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Selected legal and institutional aspects of the euro area crisis and a membership of Poland in the Monetary Union

Abstract

The article deals with the issue of the impact of the crisis in the euro area on Poland's membership in the euro area. The program of work that the European Union has imposed on individual countries was shown, as well as the position of Poland in this area.

Keywords: The European Union, legal aspects of the euro crisis, the single currency

Introduction

The crisis initiated by the United States has quickly installed itself in the states of Western Europe, experiencing the states of the European Union quite negatively. The states, along with individual EU institutions, have begun to prepare an appropriate strategy for decreasing the effects of the crisis affecting the euro area, which is the most valuable achievement of the European Union's integration processes. The relatively consistent measures taken, however, have not brought satisfactory solutions if assessed in terms of effectiveness.

States such as Portugal, Spain, Ireland, Italy and Greece have been most affected by the crisis and, through over-indebtedness, have caused many negative implications for the whole integration group. The appropriate methods applied, so far to counteract the crisis effects, both of fiscal and legal nature, have not brought the expected solutions, thus influencing the political tension between the largest European Union contributors. The main research objective of the present article is to identify and describe the legal and institutional instruments implemented to eliminate its effects.

A research hypothesis is as follows: the main reason for developing the euro area crisis was an excessively liberal approach to financial speculation combined with a kind of loss of control over financial markets by the public

authorities of individual Member States. The insufficient convergence between the states in the euro area also contributed to its development. In turn, the potential legal and institutional solutions applied did not radically improve the monetary union situation. The prevailing view in the current narrative dynamics lies in the fact that there is no full diagnosis and, at the same time, no forecast of an improvement in the situation in the entire Monetary Union.

Diagnosis of the crisis and the necessity for changes

The primary source of the world and Europe crisis was the lack of adequate supervision over the financial market¹. Such a statement is based on considerable diligence, since, so far there has been no research in either doctrine or literature concerning the causes of the crisis. Nevertheless, it should be noted that the crisis appeared on the US mortgage market as early as 2008 and, in fact, it spread to the European Union states. As some financial policy researchers explicitly claim in their publications, the United States is responsible for the euro area crisis².

The crisis in the “Euroland” is also affected by structural imbalances in the global economy. Some states are permanently increasing their balance of payments and reserves, whereas others have a negative balance of payments and are therefore in debt. A certain imbalance exists not only outside the European Union but also inside the integration group. There are two groups of states that have emerged, one with a foreign trade surplus³ and the other with current account deficit⁴.

The crisis in the euro area is not only a crisis of means of payment and its functions but also a public debt crisis. Among the states forming the European Union, we may distinguish states with a high level of indebtedness, often resulting from decisions that were not strictly economic but mainly political⁵.

The euro area crisis is also identified by several researchers as an institutional weakness of the European Union and its faulty economic policy mechanism, based on centralised monetary policy and decentralised fiscal policy

¹ Cf. G.A. Akerlof, R. Shiller, *Animal Spirits: How Human Psychology Drives the Economy, and Why It Matters for Global Capitalism*. Princeton 2009, pp. 12-20.

² J. Kundera, *Kryzys w strefie euro. Przyczyny i metody przezwyciężenia*, [in:] K. Opolski, J. Górski, *Perspektywy integracji ekonomicznej i walutowej w gospodarce światowej. Dokąd zmierza strefa euro?*, Warszawa 2012, p.30.

³ Such states include Germany, the Netherlands, Austria, Belgium.

⁴ Such states may include Greece, Portugal, Spain, Ireland, France, Italy.

⁵ Such states include Greece, Italy, Portugal, Spain and Ireland, cf. J. Kundera, *Poland in the European Single Market*, Wrocław 2010, pp. 149-192.

conducted by individual European Union Member States⁶. The crisis also stemmed from the provisions of the Maastricht Treaty concerning the European Central Bank position⁷. Furthermore, the euro, as others write, has become, to some extent, a victim of its success in becoming a global measure and a crucial component of foreign exchange reserves. This, in turn, began to cause particular issues, including the impact on the exports of many euro area members on third-country markets⁸. M. Pietrzykowski points out that the causes of the crisis in the euro area were, among other things:

- the globalisation of the global economy, leading to significant fluctuations in asset prices on the financial markets and the accumulation of huge imbalances on the commodity markets,
- errors in economic policy leading to speculative bubbles in the markets,
- the rapid development of complex financial instruments – including derivatives and unlimited trading of these instruments,
- lack of appropriate risk assessment mechanisms and unjustified optimism about future developments,
- absence of a regulator in the market⁹.

As a result of the financial crisis, some European Union states have been unable to function normally¹⁰. Consequently, appropriate reforms were implemented to minimise the effects of the financial crisis. The first steps were taken by the European Central Bank, which focused on providing liquidity and stabilising the money market¹¹. The programme for the purchase of bonds, which have been issued since 2011, was introduced. It was mainly used by Ireland, Portugal, and Greece. A body called the European Systemic Risk Board and the European Supervisory Authority were created. The European Systemic Risk Board is an independent body of the European Union and performs macroprudential regulation of the European

⁶ J. Kundera, *Kryzys w strefie euro. Przyczyny i metody przewyciężenia*, [in:] K. Opolski, J. Górski, *Perspektywy integracji ekonomicznej i walutowej w gospodarce światowej. Dokąd zmierza strefa euro?*, Warszawa 2012, p. 31.

⁷ The main objective set for the European System of Central Banks was to maintain price stability. It was prohibited for the ECB to grant deficit loans or any other type of credit to EU institutions or bodies, central governments or regional authorities of the Member States, or for the ECB or national central banks to purchase their debt securities directly from them.

⁸ J. Kundera, *Kryzys w strefie euro. Przyczyny i metody przewyciężenia*, [in:] K. Opolski, J. Górski, *Perspektywy integracji ekonomicznej i walutowej w gospodarce światowej. Dokąd zmierza strefa euro?*, Warszawa 2012, p.32.

⁹ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, pp. 44-50.

¹⁰ For instance, Greece.

¹¹ The policy of the ECB included an increase in the scale of unlimited open market operations, extension of the range of instruments used to secure its refinancing transactions, preparation of an appropriate programme for banks, and conducting specific foreign exchange operations.

financial system¹². The European Supervisory Authority shall maintain effective and convergent prudential regulation. It also supervises the European banking system¹³. Simultaneously, a financial stabilisation mechanism was established, including the possibility of granting financial assistance to a Member State that is experiencing severe financial problems¹⁴. In December 2012, the European Central Bank launched another instrument – 36 monthly loans under Long Term Refinancing Operations. The purpose of the loans was to accommodate the shock of money demand¹⁵. In 2012, an attempt was made to frame and supervise short selling, representing a kind of investment strategy of selling securities and other capital market instruments¹⁶. In the meantime, the European Union has also implemented other initiatives such as the introduction of the European Economic Recovery Plan, the new system of budgetary and economic policy surveillance¹⁷. In March 2011, following the recommendations of the working group under the guidance of H. van Rompuy, the European Council adopted a package of six legislative acts commonly referred to as the six-pack. The aim was to improve the economic governance of the European Union¹⁸. The legislative acts included:

- Regulation of the European Parliament on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies¹⁹,
- Regulation of the European Parliament on the effective enforcement of budgetary surveillance in the euro area²⁰,

¹² <http://www.nbp.pl/home.aspx?f=/systemfinansowy/esrb.html>, access date 02.01.2012; http://ec.europa.eu/economy_finance/articles/governance/2014-08-08-review_european_systemic_risk_board_en.htm, access date 05.05.2016; R.M. Lastra, *Central bank independence and financial stability*, Estabilidad Financiera Num. 18, Banco de España 2010.

¹³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, Official Journal of the European Union, L 331/12.

¹⁴ Union financial assistance shall be granted by means of a Council Decision to be determined by qualified majority on a proposal from the European Commission, cf. Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism, Official Journal of the European Union, L 118/1.

¹⁵ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 90.

¹⁶ Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (1), Official Journal of the European Union, L 86/1.

¹⁷ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 92.

¹⁸ *Ibidem*, p. 93.

¹⁹ Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability, Official Journal of the European Union, L 140/1.

²⁰ 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, Official Journal of the European Union, L 306/1.

- European Parliament legislative resolution on speeding up and clarifying the implementation of the excessive deficit procedure²¹,
- Regulation of the European Parliament on the prevention and correction of macroeconomic imbalances²²,
- European Parliament regulation on enforcement measures to correct excessive macroeconomic imbalances in the euro area²³,
- Council Directive on requirements for budgetary frameworks of the Member States²⁴.

The regulation of the European Parliament on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies concerns states with a corrective and growth part. The European Commission may decide to make a particular Member State subject to enhanced surveillance if the Commission considers that the situation of such a state may have a negative impact on other euro area Member States.

The Regulation of the European Parliament on the effective enforcement of budgetary surveillance in the euro area establishes sanctions for the excessive deficit procedure and macroeconomic imbalances shall apply only to euro area the Member States²⁵. Whereas, the Regulation of the European Parliament on the prevention and correction of macroeconomic imbalances introduced new coordination procedures for the prevention and correction of macroeconomic imbalances. Furthermore, the Council Directive on requirements for budgetary frameworks of the Member States contained detailed rules on the characteristics of the Member States' budgetary frameworks to provide the compliance with their obligations regarding the avoidance of excessive government deficits. The obligation to implement the rules was set on 31 December 2013²⁶. The introduction of six legislative acts into the legal and institutional system of the European Union (referred to as the 'six-pack') was intended to strengthen surveillance of economic policies conducted by individual European Union

²¹ Implementation of excessive deficit procedure European Parliament legislative resolution of 28 September 2011 on the proposal for a Council regulation amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure (COM(2010)0522 – C7-0396/2010 – 2010/0276(CNS)), Official Journal of the European Union, CE 56/114.

²² 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, Official Journal of the European Union, L 306/25.

²³ 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, Official Journal of the European Union, L 306/8.

²⁴ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 95.

²⁵ Ibidem.

²⁶ Ibidem, p. 97.

Member States. The six-pack was also supposed to guarantee the proper functioning of national finances through numerous preventive and corrective actions²⁷.

The adoption of the six-pack is considered an achievement of both the Polish and Hungarian presidencies²⁸, which cooperated actively in establishing new principles of managing the Monetary Union development²⁹. Since the so-called ‘six-pack’ entered into force, various opinions have been expressed that the six legal acts adoption may lead to the centralisation of management in the European Union³⁰. Despite such conclusions, however, it turned out that the reform introduced was a small step towards the complete recovery of the euro area. The European Union has undertaken further reforms in the context of improving economic policy governance. In the meantime, the principles of the so-called European Semester have been implemented. Its timetable is presented in the table below.

Table 1. The European Semester timetable

Period	Description
November n-1	The European Commission, after the economic situation analysis, defines priorities for the next financial year. As part of the prevention procedure, the Commission verifies if there are no phenomena that could lead to macroeconomic imbalances in a given year and formulates its opinions and recommendations.
December n-1	Member States shall adopt final annual budgets taking into account the EC recommendations and the opinions of the finance ministers
February/March	The European Parliament, along with the EU Ministers for Labour, Economy, Finance and Competitiveness, discusses the Annual Growth Survey, subsequently, the EC publishes a detailed assessment of the individual states’ situation in terms of macroeconomic imbalances.
April	The Member States shall submit Stability Programmes until 15 April or Convergence Programmes until the end of April.
May	The European Commission provides country-specific recommendations on economic policy.
June/July	The European Council endorses the recommendations by adopting the final document in July.
October	The states shall submit the draft budget for the following year to the European Commission by 15 October. In case the project is not in line with the medium-term objectives of a given state, the EC may request the improvement of the plan.

Source: M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 94.

The European Semester is a system of procedures coordinating the economic and budgetary policies of the European Union. The aim of introducing the European

²⁷ <http://www.euractiv.pl/gospodarka/wywiad/szeciopak-zdyscyplinuje-pastwa-czonkowskie-ue-002969> [accessed on 5.01.2018].

²⁸ Cf. House of Lords, European Union Committee, Chapter 5. *The December 2011 European Council and the Proposals for treaty change*, in: Twenty-Fifth Report “*The euro area crisis*”, 7 February 2012, <http://www.publications.parliament.uk/pa/ld201012/ldselect/lducom/260/26008.htm#n114> [accessed on 2.01.2021].

²⁹ A. Gostyńska, P. Tokarski, *Reforma zarządzania gospodarczego Unii Europejskiej- małe kroki wobec dużych problemów*, [in:] “Biuletyn Polskiego Instytutu Spraw Międzynarodowych” no. 94 of 10 October 2011.

³⁰ <http://www.bankier.pl/wiadomosc/Czy-szeciopak-uratuje-strefe-euro-2421045.html> [accessed on 2.01.2021].

Semester regulations is to ensure convergence and stability, ensure adequate economic growth and promote the implementation of the Europe 2020 strategy³¹. The European Semester is also intended to monitor the economic situation in European Union Member States. A disadvantage of such a mechanism is the long preparation cycle and, at the same time, the discussion of the documents it covers. The resulting conclusions and recommendations are based on indicators from two years ago. A further disadvantage consists in the fact that during the European Semester, numerous EU institutions prepare many documents, which in turn affects the free flow of information and at the same time exclude rapid action within the framework of the European Semester³². The euro area crisis has shown that the problems in one member state can have an impact on the other states. Such a mechanism has been called a domino effect.

Consequently, the Member States decided to implement even stronger mechanisms intended for the euro area. Therefore, in November 2011, the European Commission proposed new regulations to strengthen budgetary surveillance in the European Union³³. The new reform package entered into force on 30 May 2013 in all euro area states. The aim was to continue improving mechanisms related to the coordination of fiscal policies in the euro area. It consisted of two legislative acts:

- Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability³⁴,
- 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 area³⁵.

³¹ Europe 2020: A strategy for smart, sustainable and inclusive growth, European Commission, KOM2010 of 3.03.2010.

³² K. Szczerski, *Re-konfiguracja czy re-konstrukcja? Kryzysowe zmiany sensu system politycznego Unii Europejskiej*, [in:] *Między polityką a rynkiem. Kryzys Unii Europejskiej w analizie ekonomistów i politologów*, ed. T. G. Grosse, Warszawa 2013, pp. 85-100; F. Scharpf, *Unia walutowa, kryzys fiskalny oraz erozja demokracji*, „Nowa Europa. Przegląd Natoliński” 2013, 2 (15), pp. 175-226.

³³ http://europa.eu/rapid/press-release_MEMO-13-457_pl.htm [accessed on 1.01.2021].

³⁴ Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability, Official Journal of the European Union, L140/1.

³⁵ 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, Official Journal of the European Union L140/11.

Regulation (EU) No 472/2013 of the European Parliament and the Council applies to all euro area Member States and provides detailed regulation for the states covered by the corrective arm of the Stability and Growth Pact. A state under special surveillance is required to implement all the European Commission recommendations leading to an improvement of the public finances. The state shall submit relevant reports every three months, and the EC shall examine them. Country surveillance exists until the country repays at least 75% of the financial assistance received from one or more Member States.

Regulation (EU) No 473/2013 of the European Parliament and the Council defines clear and simplified procedures for enhanced surveillance in the Member States experiencing significant difficulties concerning their financial stability, in states receiving financial assistance and those terminating their participation in financial assistance. The two-pack strengthened the monitoring system, budgetary coordination, thereby complementing the provisions of the European Semester³⁶.

A further novelty introduced by the European Union was the Fiscal Compact (so-called Euro Plus Pact). The originators of the package were A. Merkel and N. Sarkozy. The agreement was signed by 25 Member States (excluding the UK and the Czech Republic). The pact aimed to minimise the crisis's consequences for the entire Europe³⁷. The pact forced the Member States to apply the so-called "Golden Rule", which assumes the annual budget deficit is not allowed to exceed 0.5% of GDP³⁸. The European Commission intended to implement the principle in national law, although it was a matter of controversy. Also, in Poland, a discussion aroused in this area³⁹. Ultimately, President B. Komorowski did not see any danger and ratified the Treaty on 24 July 2013⁴⁰.

As a result, Poland will be able to participate in euro summits on competitiveness and meetings related to the Pact implementation. It is important in connection with the process of Europeanisation, which focuses on transferring an increasingly large number of decisions from the national level to the supranational level. At present, the principles of the fiscal compact are difficult to evaluate unambiguously. An actual assessment of the fiscal compact will only be possible after several years, when it will be verified that there is no possibility of "avoiding" the solutions saved, especially through creative accounting or certain simulated

³⁶ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 100.

³⁷ Particularly, Greece and Italy.

³⁸ <http://www.pwe.org.pl/ue-przyjela-pakt-fiskalny> [accessed on 1.01.2021].

³⁹ <http://www.obserwatorfinansowy.pl/tematyka/makroekonomia/pakt-fiskalny-nie-dziala>, <http://www.pwe.org.pl/ue-przyjela-pakt-fiskalny>

⁴⁰ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 101.

solutions⁴¹. For the first time, J. M. Barroso mentioned the Banking Union in June 2012. In May 2012, at the European Council meeting, H. van Rompuy presented a specific concept of establishing the Banking Union⁴². The primary elements of the Banking Union were focused on four pillars:

- the first pillar – integrated financial markets,
- the second pillar – the integrated budgetary framework,
- the third pillar – integrated budgetary policy,
- the fourth pillar – ensuring the necessary democratic legitimacy⁴³.

The Banking Union was to include the following elements:

- the first element – the single supervisory mechanism – gives the European Central Bank powers to supervise banks in the euro area,
- the second element – the single resolution mechanism – will be applied by the Single Resolution Board and national resolution authorities under the single mechanism,
- the third element - European deposit guarantee scheme⁴⁴.

The Banking Union should constitute a building block of EMU, and its implementation process was to include three stages:

- The first stage occurred between 2012 and 2013. During this period, it was assumed that there would be adequate public finance management, a separation between banks and governments⁴⁵.
- The second stage occurred between 2013 and 2014 and consisted of two elements: the completion of the integrated financial framework through the establishment of a single body to deal with rapid and smooth restructuring and liquidation; the establishment of a mechanism for greater coordination, convergence, and effective enforcement of the relevant policies.
- The third stage – after 2014 – was supposed to be the turning point of the entire deepening of EMU. Its primary objective consisted of improving the resilience of EMU to all possible economic shocks through appropriate decision making⁴⁶.

⁴¹ Ibidem.

⁴² A Roadmap towards a Banking Union (COM (2012) 510) and A blueprint for a deep and genuine economic and monetary union Launching a European Debate (COM(2012) 777).

⁴³ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 102.

⁴⁴ Ibidem.

⁴⁵ A stage would include five elements, including the completion of the reinforced fiscal governance framework, the establishment of the TSCG, the establishment of the CRR/CRDIV, the establishment of the ESM, an agreement on bank liquidation, and deposit guarantees.

⁴⁶ J. J. Węc, *Proces konstituowania Unii Bankowej. Geneza, podstawy prawne, cele i zasady działania*, „Rocznik integracji europejskiej” 2014, no. 8, pp. 33-34 see: K. Dul, *Europejska Unia Bankowa - przyczyny, wprowadzenie oraz potencjalne skutki*, Lublin 2015, pp. 8-9.

As a result of further legislative work, on 20 and 21 March 2015, the European Council asked the European Parliament and the Council of the European Union to adopt an appropriate legislative act to regulate the operation of the Single Restructuring Mechanism. It also requested the euro area states to take appropriate action in the area of the Restructuring Mechanism. Such a mechanism became functional on 1 January 2016⁴⁷.

The formation of the Banking Union is aimed at finding the gaps in the banking system resulting from the 2007 crisis. It can therefore be said that the idea of forming a Banking Union is a response to further problems potentially arising in the future. When deciding to join the Banking Union, Poland should consider the associated costs and benefit the national economy by joining the Banking Union structures which according to information provided by the Vice-President of the European Commission, Valdis Dombrovskis, was supposed to be formed in 2018. It will complement the Economic and Monetary Union. It shall aim to strengthen banking supervision of European-level players⁴⁸. At the end of 2017, Germany presented a proposal to transform the European Stability Mechanism into a European Monetary Fund, which will provide loans to reduce the problems caused by the financial crisis. The loans would be conditional on particular reforms to improve the economic situation in the country. The European Monetary Fund is also intended to focus on the restructuring of debts arising in the euro area, thus affecting private investors. The EMF institution intends to be intergovernmental and subordinate to the largest contributors, mainly Germany, which gives them essential and strong instruments to manage the euro area future⁴⁹.

In its efforts to join the euro area, Poland should follow the negotiations and the political situation in Germany, particularly those concerning the future fate of the euro area. These may provide some guidance for our country concerning the direction it should proceed. Thus far, the new government's actions in the context of membership of the Monetary Union have been quite drastically reduced. In fact, the arrangements in force have focused on the strategy of Poland's integration into the euro area, adopted during the crisis.

⁴⁷ <http://przegladpm.blogspot.com/2016/01/jednolity-mechanizm-restrukturyzacji-i.html> [accessed on 2.01.2018].

⁴⁸ <http://biznes.gazetaprawna.pl/artykuly/1078182,ekspert-o-unii-bankowej.html> [accessed on 2.01.2018].

⁴⁹ T. G. Grosse, *Niemiecka wizja reform w strefie euro*, <http://cakj.pl/2017/10/12/niemiecka-wizja-reform-w-strefie-euro> [accessed on 12.01.2018].

The strategy of integration of Poland with the euro area

The Polish economy, particularly against the background of the peripheral euro area states, has relatively solid economic foundations. In 2009, when Europe was overwhelmed by the crisis, our country avoided recession⁵⁰. As a result, Poland developed into a solid country with a competitive economy. Such a situation was influenced by the floating exchange rate, the inflow of funds from the European Union's structural funds, strong domestic demand, the entrepreneurship of Polish people, the lack of the financial crisis in Poland and savings in the public finance sector. It can therefore be said that Poland managed the crisis most successfully amongst the states of Central and Southern Europe⁵¹.

The fact that our country aims to become a member of the Economic and Monetary Union in the future has already been known during the ongoing accession negotiations. Then, no applications were made for transitional periods in the area of Economic and Monetary Union.

As a result, Poland participated in the third stage of EMU as a country with a derogation. Consequently, Poland is obliged to adopt the euro in the future. However, to join EMU, Poland must achieve the conditions for sustained nominal and legal convergence⁵². In the meantime, the Polish authorities have prepared a strategy for Poland's integration into the euro area⁵³, and established Government Plenipotentiary for Euro Adoption in Poland, whose tasks include:

- coordinating preparations for the introduction of the euro,
- making recommendations,
- signalling threats and delays in the implementation of tasks to the Prime Minister and submitting proposals for corrective actions⁵⁴.

The unit supporting the Plenipotentiary is the Office of the Government Plenipotentiary for Euro Adoption in Poland operating within the Ministry of Finance⁵⁵.

A subsequent body appointed to coordinate the process of Poland's accession into the structures of the Economic and Monetary Union is the Interinstitutional Organisational Structure for the Introduction of Euro, established in November 2009. Its tasks included, for example, developing the National Plan

⁵⁰ It has not, in fact, been achieved by any other European Union state economy.

⁵¹ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 134.

⁵² Such an assessment is carried out by the European Commission and the European Central Bank, which formulate convergence reports and then decide on the abrogation of the derogation accordingly.

⁵³ Strategic Framework for National Euro Changeover Plan, Warszawa 2010.

⁵⁴ Regulation of the Council of Ministers of 13 January 2009 on the appointment of the Government Plenipotentiary for the Euro Adoption in Poland (Journal of Laws No. 11, item 60),

⁵⁵ <http://www.mf.gov.pl/ministerstwo-finansow/dzialalnosc/integracja-ze-strefa-euro/biuroplenomocnikarządu-ds-euro> [accessed on 7.01.2018].

for the Introduction of Euro, preparing and presenting proposals for action to the Council of Ministers. The National Coordination Committee, the Coordination Council, and numerous advisory teams are responsible for the process of introducing the euro in Poland⁵⁶. The institution responsible for the process of preparing the integration of Poland into the euro area is also the National Bank of Poland, which will become part of the Eurosystem as soon as Poland joins EMU. Therefore, it should be assumed that accession to the euro area will result in the transfer of some of the powers from the National Bank of Poland to the European Central Bank. This, in turn, will require an amendment to the Basic Law, including Article 144(3)(a) and (b), 25, Article 198(1), Article 230(1) and Article 227(1) of the Constitution of the Republic of Poland⁵⁷. The planned introduction of the common currency in Poland will require, in addition to amendments to the provisions of the Basic Law, the introduction of amendments to relevant acts of a lower order than the Constitution⁵⁸.

In 2010, the National Plan for the Introduction of the Euro was drafted, resulting in a document containing more than 1,000 pages of analyses, including a definition of the scope of the necessary amendments to the Polish Constitution. In 2011, the National Plan for Euro Adoption in Poland was developed, specifying the detailed scope of activities and the timetable for the introduction of the common currency. Meanwhile, twinning work was also conducted with Austria, the Netherlands and Slovakia. In 2013, the National Plan for Euro Adoption in Poland was updated. The update was aimed at taking into account the impact of

⁵⁶ Working Teams for the Preparations for the introduction of the Euro in Poland. The Committee is composed of 1) chairperson - Government Plenipotentiary for Euro Adoption in Poland, hereinafter referred to as the "Government Plenipotentiary"; 2) co-chairperson - Plenipotentiary of the Management Board of the National Bank of Poland for the Introduction of the Euro, hereinafter referred to as the "NBP Management Board Plenipotentiary"; 3) members: a) Minister - Member of the Council of Ministers, directing the work of the Standing Committee of the Council of Ministers, b) Secretary or Undersecretary of State in the Ministry of Administration and Digitization, c) Secretary or Undersecretary of State in the Ministry of Economy, d) Secretary of State in the Ministry of Foreign Affairs, e) President of the Office for Competition and Consumer Protection, f) President of the Government Legislation Centre, g) Chairman or Deputy Chairman of the Financial Supervision Authority. 2. The meetings of the Committee may also be attended by persons from outside its composition, including representatives of non-governmental organisations invited at the request of a Committee member. 3. The meetings of the Committee may also be attended by persons from outside its composition, including representatives of non-governmental organisations, invited at the request of a Committee member: 1) permanent deputies of the persons comprising the Committee referred to in paragraph 1, nominated by name by competent authorities or institutions; 2) a representative of the Government Plenipotentiary". The most important role is played by the Working Party on Legal Adaptation.

⁵⁷ It defines the exclusive right of the NBP to issue money, determine and implement the monetary policy of Poland, and the responsibility of the NBP for the value of Polish money. As the inclusion of Poland in EMU will be equivalent to transferring the competence of the NBP to issue money and to determine and implement the monetary policy within the scope of the ESCB powers.

⁵⁸ K. Majchrzak, *Prawne aspekty wprowadzenia euro w Polsce*, "Analiza Natolińska" 2013, no. 8, p. 12.

the crisis on Poland's accession into the euro area, as well as detailing actions in individual areas.

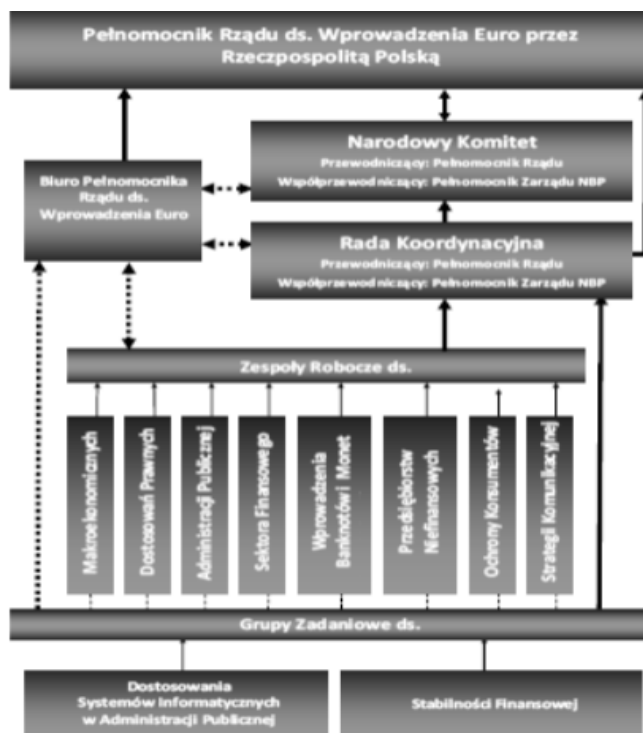


Fig. 1. Institutional structure of the bodies responsible for the euro adoption strategy in Poland

Source: Own elaboration based on <http://www.mf.gov.pl/ministerstwo-finansow/dzialalnosc/integracja-ze-strefa-euro/biuropełnomocnika-rzadu-ds-euro>, access date 02.01.2021. Cf. J. Dominik, *Strategia przygotowań Polski do wprowadzenia euro*, Warszawa 2014. (multimedia presentation).

The planned entry of Poland into the euro area has raised numerous political and scientific discussions. The discussion stressed that the adoption of euro should be achieved through the expression of direct democracy, namely a referendum. Despite these political stances, most lawyers deny the referendum, claiming that the question of replacing the Polish złoty with euro has already been unequivocally resolved in the provisions of the Treaty of Accession, according to which Poland undertakes to meet the convergence criteria to join the euro area⁵⁹. After taking power in 2015 by Prawo i Sprawiedliwość, Prime Minister B. Szydło abolished the office of Plenipotentiary for Euro Adoption.

⁵⁹ Ibidem, p. 18.

It seems that there are two reasons for such a decision: PiS is against joining the euro area in the foreseeable future, the members of the ruling majority believe that the złoty is a value in itself and an attribute of sovereignty, while, secondly, it involves amending the Constitution and other legal acts. PiS is also sceptical about joining the euro area due to the current crisis in the European Union. Politicians of the ruling party believe that Poland's accession into the 'Euroland' may occur when the situation in the EU and the architecture of EMU itself change⁶⁰.

Benefits of adopting the single currency in an economic crisis

The floating exchange rate helped the Polish economy avoid recession in 2008 and support the competitiveness of the Polish products in foreign markets. The states participating in the euro area suffered significantly more as a result of the development of the global crisis, yet looking at them from a long-term perspective, they were able to achieve better results in terms of the development of competitiveness and economic efficiency indicators. The issue of belonging to the euro area has a positive impact on many factors that may compensate for the disadvantages resulting from the lack of their own currency⁶¹.

Accordingly, it can be pointed out that joining the euro area may stimulate certain benefits, including an increase in the intensity of trade, seen as a positive factor influencing economic growth. Trade and, in particular, its development is conducive to the realisation of benefits which may also result from specialisation and increased production volumes⁶². This, in turn, involves the transfer of new technologies and knowledge, which in the case of Poland can stimulate an increase in the rate of economic development and at the same time improve competitiveness. The euro area accession should accelerate the growth rate of both domestic and foreign investment. It results from the fact that the Polish economy is perceived as less attractive than the economies of EMU members.

Potential investors interested in investing in Poland expect a higher rate of return on investment than in states belonging to EMU. They include in their investment costs a bonus for the risk of investing. After joining the Eurozone, it can be expected that this bonus will decrease. Polish accession into EMU and the

⁶⁰ <http://biznes.gazetaprawna.pl/artykuly/908497,euro-w-polsce-nie-bedzie-pis-likwidacja-pelnomocnika-do-spraw-euro.html> [accessed on 6.01.2018].

⁶¹ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 160.

⁶² M. Andrzejewska, I. Górczyńska, *Szanse i zagrożenia wejścia Polski do strefy euro*, Łódź 2015, p. 31.

adoption of the euro should reduce credit costs, as well as affect price transparency and new business rules⁶³.

Poland's accession to the euro area will contribute to the benefits of participating in the single financial market. Polish companies will have more extensive access to foreign-financed markets, the opportunity to participate in the European bond market. The single currency adoption will eliminate exchange rate risk and transaction costs, thus improving price comparability⁶⁴.

Another factor contributing to the increased competition is the fact that it will have a positive impact on economic growth, since it may intensify the processes of adopting innovations and the spread of modern technologies affecting the growth of the Polish economy. Participation in the euro area should positively influence the *rating*, which in turn will result in a more favourable investment climate and lower public debt valuation. Technical preparation for membership is essential for Poland. Issues such as the applicability of the dual circulation period, the opening of banks on 1 January, the conversion of ATMs, giving change in euro in shops, prior supplying of starter packs, reliable information campaigns, etc. shall be considered⁶⁵.

Determining the date of Poland's accession to the euro area requires a very detailed analysis to select the most optimal time to carry out such an operation. Above all, it is important to answer the question of how much and for how long Poland requires an autonomous monetary policy and a variable exchange rate, which ensure that international competitiveness is maintained. After the euro adoption, we should expect accelerated nominal convergence, which may increase labour costs.

It is, therefore, necessary to establish an appropriate mechanism to eliminate the undesirable effects, and thus to ensure that companies can accommodate faster to new conditions, including rising labour costs. It is also necessary to achieve a favourable budgetary situation which will allow

⁶³ In the case of companies, a lower cost of financing combined with the expected inflow of foreign capital should contribute to the accumulation of capital, the expansion of investment activity, and thus to an increase in macroeconomic credibility.

⁶⁴ The existence of the exchange rate of the Polish zloty against the euro is one of the reasons for the persistence of price differences between Poland and the states of the euro area, which are not levelled out by international flows of goods. These differences result, among other things, from poor price comparability, the occurrence of transaction costs and exchange rate fluctuations, which make foreign investors characterised by risk aversion hold back from entering a new market, as it does not ensure a sufficiently high rate of return. Such a situation leads to the presence on the market of enterprises characterised by low efficiency of management and sub-optimal use of production factors.

⁶⁵ M. Pietrzykowski, *Polska na drodze do reformowanej strefy euro*, Poznań 2014, p. 161.

interventions aimed at reducing the costs of doing business, increasing cost competitiveness and supporting producers on foreign markets⁶⁶.

Summary

In a recent CBOS survey of 2016, the Poles accept the adoption of euro by our country. However, they also express some concerns arising from the fact that it is difficult to unambiguously forecast the future of adopting the euro. It is confirmed by the fact that the economic crisis around Europe has seriously damaged the euro area and indicated its shortcomings, thus contributing to the creation of the debt crisis in certain states.

Despite the existence of certain legal and economic mechanisms, the crisis has quickly evolved from a financial into a real situation. Furthermore, it deepened the already fatal situation in the public finances of some states. The worst situation was found in states unable to maintain the appropriate competitiveness of their economies and also to keep their public finances under control. The use of new instruments intended to radically change the architecture of the euro area has not entirely brought the expected results. The euro area has introduced many initiatives to improve fiscal discipline and implement a new model of economic governance in EMU.

The solutions adopted have had a positive impact on the functioning of the currency area and have contributed to increasing its stability and efficiency. However, there is no doubt that the situation in the euro area has influenced the attitude of Polish society towards adopting the euro. While, after becoming a member of the European Union, the majority of Polish people were enthusiastic about adopting the euro, their enthusiasm diminished with the growing economic crisis.

The issues that have arisen in connection with the financial crisis pose a major threat to opponents or the undecided. The Government of Law and Justice is also not taking any consistent steps to implement procedures relating to the euro adoption. Official statements by politicians of such an option suggest that Poland joining the euro area should be treated under the same conditions as the other Member States⁶⁷.

All these aspects lead to a significant drop in public interest in joining the euro area. Many people believe that the euro adoption will result in radical changes

⁶⁶ Ibidem.

⁶⁷ For instance, Germany of France.

in the country, affecting the social position of these social groups, simultaneously threatening the existence of a stable autonomous monetary policy.

The undecided and opponents of the euro adoption in Poland additionally mention the fatal consequences of the economic crisis affecting Greece, Portugal, Italy and Ireland as an argument against Poland's participation in EMU. They believe that entering the euro area will be associated with inheriting the problems of the euro area. The theses put forward by such social groups do not allow an unequivocal statement as to whether the adoption of the common currency will improve or worsen the situation of certain social groups.

The situation is further complicated by reports prepared by specialists stating that joining the euro area will bring benefits, without however providing any specific arguments to support such an approach. Despite all the doubts that have been raised, if the monetary union continues to function, the common currency, euro, is attractive to society from the perspective of long-term benefits, which is reflected in many of the benefits mentioned by the researchers. A strong and effective euro is in Poland's interest, and when Poland joined the European Union, it was declared that, after a derogation period, we would join the area and adopt euro.

The assumption that the euro adoption in Poland is a requirement arising from the provisions of the Treaty of Accession can thus be positively verified and is therefore in a sense a necessity arising from legal regulations. From an economic point of view, it is necessary to refer to the experience of other states that have joined the euro area, and also to compare it with selected economic theories concerning currency areas. The euro adoption will have an impact on legal, political and social changes which, in a way, will force our presence in the euro area.

Indeed, during the economic crisis, the Polish experience is clear that it is better for Poland to remain outside the euro area and to use a floating exchange rate. On the other hand, staying outside EMU may mean high economic and political costs for Poland. In such a situation, one may conclude that Poland is condemned to full participation in the euro area, which, in the long term, with the fundamental assumptions of the architecture of the Economic and Monetary Union, is a beneficial solution for our country.

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Wybrane prawne i instytucjonalne aspekty kryzysu strefy euro a członkostwo Polski w Unii Walutowej

Streszczenie

Artykuł porusza kwestię wpływu kryzysu w strefie euro na członkostwo Polski w strefie euro. Pokazano program pracy, jaki Unia Europejska narzuciła poszczególnym krajom, a także pozycję Polski w tym obszarze.

Słowa kluczowe: Unia Europejska, prawne aspekty kryzysu euro, wspólna waluta