the basis of a basket of EEC member states' currencies, and was modified as the need arose in the following years. The ECU was used as a measure of value and an indicator of deviations, whereas parities and initial interventions were determined bilaterally, and FX market interventions became obligatory according to the same principles as in the case of the monetary "snake" (fluctuation margin was kept at the level of $\pm 2.25\%$ with the exception of Italian lire which was allowed to fluctuate for some time within the wider spread of $\pm 6\%$).

Very soon after the establishment of the

Delorov izveštaj o ekonomskoj i monetarnoj uniji u Evropskoj zajednici predstavljen je u aprilu 1989. godine i sugerisao je da se EMU dostigne preko tri etape kroz koje bi evropske valute prošle put od ujednačavanja i smanjivanja fluktuacija deviznih kurseva do uvođenja jedinstvene valute. Mada je predstavljao stav Komisije, Delorov plan nije bio jednoglasno usvojen. Velika Britanija je izražavala npr. kontinuiranu sumnju u zamenu nacionalnih valuta za jedinstvenu evropsku valutu i sama predložila alternativni projekat. Plan koji je izradila Delorova komisija preuzeo je Evropski savet u junu



Jacques
Delors

1989. godine. Za realizaciju Delorovog plana bilo je potrebno menjati Osnivački ugovor, ugraditi neophodne odredbe za ekonomsku i monetarnu uniju i princip supsidijarnosti: „Suštinski element u definisanju odgovarajućeg balansa moći u okviru Zajednice bila bi privrženost principu supsidijarnosti, saglasno kome bi funkcije viših nivoa vlasti trebalo da su limitirane što je više moguće i da su pomoćne onima na nižim nivoima vlasti“ (*Committee for the study of economic and monetary union, 1989, str. 18*). Delorov plan je predstavljao suštinski deo novog osnivačkog ugovora koji je trebalo da zameni sve prethodne, od Rimskog ugovora do Jedinstvenog evropskog akta. Pri tome, u Izveštaju Delorovog odbora posebno je napomenuto da okretanje deviznog kursa američkog dolara verovatno neće biti eliminisano pa ni smanjeno stvaranjem jedinstvene evropske valute, zato što bi takvoj valuti u odsustvu moćne političke unije, nedostajao politički i strategijski format američkog dolara.

U junu 1989. godine Evropski savet odlučio je da Prva etapa (ECB, 2004, str. 101-103) izgradnje EMU započne 1. jula 1990. godine, dana kada će se između država članica ukinuti sve prepreke za slobodno kretanje kapitala. Tada je Komitet guvernera centralnih banaka država članica EEZ, koji je osnovan još 1964. godine i tokom godina obavljao veoma značajne

zadatke oko monetarne saradnje u EEZ, dobio novi zadatak: da održava konsultacije i koordinira rad monetarnih politika država članica u cilju postizanja stabilnosti cena. Ovaj

Komitet takođe je trebalo da inicira početak narednih etapa EMU, a na osnovu prethodno definisanog radnog programa koga je trebalo da sačini do kraja 1993. godine. Osnovni zadatak Komiteta u suštini bio je da identifikuje u prvoj etapi sva pitanja od značaja za formiranje EMU, formira podkomitete i radne grupe koje bi Program realizovale. Za realizaciju druge i treće etape izgradnje EMU, bila

je potrebna institucionalna struktura koja se nije mogla konstituisati bez promene Rimskog ugovora - Ugovora o EEZ. Iz tog razloga, 1991. godine, istovremeno kada i Međuvladina konferencija o političkoj uniji, bila je sazvana Međuvladina konferencija o EMU. Rezultat pregovora bio je novi osnivački ugovor - Ugovor o EU. Ugovor o EU, dogovoren decembra 1991. godine, potpisan je u Mastrohtu 7. februara 1992. godine, a stupio je na snagu tek 1. novembra 1993. godine. Period ratifikacije u državama članicama trajao je celu godinu. Treba imati u vidu da je Ugovor o EU izmenio Ugovor o EEZ u Ugovor o EZ i ustanovio Protokol o Statutu evropskog sistema centralnih banaka (ESCB) i Evropske centralne banke (ECB) i Protokol o Statutu Evropskog monetarnog instituta (EMI), kao institucije koja prethodi Evropskoj centralnoj banci. Za početak naredne faze bilo je potrebno sačekati da novi Ugovor o EU stupi na snagu.

Ustanovljavanjem EMI u januaru 1994. godine, započela je druga etapa EMU. Tada je prestao sa radom Komitet guvernera centralnih banaka država članica. EMI je formiran kao privremena institucija, do formiranja ECB. EMI nije bio odgovoran za upravljanje monetarnom politikom u EU, zato što je ona i dalje bila u nadležnosti nacionalnih vlasti, a nije imao nadležnosti ni da interveniše na deviznom tržištu. EMI je imao dva zadatka: da ojača

European Monetary Fund, it became obvious that its functioning depended on the more radical reforms of the EMS, i.e. ECU. The third direction - support to less prosperous economies - was considered to be crucially important for the success of the European monetary stability zone. Progressive monetary integration involved the creation of numerous supra-national fiscal instruments in order to compensate for the partial loss of financial and monetary autonomy and to guarantee a balanced solution to the problems concerning the member states' balances of payments. However, this mechanism was being only rarely and partially implemented and no considerable progress was made regarding the adoption of measures for less developed countries.

The task to propose the new monetary plan, i.e. the plan for the realization of the Economic and Monetary Union (EMU), was entrusted to the Committee of Governors of the EEC Member States' Central Banks, chaired by Jacques Delors, the then President of the European Commission. The Delors Report on the economic and monetary union within the European Community was presented in April 1989 and suggested the EMU to be reached through three stages in which the European currencies would go from harmonization and reduction of FX rates fluctuations to the introduction of a single currency. Although it represented the position of the Commission, the Delors Report was not adopted unanimously. For instance, Great Britain voiced continuous doubts about the replacement of national currencies by a single European currency and proposed an alternative project on its own. The plan prepared by Delors' Committee was undertaken by the European Council in June 1989. For the purpose of realization of the Delors Report, it was necessary to amend the Treaty Establishing the EC, embed the necessary provisions concerning the economic and monetary union, and the subsidiarity principle: "An essential element in defining the appropriate balance of power within the Community would be adherence to the *principle of subsidiarity*, according to which the functions of higher levels of government should be as limited as possible and should be subsidiary to those of lower levels." (*Committee for the study of*

economic and monetary union, 1989, pp. 18). The Delors Report represented the essential part of the new Treaty Establishing the EC, which was to replace all preceding ones, starting from the Treaty of Rome to the Uniform European Act. In addition, the Delors Report especially underlined that the creation of a single European currency probably would not eliminate or reduce the shifting of the FX rate of the US dollar, because such new currency, without a powerful political union to support it, would lack a political and strategical format that the US dollar possesses.

In June 1989 the European Council decided that the First Stage (ECB, 2004, pp. 101-103) of the EMU creation was to start on July 1st 1990, on which date all restrictions to free capital movements among the member states were to be suspended. It was then that the Committee of Governors of the EEC Member States' Central Banks, established back in 1964 to conduct rather serious tasks concerning the monetary cooperation within the EEC, was entrusted with the new task: to perform consultations and coordinate monetary policy activities of member states in order to achieve stability of prices. The same Committee was also to initiate the commencement of other stages of the EMU creation, based on the previously defined work schedule, which was supposed to be completed by the end of 1993. The main task of the Committee was essentially to identify, in the first stage, all issues relevant for the creation of EMU, establish sub-committees and work groups to implement the Program. Implementation of the second and third stages of the EMU creation required the international structure that could not have been constituted without an amendment to the Rome Treaty - Agreement on EEC. Therefore, in 1991, at the same time as the Intergovernmental Conference on Political Union, the Intergovernmental Conference on the EMU was convened. The result of the negotiations was the new establishing contract - Treaty on the EU. The Treaty on the EU, agreed upon in December 1991, was signed in Maastricht on February 7th 1992, but came into force only on December 1st 1993. The ratification period in Member States lasted an entire year. One should bear in mind that the Treaty on EU modified the

saradnju centralnih banaka i koordinaciju monetarnih politika i da izvrši pripreme za ustanovljavanje ESCB za upravljanje jedinstvenom valutom i za stvaranje jedinstvene valute u trećoj fazi. Do početka treće faze, EMI je bio mesto za konsultacije i razmenu mišljenja i informacija o pitanjima politike i određivanju regulatornog, organizacionog i logističkog okvira potrebnog za izvršavanje zadataka ESCB u trećoj fazi.

U decembru 1995. godine Evropski savet dogovorio se da ime evropske jedinice, koja će se uvesti u trećoj fazi, bude „evro“ i da će treća etapa EMU započeti 1. januara 1999. godine. U decembru 1996. godine EMI je prezentovao Evropskom savetu Izveštaj koji se odnosio na sprovođenje Rezolucije Evropskog saveta o principima i fundamentalnim elementima novog mehanizma deviznog kursa (ERM II) (European Council, 1997) i dizajn serije evra koji će biti pušten u opticaj 1. januara 2002. godine. Radi operacionalizacije odredaba Ugovora o EU koji se odnosio na EMU, Evropski savet usvojio je u junu 1997. godine dva propisa koja su bila deo Pakta stabilnosti i rasta koji je imao zadatak da osigura budžetsku disciplinu država članica EMU (limit za deficit nacionalnih budžeta u iznosu od 3% BDP). U maju 1998. godine Savet je jednoglasno odlučio koje su države ispunile potrebne uslove za usvajanje jedinstvene valute i koje će moći od 1. januara 1999. godine da učestvuju u trećoj etapi EMU. Odluka je doneta na osnovu Izveštaja o konvergenciji koga je pripremio EMI (EMI, 1998). Nakon ustanovljavanja ECB, Izveštaji o konvergenciji, saglasno Ugovoru o EU, u nadležnosti su ECB i dostupni su na njenom sajtu. Članom 140 Osnivačkog ugovora ustanovljena je obaveza za ECB da najmanje jednom svake dve godine ili na zahtev države članice EU izveštava o napretku država članica u ispunjavanju obaveza i ostvarivanju ekonomske i monetarne unije.

Treća etapa EMU započela je 1. januara 1999. godine kada je 11 država EU fiksiralo devizne kurseve svojih nacionalni valuta i kada su upravljanje nacionalnim monetarnim politika prenele u nadležnost ECB. V. Britanija, Danska, Grčka i Švedska do daljnjeg nisu bile uključene u III etapu EMU. Protokolima uz Ugovor o EU, za Veliku Britaniju i Dansku ustanovljen je specijalni status, pravo da ne usvoje evro. Ovo

pravo nema ni jedna druga sadašnja članica EU, ali ni bilo koja druga država koja se priprema da to bude. U međuvremenu, Grčka je, pored još šest članica EU uključena u Evrosistem, a Švedska i danas ima status „države sa odstupanjem“ kao i sve ostale države članice EU koje ne ispunjavaju uslove za uvođenje evra.

Treća etapa EMU trajaće dok sve države članice EU ne ispune uslove za pristupanje EMU. Do tada treba razlikovati ESCB od Evrosistema i evro oblasti. Pravne osnove jedinstvene monetarne politike ustanovljene su Ugovorom o EU, tačnije Ugovorom o funkcionisanju EU i protokolima uz Ugovor i Statutom ECB i ESCB. ECB je centralna banka svih država članica EU, bez obzira da li su one usvojile ili nisu usvojile evro. Praktično Osnivački ugovor ne pretpostavlja situaciju u kojoj sve članice EU nisu i članice EMU. Međutim, kako sve države članice EU nisu i članice EMU nego i dalje imaju svoje nacionalne centralne banke i nacionalne valute, od ESCB treba razlikovati Evrosistem koji uključuje ECB i samo države članice EMU. Razlika između ESCB i Evrosistema postojaće sve dok se sve države članice EU ne uključe u EMU. Pored toga od ESCB i Evrosistema treba razlikovati i pojam evro oblasti u formalnom i neformalnom smislu. U formalnom smislu, današnja evro oblast uključuje samo 17 država članica EU. Međutim, kao svoju valutu, evro su prihvatile i neke države koje nisu članice EU (npr. Crna Gora). One „pripadaju“ evro oblasti ali samo u neformalnom smislu. ECB ne podržava praksu uvođenja evra van propisane procedure.

Kada se razmišlja koliko bi troškovi bili ostati „van“ a koliko biti „u“ EMU, treba imati u vidu da je izvesno da je uspešno funkcionisanje monetarne unije skuplje ako su među državama veće razlike: 1. u visini inflacije i nezaposlenosti, 2. u institucijama tržišta rada, 3. u pravnom sistemu, 4. u stopi rasta BDP, 5. u fiskalnom sistemu (Hrauve, 2004). Iz tog razloga Osnivačkim ugovorom predviđeni su uslovi - kriteriji ekonomske konvergencije - koje države članice EU moraju ispuniti da bi mogle postati članica EMU. Pored ekonomskih kriterija konvergencije, za članstvo u EMU uslov je da države članice EU ispune i predviđene pravne kriterije konvergencije. Do ispunjenja uslova za EMU države članice EU imaju status

Treaty Establishing the European Economic Community (ECC) into the Treaty on European Community (EC) and established the Protocol on the Statute of the European Monetary Institute (EMI), as an institution preceding the European Central Bank. For the next stage to commence, it was necessary to wait for the new Treaty on the EU to come into effect.

The establishment of EMI in January 1994 marked the second stage of the EMU. The Committee of Governors of the EEC Member States' Central Banks was dismantled. The EMI was formed as a temporary institution, until the formation of the ECB. The EMI was not in charge of monetary policy in the EU, because it was still under the jurisdiction of national authorities, and it also had no authority to intervene at the FX market. EMI had two tasks: to strengthen the cooperation of central banks and coordinate monetary policies, and to conduct preparations for the establishment of the ESCB for the purpose of creation and management of the single currency in the third stage. Until the commencement of the third stage, the EMI was the place for consultations and exchange of opinions and information concerning the issues of policies and definition of regulatory, organizational and logistic framework required for the performance of ESCB tasks in the third stage.

In December 1995, the European Council agreed upon the name of the single European currency - to be introduced in the third stage - to be "euro", and the commencement date for the third stage of EMU creation to be January 1st 1999. In December 1996 the EMI presented a Report to the European Council concerning the implementation of the European Council Resolution on Principles and Fundamental Elements of the New Foreign Exchange Mechanism (ERM II) (European Council, 1997), and the design of the first issue of Euros to be released for circulation on January 1st 2002. Wishing to operationalize the provisions of the Treaty on the EU relating to the EMU, in June 1997 the European Council adopted two regulations which were part of the Growth and Stability Pact, and had the task of ensuring budgetary discipline in the EMU Member States (limit on the national budget deficit in the amount of 3% GDP). In May 1998 the

Council unanimously decided which countries had fulfilled the necessary preconditions for adopting the single currency and which countries would be allowed to take part in the third stage of EMU creation starting from January 1st 1999. The decision was based on the Convergence Report prepared by the EMI (EMI, 1998). After the establishment of the ECB, Convergence Reports, pursuant to the Treaty on the EU, are the responsibility of the ECB and are available at its website. Article 140 of the Treaty Establishing the EU obliged the ECB to report, at least once in every two years, or at the request of an EU member state, about the progress of member states concerning the fulfillment of obligations and establishment of economic and monetary union.

The third stage of EMU creation commenced on January 1st 1999, when 11 EU states fixed the foreign exchange rates of their national currencies and placed the management over their national monetary policies under the ECB jurisdiction. Great Britain, Denmark, Greece and Sweden were excluded from the third stage of EMU creation until further notice. According to the Protocols from the Treaty on the EU, Great Britain and Denmark were granted a special status - the right not to adopt the euro. This right is not grantable to any other present EU member state, or to any other country applying for this status. In the meantime, Greece, along with six other EU member states, was integrated into the Eurosystem, whereas Sweden till the present day bears the status of a "country with a derogation", along with all other EU member states that do not meet the preconditions to introduce the euro.

The third EMU stage will last until all EU Member States meet the preconditions to join the EMU. Until then, one should make a distinction between the ESCB, on one hand, and Eurosystem and euro area, on the other. Legal basis for a single monetary policy was established by means of the Treaty on the EU, or more precisely, the Treaty on the Functioning of the EU, the protocols accompanying the Treaty and the Statutes of ECB and ESCB. The ECB is the central bank of all EU Member States, regardless of whether they have adopted the euro or not. Principally, the Treaty Establishing the EU does not specify a situation in which

država članica sa odstupanjem. Procena ECB je da je za države period od 10 godina optimalan od članstva u EU do članstva u EMU (toliko je trebalo najrazvijenijim državama članicama EU da pripreme svoje privrede za uvođenje jedinstvene valute).

Evropska monetarna unija je ostvarenje najvećeg mogućeg stepena ekonomske integracije nezavisnih država. Politički režimi sadašnjih država članica EMU sastoje se od centralizovane monetarne politike i decentralizovane, ali koordinirane ekonomske i budžetske politike. Euro je dostignuće pune integracije na monetarnom planu. Kada se govori o političkoj integraciji politička unija može biti shvaćena široko. Ako se ona shvata u smislu tradicionalne države, tada EMU još uvek nije Evropska federacija sa ustavom, poreskom vlašću i jedinstvenom valutom.

Određbe ugovora o EU od značaja za sticanje prava država članica EU na uvođenje evra i učešće u evrosistemu

Države članice EU imaju obavezu da ispunjavaju obaveze iz Osnivačkog ugovora koje se tiču ostvarivanja ekonomskog i monetarnog jedinstva. Države članice EU koje nisu usvojile euro imaju tretman država članica sa odstupanjem. Države članice sa odstupanjem, da bi postale članice EMU moraju prethodno da postignu visok nivo održive ekonomske i pravne konvergencije.

Kriteriji za ekonomsku konvergenciju

Kriteriji konvergencije i postupak analize dostignutog stepena konvergencije utvrđeni su u **čl. 140 Ugovora o funkcionisanju EU** na sledeći način:

1. Komisija i ECB će svake druge godine, ili pre toga na zahtev države članice sa odstupanjem od referentnih vrednosti, izvestiti Savet o napretku države članice u ispunjavanju njenih obaveza u pogledu dostignuća ekonomske i monetarne unije. Ovi izveštaji obuhvatiće i analizu kompatibilnosti nacionalnog zakonodavstva, uključujući statute nacionalnih centralnih banaka, sa članom 130 i 131 Statuta ESCB i ECB. Takođe, u Izveštaju će biti analizirano da li je država članica dostigla visok stepen održive konvergencije referentnih

vrednosti za sledeće kriterije:

- visok stepen stabilnosti cena koji će se ogledati u stopi inflacije koja je blizu nivou inflacije u tri države članice sa najstabilnijim cenama,
- održivu poziciju budžetskih finansija koja će se ogledati u dostizanju budžetske pozicije bez prekomernog deficita koji je utvrđen u čl. 126 (6),
- održavanje normalnih fluktuacija deviznog kursa i najmanje dve godine bez devalvacije nacionalne valute u odnosu na euro,
- postojanost dostignute konvergencije države članice koja se reflektuje u nivoima dugoročnih kamatnih stopa.

Četiri gore navedena kriterija i relevantni periodi dalje se razrađuju u Protokolu u aneksu Ugovora (Protokolu o kriterijumima konvergencije). Komisija i ECB u svojim izveštajima ispituju postignute rezultate u integraciji tržišta, stanje i kretanje tekućeg računa platnog bilansa, kretanja troškova radne snage i ostalih indeksa cena.

2. Nakon rasprave u Evropskom parlamentu i Evropskom savetu, Savet na predlog Komisije, a na osnovu kriterija iz tačke 1, donosi odluku koja je država, među državama članicama sa odstupanjem, ispunila potrebne uslove.

Ovim članom utvrđena je i procedura po kojoj država članica sa odstupanjem, za koju je Savet doneo odluku, vrši zamenu nacionalne valute po fiksnoj stopi za euro i uvodi euro umesto nacionalne valute.

U Protokolu br. 13 o kriterijumima konvergencije, između ostalog utvrđeno je da su referentne vrednosti za kriterije iz čl. 140 sledeće:

- stabilnost cena - najmanje jednu godinu prosečna stopa inflacije ne može biti preko 1,5 procentnog poena viša od nivoa inflacije koji je ostvaren u tri države članice sa najmanjom inflacijom; inflacija se meri indeksom potrošačkih cena,
- kriterij učešća u deviznom mehanizmu ERM podrazumeva da je država članica najmanje dve godine pre pravljenja Izveštaja poštovala normalne fluktuacije margina ovog mehanizma bez ozbiljnih tenzija; posebno da u istom periodu država članica nije devalvirala svoju valutu u odnosu na euro na sopstvenu inicijativu,

not all EU member states are the members of the EMU. However, since all EU member states are not the EMU members, but still have their own national central banks and national currencies, the ESCB should be distinguished from the Eurosystem which includes the ECB and only those states that are the EMU members. The difference between the ESCB and the Eurosystem will exist until all EU member states join the EMU. Moreover, the ESCB and Eurosystem should also be distinguished from the notion of euro area, both in official and unofficial terms. Officially, the present euro area includes only 17 EU member states. However, the euro was also adopted as currency by some non-EU countries (e.g. Montenegro). They “belong” to the euro area, but only unofficially. The ECB does not approve of the practice of the euro introduction outside the prescribed procedure.

When considering the costs of staying “outside” or being “inside” the EMU, one should bear in mind that the successful functioning of a monetary union is sure to be more expensive when member states differ more prominently in the following areas: 1. inflation and unemployment rate, 2. labour market institutions, 3. legal system, 4. GDP growth rate, 5. fiscal system (Hrauve, 2004). Therefore, the Establishing Treaty prescribes certain preconditions - economic convergence criteria - that the EU member states have to fulfil in order to become an EMU member. In addition to economic convergence criteria, another precondition for gaining membership in the EMU is for the EU member states to meet the prescribed legal convergence criteria. Until they meet the preconditions for the EMU, the EU member states have the status of a member state with a derogation. The ECB estimates that a 10-year period is optimal for a country to go from EU membership to EMU membership (this is how much it took the most developed EU member states to prepare their economies for the introduction of a single currency).

European Monetary Union is the achievement of the highest possible level of integration of independent countries. Political regimes of the present EMU member states involve a centralized monetary policy and a decentralized, but coordinated economic and

budgetary policy. The euro represents full integration at the monetary level. When it comes to political integration, a political union may be interpreted broadly. If it is understood in the sense of a traditional state, then the EMU is still not a European federation with a constitution, fiscal authority and a single currency.

Provisions of the Treaty on the EU relevant for the acquisition of right to the introduction of the euro and participation in the Eurosystem by the EU Member States

The EU Member States are bound to fulfil the obligations from the Treaty on the EU concerning the achievement of economic and monetary union. The EU Member States that have not adopted the euro enjoy the treatment of countries with a derogation. The countries with a derogation, in order to become the EMU members, previously have to achieve a high level of sustainable economic and legal convergence.

Economic convergence criteria

Convergence criteria and the procedure of analyzing the achieved convergence level are defined in **Article 140 of the Treaty on the Functioning of the EU** as follows:

1. At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles 130 and 131 and the Statute of the ESCB and of the ECB. The reports shall also examine the achievement of a high degree of sustainable convergence by reference to the fulfillment by each Member State of the following criteria:

- the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability,
- the sustainability of the government

- kriterij konvergencije kamatne stope odnosi se na obavezu da u periodu preko jedne godine pre pravljenja Izveštaja za državu članicu, prosečna nominalna dugoročna kamatna stopa nije bila veća od 2 procentna poena od nivoa u tri države članice sa najvećom stabilnošću cena; kamatna stopa meriće se na osnovu dugoročnih državnih obveznica ili uporedivih vrednosnih papira uzimajući u obzir razlike u nacionalnim definicijama,
- za budžetske pozicije predviđene članom 140, referentne vrednosti utvrđene su Protokolom o proceduri prekomernog deficita, s tim da se u Protokolu o kriterijumima konvergencije utvrđuje da se u vreme pravljenja Izveštaja za državu članicu sa odstupanjem na nju ne primenjuje predviđena procedura Saveta za prekomerni budžetski deficit; **U Protokolu br. 12 o proceduri prekomernog deficita** utvrđeno je da referentne vrednosti iznose: 3% BDP za planirani ili stvarni budžetski deficit i 60% BDP za javni dug.

Ugovor ustanovljava jasnu hijerarhiju ciljeva za Evrosistem i ističe značaj cenovne stabilnosti. Fokusirajući monetarnu politiku ECB na ovaj primaran cilj, u Ugovoru je sasvim jasno napisano da je osiguranje cenovne stabilnosti najvažniji doprinos monetarne politike dostizanju poželjnog ekonomskog okruženja i visokog nivoa zaposlenosti. Prema poslednjem Izveštaju o konvergenciji ECB, referentna vrednost za inflaciju bila je 1% (ECB, 2010, str. 9), a za dugoročne kamatne stope 6% (ECB, 2010, str. 14). Od devet država članica EU za koje ECB ima obavezu da sačinjava Izveštaj o konvergenciji, u sistemu ERM II učestvuju samo Estonija, Litvanija (od 2004. godine) i Letonija (od 2005. godine) (ECB, 2010, str. 13). Za ove zemlje kretanje nacionalne valute u odnosu na evro analizira se kao odstupanje od odgovarajućeg centralnog pariteta ERM II. Za ostalih šest država, u odsustvu centralnog pariteta ERM II, kao merilo, u cilju ilustracije, a bez bilo kakvog prosuđivanja o visini deviznog kursa, koriste se prosečni devizni kursevi u odnosu na evro. Učešće države članice u sistemu ERM II predstavlja predvorje za ulazak u Evrosistem.

Kriteriji za pravnu konvergenciju

Pravna konvergencija država članica sa odstupanjem odnosi se na analizu kompatibilnosti njihovog nacionalnog zakonodavstva i statuta njihovih centralnih banaka sa članom 130 i 131 Ugovora o funkcionisanju EU.

U članu 130 utvrđeno je da u vršenju svoje vlasti i izvršavanju svojih zadataka i obaveza nijedan član organa ECB i Nacionalnih centralnih banaka (NCB-e) neće tražiti i neće uzimati instrukcije niti od institucija, organa, kancelarija ili agencija Unije niti od jedne vlade država članica ili bilo kog drugog organa. Institucije, organi, kancelarije ili agencije Unije i vlade država članica poštovaće ovaj princip i neće tražiti da utiču na izvršavanje zadataka članova organa ECB ili NCB-a koji donose odluke. Iste sadržine je i član 7 Protokola br. 4 uz Ugovor o EU koji se odnosi na Statut ESCB i ECB. Ovim odredbama regulisana je nezavisnost centralne banke kao monetarne vlasti.

U članu 131 utvrđeno je da će svaka država članica osigurati kompatibilnost nacionalnog zakonodavstva uključujući statute nacionalnih centralnih banaka sa Ugovorima (Ugovor o EU i Ugovor o funkcionisanju EU) i Statutom ESCB i ECB.

Na osnovu člana 131 Ugovora o EU u članu 14 Statuta ESCB i ECB utvrđeno je sledeće:

14.1. U skladu sa članom 131 Ugovora o funkcionisanju EU svaka država članica osiguraće kompatibilnost njenog nacionalnog zakonodavstva, uključujući statute nacionalnih centralnih banaka, sa Ugovorima i ovim Statutom.

14.2 U Statutima nacionalnih centralnih banaka posebno će biti utvrđeno da mandat guvernera ne traje manje od 5 godina.

Guverner može biti razrešen samo ako dalje ne ispunjava sve uslove potrebne za vršenje dužnosti ili bude kriv za ozbiljan propust. Ako se Odlukom o razrešenju krše ovi Ugovori ili bilo koja odredba zakona koja se odnosi na njihovu primenu, Guverner ili Savet guvernera može je uputiti Evropskom Sudu pravde. Takav postupak biće pokrenut u roku od dva meseca od objavljivanja odluke ili njenog upućivanja tužiocu, ili u odsustvu toga, što može biti slučaj, od dana kada je tužilac došao do saznanja o odluci.

financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 126(6),

- the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the euro,
- the durability of convergence achieved by the Member State with a derogation and of its participation in the exchange-rate mechanism being reflected in the long-term interest-rate levels.

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in a Protocol annexed to the Treaties. The reports of the Commission and the European Central Bank shall also take account of the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

2. After consulting the European Parliament and after discussion in the European Council, the Council shall, on a proposal from the Commission, decide which Member States with a derogation fulfill the necessary conditions on the basis of the criteria set out in paragraph 1, and abrogate the derogations of the Member States concerned.

This article also defines the procedure according to which a country with a derogation, pursuant to the Council's decision, conducts the substitution of its national currency for the euro at a fixed rate, and thus introduces the euro instead of its national currency.

Protocol no. 13 on Convergence Criteria defines benchmark values for the criteria referred to in Article 140, as follows:

- The criterion on price stability - an average rate of inflation, observed over a period of one year before the examination, cannot exceed by more than 1 ½ percentage points that of, at most, the three best performing Member States in terms of price stability; inflation shall be measured by means of the consumer price index;

- The criterion on participation in the Exchange Rate mechanism of the European Monetary System shall mean that a Member State has respected the normal fluctuation margins provided for by the exchange-rate mechanism on the European Monetary System without severe tensions for at least the last two years before the examination; in particular, the Member State shall not have devalued its currency's bilateral central rate against the euro on its own initiative for the same period;
- The criterion on the convergence of interest rates shall mean that, observed over a period of one year before the examination, a Member State has had an average nominal long-term interest rate that does not exceed by more than two percentage points that of, at most, the three best performing Member States in terms of price stability; interest rates shall be measured on the basis of long-term government bonds or comparable securities, taking into account differences in national definitions;
- The criterion on the government budgetary position shall mean that benchmark values are defined by the Protocol on the excessive deficit procedure, with the Protocol on convergence criteria prescribing that at the time of the examination the Member State is not the subject of the prescribed Council procedure for an excessive budgetary deficit. **Protocol no. 12 on the excessive deficit procedure** defines benchmark values as: 3% GDP for the planned or achieved budgetary deficit and 60% GDP for public debt.

The Treaty establishes a clear hierarchy of objectives within the Eurosystem and underlines the importance of price stability. Directing the ECB monetary policy towards this primary objective, the Treaty unambiguously stipulates that the insurance of price stability represents the most important contribution of monetary policy to the achievement of a desirable economic environment and a high employment rate. According to the latest ECB Convergence Report, benchmark value for inflation amounted to 1% (ECB, 2010, pp.9), and for long-term interest rates 6% (ECB, 2010, pp.14). Out of the nine EU member states for which the ECB is bound to prepare

14.3. Nacionalne centralne banke integralni su deo ESCB i delovaće u skladu sa smernicama i instrukcijama ECB. Savet guvernera preduzeće korake da osigura usaglašenost sa smernicama i instrukcijama ECB i zahtevaće da dobije svaku potrebnu informaciju.

14.4. Nacionalne centralne banke mogu vršiti i funkcije koje nisu utvrđene ovim Statutom ukoliko, većinom od 2/3 glasova, Savet guvernera smatra da one neće ometati ciljeve i zadatke ESCB. Takve funkcije vršiće se na odgovornost nacionalnih centralnih banaka i neće se smatrati delom funkcija ESCB.

Za pisanje Izveštaja ECB o konvergenciji uvek se koristi isti okvir. ECB analizira da li je postignut visok nivo održive ekonomske konvergencije, da li je nacionalno zakonodavstvo kompatibilno sa Ugovorom, i da li su ispunjeni zakonski uslovi kako bi NCB-e mogle postati sastavni deo Evrosistema. Analiza pravne konvergencije obuhvata prilagođavanja nacionalnog zakonodavstva u pogledu: nezavisnosti centralne banke (čl. 130 Ugovora), zabrane za monetarno finansiranje (čl. 123 Ugovora) i integraciju NCB-a u Evrosistem. U Ugovoru i Statutu ESCB i ECB nije propisan način na koji nacionalno zakonodavstvo treba da bude prilagođeno, tako da je pravnu konvergenciju moguće ostvariti ili pozivanjem na Ugovor i Statut, ili inkorporisanjem u nacionalno zakonodavstvo istih odredbi i upućivanjem na njihovo poreklo ili brisanjem nekompatibilnosti ili kombinacijom ovih metoda. Prilikom procene pravne konvergencije, ECB nije ograničena na izradu formalne procene, nego može da razmotri i da li je primena relevantnih odredbi u skladu sa duhom Ugovora i Statuta.

1. Za sagledavanje kompatibilnosti u pogledu nezavisnosti nacionalne centralne banke, ECB analizira da li je zakonodavstvo kompatibilno ne samo sa Ugovorom nego i sa sekundarnim zakonodavstvom Unije koje ima primat u odnosu na nacionalno zakonodavstvo. Svaka nekompatibilnost mora da se otkloni. Što se tiče nezavisnosti NCB koncept nezavisnosti ustanovio je 1998. godine EMI u svom prvom Izveštaju o konvergenciji. Prema ovom konceptu, nezavisnost NCB uključuje funkcionalnu, institucionalnu, personalnu i finansijsku nezavisnost.

Funkcionalna nezavisnost uključuje da je cilj NCB u potpunosti u skladu sa primarnim ciljem ECB - stabilnosti cena. ECB je zauzela stav da ova obaveza teče od datuma pristupanja EU. Princip institucionalne nezavisnosti izričito je naglašen u čl. 130 i uključuje zabranu trećim licima da daju instrukcije organima ECB, da odobravaju, suspenduju, poništavaju ili odlažu odluku NCB, cenzurišu odluke koje se tiču izvršavanja zadataka ESCB (osim nezavisnih sudova), učestvuju sa pravom glasa u donošenju odluka NCB, vrše *ex ante* konsultacije u vezi sa odlukama NCB, razrešavaju dužnosti članove organa odlučivanja NCB. Personalna nezavisnost tiče se zaštite guvernera od proizvoljnog razrešenja, u kom slučaju je predviđeno pravo na obraćanje Sudu pravde EU. Iz tog razloga u Statutu ESCB i ECB, koje nacionalno zakonodavstvo mora da preuzme, utvrđen je minimalan mandat od 5 godina, predviđeni razlozi zbog kojih je guvernera moguće smeniti i zaštitne mere protiv sukoba interesa. Finansijska nezavisnost obavezuje države članice da svojim NCB omoguće da imaju dovoljno finansijskih sredstava da izvrše zadatke koji su u vezi sa ESCB i Evrosistemom, ali i za vršenje svojih nacionalnih zadataka. Finansijska nezavisnost NCB obavezna je zato što je Statutom ESCB i ECB predviđeno da, u slučaju gubitka nastalog u ECB koga ona ne može pokriti iz svog fonda rezervi, ECB ima pravo da donese odluku da se gubitak alokira na NCB-e. Pored toga ECB ima pravo i da pozove NCB-e da doprinesu formiranju kapitala ECB i vrše dalje transfere deviznih rezervi. Zbog ovih razloga, finansijska nezavisnost podrazumeva da NCB-e treba da se dovoljno kapitalizuju. Sa finansijskom nezavisnošću nespojivo je da treća strana utiče na budžet NCB, određuje računovodstvena pravila, ograničava NCB da gradi sopstvene rezerve kapitala do nivoa koji je potreban članicama Evrosistema da ispunjavaju svoje zadatke, utiče na kadrovsku politiku ECB, inereveniše ili daje uputstva u vezi sa imovinom kojom raspolaže NCB.

2. Zakonodavstvo država članica mora da se uskladi s odredbama Ugovora i Statuta o zabrani monetarnog finansiranja (član 123 Ugovora) i privilegovanog pristupa (član 124 Ugovora).

U članu 123 Ugovora propisano je sledeće:

convergence reports, only Estonia, Lithuania (since 2004) and Latvia (since 2005) take part in the ERM II system (ECB, 2010, pp.13). For these countries, the movements of national currencies towards the euro are analyzed as a deviation from the appropriate central ERM II parity. For the remaining six countries, in the absence of central ERM II parity, the average FX rates against the euro are used as a measure, for the sake of illustration, and without any judgement of the FX rate level. Participation of a member state in the ERM II system is a sort of a doorway to the Eurosystem.

Legal convergence criteria

Legal convergence of member states with a derogation concerns the analysis of compatibility of their national legislation and their central banks' statutes with Articles 130 and 131 of the Treaty on the Functioning of the EU.

Article 130 stipulates that when exercising the powers and carrying out the tasks and duties conferred upon them 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. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks. Similar in content is Article 7 of the Protocol no. 4 accompanying the Treaty on the EU, related to the ESCB and ECB Statute. These provisions regulate the independence of the central bank as monetary authority.

Article 131 prescribes that Each 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.

Based on Article 131 of the Treaty on the EU, Article 14 of the Statute of ESCB and ECB prescribes the following:

14.1. In accordance with Article 131 of the Treaty on the Functioning of the European

Union, each Member State shall ensure that its national legislation, including the statutes of its national central bank, is compatible with these Treaties and this Statute.

14.2. The statutes of the national central banks shall, in particular, provide that the term of office of a Governor of a national central bank shall be no less than five years.

A Governor may be relieved from office only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. A decision to this effect may be referred to the Court of Justice by the Governor concerned or the Governing Council on grounds of infringement of these Treaties or of any rule of law relating to their application. Such proceedings shall be instituted within two months of the publication of the decision or of its notification to the plaintiff or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

14.3. The national central banks are an integral part of the ESCB and shall act in accordance with the guidelines and instructions of the ECB. The Governing Council shall take the necessary steps to ensure compliance with the guidelines and instructions of the ECB, and shall require that any necessary information be given to it.

14.4. National central banks may perform functions other than those specified in this Statute unless the Governing Council finds, by a majority of two thirds of the votes cast, that these interfere with the objectives and tasks of the ESCB. Such functions shall be performed on the responsibility and liability of national central banks and shall not be regarded as being part of the functions of the ESCB.

To write a Convergence Report, the ECB always uses a framework, analyzing whether the high level of sustainable economic convergence has been achieved, whether the national legislative is compatible with the Treaty and whether the legal preconditions have been met for the national central banks to become an integral part of the Eurosystem. Legal convergence analysis includes the harmonization of the national legislation in terms of: central bank independence (Article 130 of the Treaty), monetary finance prohibition

Kreditiranje ili bilo koja vrsta kreditne olakšice kod ECB ili kod NCB-a zabranjena je za institucije, organe i kancelarije EU, kao i za vlade na državnom, regionalnom i lokalnom nivou kao i za ostale organe javne vlasti, a za ECB ili nacionalne centralne banke zabranjeno da od njih direktno kupuju dužničke hartije od vrednosti.

Stav 1 ne primenjuje se na kreditne institucije u državnom vlasništvu koje će, u kontekstu ponude rezerve centralnih banaka, imati za NCB-e i ECB, isti tretman kao i privatne kreditne institucije.

U članu 124 Ugovora o funkcionisanju EU zabranjena je svaka mera kojom se ustanovljava privilegovan pristup finansijskim institucijama za institucije, organe, kancelarije ili agencije EU, državne, regionalne i lokalne ili druge javne vlasti, organe na koje se primanjuje javno pravo ili javna preduzeća država članica.

Zabrana monetarnog finansiranja od značaja je da se obezbedi ostvarivanje primarnog cilja stabilnosti cena i može da podleže samo navedenom izuzetku iz člana 2 i iz posebne Uredbe (Regulation EC No 3603/93), koja omogućava da NCB može između ostalog da finansira obaveze prema MMF i odobrava kredite javnom sektoru sa rokom vraćanja od 24 časa - tzv. noćne kredite.

3. Kompatibilnost u pogledu pravne integracije NCB u Evrosistem odnosi se na usaglašenost odredbi nacionalnog zakonodavstva, ali i drugih propisa sa Ugovorom o funkcionisanju EU i Statutom ESCB i ECB kojima treba da se omogući Evrosistemu da vrši svoje zadatke, kada države članice usvoje evro. Odredbe zakonskih propisa iz ove oblasti treba da stupe na snagu na dan kada države članice sa odstupanjem usvoje evro.

Na osnovu najnovijeg Izveštaja ECB o konvergenciji iz 2010. godine može se zaključiti da je osim kod Estonije u ostalim državama članicama sa odstupanjem zabeleženo značajno odstupanje od referentnih vrednosti za kriterije ekonomske konvergencije i nekompatibilnost nacionalnog zakonodavstva sa Ugovorom o funkcionisanju EU i Statutom ESCB i ECB.

Nivoi integracije u svetu i EMU

Evropska unija je oblik regionalne ekonomske asocijacije. Izraz regionalna

ekonomska asocijacija (REA) zajednički je naziv za različite oblike ekonomske integracije između nezavisnih država. Prema rastućem stepenu integrisanosti relevantna literatura pravi razliku između sledeća četiri oblika REA:

- *slobodna trgovinska oblast (STO)* = slobodna trgovina između članica;
- *carinska unija (CU)* = STO + zajedničke spoljne carine (ZSC) u trgovini sa nečlanicama;
- *zajedničko tržište (ZT)* = CU + slobodna mobilnost faktora proizvodnje;
- *ekonomska unija (EU)* = ZT + zajednička ekonomska politika;
- *monetarna unija (EMU)* = EU + jedinstvena valuta.

Osnovna razlika između članstva u EU i članstva u EMU je što države članice EU imaju sopstveni monetarni suverenitet i pravo da vode nacionalnu monetarnu politiku, a države članice EMU ili Evrosistema odriču se tog prava u korist ECB. Monetarni suverenitet postao je deo državnog političkog suvereniteta sa uvođenjem papirne novčanice kao definitivnog sredstva plaćanja. "Monetarni suverenitet označava vrhovnu pravnu vlast države da na svojoj teritoriji reguliše odnose vezane za novac. Ova definicija monetarnog suvereniteta posledica je činjenice postojanja država, koje *de facto* i *de iure* imaju monopol pravnog regulisanja i u monetarnoj sferi. Međutim, monetarni suverenitet može biti shvaćen nešto šire, odnosno kao ovlašćenje suverene vlasti, pa i države da reguliše monetarnu materiju, dakle od bilo koje suverene vlasti pa i države, ali ne isključivo države. Ovo stoga, što se novac javio mnogo ranije od nastanka države, i što je bio izdavan od strane neke suverene vlasti" (Đurić, 1992, str. 14).

Motiv Evropske unije da formira EMU proizašao je iz činjenice da zajednička valuta ima značajne ekonomske prednosti: prvo, da bi zajednička valuta u Evropi smanjila transakcione troškove, što bi imalo ne samo direktne koristi (troškovi su procenjeni na 0,5% BDP EU) već i indirektno koristi jer bi stimulisala ekonomsku integraciju; drugo, da se sa prestankom rizika fluktuacija deviznih kurseva stvara cenovna i monetarna stabilnost koja poboljšava alokativnu efikasnost cenovnog mehanizma; treće, da veća transparentnost cena obezbeđena upotrebom zajedničke valute povećava konkurentnost,

(Article 123 of the Treaty) and integration of the national central bank into the Eurosystem. The Treaty and the ESCB and ECB Statute do not prescribe the manner in which the national legislation is to be harmonized, so that legal convergence may be achieved by referring to the Treaty and Statute, or by incorporating the same provisions into the national legislation and referring to their origin, or by deleting the incompatibilities or by combining all these methods. When assessing the legal convergence, the ECB is not limited to the preparation of a formal assessment, but may also consider whether the implementation of relevant provisions is in line with the spirit of the Treaty and the Statute.

1. In order to assess the compatibility in terms of independence of a national central bank, the ECB analyzes whether the legislation is compatible not only with the Treaty, but also with the secondary legislation of the Union, which bears precedence over the national legislation. Every single incompatibility has to be removed. As for the independence of a national central bank (NCB), this concept was established back in 1998 by the EMI in its first Convergence Report. According to this concept, independence of an NCB includes functional, institutional, personal and financial independence. Functional independence implies that the NCB goal is fully in line with the primary goal of the ECB - i.e. price stability. The ECB took a stance that this obligation becomes effective on the date of accession to the EU. Principle of institutional independence is particularly defined in Article 130 and implies a ban for third parties to issue instructions to the ECB bodies, to approve, suspend, annul or postpone an NCB decision, censor the decisions relating to the execution of tasks by the ESCB (except in case of independent courts), participate with a right of vote in decision-making of an NCB, conduct *ex ante* consultations regarding the NCB decisions, dismiss members of the NCB decision-making bodies. Personal independence refers to the protection of a governor from voluntary dismissal, in which case he has the right to appeal to the EU Court of Justice. Therefore, the Statute of the ESCB and ECB, which the national legislation has to comply with, defines the minimal 5-year

mandate, the possible reasons for dismissing a governor and protective measures against conflicts of interest. Financial independence obliges the member states to enable their NCBs to have sufficient funds to perform the tasks concerning the ESCB and Eurosystem, but also to conduct their national tasks. Financial independence is obligatory because the Statute of the ESCB and ECB prescribes that, in case of a loss occurring within the ECB that cannot be covered from its own reserves fund, the ECB has the right to decide to allocate this loss to the NCBs. Moreover, the ECB has the right to invite NCBs to contribute to the formation of ECB capital and conduct further transfers of foreign exchange reserves. For these reasons, financial independence implies that NCBs need to be sufficiently capitalized. Financial independence excludes the possibility of a third party influencing the NCB budget, defining the accounting rules, limiting NCB in building its own capital reserves to the level needed to the Eurosystem members to fulfil their tasks, impacting the ECB personnel policy, intervening or issuing instructions concerning the assets owned by NCBs.

2. Legislation of member states has to be harmonized with the provisions of the Treaty and the Statute, when it comes to the prohibition of monetary financing (Article 123 of the Treaty) and the privileged access (Article 124 of the Treaty).

Article 123 of the Treaty prescribes the following:

Overdraft facilities or any other type of credit facility with the European Central Bank or with the central banks of the Member States (hereinafter referred to as 'national central banks') in favour of Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the European Central Bank or national central banks of debt instruments.

Paragraph 1 shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the European Central Bank as private

što donosi korist potrošačima; četvrto, da bi evro kao globalna valuta donosila koristi za državne prihode i uticala na ekspanziju finansijske industrije (Hrauve, 2004). Međutim, treba imati u vidu da monetarna unija sama po sebi ne stimuliše dugoročni ekonomski rast i da se koristi od monetarne unije ne nalaze u toj sferi, mada je prilikom njenog formiranja i to isticano kao očekivani dobitak za države članice. Takođe ne treba smetnuti sa uma da osim dobitaka, monetarna integracija podrazumeva i određene troškove. Da bi se ovi troškovi ublažili, državama članicama EU na raspolaganju su sredstva Budžeta EU. Troškovi monetarne unije proizilaze iz činjenice da država ulaskom u monetarnu uniju napušta nacionalnu valutu i gubi monetarni suverenitet, odnosno mogućnost da upravlja nacionalnom monetarnom politikom. Konkretno država gubi moć da utiče na promenu cene valute, da utvrđuje količinu novca u opticaju ili menja kratkoročne kamatne stope. U mnogim slučajevima nezavisna monetarna politika

može da bude od velike koristi za nacionalnu državu.

Evrosistem i Srbija - zakonodavni okviri

Srbija je država sa statusom potencijalnog kandidata za članstvo u EU. Očekuje se da do kraja 2011. godine stekne status kandidata za članstvo u EU. Prema članu 18 *Sporazuma o stabilizaciji i pridruživanju između Evropskih zajednica i njihovih država članica, sa jedne strane, i Republike Srbije, sa druge strane*: Zajednica i Srbija će u periodu od najviše šest godina, počevši od stupanja na snagu ovog Sporazuma, postepeno uspostaviti bilateralnu zonu slobodne trgovine u skladu sa odredbama ovog Sporazuma i odredbama GATT 1994 i Svetske trgovinske organizacije. Kako je Sporazumom o stabilizaciji i pridruživanju predviđeno da svaka država kandidat za članstvo u EU izradi *Nacionalni program za usvajanje prava EU*, Vlada Srbije je sačinila, za vreme dok Sporazum ne stupi na snagu *Nacionalni program integracije Srbije u EU*. On je instrument koji treba da omogući efikasno planiranje, koordinaciju i praćenje sprovođenja svih Vladinih aktivnosti u procesu pristupanja EU.

Usklađivanje Zakona o Narodnoj banci Srbije (NBS) sa Ugovorom o funkcionisanju EU i Statutom ESCB i ECB izvršeno je poslednjim izmenama i dopunama Zakona iz 2010. godine. Usklađivanje nije izvršeno jedino u pogledu integracije NBS u Evrosistem. Odredbe Zakona o NBS u potpunosti su kompatibilne sa zahtevima o cilju NBS (stabilnost cena), nezavisnosti (funkcionalnoj, institucionalnoj, personalnoj i finansijskoj) NBS, zabrani monetarnog finansiranja i privilegovanog pristupa. Usklađivanje sa Ugovorom i Statutom ESCB i ECB je do te mere temeljno i nedvosmisleno da je u članu 62 Zakona o NBS direktno preuzeta odredba člana 123 Ugovora o funkcionisanju EU.

Članom 62 Zakona o NBS utvrđeno je da: NBS ne može odobravati kredite, pozajmice, prekoračenja po računu ili druge vidove kreditnih olakšica Republici Srbiji, autonomnoj pokrajini ili jedinici lokalne samouprave, javnim preduzećima



credit institutions.

Article 124 of the Treaty on the Functioning of the EU prescribes: Any measure, not based on prudential considerations, establishing privileged access by Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States to financial institutions, shall be prohibited.

Prohibition of monetary financing is important for the achievement of the primary goal, i.e. the stability of prices, and may have only the exception referred to in Paragraph 2 above and in a special Decree (Regulation EC, No. 3603/93), which enables the NBCs, among other things, to finance its obligations towards the IMF and extend 24-hour maturity loans, the so-called overnight loans, to the public sector.

3. Compatibility in terms of legal integration of an NCB into the Eurosystem refers to the harmonization of national legislation provisions, along with other regulations, with the Treaty on the Functioning of the EU and the Statute of the ESCB and ECB, whereby the Eurosystem is to be enabled to conduct its tasks, once the member states adopt the euro. Provisions of laws and regulations in this field are to come into effect on the date the member states with a derogation adopt the euro.

Based on the latest ECB Convergence Report for 2010, it may be concluded that, except in Estonia, all other member states record a considerable deviation from benchmark values for economic convergence criteria, and an incompatibility of their national legislation with the Treaty on the Functioning of the EU and the Statute of the ESCB and ECB.

Levels of integration in the world and in the EMU

European Union is a form of regional economic association. The term regional economic association (REA) is an umbrella term for various forms of economic integration among independent countries. According to the increasing level of integration, relevant authors differentiate among the following four types of REAs:

- *Free Trade Area (FTA)* = free trade among

members;

- *Customs Union (CU)* = FTA + common external customs (CEC) in trading with non-members;
- *Common Market (CM)* = CU + free mobility of production factors;
- *Economic Union (EU)* = CM + common economic policy;
- *Monetary Union (MU)* = EU + single currency.

The main difference between the membership in the EU and membership in the EMU lies in the fact that the EU member states have their own monetary sovereignty and right to lead their national monetary policy, whereas the EMU or Eurosystem member states renounce that right and transfer it to the ECB. Monetary sovereignty became a part of a state's political sovereignty after the introduction of paper banknotes as the definitive legal tender. "Monetary sovereignty implies the ultimate legal authority of a state to regulate money-related issues at its territory. This definition of monetary sovereignty comes as a result of the existence of states, which *de facto* and *de iure* have monopoly over legal regulations in the monetary sphere. However, monetary sovereignty may be understood in a somewhat broader sense, as an authorization for a sovereign authority, and a state, to regulate monetary issues, meaning any form of sovereign authority, including a state, but not necessarily a state. This is due to the fact that money appeared long before the establishment of the first state, when it was issued by other forms of sovereign authorities." (Djuric, 1992, pp. 14).

The motivation of the European Union to form the EMU rose from the fact that common currency entails considerable economic advantages: first, a single currency in Europe would reduce transaction costs, which would have not only direct benefits (the costs were estimated at 0.5% GDP of the EU), but also indirect benefits, since this would stimulate economic integration; secondly, the elimination of FX rate volatility risk would generate price and monetary stability which improves the allocation efficiency of the price mechanism; thirdly, higher transparency of prices ensured by the usage of common currency increases competitiveness, which is beneficial for consumers; fourthly, the euro as a global

i drugim pravnim licima čiji je osnivač Republika Srbija, autonomna pokrajina ili jedinica lokalne samouprave, odnosno u kojima Republika Srbija, autonomna pokrajina ili jedinica lokalne samouprave imaju kontrolno učešće. NBS ne može neposredno kupovati hartije od vrednosti koje izdaju subjekti iz stava 1 ovog člana. Zabrana iz ovog člana ne odnosi se na dnevne kredite čije rokove dospeća nije moguće produžavati, kao ni na kredite, pozajmice, prekoračenja po računu ili druge vidove kreditnih olakšica koji se odobravaju Republici Srbiji za izmirivanje njenih obaveza po osnovu članstva u Međunarodnom monetarnom fondu.

Ne dovodeći u pitanje potrebu usklađivanja Zakona o NBS sa Ugovorom o EU i Statutom ESCB, treba imati u vidu da je stav ECB da je za prelazak sa članstva iz EU u Evrosistem potrebno deset godina i da je u članu 72 *Sporazuma o stabilizaciji i pridruživanju između Evropskih zajednica i njihovih država članica, sa jedne strane, i Republike Srbije, sa druge strane*, između ostalog, utvrđeno sledeće: Strane priznaju važnost usklađivanja važećeg srpskog zakonodavstva sa zakonodavstvom Zajednice i njegove delotvorne primene. Srbija će nastojati da obezbedi postepeno usklađivanje postojećih zakona i budućeg zakonodavstva sa pravim tekovinama Zajednice. Usklađivanje će započeti na dan potpisivanja Sporazuma i postepeno će se proširivati na sve elemente pravnih tekovina Zajednice na koje upućuje ovaj Sporazum do kraja prelaznog perioda utvrđenog članom 8 ovog Sporazuma (6 godina prim. aut.). Usklađivanje će naročito u ranoj fazi biti usredsređeno na osnovne elemente pravnih tekovina o unutrašnjem tržištu, pravosuđe, slobodu i bezbednost, kao i na druga područja vezana za trgovinu. U kasnijoj fazi Srbija će se usredsrediti na preostale delove pravnih tekovina Zajednice.

Zaključak

Usklađivanje Zakona o NBS pre nekih drugih oblasti zakonodavstva Srbije, a posebno pre dostizanja održivog nivoa kriterija ekonomske konvergencije može biti samo štetno po interese Srbije. Zbog izričite

zakonske zabrane finansiranja državnog budžeta, privremene budžetske neravnoteže moraju se finansirati, sasvim nepotrebno po tržišnim uslovima, i iz državnog budžeta po tom osnovu, izdvajati sredstva za plaćanje kamata. Deficitarno finansiranje budžeta ne treba poistovećivati sa pozajmicama budžetu sa rokom vraćanja do 1 godine ili kupovinom kratkoročnih državnih hartija od vrednosti sa rokom dospeća do 1 godine. Priroda i efekti finansiranja budžetskog deficita sredstvima primarne emisije sasvim su različiti od prirode i efekata finansiranja nedostajućih budžetskih sredstava za finansiranje javnih potreba usled neusklađenosti između priliva i odliva budžetskih sredstava tokom budžetske godine. Sa koliko pažnje i opreza države članice EU pristupaju pravnoj konvergenciji govori primer Švedske koju ECB od 1998. godine bezuspešno upozorava u svakom Izveštaju o konvergenciji, pa i u ovom poslednjem da: Švedski zakon nije u skladu sa zahtevima za nezavisnost centralne banke, zabranu monetarnog finansiranja i pravnu integraciju u Evrosistem. Švedska je država članica sa odstupanjem i stoga se mora uskladiti sa svim zahtevima iz člana 131 Ugovora. Pored toga, ECB napominje da je Švedska, saglasno Ugovoru, bila u obavezi da usvoji nacionalno zakonodavstvo u pogledu integracije u Evrosistem 1. juna 1998. godine. (ECB, 2010, str. 53)

Pristupanje EU i EMU je proces. Ne dovodeći u pitanje potrebu usklađivanja zakonodavstva Srbije sa pravom EU, treba pri tome slediti redosled koji nameće razvojni proces integracije od STO do EMU. Između ostalog i to je jedan od razloga zašto države sa različitim statusom u odnosu na EU imaju različit pristup sredstvima Budžeta EU, odnosno fondovima Unije. Pored toga, uvek treba imati u vidu da se proces priključivanja evropskoj asocijaciji i EMU zasniva pre svega na održivom dostizanju kriterija ekonomske konvergencije. Za procenu u kojoj meri su pokazatelji Srbije blizu referentnih vrednosti kriterija ekonomske konvergencije nije potrebna analiza, dovoljno je poređenje navedenih referentnih vrednosti za analizu država sa odstupanjem iz poslednjeg Izveštaja ECB sa našim aktuelnim podacima.

currency would bring benefits to state revenues and influence the expansion of the financial industry (Hrauve, 2004). However, one should bear in mind that the monetary union in itself does not stimulate long-term economic growth and that the monetary union benefits are not to be found in this sphere, although this used to be underlined as one of the expected gains for member states on the occasion of monetary union formation. Also, one should not forget that, in addition to gains, monetary integration also implies certain costs. In order to mitigate these costs, the EU member states may resort to the EU Budget Funds. The costs of a monetary union arise from the fact that by entering a monetary union, a state abandons its national currency and loses its monetary sovereignty, i.e. the possibility to govern its national monetary policy. In particular, the state loses its power to influence the changes in currency prices, to determine the amount of money in circulation, or change short-term interest rates. In many cases, independent monetary policy may be greatly beneficial for a national state.

Eurosystem and Serbia - Legal frameworks

Serbia has the status of a potential candidate country for the EU membership. It is expected to gain the status of a candidate country for the EU accession by the end of 2011. According to Article 18 of the *Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part*: The Community and Serbia shall gradually establish a bilateral free trade area over a period lasting a maximum of six years starting from the entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and the WTO. Since the Stabilisation and Association Agreement prescribes that each EU membership candidate country prepares a *National Programme for the Adoption of the Community Acquis*, the Serbian Government has prepared the *National Programme of Integration of Serbia into the EU*, until the Agreement comes into effect. This Programme is an instrument that should enable efficient planning, coordination and

implementation monitoring of all activities of the Government in the process of EU accession.

Harmonization of the Law on the National Bank of Serbia (NBS) with the Treaty on the Functioning of the EU and the Statute of the ESCB and ECB was conducted by means of the latest amendments to the 2010 Law. The only harmonization that was not conducted is the one concerning the integration of the NBS into the Eurosystem. The provisions of the Law on the NBS are fully compatible with the requirements concerning the goal of the NBS (stability of prices), independence of the NBS (functional, institutional, personal and financial), prohibition of monetary financing and privileged access. Harmonization with the Treaty and Statute of ESCB and ECB is thorough and unambiguous to the extent that Article 62 of the Law on the NBS directly transposes the provision of Article 123 of the Treaty on the Functioning of the EU.

Article 62 of the Law on the NBS prescribes that: The National Bank of Serbia may not approve credits, loans, overdraft facilities or other forms of credit facilities to the Republic of Serbia, autonomous province or local government unit, public enterprises and other legal entities the founder of which is the Republic of Serbia, autonomous province or local government unit, or in which the Republic of Serbia, autonomous province or local government unit have a controlling participation. The National Bank of Serbia may not directly purchase securities issued by entities referred to in paragraph 1 of this Article. The prohibition from paragraph 1 of this Article shall neither apply to daily credits whose maturities cannot be extended nor to credits, loans, overdraft facilities or other types of credit facilities for the settlement of the Republic of Serbia's obligations based on its membership in the International Monetary Fund.

Without questioning the necessity of harmonizing the Law on the NBS with the Treaty on the EU and the Statute of ESCB, one should bear in mind the stance of the ECB that it takes ten years to go from the EU membership to the Eurosystem, and Article 72 of the *Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia,*

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of the other part, which, among other things, defines the following: The Parties recognise the importance of the approximation of the existing legislation in Serbia to that of the Community and of its effective implementation. Serbia shall endeavour to ensure that its existing laws and future legislation will be gradually made compatible with the Community acquis. Serbia shall ensure that existing and future legislation will be properly implemented and enforced. This approximation shall start on the date of signing of this Agreement, and shall gradually extend to all the elements of the Community acquis referred to in this Agreement by the end of the transitional period defined in Article 8 of this Agreement (6 years). Approximation will, at an early stage, focus on fundamental elements of the Internal Market acquis, Justice, Freedom and Security as well as on other trade-related areas. At a further stage, Serbia shall focus on the remaining parts of the acquis.

Conclusion

Harmonization of the Law on the NBS before some other fields of legislation in Serbia, and particularly before reaching a sustainable level of economic convergence criteria may only be detrimental for Serbia's interests. Due to the explicit regulatory prohibition of state budget financing, temporary budgetary imbalances have to be financed, quite unnecessarily, according to market conditions, thus allocating funds from the state budget for the purpose of interest payments. Deficit budget financing should not be identified with one-year maturity budgetary loans or the purchase of short-term government securities with one year maturity. The nature and effects of deficit budget financing by means of primary issuing are quite different from the nature and effect of financing the lacking budgetary funds for the purpose of public needs financing due to

a mismatch between inflows and outflows of budgetary funds throughout a budget year. How much care and cautiousness is invested by the EU member states when it comes to legal convergence is best illustrated by the example of Sweden, which has been warned by the ECB in each of its Convergence Reports since 1998, including the latest one, although to no avail, that: the Swedish law is non-compliant with the requirements concerning the central bank's independence, prohibition of monetary financing and regulatory integration into the Eurosystem. Sweden is a member state with a derogation and thus has to comply with all requirements stated in Article 131 of the Treaty. Moreover, the ECB underlines that, pursuant to the Treaty, Sweden was obliged to adopt national legislation in respect of its integration into the Eurosystem on June 1st 1988 (ECB, 2010, pp.53).

Accession to the EU and the EMU is a process. Without questioning the necessity of harmonization of Serbia's legislation with the EU acquis, we believe that a certain line of events has to be followed, imposed by the development process of integration from an FTA to the EMU. Besides, this is one of the reasons why the countries bearing a different status within the EU have a different access to the EU Budget Funds, i.e. the EU funds. In addition, one should always bear in mind that the process of accession to the European Union and the EMU is mostly based on sustainable achievement of economic convergence criteria. To make an assessment of the extent to which Serbia's indicators are close to benchmark values of economic convergence criteria, one does not need an analysis, it would suffice to compare the mentioned benchmark values for the analysis of member states with a derogation from the latest ECB Convergence Report with the current data for Serbia.