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SELECTED ASPECTS OF THE EUROPEANIZATION OF PUBLIC FINANCE LAW

Abstract

This article deals with selected aspects of the Europeanization of public finance law. For this reason, the article focuses on some important sources of European public finance law and their impact on the budgetary discipline of member states. In this context, the attention is paid to the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG), which is not a normative act, but it is an international treaty outside the EU law whose provisions are binding on the member states that have signed this treaty. The article also presents a seeking for budgetary coherence within the European Union member states and then it presents an evolution of budgetary discipline of member states. The main aim of the article is to confirm or disprove the hypothesis that the compliance with the binding mechanisms of the budgetary discipline of the member states introduced after 2010 is always well enforceable. The scientific methods used in the article are analysis and synthesis, description and comparative methods.

Key words: European Union, public finance law, budgetary discipline.

JEL Classification: K33, K34

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1. Introduction

In terms of sources of finance public law, several types of legislation can be distinguished. In general, there are primarily national law, international and European Union law in which the norms of public finance law are contained. National norms of public finance law are most often part of ordinary acts or constitutional acts (this is also the case of important principles of the branch). For example in countries such as France or Spain, some national norms of public finance law are also contained in organic acts[1] and in France in the financial acts[2].

On the other hand, international law and the European Union law are systems of rules, which have specific place and use specific public financial instruments. This article will focus on specific sources of the European public finance law and subsequently on the evolution of the budgetary discipline of EU member states. The article also presents the evaluation of the budgetary discipline of EU member states. Whether the source of the Union public finance law is contained in the normative act or a treaty – such as for example the Treaty on Stability, Coordination and Administration, that will be given the attention – the provisions of these legal sources are adopted by the EU member states. In this way, the process of the Europeanization of public finance law is successively realized.

The main aim of the article is to confirm or disprove the hypothesis that the compliance with the binding mechanisms of the budgetary discipline of the member states introduced after 2010 is always well enforceable.

The partial, or rather supporting aim of the article is to analyse specific sources of the European Union public finance law and to analyse the evolution their differences. The research methods used in the article are analysis and synthesis, description and comparative methods. Foreign literature and the relevant European Union law is the primary source of the article. As complementary sources were used scientific articles and practice of the European Court of Justice (hereafter "ECJ").

[1] The so-called organic acts (or regulations) are specific to the French legal order, whose tasks is to specify the text of the constitution, or to supplemet it. Organic acts can only be adopted in matters in which the constitution itself expressely provides for it. In terms of legal force, organic acts have a position between constitutional and ordinary acts.
[2] In Framce, the so-called financial acts have a total of four forms: 1) the Financial Act on the state budget; 2) the Financial Act amending the Financial Act on the state budget; 3) the Financial Act on the final state account and its review; 4) the Financial Act on social security.

2. European sources of public finance law

The European Union imposes on its member states a binding budget framework, the contours of which were gradually specified by the Maastricht Treaty, the Stability and Growth Pact (1997, reformed in 2005), then gradually by the provisions of the so-called *Six Pack* (2011) and *Two Pack* (2013) and the Treaty on Stability, Coordination and Administration (2012, also known as "The Fiscal Pact"; hereafter "TSCG") just to name a few. The gradual introduction of reforms since 2005 is indicative of the difficulties Europe in managing the worsening budgetary situation of its members. In this chapter, or rather subchapter, individual legal sources are listed and then they are characterized.

2.1. Introduction of the policy of budgetary convergence

Individual European sources of public finance law, which were at the beginning of the formation of budgetary convergence, will be presented here. These mentioned sources of law have had a major impact on the initial Union public financial mechanisms as well as on the functioning of the fiscal policy of the EU member states. These most significant normative acts include:

a) **The Maastricht Treaty**

The Maastricht Treaty (also called as The Treaty on European Union) was signed by all member states. In the perspective of the introduction of the Economic and European Union, this treaty specified the conditions for the transition to a single currency and, for this purpose, established the criteria for harmonization between states of the European Economic Community on February 7, 1992. It entered into force on 1 November 1993. In particular, these so-called convergence criteria required each state to limit its public deficit to 3 % of its GDP and to regulate its public debt to 60 % of its GDP.

This fact made it possible to sanction any state in a situation of excessive deficit, that is, with a level of public deficit higher than 3 % of its GDP. The task for the Council of the European Union is to decide, after an overall assessment whether there is an excessive deficit. In the case of an excessive deficit, several mechanisms could then be triggered that would allow the level of sanctions to be increased according to the attitude of the state concerned.

b) **The Stability and Growth Pact**

Introduced in Amsterdam on June 17, 1997 in the form of a European resolution, the Stability and Growth Pact obliges member states to submit to the European

Commission annually their stability program for Eurozone countries – their convergence program for non-Eurozone countries. The programs make it possible to verify compliance with the limitation of the public deficit and debt.

The Council of Ministers followed up this resolution with two regulations of 7 July 1997, which concern the strengthening of the surveillance of the budgetary situation and the surveillance and coordination of economic policies, and the acceleration and clarification of the procedure regarding excessive deficits[3]. In particular, these regulations should lay down procedures for the suspension of the initiated procedure.

In 2004, difficulties face by Greece, France and Germany in complying with the Maastricht restrictions led to the reform of the Stability and Growth Pact. The three countries could potentially be sanctioned by Europe for their excessive deficit. However, at the Brussels summit in March 2005, Germany and France managed to modify the Pact to take into account the difficulties they were facing. This reform of the Stability and Growth Pact allowed two states to escape sanctions that could be imposed on them – to avoid sanctions affecting the founding states of the Europe Union. This episode illustrates the application of budgetary discipline with variable geometry that political weight of some states allows to set aside.

2.2. Looking for budgetary coherence

The financial crisis that emerged in 2007 and has spread since 2008 has had a major impact on the member states of the European Union. The budgetary situation of these states worsened significantly, which forced the European authorities to react with substantial changes in the system of budgetary discipline imposed on the member states. As a result, the following legislation packages and a crucial treaty were introduced:

a) The Six Pack

The aim of the so-called Sic Pack is to reform the Stability and Growth Pact and to deepen budgetary oversight of member states:

- Council Directive 2011/85/EU of 8 November 2011 on the requirements applicable to the budgetary frameworks of the member states;
- Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area;

[3] Here we mean Regulation (EC) No 1466/97 of 7 July 1997 and Regulation (EC) No 1467/97 of 7 July 1997.

- Regulation (EU) No 1174/2011 of the European Parliament and of the Council of 16 November 2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area;
- Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies;
- Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances;
- Regulation (EU) No 1177/2011 of the European Parliament and of the Council of 8 November 2011 on speeding up and clarifying the implementation of the excessive deficit procedure.

This provision essentially strengthened the member state's supervision system, in particular by introducing the European half-year. The range of sanction as part of the budgetary discipline imposed on member states has also been adjusted – with the possibility of initiating proceedings in the vent that one of the two criteria (deficit or debt) is not met.

b) The Two Pack

The Two Pack is composed of two regulations designed to introduce even stricter controls on Eurozone countries in trouble (May 2013):

- Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on surveillance of member states in the euro area experiencing or threatened with serious difficulties with respect to their financial stability;
- Regulation (EU) No 473/2013 of the European Parliament and of the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the member states in the euro area.

The first of these regulations strengthens the economic and budgetary surveillance of states that are experiencing or may experience serious difficulties in terms of their financial stability or the sustainability of their public finances. This regulation also affects countries that apply to benefit from the financial assistance of one or more other member states, the European Stability Mechanism, even the International Monetary Fund. When the Commission decides to subject a state to enhanced surveillance, it does so for a period of six months and the Commission finally decides whether to extend the surveillance.

The second regulation aims to correct excessive deficits in Eurozone member states by means of coercive measures, and in particular by strengthening the European Semester.

At the same time, several support mechanisms were introduced for states in difficulty. Above all, the European Financial Stability Facility for the Eurozone (EFSF), created in May 2010 by the European Union with cooperation with the IMF. The funk endowed with 660 billion euros intended to help Eurozone member states. In addition, European Financial Mechanism (EFSM) created at the same time as the EFSF, originally endowed with 90 billion euros, for the member states of the European Union. These two funds were supposed to offer a guarantee on the financial market for funds obtained at preferential rates and lent to states in difficulty. In exchange for this aid, the affected states agreed to implement austerity policies.

These funds were replaced by the European Stabilization Mechanism (ESM), created in July 2011. This mechanism, endowed with permanent funds, is authorized to purchase bonds of member states and has the power to organize the restructuring pf public debts that have become unsustainable. It can also gain funds in the financial markets at favourable rates, benefiting from the overall reputation of the Eurozone member states as holding capital and very logically guaranteeing its repayment. These obtained funds can then be loaned to states in difficulty on much more favourable financial terms than they could benefit from on their own.

c) The Treaty on Stability, Coordination and Governance in Economic and Monetary Union

The Treaty was signed on March 2, 2012 and entered into force on January 1, 2013. It is also called the European Fiscal Pact and strengthens the convergence mechanisms within the Economic and Monetary Union and concerns the member states of the Eurozone. It is intended to support these states, and especially those facing a national debt crisis. With this treaty, the European Union imposed on the member states the rule of balance of the structural balance – otherwise known as the golden rule. This rule requires states whose gross public debt exceeds 60% of their GDP to limit their structural deficit to 0.5% of the same GDP. According to the Article 3 of the Treaty, this balance means, "the annual balance adjusted for cyclical fluctuations after deducting one-off and temporary measures".

However, according to the Article 3 of the Treaty there are two exceptions:

- When the state is faced with extraordinary difficulties, which make it possible to delay the onset of the budgetary discipline,
- When a state´s public debt is below 60% of GDP, its structural deficit can reach 1% of its GDP.

If a significant deviation from the trajectory of the structural balance is observed, a deviation representing at least 0.5% of GDP for a given year or at least 0.25% of GDP per year averaged over two consecutive years, a corrective mechanism is triggered. The reasons for this discrepancy must be explained by the government during the discussion of the Bill on Financial Statements before each meeting, and this discrepancy must be taken into account in the next Finance Bill or Social Security Funding Bill at the latest. A report analysing the planned corrective measures must be attached to the submission of these bills. The TSCG also requires the states to create an independent budgetary institution charged with commenting on the credibility of the macroeconomic forecasts that the government retains for the development of its financial laws and their compliance with its European obligations.

3. Europeanization of the public finance law and the evolution of budgetary discipline

The following text in the first sub-chapter will show how the Treaty on Stability, Coordination and Governance in Economic and Monetary Union has affected the law in France and other EU member states. In the second sub-chapter, the article presents the evolution of the European Union budgetary discipline and its evaluation.

3.1. Transmission of the Treaty on Stability, Coordination and Governance in Economic and Monetary Union to France and other Member States

France decided to implement this Treaty through the Organic Act of 17 December 2012 concerning the planning and management of public finances [Organic Act: No. 2012-1403]. This Organic Act again adopts the gold rule established by the TSCG as well as definition of significant deviation according to which corrective measures must be taken. The French Organic Act also specifies the conditions for the implementation of a correction mechanism when a significant non-compliance is detected. The same Organic Act created the High Council of Public Finances (i.e. *Haut Conseil des finances publiques*) as an independent budget council. In particular, this institution requires issuing opinions on bills of financing and social security laws, on funding and financing of social security, on the stabilization program and assessing their compliance with the multi-year trajectory of structural balances contained in the laws on public finance planning. The High Council of Public Finances is the independent body responsible not only for checking compliance with the required structural balance target, but also with annual financial laws. It is also a body that is supposed to warn the government if it deviates from the trajectory of meeting the structural goals

The EU member states have variously transposed the TSCG into the hierarchy of their legal norms. This Treaty encouraged member states to favour a constitutional path evoking respect for commitment/obligation of the contracting parties to transpose the rule of budgetary balance into their national legal systems through binding, permanent and, if possible, constitutional provisions. Several states have adopted this constitutional option. This is the case in Spain, Italy and even Slovenia. Other states such as Denmark or France have chosen the option of organic Acts to carry out this transposition, while in the Netherlands or Ireland legislators have preferred ordinary Acts.

The reasons can be assessed in different ways. As far as Spain is concerned, the incorporation of Treaty obligation into the constitution was a political choice when Spain was facing significant budgetary difficulties. That is why Spain was asking the European Union for financial assistance. In the end, the choice of the constitutional path may have been indicative of Spain's good will – in the hope that thus making it easier to get this financial assistance [Baudu, Ruiz 2014: 51].

The selected options could also differ in the content itself. Thus, as far as the independent budget council is concerned, France has made the minimal choice of submitting growth hypotheses to the High Council of Public Finances, which serve as the basis for financial Acts, whereas other states have mandated their institution[4] to set growth hypotheses themselves, as in the Netherlands, Belgium, Austria or Spain.

3.2. Evolution of the European budgetary discipline

In its original version, the European mechanisms obliged member states to avoid excessive deficits that harmed the macroeconomic balance and the functioning of the Economic and Monetary Union. For this purpose the Article 104 of the Treaty Establishing the European Economic Community defined in its paragraph 2 that the European Commission is responsible for monitoring the development of the budgetary situation and the level of public debt in the member states with a view to detecting manifest errors, and for this

[4] It means analogue institution of the French High Council of Public Finances.

purpose the European Commission reviews whether each member state's budget deficit and public debt exceed the reference value – a value set at 3% of its GDP.

Compliance with this obligation was guaranteed by a panel of sanctions, the terms of which were specified in the Stability and Growth Pact. This mechanism revealed its limits in 2004, when the budgetary situation of France and Germany prompted the announcement of sanctions. In this context, Robert Hertzog noted that the budgetary discipline does not work because of the sanctions panel: "*The sanctions established by the Treaty and the Stability and Growth Pact are inapplicable because of their severity, which should have given them a deterrent character, and therefore sanctions were not applied the first time they should have been applied*" [Hertzog 2005: 420].

The economic and financial crisis that emerged in 2007-2008 reinforced this impression the non-adjustment of the European Stability and Growth Pact. The methods of budgetary discipline then developed within the framework of the so-called Six Pack and the Treaty on Stability, Coordination and Fiscal Management of the member states.

The first version of the disciplinary regime imposed on member states distinguished a panel of successively applicable sanctions – a preventive part (early warning procedure) followed by the coercive part (from recommendations to fines), the conditions of which increased in intensity depending on the insufficient response of the concerned state.

The preventive part of the Stability and Growth Pact allowed to alert the member state concerned even before the deficit was detected. On the recommendation of the Commission, the Council of European Union could send a warning to the State concerned even before the deficit appeared. This warning could be sent if there was a significant deviation from the budget target that the state stated. On 28 May 2008, the Commission referred for the first time a policy recommendation concerning France. While the Commission expected a deficit of 2.5% of GDP in 2008 and 2% of GDP in 2009, Europe estimated that France's public deficit would reach 3% of GDP in 2009.

If an excessive deficit is detected, the Commission could call on the member state concerned to comply with the Pact's obligations through a policy recommendation. This recommendation could initially be non-public, sent by the Council of European Union on a recommendation from the Commission. The Council would call on the state to end this excessive deficit situation within the specified period. This recommendation could be published by a Council decision adopted by a qualified majority on a proposal from the Commission, if no effective measures were taken within the prescribed time limits.

As part of this recommendation, a deadline was set for the state to restore its budgetary situation (the original deadline was set at one year, which was increased to two years by the reform of the Stability and Growth Pact in 2005). However, this deadline could be renewed in the case of unexpected adverse economic events with significant adverse effects on the budget. In any case, the deadline was not allowed to exceed 5 years.

If this recommendation were not applied, the state could be subjected to a formal notice (with the obligation to restore its budgetary situation within a set deadline). In 2004, three countries found themselves in a situation where they were subject to such a notification: Greece, France and Germany. For understandable political reasons, France and Germany escaped this sanction, but not Greece. These first two countries achieved a suspension of the excessive deficit procedure initiated against them. In addition, the two countries even achieved a reform of the Stability and Growth Pact with the possibility for the state to use exceptional circumstances which was the case for Germany and the costs of its reunification) and an extension of the deadlines for the states to restore their budgetary situation. This episode highlighted the inadequacy of this sanctioning mechanism and its limited effectiveness.

Sanctions could then be intensified through a financial embargo, leading the European Investment Bank to adopt its lending policy towards the country concerned; a penalty which took the form of an interest-free deposit obligation/liability until the financial situation is restored – deposit of 0.2% of GDP increased by 0.1% per point above 3% and the whole amount was capped at 0.5% of GDP. If the financial situation is not restored after two years, the deposit would be converted into a fine. Decision take by the Council of European Union require a two-thirds majority vote of its members (with the exception of the representative of the member state concerned).

The sanctions panel remained unused. The Council of European Union always applied the warning – which was used only in the case of Greece. The Commission recommended that the Council decide on a warning accompanied by new recommendations setting a return to balance target for 2005 and a deficit reduction of 1% for France and 0.8% for Germany in 2004. The Council adjusted the deficit reduction rates to 0.8% and 0.6% for 2004 and did not send a warning. The Council thus reached conclusions that are not regulated by legal regulations.

This discrepancy prompted the intervention of the ECJ, which held that responsibility for the enforcement of budgetary discipline by member states rests in principle with the Council. The Council receives from the Commission “recommendations” and not proposals within the meaning of Article 250 of the Treaty. Based on a different assessment of the relevant economic data, the Commission may therefore "*amend the act recommended by the Commission by the majority necessary for the adoption of that act and therefore not adopt the Commission's recommendation*" [ECJ, C-27/04]. This episode reveals above all, as emphasized by Rémi Pellet "*that it is difficult to ask member states to sanction others, especially when the latter form the driving axis of the European Union*" [Pellet 2014: 789].

This Franco-German episode prompted the reform of the Stability and Growth Pact. The limits of 3% and 60% of GDP have not been changed. On the other hand, procedures have been adapted. Under these new provisions, no proceedings could be initiated against the state in the case of negative growth or a long period of very weak growth. Just recall that according to the previous provisions in force, the exception only concerned the hypothesis of a recession fixed at the level of 2%. A country with a temporary excessive deficit which is closed to the 3% reference value could apply a number of relevant factors to the European Commission to avoid opening proceedings: potential growth, the economic cycle, the implementation of structural reforms (pensions, social security, etc.), research and development support policies, but also medium-term budgetary efforts (consolidation in good times, debt levels, public investment).

The regulation thus responded to the demands of France, which wanted to take into account public development aid and some military spending, and demands of Germany for its net contribution to the European Union budget. Germany also took into account the costs of its reunification: therefore, the "unification of Europe" can be taken into account if it will have a negative effect on the growth and tax burden of the member state. The reform also included a preventive part, which leads the member states to commit to using windfall tax revenues to reduce deficits and debts.

Three years later, when the economic and financial crisis broke out, the question of the relevance of the budgetary discipline imposed on the member states was renewed and, according to certain economists, the relevance of the stability criteria used. The difficulties encountered by these States to finance themselves on the financial markets and repay their debt have generated a "sovereign debt crisis" with the fear that all the States of the euro zone will be successively affected by these financial and budgetary difficulties.

The announcement by Greece in June 2011, of the deterioration of its public deficit (with a public debt then estimated at 350 billion euros) has led the agency Standard and Poor´s to lower Greece's rating to "CCC", making this country the worst rated in the world. A deterioration that triggered a second aid plan for Greece for a total amount of nearly 160 billion Euros, a plan adopted following an extraordinary summit of the Heads of State and Government of the 17 member countries of the euro zone.

A deterioration triggered the second aid plan for Greece for a total amount of nearly 160 billion Euros. This plan was adopted following an extraordinary summit of the Heads of State and Government of the 17 member countries of the euro zone. This new plan provided for 109 billion euros in loans to Greece financed by Europe and the IMF. The rest, about 50 billion euros came from a "voluntary contribution" from banks, insurance companies and investment funds for 37 billion euros and a buyout of debt by the market for 12.6 billion euros. The ECB also made a contribution with the buying of 27 billion euros of Greek public debt securities. At the same time, the private banks agreed to waive half of their debts while Greece agreed to take budgetary recovery measures under the control of what was called the "Troïka" (IMF, Commission and ECB), but from now "institutions".

Greece, but also Ireland, Portugal and Italy are countries to which assistance had to be provided in view of their levels of public deficit. With this singularity, it has been observed that certain countries in the euro zone are violently sustaining the effects of the crisis that appeared in 2007: until 2011, European budgetary discipline paid particular attention to the deficit situation encountered by the member states. No measures were envisaged when the member states reached levels of indebtedness which could equally be qualified as excessive.

3.3. The new European budgetary discipline

The budgetary discipline imposed on the member states proved to be inappropriate and in December 2011, it evolved into the so-called Six Pack. The two criteria of public deficit and public debt are taken into account when triggering the sanctions to be imposed in states. Since then, it is possible to start this procedure, when the amount of public debt exceeds 60% pf GDP and even when the public deficit is under control. Part of the system is the fulfilment of medium-term budget aims. In the case of a significant deviation from this aim, the Commission will issue a warning to the member states concerned, which may lead to the opening of an excessive imbalance procedure.

Surveillance was also extended to all macroeconomic imbalances: in addition to traditional indicators, the Commission extended its monitoring to private indebtedness, developments in financial markets, unemployment, exchange rates, price developments, but also growth, productivity and investments. In this context, excessive macroeconomic imbalance proceedings can be initiated against a state that evinces excessive trade deficits or surpluses

– if necessary, with the option of imposing a fine of 0.1% of its GDP if the state does not take corrective action [Querol, 2012: 169].

The European Semester was introduced to strengthen the budgetary supervision of the European Union over its member states. This instrument leads states to present their national stability and convergence programs to the European authorities. The European Semester ensures the coordination of the economic policies of the member states – it starts in November when the Commission publishing its annual growth analyses and warning mechanism report. On this basis, the Council of the European Union formulates instructions (January), as well as the European Council (March), subsequently the Commission publishes in-depth reviews of each member state's economic imbalances. Then these authorities present their action programs (April), which will be evaluated by the Commission (May). The Council of the European Union assesses the proposal and decides on the recommendations submitted to the European Council for approval. In July, the Council of the European Union will adopt specific recommendations for member states. The European Semester represents the preventive part of the new budgetary discipline mechanism of the member states introduced after 2010.

If one the two criteria (public deficit or public debt) is not met (or if the member state does not approach these benchmarks in a sufficiently satisfactory manner), the member stated concerned may be required to make a deposit, which may reach a maximum of 0.2% of its GDP. This decision is adopted by the Council on the proposal of the Commission by an inverted qualified majority, i.e. it is deemed achieved unless the Council rejects the proposal by a reversed qualified majority. As pointed out Francis Querol, the introduction of this rule represents a complete reversal of logic, making it almost certain that the Commission will approve the proposal [Querol, 2012: 169]. This mechanism represents the motivation part.

If this motivation part does not allow the state to improve its situation, a fine may be imposed, the amount of which may not exceed 0.5% of the GDP of the given state [Council Regulation: 1177/2011]. A fine can be also imposed if the state manipulates its statistics (a penalty not provided under the Stability and Growth Pact and therefore could not be applied when Greece was found to have manipulated its statistics to join the Eurozone). This possibility was the subject of a first request in 2015 regarding Spain - the Autonomous Community of Valencia omitted information regarding some of its arrears (€ 1.9 billion or 0.4% of total Spanish GDP). On a proposal from the Commission, the Council imposed a fine of EUR 18.93 million by decision of 13 July 2015 [Zevounu, 2017: 24]. Revenues from these fines are allocated to the European Stability Mechanism. This is the repressive part of the new budgetary discipline mechanism.

For the first time since the crisis, a new budgetary discipline procedure was launched in July 2016. When the UK initiated Brexit, the European Commission considered starting the sanctions process against Spain and Portugal (with a deficit of 5.3% in 2015 for Spain instead of the promised 4.2% and 4.4% for Portugal instead of the promised 2.7%). The Commission had twenty day to make recommendations on sanctions against them. The context was most likely to work in favour of these countries: in fact, the Commission decided not to sanction them. Anyway, a repressive approach would not be the best at a time when people are doubting Europe. However, these states had to proved measures to reduce their deficit, and the European funds that concerned them were frozen. In 2017, Spain reduced its deficit level to -3,1%, while Portugal's deficit was set at -3%. Figures that reflect the trend observed at European level, i.e. a general decrease in the level of the public finance deficit as a result of the economic upswing that has occurred during this year.

The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union and the new budgetary discipline imposed on member states very quickly proved to be inappropriate. The obligation imposed on member states with a public debt of more than 60% of their GDP to reduce this debt at an average rate of one-twentieth per year [TSCG: Art. 4] cannot be complied with only if the GDP growth of the state concerned turns out to be higher than that of the new contracted debt [Life and death of the fiscal pact]. In general, it seems delicate to sanction a state that is already in financial trouble. However, this repressive regime was reproduced under the new system of budgetary discipline imposed on member states. It is incomprehensible that other models of sanctions were considered, such as the suppression of the voting rights of the concerned state in some European institutions and, more generally, a scheme leading to the confiscation of the state's decision-making power within these institutions. The example is the Charter of the United Nations, which authorizes the General Assembly to sanction member states that do not respect their financial obligations by depriving them of their right to vote. This is how Libya, Somalia, Venezuela and even Yemen were deprived of this right in 2016. These additional measures (especially including the possibility of disenfranchisement) presumed a revision of the Treaty and they were far from reaching unanimity among the member states.

4. Conclusion

The article deals with selected aspects of the Europeanization of the public finance law. First of all, the article analysed crucial European sources of public finance law having a major impact on the Union public financial mechanisms as well as on the functioning of the fiscal policy of the member states. The article also presented Union legislative measures to improve budgetary discipline of member states and to achieve their budgetary coherence. In this context, the so-called Six Pack and Two Pack and above all The Treaty on Stability, Coordination and Governance in Economic and Monetary Union were presented.

The article analysed how Union legal norms or measures of these normative acts or rather treats were transmitted into national legal order of member states. Afterwards, the article presented the evolution of budgetary discipline required from member states and selected complications associated with it. During this evolution, both EU positive law and the economic situation were taken into account. The result of this evolution was a new budgetary discipline, the essence and mechanisms of which were explained in the article.

The basic components of the new budgetary discipline of the member states are the preventive part (the European semester), the motivation part (considered the criterion of public deficit or public debt) and repression part (imposition of fines). One of the most important sources of the new budgetary discipline is the Treat on Stability, Coordination and Governance in the Economic and Monetary Union, which is not a normative act, but it is an international treaty outside the EU law. Although this Treaty is not formally part of the EU law, its provisions shall transmit into national legal orders of member states that have signed this Treaty. Another crucial cornerstone of the new budgetary discipline of member states are the Two Pack and the Six Pack.

The main aim of the article is to confirm or disprove the hypothesis that the compliance with the binding mechanisms of the budgetary discipline of the member states introduced after 2010 is always well enforceable. This hypothesis was disproved in the article. In general, to make well enforceable of provisions regulating the budgetary discipline of member states it is necessary to bring preventive, motivation and repressive part of this mechanism into accord.

From the point of view of the financial theory, these parts are set well. From the point of view the financial practice and political interests, these parts are more difficult to implement. In other circumstances, it is appropriate for parts of a particular (not only financial) mechanism to be balanced. In the case of this EU public financial mechanism, it is appropriate to focus only on some its parts – specifically, the preventive and motivation part.

The article presented that whereas prevention and motivations part of the budgetary discipline mechanism fulfil their function and thus are relatively set well, the repression part may be meaningless in certain situation. It is obvious that it is not expedient to financially sanction a state that is in debt and is unable to comply with the preventive and motivation part of the mechanism. In such a case, the repressive part of the mechanism is difficult to enforce in practice, because states simply cannot pay the money that they do not have. For that reason, it seems more useful to strengthen the role of the preventive and motivation part of the mechanism whose fulfilment is the best way to the permanent budgetary stability.

The partial, or rather supporting aim of the article (i.e. “to analyse specific sources of the European Union public finance law and to analyse the evolution their differences”) was achieved thanks to appropriately chosen scientific methods (such as method of analysis and synthesis, description and comparative methods). Descriptive and comparative methods were used for an introduction of legal sources regulating budgetary discipline of member states. These methods also allowed understanding the evolution of budgetary discipline in the European Union. The above was followed by the method of analysis and synthesis that made it possible to determine the weak points of legal regulation and to propose its improvements.

In the article there were used a foreign literature (especially the French one) and scientific articles. The issue of the budgetary discipline of EU member states is linked with the relevant Union legal regulation, which is presented in the article. The future research in this area may focus on specific improvements of legal regulation and the introduction of other measure that will improve the preventive and motivational part of the budgetary discipline mechanism.

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