THE EU'S PARTICIPATION IN GLOBAL FINANCIAL GOVERNANCE*

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ABSTRACT: The global crisis has fueled the development of architecture and mechanisms of global financial governance, in which the European Union is playing an important role. The EU is declaring its unfailing support for "effective multilateralism". Yet in effect it is not much committed to such transformations that would undermine the advancement of its own agenda in the multipartite frameworks.

The EU participation in global financial governance envelops the following interrelated components:
- Connecting the representatives of the EU and its member-states in international institutions to the elaboration of global agenda in issues of financial governance;
- Monitoring the implementation of global decisions in the EU space;
- Refining the concepts, methods and techniques of financial governance in general. Thus, the EU is a pathfinder in the acknowledgment of the essential link between financial and economical governance;
- Direct "export" of European instruments and standards of financial regulation.

In this paper the concept of multilevel governance is employed to emphasize the space dimension of political governance, as well as specific importance of liaisons, coalitions and interactions, which transcend territorial borders and go beyond spheres of national control.

On the one hand, close involvement of the EU in the interplay with institutions and structures of global governance is favorable for its member-states: it enhances their own international influence. On the other hand, the states, if acting on their own, have to take into account the risk of coming to face some unwanted binding global recommendations they will be unable to avoid. Such considerations make it easier for the European Commission to achieve approximation of the positions of the obstinate member-states as concerns problems of governing European finances.

KEY WORDS: Multilevel governance, financial regulation, financial governance, implementation of supranational decisions, financial transaction tax

DEVELOPMENTS AT THE EU LEVEL

The theme of EU participation in governing global finances has gained considerable significance in recent years. Illustratively, in 2007, in a publication by the European Commission on the international role of the European Union, it was not mentioned at all [see European Commission 2007]. Yet nowadays it is one of the "hottest" topics, lively debated in political circles and by experts alike [Conway 2013: 154-176; Larionova 2012; Moschella, Quaglia 2012; Kochenov, Amtenbrink 2014: 283-348; Vooren, Blockmans, Wouters 2013: 243-288]. The discussion involves the prospects for the EU to successfully challenge the erstwhile USA hegemony in global financial regulatory matters, which has been in decline since 2001, when the Enron scandal was revealed, attributed as the biggest audit failure, compromising the American system of financial regulation.

The USA and Great Britain used to be the only dominating players in the field of global finance. Their dominance was determined by the scale, effectiveness and high level of internationalization of their national financial markets, as well as by the sophistication of their regulating structures. The "best practice" in financial supervision also traditionally originated from these two countries (from their administrations or from practice of self-regulation in the financial sphere). Its fixation in the form of international standards, more often than not, was the result of market influences and not of some purposeful strategy. But the situation changed considerably since 2007. First, because of the global financial crisis, rules of spontaneously evolving financial globalization started to provoke widespread rejection:

> "The global financial crisis that erupted in the summer of 2007 exposed the numerous flaws and fault lines of the pre/existing architecture of financial regulation and supervision. The dominant paradigm, one of light/touch regulation and loose coordination between regulators and standard/setters, along with the underlying assumptions and beliefs, was proved to be inadequate for dealing with systemic and stability issues, and, as a result, reform of financial regulation became one of the top priorities of public policy" [Vourloumis 2012: 1].

The Washington Consensus and the Anglo-American Model of soft touch regulation have been globally discredited. Second, financial markets in the EU have been growing and became comparable to the American financial

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services markets. These two circumstances combined to give new life to alternative views on financial governance, widespread in Europe – stressing the merits of globalization kept under control (with multilateral rules and stronger involvement for international organizations). Within the EU conscious advancement of multilateral harmonization, as well as regional and global financial governance, was promoted by a group of "Southern" member-states, with France as a leader, supported by Germany. The preservation of the spontaneous order was mostly advocated by a "Northern" group, headed by Britain. Paradoxically, France and Germany did not change their predisposition as concerns the arrangement of global financial governance after the liberalization of financial regulation in these two countries in the 1990s and the 2000s. Liberalization led to higher financial risks for the population and thus to the politicization of financial regulation agenda. German and French publics were inclined to take it into account when considering the overall performance of their governments. The British government opposed new EU regulation over hedge fund managers, but relaxed its opposition in the wake of the crisis to appease British public opinion [Helleiner and Pagliary 2010].

Thus,

> "the crisis has strengthened the position in the EU policymaking process of leaders and finance ministers from Continental European countries and members of the European Parliament, who have taken advantage of the crisis to bring some of their long-standing priorities back to the European agenda. The European Commission has increasingly sought support from these more pro-regulation forces, rather than from the London-based coalition that had driven the process of European regulatory integration before the crisis" [Pagliari 2013]…

The OTC derivatives, hedge-funds and credit rating agencies were targeted among the first key objects of European supranational regulation. The CRA Regulation appeared in 2009 (Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (as last amended by Regulation (EU) No 462/2013 of the European Parliament and of the Council of 21 May 2013 and previously amended by Regulation (EU) No 513/2011 of the European Parliament and of the Council of 11 May 2011). On 4 July 2012, the Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (known as "EMIR" - European Market Infrastructure Regulation) was adopted and entered into force in August 2012. The Alternative Investment Fund Managers Directive entered into force in July 2013. All these documents had the effect of reinforcing the principle the foreign firms operating in Europe should not escape the oversight of host country supervisors [Pagliary 2013]. Other jurisdictions have followed the European lead in introducing legislation to require the main US rating agencies to register with national regulators (for instance, Japan, Australia, Mexico, Canada, and Hong Kong).

At the same time, the USA also tightened domestic rules. The 2009 Dodd-Frank Wall Street Reform and Consumer protection Act included an increased emphasis on monitoring systemic risks and a reinforced oversight over CRAs [Vooren, Blockmans, Wouters 2013: 254]. It required all hedge funds above a minimum size to register with the Securities and Exchange Commission (SEC), imposed minimum reporting requirements, and subjected funds to periodic SEC examinations and inspections. Without this American move the European Union might not have ventured to undertake any serious measures, limiting the freedom of action in regional financial markets.

For all that, the European measures mentioned above can be regarded as steps of secondary importance, while more prominent perspective is being opened with the realization of plans to establish the European banking union. It will develop full-size by 2018. It was already preceded, as a preliminary stage, by emergence in 2010 of a two-level schema of financial governance, including:

- at the "upper stage" – the European Systemic Risk Board with the European central Bank Participation (ECB) (the IMF and FSB perform the same function at the global level;
- at the "lower stage" – a network of national bodies for supervision and European financial regulatory agencies (a European Banking Authority – EBA, a European Insurance and Occupational Pensions Authority – EIOPA, and a European Securities and Markets Authority – ESMA): "The ESAs are part of a complex structural development in which a highly invasive regulatory approach is combined with a decentralised supervisory structure" [Chatzistavrou et al: 4]

By the end of 2014 the introduction of a Single Supervisory Mechanism (SSM) for banks at the "upper stage" is envisioned, headed by the ECB. The European Central Bank will assume direct responsibility for around 140 large banks, and indirect responsibility for the smaller ones (all 6,000 Eurozone banks), working together with national supervisors. Besides, in December 2013, the European Parliament and Council reached an agreement on rules for the recovery and resolution of banks and for harmonized deposit guarantee schemes in Europe. These new rules will allow Europe to manage and resolve crises in the banking sector in a way that avoids massive public bail-outs (the bail-in principle is introduced). There will be common rules for deposit guarantee schemes, including on their ex ante funding and a clear articulation with resolution processes.

New developments, including the "six-pack", the "two-pack" measures and the "fiscal compact", indicate the readiness of EU member-states to delegate increased powers to EU supranational institutions. But critics are of the opinion, that the EU places excessive emphasis on fiscal discipline [] to the detriment of growth and social policy, narrowed down to the fight against poverty and social exclusion.

EU IN GLOBAL FINANCIAL GOVERNANCE

The 2007/2008, the banking crisis originated in the United States, but amplified in the European Union:

> "Some of the roots of the Euro crisis were due to specific features of construction of the European Monetary Union, but the crisis was also triggered by the second-wave shocks from the global financial crisis. The first-round effect of the 2007–2008 panic was a vast deterioration of balance sheets of banks and other financial institutions. Growing uncertainty about asset and collateral quality squeezed credit and dried up liquidity. The downward spiral of the financial system, unseen in developed countries for eight decades, called for prompt and extraordinary policy actions" [Honkapohja 2014].

In turn, the Eurozone problems of 2010/2012 had an impact on the USA. In general all that proved highly damaging for the attractiveness of the EU regional integration model, which before the crisis was universally admired. In the outside world and in the BRICS countries in particular (Brazil, Russia, India, China and South Africa), the crisis was widely seen as a "transatlantic affair". It was perceived as a factor accelerating the tectonic shift of power and influence from the Transatlantic to the Asia-Pacific and to China in particular.

Under the conditions of the enhanced competition with the West on the part of the developing economies it is all the more essential for the EU to coordinate respective changes with the USA. This is an important motive for strong EU engagement with the exiting institutions of global financial governance, which originally were of Western design. While emerging as a potential rival to US dominance in global finance, the EU at the same time finds itself in increasing agreement with the USA as concerns the substance of regulation [Mügge 2014: 3]. The European Union is constantly negotiating on matters of financial regulation with its key economic partners. Apart from the USA, these are Japan, China, India, Russia and Brazil. As a result, after the crisis the EU as a whole emerged as a stabilizing force in global regulatory debates more than an innovator [Mu¨gge 2013], not in a hurry to part with the liberalist dogma.

For example, the EU-Russia dialogue on financial and macroeconomic policy was launched in 2006. Among its main goals are the maintenance of financial system stability and higher effectiveness of protection for consumers of financial services, achieved through legislation improvements. European experience in establishing standards for financial reporting, in industrial risks insurance, in state regulation of insurance activities was taken into consideration in Russia.

Against such bilateral arrangements, the establishment of the G-20 was an attempt to re-launch multilateralism and increase the effectiveness of international fora and institutions, in which the EU was expected to play one of the leading roles. The G-20 became the mail coordinating forum in this sphere, relying on the Financial Stability Board (FSB), as well as on the Basel Committee on banking Supervision, the International Organization of Securities Commissions etc, in cooperation with the IMF, the OECD and the Bank for International Settlements. Global standards of financial regulation have been elaborated or are being refined in such fields as macroprudential oversight and control over systemic financial risks, enhancement of the stability of banking systems (Basel-3), regulation of the shadow banking, as well as of the derivatives market, and a special regime for regulating systemically important financial institutions[Худякова 2013].

Yet a shift from transatlantic to truly global financial governance has not come about. Critical voices were heard of Europe failing to shape the global governance debate in any particular "European" manner, with the G-20 doing little to soften the impact of the crisis in developing countries and even downgrading the focus on issues of good governance [Solbes and Youngs 2010].

The European Union is a full member of the G-20 (it is represented by the head of the European Commission and the President of the European Council). The G-20 also includes, independently, Britain, France, Germany and Italy, while Spain and the Netherlands, without being formal members, are regularly invited to the meetings. The G-20 takes strategic decisions of nonbinding nature, which states are committed to implement at their own will. The European Commission and the ECB are also represented in the FSB. In particular, the EC has actively participated in the FSB in developing measures for curbing the shadow banking (a system of enterprises which conduct operations, kin to banking ones, but do not fall under the regulation of banks. According to the EC, the shadow banking is an acceptable alternative to bank crediting. At the same time, it disguises serious risks the regulators should pay more attention to. The rules for regulating shadow banking were discussed by the G-20 leaders at the St. Petersburg Summit in September 2013.

In the BCBS 10 of the 27 jurisdictions are EU member states. The EC and the ECB have an observer status.

Meanwhile, the EU proved to be rather successful in influencing the G-20's agenda and the conclusions of G-20 Leaders' Summits (particularly in matters of financial market supervision and regulation). Much less coherent was the EU position in respect to capital adequacy requirements. The G-20 delegated this issue to BCBS. It came up with its Basel-3 agreement on higher global minimum capital standards in September 2010. They were endorsed by the Seoul G-20 Summit in November the same year. There were noticeable divisions among EU members in their preferences between the UK and continental European countries (Germany, France, Italy). The UK aimed at higher capital requirements and shorter deadlines for implementation of Basel-3, while European "coordinated market economies" advocated less strictness and more latitude for state banks and smaller regional and savings banks. This disagreement was serious obstacle for the formation of common position at the EU level.

Nevertheless, in June 2011 the European Commission started the process of implementing the Basel-3 global standards within the Union with its legislative proposal on capital adequacy. This move, inter alia, proved to facilitate the task of harmonizing the rules and standards of financial regulation and supervision at the European level. The legislative package, including a directive and a regulation (CRD-IV/CRR-IV package) finally came into force in January 2014. These basic European acts duplicate the Basel-3 provisions, but they also have certain variations, reflecting European specifics [Худякова и Сидорова 2014: 28–29].

When assigning regional standards and norms of financial regulation and supervision, the EU starts competes with its one member states – inasmuch as they retain a niche for establishing the rules of their own. Some of member-states (the UK in particular) are inclined to use this opportunity as far as possible. One the one hand, the G-20 does not belong to the type of classic international organizations the EU is formally requested to cooperate in accordance with art. 220 of the TFEU. In other words, the Lisbon Treaty, of which the TFEU is a part, cannot serve as a legal basis for the EU contacts with informal clubbing fora like the G-20 and it cannot limit individual action of separate member states in this respect. On the other hand, the European Union itself is not a state, at least not in classical understanding of the word. So, it is a "deviation" in the "big twenty", where, apart the EU, only "ordinary" states participate.

We find constant references to the G-20 obligations in the recitals of the EU basic acts and European political documents. Thus, the EU is serious about these obligations. The Union relies on the G-20 in promotion of its own agenda both internationally and regionally. At the same time at the global level EU member states can deviated from the European line in order to defend national interests. Bigger EU countries, participating in the G-20 in their own right, sometimes ignore the opinions of smaller countries. Some of the EU members are of the opinion, that the G-20 moves the EU too far in financial regulation [Stoltenber et all 2011].

Formerly, financial rules in the Single Internal Market were introduced with the help of supranational directives, demanding national transposition. European directives leave national authorities with some discretionary powers. The 2006 directive (CRD-III) implementing the Basel-2 for the SIM included some 100 national discretions. In the end it was difficult to achieve a high level of uniformity of European rules. The CRD-IV contains not only a directive, but also a regulation, introducing maximum possible harmonization of national norms. The directive regulates access to banking activity, while the regulation establishes prudential requirement credit institutions are to observe starting from January 1, 2014.

The Basel-3 capital adequacy requirements are meant mostly for banks, engaged internationally, while in the EU respective rules are to apply to all banks, as well as to investment companies (with some exceptions). This wide scope is deemed necessary for the EU banks to operate without obstacles in the SIM as a whole. The European regulation establishes a "rulebook", which is to include obligatory technical standards, elaborated by the EBA and adopted by the European Commission, for direct application in all member states.

Not every initiative of the EU is supported and confirmed at the international level to form the global agenda. Thus, in November 2011 at the G-20 Summit in Cannes, France, as a presiding member, proposed an agreement on a global financial transaction tax. The money was to be directed towards the achievement of global tasks. Yet the introduction of the worldwide "Tobin tax" (named after an American economist, who proposed a transaction tax in the 1970s) proved unachievable due to the US resistance. The European sovereign debt crisis also contributed to side-track attention from the issue [Vooren, Blockmans, Wouters 2013: 272]. Other proposals championed by European leaders but opposed by the USA authorities, such as regulating the trading of derivatives on sovereign debt, were not agreed upon at the international level, either.

At least, the FTT initiative does deserve global support:

> "The G-20 should have stimulated the advancement of this theme and the introduction of the FTT in all the leading economies. Such measures are to be implemented in all economies precisely – otherwise bank will escape to jurisdictions, lacking the taxation of this kind" [Зуев 2013].

Several months before the 2011 Cannes Summit the EC proposed to introduce a single transaction tax within the EU – as a new source of EU budget replenishment. The UK and Sweden opposed the idea. They were concerned that unilateral EU action would provoke capital outflow from the European markets. Nevertheless, this initiative became the basis for the enhanced cooperation of 11 EU member states. Following approval from the European Council and the European Parliament for the financial transaction tax (FTT) to proceed under the enhanced-cooperation procedure, the European Commission published its proposal for the FTT Directive on 14 February 2013.

FTT will be charged on any financial transaction to which at least one party is a financial institution belonging to the FTT zone, where the transaction takes place notwithstanding. Transactions in instruments issued by any of the FTT countries will be potentially subject to FTT wherever in the world they are traded (to reduce the opportunities for avoidance by relocation).

According to the project, these 11 countries will be charging with a tax of 0.1% or 0.01% around 85% of all operations in the financial market. The amount of tax proceeds is expected to be around 30–35 billion a year. The decision of the Council of January 22, 2013 was challenged in court (although unsuccessfully) by the UK. The originally planned implementation date of January 1, 2014 has not been met and the future of the proposal is uncertain. The eleven participating Member States are currently discussing the possibilities. It is expected, that the FTT might be adopted by 11 EU states, excluding UK, from January 2016. Out of the 27 EU member states, those which will be implementing the tax are France, Germany, Estonia, Spain, Portugal, Italy, Greece, Austria, Belgium, Slovenia and Slovakia.

If the EU FTT is introduced by the eleven Member States that are following the enhanced cooperation procedure, they will have to abolish their existing FTTs. At present this is relevant for Belgium, France, Greece, and Italy. EU Member States that do not participate in the EU FTT will not have to abolish their existing FTTs, although if they do not there is a risk of double taxation arising where there is an overlap. This could be relevant for Cyprus, Finland, Ireland, Luxembourg, Malta, Poland, and the UK.

In certain cases, instead of transferring European standards to international regimes, the EU authorities are interested primarily in using global instruments at their disposal to achieve harmonization internally (for example, the harmonization of accounting standards on the basis, developed by the International Accounting Standard Board) [Müller et al 2014].

MULTILEVEL FRAMEWORK

The EU move on the FTT is expected to limit financial transactions which are not desired for their rationale (speculative), large volume (when compared to real economy) or high speed (high-speed algorithmic trading). In that sense, it is market-corrective. Its importance for the future of the EU multilevel governance architecture should not be underestimated.

Maximum possible mobility of capital at the regional and global levels (negative integration) and simultaneous dispersion of means for political intervention in market functioning (positive integration) are in accord with the neoliberal economic preferences in EU governance organization. These preferences demand that apolitical economic governance and political governance (particularly redistributive one) are vertically split (in this case – between supranational and national levels). Such interrelation guarantees competition between national jurisdictions for capital investments. Adherents of monetarism expect it to force national governments to be modest in budgetary expenditures and in usage of measures for market correction. Positive integration at the European level contradicts the liberal ideal, because it eliminates the disciplinary effect of competition between national jurisdictions. The world crisis gave the EU an impetus to introduce some European legal norms to limit the free play of market forces in certain directions of secondary importance. But the pre-eminence in EU economic governance remains with the negative integration. This is a form of unbound, spontaneous economic order, when the market is constantly one level higher than the political power. If desired, it allows an easy exit option for market players. They can "vote with feet", moving to a national jurisdiction preferable for them.

Karl Polanyi [Polanyi 2001], one of the founders of institutionalism in economic theory, made a distinction between embedded and spontaneous economic orders. He defended the principle of embeddedness of the economy in social being, when market becomes a means to achieve objectives instead of being an end in itself – as in the present-day European Economic and Monetary Union. Spontaneous order puts more stress on mobile resources. The mobility of capital is invariably more resilient than that of workforce (in Europe in particular). Thus, spontaneous order is more favourable towards financial interests. It hinders market corrective and redistributive measures of national governments. Friedrich von Hayek, an advocate of a "divided" order, was of the opinion that it can allow firms and individuals to easily move to jurisdiction with better mixes of taxes and services for them.

Theoretically, there are two ways to reintegrate economy and politics within the EU. One way would be to return the economy under national democratic control (nationalism). The other way would be to promote measures multilateral harmonization and progressive forms of regional governance (European reformism) – of which the proposed FTT is an example.

Social and economic situation in integrated Europe after the world crisis is a matter of deep concern for many politicians, experts and observers. Per capita household income in 2012 was lower than in 2004, with income difference in the Eurozone countries continuing to grow. Low growth and the ageing of population make it still more difficult to solve the tasks of social cohesion. Many Europeans blame the EU for such results. It all leads to strengthened Euroscepticism.

Nevertheless, for European institutions the neoliberal paradigm retains attractiveness. Monetarist variant of economic governance is deceptively apolitical. It involves sophisticated technical decisions, which, as commonly cited, it is better to entrust to high browed specialists (such as European bankers and regulators). Remote (including quite painful) results of these decisions being implemented might not even be attributed by the public to them. The European Commission has its own institutional interest, compelling it, for the sake of preserving its influence, to back-pedal the dismantling of the previously constructed model of economic governance in the EU, which can function even under the conditions of democratic deficit. From that point of view, the politicization of EU economic governance may seem more of a problem itself – and not a solution to any problems. Also, taking into consideration the "liberal drift" of the European multilevel governance [Münch 2010] in general, the predictions that the neoliberal project that reigned supreme globally in the 1990s to be well and truly dead because of the global rise of the Eurozone [Nesvetailova and Palan 2010], sound somewhat premature.

CONCLUSION

The picture drawn in this presentation confirms that in global financial governance the European Union is playing an active role. The specifics of its input might have escaped our view if we remained attached to methodological nationalism. Consistent criticism of methodological nationalism we find in works by German sociologist and philosopher Ulrich Beck [Beck, Grande 2010]. Methodological nationalism demands a distinct differentiation between national and international. But in the case of the European Union such deliberate analytical differentiation is out of place. Transnationalism, on the contrary, helps to see, how states are force to solve many societal tasks in a concerted effort, by establishing out of national formats new centres for taking and implementing decisions. International spaces of global and regional governance emerge, which function transnationally.

On the one hand, involvement of the European political system in close engagement with institutions and structures of global governance is beneficial to its member states, particularly to the bigger ones. It considerably boosts their international influence. On the other hand, the EU institutions benefit from it as well. Global financial regulation serves as an external factor which facilitates for the European Commission the task of rapprochement of the positions of the obstinate member states in respective questions within the EU.

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European Integration, Multi-Level Governance, Economic Governance, Integration Theories, Global Governance, International Organizations.

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