The Impact of the Current Fiscal Crisis in the Euro Area on the Greek Banking System and the Measures adopted to Safeguard its Stability:
an Institutional, Supervisory and Regulatory Perspective

Professor Christos V. Gortsos[1]

Executive summary

The present study examines the impact of the current fiscal crisis in the euro area on the Greek banking system and the measures adopted to preserve its stability. It is divided into 3 Sections:

(a) Section 1 contains an overview of the causes of the recent (2007-2009) international financial crisis and the current fiscal crisis in the euro area and their differentiated impact on the Greek banking system.

(b) Section 2 deals with the institutional, supervisory and regulatory measures adopted to safeguard the stability of the Greek banking system from 2008 (amidst the recent international financial crisis) until the establishment of the European Banking Union in 2014.

(c) Finally, Section 3 briefly overviews the main elements of the current institutional and regulatory framework governing banking stability in the European Union and the impact of its provisions on the Greek banking system.

---

[1] Professor of International Economic Law at the Panteion University of Athens.

This paper is based on a presentation made at the 22nd Forum Financial Market Regulation (URPP Financial Market Regulation, Universität Zürich) on 10 March 2016. Special thanks are extended to the participants in this Forum for valuable comments and interesting questions, as well as to Christina Livada, Vassilis Panagiotidis, Nikos Maragopoulos, Dimitris Vovolinis, Irini Parasyri and Sylvia Filippaki for their particularly useful remarks and suggestions, as well as to Katerina Lagaria for the editing of the text.

The cut-off date for data included in this paper is 20 April 2016.

1. The impact of the current fiscal crisis in the euro area on the Greek banking system: a general overview

1.1 The recent (2007-2009) international financial crisis[2]

Despite the existence of an extensive international regulatory financial framework, which was established gradually since the 1970ies,[3] a major international financial crisis erupted in 2007. This crisis:

- was triggered by events in the financial system of the United States,
- spilled over to the world economy seriously affecting the stability of the financial system in several other states around the globe, and
- had a serious negative impact on the real economy worldwide.[4]

The analysis of the causes of this crisis is beyond the scope of the present study. Very briefly, it can be pointed out that the crisis mainly relates to the following aspects:[5]

(a) The implementation of inadequate monetary and fiscal policies in several states.[6]

(b) Failures by financial services providers, in particular[7] with regard to excesses in the asset securitisation processes according to the 'generate and distribute' banking model,[8] and excessive complexity of transactions, poor lending practices (especially in the United States with regard to the household sector), excessive leverage, inefficient management of liquidity risk by banks, and imprudent (*ex post* at least) remuneration policies adopted by several institutions.

(c) Inefficiencies and failures in the regulatory framework of the financial system, such as: lack of macro-prudential policies (both in terms of regulation and oversight), lack of a regulatory framework for the operation of the 'shadow banking system',[9] credit rating agencies and alternative investment vehicles (such as hedge funds), other failures in the micro-prudential regulation of financial firms, lack of transparency in

[2] The author uses the term 'recent' (and not 'current') to denote that this crisis lasted from 2007 to 2009 and came to an ending. This is without prejudice either to the fact that the financial systems of certain states remain vulnerable as a result of this crisis, or that in certain cases (especially in the euro area periphery) the current malfunctioning of the banking system is a corollary of the current fiscal crisis in the euro area which occurred, at least to a certain extent, as a result of the international financial crisis.

[3] On this see, by means of indication, **Giovanoli (2010)**, **Nobel (2010)**, pp. 97-256, **Gortsos (2012)**, pp. 107-281, and **Lastra (2015)**, pp. 499-554.

[4] On this see various relevant IMF Reports at: http://www.imf.org.

[5] There is a vast existing bibliography on this issue. See, by mere indication, **Gortsos (2012)**, pp. 127-129, with extensive further references.

[6] The primacy of this factor is illustrated in **Norberg (2009)** and **Rajan (2010)**.

[7] **Lastra and Woods (2010)** correctly point out the 'usual suspects', i.e. greed and euphoria in periods of rapid growth and extensive credit provision.

[8] On this model, see analytically **European Central Bank (2008)**.

[9] According to the 2011 Financial Stability Board's Report entitled: "Shadow Banking: Strengthening Oversight and Regulation, Recommendations of the Financial Stability Board" (October, available at: http://www.financialstabilityboard.org/publications/r_111027a.pdf): *"The 'shadow banking system' can broadly be described as credit intermediation involving entities and activities outside the regular banking system"*.

trading of certain categories of financial instruments (namely bonds and financial derivatives), inadequacy of certain valuation methods for financial instruments in accordance with international accounting standards, and inadequacy of corporate governance rules for listed companies.

(d) The subsequent extensive scope for regulatory arbitrage among financial services, markets and states.

(e) Last but not least, major failures in the conduct of micro-prudential supervision of financial services providers in several states.

1.2 The overall impact of the crisis

(a) The consequence of the above-mentioned crisis was that several banks and other financial institutions around the world (small or big, even 'systemically important' institutions[10]) were not able to absorb the losses from their risk exposure. This resulted, *inter alia*, in negative effects on the real economy, obliging several governments (especially in the United States and the European Union, the **'EU'**) to adopt rescue packages and recovery programs[11] in order to support or even bail out individual banks (and, in some cases, the entire banking system[12]). Such government interventions weighed on state budgets and, in some cases, created serious fiscal imbalances, some of which evolved to fiscal crises,[13] which, in turn, spread to become financial crises through the activation of several channels of transmission.[14]

[10] There is an extensive literature on systemically important financial institutions. For more details see, by means of indication, **Claessens, Herring and Schoenmaker (2010)**, and the various contributions to **Lastra (2011**, editor**)**.

[11] For an assessment of these measures in the EU, see **Panetta et al. (2009)**, **Gortsos (2009)** and **Petrovic and Tutsh (2009)**.

[12] The most striking example in this case is Iceland (see **Buiter and Sibert (2008)**, **Claessens, Herring and Schoenmaker (2010)**, pp. 51-53, and **Norberg (2009)**, pp. 94-98.

[13] The most striking example is that of Ireland. With a sole exception, all Irish credit institutions were technically insolvent after the financial crisis and needed to be recapitalised. For a more detailed discussion, see, by mere indication, **Eichengreen (2015)**.

The Irish case also raised concerns about the accuracy and forward-looking perspective of the monitoring mechanism provided by pan-European and international institutions and bodies. As remarked by **Eichengreen (2015)**, on page 3: *"Ireland was blessed by external surveillance of its financial regulation, and of its economic and financial policies generally, by the European Union and the IMF"*. *Inter alia*, it is striking that the staff report for the September 2007 Article IV consultation of the IMF with Ireland (based on the Financial Sector Stability Assessment Programme (the **'FSAP'**) undertaken in 2006 (available at: http://www.imf.org/external/pubs/ft/scr/2006/cr06292.pdf), only a few months before the collapse of the Irish banking system, praised the banks for their *"relatively high degree of arm's length transactions….[and] high standards in areas such as bank competition, investor protection, and corporate transparency"*.

[14] For more details see **Committee on the Global Financial System (2011)** and **Shambaugh (2012)** pp. 157-162 and 187-190. On the 'vicious circles' (also called 'vicious cycles', diabolic loops' or 'doom loops') between the banking system and sovereign bond markets, from a historical perspective, see **Mitchener (2014)**.

(b) The fiscal crisis in the euro area[15] was triggered by the exceptionally severe fiscal imbalances in Greece,[16] which were then transmitted to other EU Member States of the euro area 'periphery'.[17] In 2010, Greece's public deficit, which had been widening over the years, leading to the accumulation of external public debt, coupled with a continued loss of competitiveness and a worsening of the current account deficit ('twin deficits'), resulted in a surge in borrowing costs and risk *premia* on Greek sovereign debt, as well as in Greece's exclusion from international markets.

(c) A common problem for (almost) all euro area Member States was 'disaster myopia': in the absence of 'local' funding foreign exchange risk after the introduction of the euro, it was perceived that banks were bankruptcy remote.[18]

(d) A major institutional deficiency existed as well: the Treaty on the Functioning of the European Union (the **'TFEU'**)[19] did not contain any provisions (similar to the IMF financial assistance mechanisms) for financial assistance to euro area Member States having lost their access to international interbank, money and capital markets (even euro-denominated). Accordingly:

- the initial financial support to Greece was provided on the basis of **Article 122(2) TFEU** laid down for national disasters or exceptional circumstances beyond a Member State's control, obviously due to the lack of any other more suitable TFEU provision,

- the subsequent financial support mechanisms (European Financial Stabilisation Mechanism (EFSM), European Financial Stability Facility (EFSF) and European Stability Mechanism (the **'ESM'**)) were based on bilateral and multilateral agreements outside the TFEU,[20] and the TFEU-anchor for the ESM was laid down only in 2013 with the insertion of **Article 136(3)**,[21] and

[15] The author uses the term 'fiscal crisis' instead of the term 'debt crisis' as more consistent with the fact that Greece (as well as three other Member States (Portugal, Ireland, and Cyprus, which, for different reasons each, were severely affected by this crisis), were excluded from international interbank and capital markets and resorted to the sovereign lending of last resort facilities of the IMF and the newly built (during this crisis) EU facilities) violated the 'hard limit' (3%) deficit/GDP ratio laid down in Article 126(2), point (a), of the Treaty on the Functioning of the EU and in Article 1 of **Protocol No (12)** "on the excessive deficit procedure" attached to the Treaties (OJ C 326, 26.10.2012, pp. 279-280). The author also considers that this crisis is still ongoing (hence 'current').

[16] On the causes of the Greek 'fiscal indiscipline', see indicatively **Alogoskoufis (2012)**.

[17] See on this **Armingeon and Baccaro (2011)**, **Eichengreen et al. (2011)**, pp. 47-64, **Athanassiou (2011)**, **Aizenman (2012)**, **Caminal (2012)**, **Avgouleas and Arner (2013)**, **Chiti and Teixeira (2013)**, **de Grauwe (2013)**, **Stephanou (2013)**, **Hadjiemmanuil (2015)**, pp. 6-10, **D' Arvisenet (2015)**, **Zimmermann (2015)** and various contributions to **Christodoulakis (2015**, editor**)**.

[18] See on this, by mere indication, **Eichengreen (2015)**, pp. 1-2.

[19] OJ C 326, 26.10.2012, pp. 47-200.

[20] On these mechanisms see, by mere indication, **Stephanou (2013)**.

[21] This new provision was inserted by **Decision 2011/199/EU** of the European Council of 25 March 2011 "amending Article 136 of the Treaty (…) with regard to a stability mechanism for Member States whose currency is the euro" (OJ L 91, 6.4.2011, pp. 1-2).

- the IMF was also involved in order to provide, apart from financial assistance, 'conditionality services'.[22]

1.3 The impact on the Greek banking system

1.3.1 The impact of the international financial crisis

(a) Before the onset of the international financial crisis, the Greek banking system was largely sound and resilient to potential adverse shocks. This was the conclusion of the Financial System Stability Assessment (the **'FSSA'**) on Greece, which was conducted on the basis of the joint IMF and World Bank FSAP, was completed on November 21, 2005 and, *inter alia*, included Reports on the Observance of Standards and Codes (ROSCs) on banking supervision.[23] According to this Assessment, the Greek credit institutions were well capitalized and profitable, with adequate liquidity (facing though challenges arising from the recent rapid credit growth that increased bank exposure to unfamiliar credit risks), risk management capabilities were strengthened in response to regulatory change and rapid credit growth, while bank supervisory authorities, i.e. the Bank of Greece (the **'BoG'**) were also largely effective (unlike insurance supervisory authorities).[24]

(b) The Greek banking system was not *directly* and particularly affected by the recent international financial crisis.[25] One of the main reasons was the insignificant exposure of domestic banks to securitised financial products issued by US banks.[26] In more detail, during that period Greece's fiscal position had started to deteriorate, but the banking system had not yet been affected. It is indicative that Greek credit institutions recorded their second highest profitability level of the last decade in 2008, just a few months after the collapse of *Lehman Brothers* (15 September 2008), at the height of the international financial crisis.[27] It is also worth mentioning that the stability of the Greek banking system was also safeguarded by the existence of a robust regulatory framework[28] and the effective micro-prudential supervision by the BoG.

(c) Nevertheless, liquidity conditions were strained during this crisis, since Greek credit institutions had restricted access to wholesale market liquidity for their lending operations, while maturing interbank liabilities put additional pressure on their liquidity position, thus rendering necessary the adoption of a recovery program. Despite these problems, Greek credit institutions have shown remarkable resilience and were able to overcome adversities due to a number of factors, such as a strong capital base, steadily

---

[22] **IMF Articles of Agreement (1990)**, Article V ("Operations and Transactions of the Fund"). See on this **Lowenfeld (2009)**, pp. 613-617 and 622-624, and **Lastra (2015)**, pp. 415-422.

[23] IMF Country Report No. 06/6, January 2006, available at: http://www.bankofgreece.gr/BoGDocuments/IMF_Country_Report_No.06_6,01-2006.pdf.

[24] *Ibid.*, Executive Summary, pp. 5-6.

[25] Nevertheless, there was a negative impact on the Greek economy as a whole. On the warnings addressed by the BoG about the severity of the crisis and its impact on the Greek economy, see **Bank of Greece (2014)**, pp. 41-50.

[26] It seems, as a result, that in the case of Greece, in contrast to that of Ireland (see above, **under 1.2**), the FSAP assessment was accurate.

[27] See the published annual reports of these credit institutions for the period 2000-2010 (available on their internet addresses).

[28] See on this below, **under 2.1 (a)**.

increased provisions (more than 40% on a year-to-year basis), and liquidity-support measures by the European Central Bank (the **'ECB'**) and the Greek government (in terms of the provision of guarantees).[29] As a result, the Greek banking system remained healthy, adequately capitalised, and highly profitable amidst the international financial crisis.

1.3.2 The impact of the current fiscal crisis

On the other hand, the Greek banking system was gravely and negatively affected by the fiscal crisis in the euro area. All the channels for the activation of negative spillover effects from the government to the banking system were set in motion.[30] Indicatively:

(a) The successive downgrades of Greece's sovereign debt since late-2009 resulted also in ratings' downgrades of Greek credit institutions and severely tightened their liquidity position. Bank deposits and repos declined by 21% since the end of 2010 (30% since the end of 2009),[31] while Greek credit institutions' ability to raise liquidity on the international interbank market, as well as on the international bond markets, was almost totally constrained. Accordingly, there was a need to rely heavily on the Eurosystem credit facilities. At the end of 2010, ECB financing represented 15.5% of credit institutions' total liabilities. Furthermore, Greek banks were reliant on the 'Emergency Liquidity Assistance' (the **'ELA'**) mechanism of the BoG, which acts as a lender of last resort to Greek credit institutions.[32]

(b) Greek credit institutions suffered extremely severe losses from their participation in the Private Sector Involvement (the **'PSI'**) as far as their holdings of Greek government bonds were concerned. In this context:

(i) The July 2011 support programme for Greece, aimed at strengthening economic policy coordination for competitiveness and convergence on condition of commitments by Greece, provided for total official financing of €109 billion.[33]

(ii) On 14 March 2012, the Eurozone Finance Ministers approved additional financing under the second economic adjustment programme amounting to €130 billion until 2014, including an IMF contribution of €28 billion. They also authorised the EFSF to release the first installment of a total amount of €39.4 billion, to be disbursed in several tranches. The release of the tranches was based on observance of quantitative performance criteria and a positive evaluation of progress made with respect to the policy criteria contained in **Council Decision 2011/734/EU** of 12 July 2011 "addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy

[29] See on this below, **under 2.1 (b)**.

[30] On this see above, **under 1.2 (a)**.

[31] **European Central Bank (2013)**: "Statistical Data Warehouse, Greece, Outstanding amounts at the end of the period (…)", December, available at: http://sdw.ecb.europa.eu/quickview.do?SERIES_KEY=117.BSI.M.GR.N.A.L20.A.1.U2.2300.Z01.E.

[32] Indeed, the ELA is granted by the national central banks of the Member States whose currency is the euro, against collateral not eligible for the ECB's monetary policy operations. The ECB Governing Council is allowed to prohibit this, if it is deemed in conflict with the objectives and tasks of the Eurosystem according to **Article 14.4** of the Statute of the European System of Central Banks and of the ECB. See on this **Gortsos (2015b)**.

[33] **Council of the European Union (2011)**: "Statement by the Heads of State or Government of the Euro Area and EU Institutions", Brussels, July 21.

the situation of excessive deficit"[34] (subsequently amended in November 2011, March 2012 and December 2012[35]), and in the **Memorandum of Understanding** "on economic policy conditionality", which was signed on 14 March 2012.[36]

(iii) The PSI in Greece's debt exchange offer was high. Out of a total of €205.5 billion in bonds eligible for the exchange offer, approximately €199 billion (96.9%) have been exchanged with a nominal discount of 53.5%. On 20 April 2012, the four (4) largest Greek credit institutions (representing more than 65% of the Greek banking system's assets at that time) announced losses of €27.9 billion.[37]

(iv) On 18 December 2012, the Greek authorities also completed a voluntary buyback of bonds from the private sector after the Eurogroup decisions of 27 November 2012.[38] The buyback retired €31.8 billion in exchanged bonds, including €14.1 billion from Greek banks (or 44% of the total amount). In all, the exchange is estimated to have reduced debt to GDP by 9½ percentage points.[39]

(c) The 'collateral/liquidity' channel has also been activated, since the ECB has gradually been cutting the market value of Greek government bonds and the other assets provided as collateral by Greek credit institutions, referring them mainly to the ELA mechanism.[40]

(d) Greek credit institutions also suffered losses on account of (explicit or implicit) Greek government guarantees granted to them, which could not (and still cannot) be honoured in full given the fiscal strains.

(e) Finally, from the point of view of non-performing loans (the **'NPLs'**), the situation deteriorated consistently: they increased from 10.5% at the end-2010 to 31.9% at the end-2013 and to 46.7% at the end-2015.[41]

---

[34] This Council Decision (OJ L 296, 15.11.2011, pp. 38-52) was addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit.

[35] **Council Decisions 2011/791/EU** of 8 November 2011 (OJ L 320, 3.12.2011, pp. 28-31), **2012/211/EU** of 13 March 2012 (OJ L 113, 25.4.2012, pp. 8-10) and **2013/6/EU** of 4 December 2012 (OJ L 4, 9.1.2013, pp. 40-45).

[36] The text of this MoU can be accessed at: http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf.

[37] On the PSI key terms following the 26 October 2011 Euro Summit, see **Hellenic Republic, Ministry of Finance (2012)**: PSI Launch, Press Release, 21 February. For the final settlement of the PSI, see **Hellenic Republic, Ministry of Finance (2012)**: Press Release, 25 April.

[38] Eurogroup statement on Greece, 27 November 2012 and Hellenic Republic, Ministry of Finance Press Releases, 3, 10 and 12 December 2012.

[39] **Bank of Greece (2013)**: "Governor's Annual Report", February, Table 5A, p. 197, and **IMF Country Report No. 13/20 (2013)**: "First and Second Reviews Under the Extended Arrangement Under the Extended Fund Facility (…)", January, Box 4, p. 84.

[40] As of April 2016, the eligibility of marketable debt instruments issued or fully guaranteed by the Hellenic Republic is governed by the **ECB Decision (EU) 2015/300** (**ECB/2015/6)** (OJ L 53, 25.2.2015, pp. 29-30).

[41] **European Banking Authority (2016)**: "Risk Dashboard: Data as of Q4 2015", April, Statistical Annex, p. 29, **Bank of Greece (2011)**: "Monetary Policy – Interim Report", November, Table V.9, p. 125, **Bank of Greece (2014)**: "Monetary Policy – Interim Report", December, p. 77, and **Bank of Greece (2016)**: "Governor's Annual Report", February, pp. 23 and 188-189.

2. Actions to safeguard the stability of the Greek banking system

2.1 Measures adopted in 2008 (in the middle of the recent international financial crisis)

(a) As already mentioned,[42] the recent international financial crisis did not have a severe impact on the Greek banking system, since Greek credit institutions were not exposed to the risk of holding 'toxic assets' or other crisis-related risks. Thus, the negative effects of that crisis were limited and there was no need for a bank rescue package, in contrast to several other countries, including EU Member States.

The regulatory framework governing banking stability was also robust, fully compliant with the provisions of EU banking law.[43] In particular:

(i) The rules pertaining to micro-prudential banking regulation and supervision were laid down in the principal banking **Law 3601/2007**[44] (and in several BoG Governor's Acts), by virtue of which the two main banking Directives of the European Parliament and of the Council of 14 June 2006 (widely known as the 'Capital Requirements Directive I' or **'CRD I'** package) were transposed into Greek law: **Directive 2006/48/EC** "relating to the taking up and pursuit of the business of credit institutions", and **Directive 2006/49/EC** "on the capital adequacy of investment firms and credit institutions".[45] Guidelines and Recommendations of the Committee of European Banking Supervisors (the **'CEBS'**), of which the BoG was also a member, were important in this respect too.

(ii) On the other hand, deposits with Greek credit institutions were guaranteed by the Hellenic Deposit Guarantee Fund. This Fund was established in 1995 pursuant to **Law 2324/1995**,[46] which incorporated into Greek law **Directive 94/19/EC** of the European Parliament and of the Council of 30 May 1994 "on deposit guarantee schemes".[47] That Law was repealed in 2000 by **Law 2832/2000**[48] which remained into force (as subsequently amended) until March 2016.[49]

(b) Nevertheless, the intensification of the international financial crisis following the bankruptcy of the investment bank *Lehman Brothers Holdings Inc.* on 15 September 2008[50] led to a 'closing' of the international interbank market for several months. The situation was gradually normalised at the beginning of 2009, but, in the meantime, liquidity conditions for credit institutions in Greece (but also globally) were negatively affected.

---

[42] See above, **under 1.3.1 (b)**.

[43] See also above, **under 1.3.1 (a)**.

[44] Government Gazette A 178, 1.8.2007.

[45] OJ L 177, 30.6.2006, pp. 1-200 and 201-255, respectively. In 2007, certain Articles of the first Directive, mainly those on the evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector, were amended by **Directive 2007/44/EC** of the European Parliament and of the Council of 5 September 2007 (the 'Qualifying Holdings Directive', OJ L 247, 21.9.2007, pp. 1-16).

[46] Government Gazette A 146, 17.7.1995.

[47] OJ L 135, 31.5.1994, pp. 5-14.

[48] Government Gazette A 141, 13.6.2000.

[49] See below, **under 3.2.1 (d)**.

[50] On this see indicatively **Claessens, Herring and Schoenmaker (2010)**, pp. 42-45.

Under these conditions, in order to enhance the liquidity of Greek credit institutions amidst this development the Greek government was urged to take initiatives, which led to the adoption of two legal acts by the Hellenic Parliament:

(ba) By virtue of Law **3714/2008**, adopted immediately after Lehman's bankruptcy, the level of deposit guarantee provided by the Hellenic Deposit Guarantee Fund was raised to €100,000 (from €20,000 previously) per depositor (for each credit institution), in order to enhance depositors' confidence in the banking system (successfully averting a potential bank run).[51] In addition, in February 2009, the Fund was transformed into the Hellenic Deposit and Investment Guarantee Fund (the **'HDIGF'**) pursuant to **Law 3746/2009**.[52] This established an 'investor compensation scheme', alongside the 'deposit guarantee scheme', in accordance with the provisions of **Directive 97/9/EC** of the European Parliament and of the Council of 3 March 1997 "on investor compensation schemes".[53]

(bb) In December 2008 the Greek government adopted a 'recovery program' (widely known as 'the 28bn euro package') under **Law 3723/2008** "on the enhancement of liquidity of the economy in response to the impact of the international financial crisis".[54] As indicated by the Law's title, this program was *mainly* aimed at improving liquidity conditions in the banking system through two pillars: the issuance of bank bond guarantees (with commission) worth €15 billion, in order to facilitate Greek credit institutions' fund-raising on international markets, and the issuance of 'special' Greek government bonds (also with commission) worth €8 billion, in order to further bolster liquidity and ensure competitive terms for the provision of loans to small and medium enterprises and of housing loans for households.

Another pillar consisted in a capital support of €5 billion, through capital increases with the issue of preference shares rendering a fixed annual return of 10%.[55] All these support measures fell into the category of state subsidies under EU competition law and were authorised without objections by the Commission as compatible aid under **Article 107(3), point (b) TFEU**.[56]

[51] **Law 3714/2008** (Government Gazette A 231, 7.11.2008), Article 6, amending Article 5(2) of Law 2832/2000.

[52] Government Gazette A 27, 16.2.2009.

[53] OJ L 84, 26.3.1997, pp. 22-31.

[54] Government Gazette A 250, 9.12.2008.

[55] This support was deemed necessary on precautionary grounds, but use thereof was made by all systemically important credit institutions, paving the way for the participation of the Greek government in their capital share and triggering actions of state interventionism.

[56] Decision of the European Commission N 560/08, OJ C/125/6/ 5.6.2009, as continuously prolonged, available at: http://ec.europa.eu/competition/state_aid/ register/ii/doc/N-560-2008-WLWL-en-19.11.2008.pdf. See on this **Boudghene et al. (2011)**, pp. 45-49.

2.2 Measures adopted immediately after the fiscal crisis in the euro area[57]

2.2.1 General overview

After the onset of the euro area fiscal crisis in 2010, however, the need to reinforce the stability of the Greek banking system became imperative. This triggered important initiatives, which made use of:

- ear-marked institutional measures (see below, under 2.2.2 and 2.2.3),
- micro-prudential supervisory and regulatory measures (under 2.2.4),
- reorganisation measures and resolution tools (under 2.2.5).

2.2.2 The Hellenic Financial Stability Fund

(a) The Hellenic Financial Stability Fund (the **'HFSF'**) was established in 2010 by **Law 3864/2010**[58] (subsequently amended several times) as a legal person of private law. The HFSF has full legal capacity and the right to bring an action in court (*locus standi*), does not come under the public sector, enjoys administrative and financial independence, and operates exclusively in accordance with the rules of private economy.[59] Its initial capital had been set at €50 billion from the financial support mechanism for the Greek economy by euro area Member States, the ECB and the International Monetary Fund (the **'IMF'**).[60]

(b) The HFSF's primary objective was (and still is) to maintain the stability of the Greek banking system by strengthening the capital adequacy of domestic credit institutions under the conditions laid down in Law 3864/2010.[61] In pursuing this objective, it has to manage its capital and assets and exercise the rights ensuing from its capacity as shareholder of credit institutions in a way that preserves the value of its assets, minimises risks for Greek taxpayers and does not hamper or distort competition in the banking system.[62] On the other hand, it is not up to the HFSF to provide liquidity to Greek credit institutions, which is granted exclusively by the ECB under its monetary operations[63] and by the BoG through the ELA.

---

[57] For a detailed overview of this period from the BoG's point of view, see **Bank of Greece (2011)**, pp. 55-190.

[58] Government Gazette A 119, 21.7.2010.

[59] **Law 3864/2010**, Article 1. According to the same provision, the purely private-law nature of the HFSF is not prejudiced by the fact that its capital was paid up in full by the Greek State. See also **Commission Decision** of 3 September 2010 on State Aid Case No 328/2010 "Recapitalisation of Credit Institutions in Greece under the Financial Stability Fund (FSF)" (OJ C 316, 20.11.2010, p. 7) (as prolonged).

[60] **Act of Legislative Content**, 19.4.2012, Article 1(1a).

[61] **Law 3864/2010**, Article 2(1).

[62] *Ibid.*, Article 2(2), points (a)-(c).

[63] On this aspect, see **European Central Bank (2011)**.

2.2.3 The Hellenic Council of Systemic Stability

A second major institutional development of that period was the establishment of the Hellenic Council of Systemic Stability, by virtue of **Article 20** of **Law 3867/2010**.[64] Its objective is to analyse the dynamics between the various sectors of the financial system and continuously monitor them in order to proactively address stress situations and crises. *With regard to its scope, this Council operates in accordance with the European Systemic Risk Board's (the* ***'ESRB')*** ***Recommendation*** *of 22 December 2011 "on the macro-prudential mandate of national authorities".*[65]

2.2.4 Micro-prudential supervisory and regulatory measures adopted after the fiscal crisis in the euro area

(I) Stress tests

(a) In 2010, the CEBS and the national banking supervisory authorities of the EU Member States, in close cooperation with the ECB, conducted an EU-wide stress-testing exercise in order to assess the overall resilience of the EU's banking system to major economic and financial shocks.[66] The results of this exercise for the six (6) largest Greek credit institutions which participated in the exercise (representing more than 90% of the Greek banking system's assets as a whole) indicated, under the 'baseline scenario' and on group basis, a net surplus of Tier 1 capital of €3.3 billion above the 6% ratio of Tier 1 capital. Under the 'adverse scenario', including a sovereign shock, the test was passed (on a group basis) by five (5) out of the six (6) participating credit institutions.[67]

(b) The 2011 EU-wide stress-testing exercise[68] was conducted under the coordination of the European Banking Authority (the **'EBA'**), which succeeded the CEBS in January 2011,[69] in cooperation with the banking supervisory authorities of the EU Member States, the ECB, the European Commission and the ESRB.

---

[64] Government Gazette A 128, 3.8.2010. The Council consists of seven (7) members, including the Minister of Finance, the Deputy Minister of Finance, the BoG's Governor and Deputy Governor responsible for financial stability issues, the President of the Hellenic Capital Markets Commission and two persons with specific knowledge of the financial system (currently the Presidents of the HFSF and the Hellenic Bank Association) (**Law 3867/2010**, Article 20(2).

[65] OJ C 41, 14.2.2012, pp. 1-4. The ESRB, established by virtue of **Regulation (EC) 1092/2010** of the European Parliament and of the Council of 24 November 2010 (OJ L 331, 15.12.2010, pp. 1-11), is entrusted with the EU financial system's macro-prudential oversight. The BoG's Governor is a member of the ESRB's General Council (Article 6(1), point (b)).

[66] See CEBS's press release on the results of the 2010 EU-wide stress testing exercise, 23 July 2010, available at: http://stress-test.c-ebs.org/documents/CEBSPressReleasev2.pdf.

[67] See "EU-wide Stress Testing 2010, Results for Greece", available at: http://www.bankofgreece.gr/Pages/en/Supervision/stresstest.aspx.

[68] See EBA's Press Release on the results of the 2011 EU-wide stress test, 15 July 2011, available at: http://stress-test.eba.europa.eu/pdf/2011+EU-wide+stress+test+results+-+press+release++FINAL.pdf.

[69] The EBA is governed by **Regulation (EU) No 1093/2010** of the European Parliament and of the Council of 24 November 2010 (OJ L 331, 15.12.2010, pp. 12-47). On its work see, by mere indication, **Wymeersch (2012)** and **Gortsos (2015a)**, pp. 64-71 (also as regards the most recent amendments to its statutory Regulation).

Two (2) key features distinguished this exercise from the stress tests performed in 2010: firstly, the threshold was set at 5%, compared to 6% in 2010, and secondly, the benchmark definition of capital used was "Core Tier 1 capital" instead of the broader "Tier 1 capital" definition used in 2010.

This exercise concluded that the (same) six (6) largest Greek credit institutions had, under the 'baseline scenario' and on group basis, a capital surplus of €2.44 billion above the 5% ratio of Core Tier 1 capital. Under the 'adverse scenario', before taking into consideration additional mitigating measures, four (4) out of six (6) Greek credit institutions were above the 5% threshold, one was marginally below and one was significantly below (all on a group basis).[70]

(c) Nevertheless, following the completion of BlackRock's audit of Greek banks (see just below) and the PSI exercise, these conditions have been totally reversed and the majority of Greek credit institutions needed to resort to capital increases (and, as a last resort, to the HFSF for recapitalisation) in the course of 2012.[71]

(II) Other supervisory measures

(a) In 2011 the BoG resorted to BlackRock, a specialised external expert company, for a diagnostic study on the loan portfolios of Greek credit institutions in order to identify their exposure to credit risk from non-performing business, mortgage and consumer loans.[72] The study was completed at the end of 2011.

(b) The BoG's micro-prudential supervisory powers were strengthened as well. More specifically, if a Greek credit institution did not meet, according to the BoG, or if there were strong indications that it would not meet, the requirements laid down in Greek law, it might be required to hold own funds in excess of the minimum level, seek prior approval by the BoG of transactions which might be detrimental to its solvency, perform a recovery plan and/or increase its capital.[73]

(III) Micro-prudential regulatory measures

(a) By virtue of **Laws 4002/2011** and **4021/2011**,[74] the framework governing micro-prudential banking regulation and supervision was enhanced, to the extent that two **Directives** of the European Parliament and of the Council (**2009/111/EC** and **2010/76/EU**[75]) were transposed into Greek law, amending the principal banking **Law (3601/2007)** and in the relevant BoG Governor's Acts.

---

[70] See "EU-wide Stress Testing Exercise 2011, Results for Greece", available at: http://www.bankofgreece.gr/Pages/en/Bank/News/PressReleases/DispItem.aspx?Item_ID=3682&List_ID=1af869f3-57fb-4de6-b9ae-bdfd83c66c95&Filter_by=DT.

[71] See below, **under 2.3.1**.

[72] Bank of Greece Governor's **Act 2643/6.9.2011**. Bank of Greece Governor's Acts are available at: http://www.bankofgreece.gr/Pages/el/Bank/legal/Acts.sspx.

[73] Law 3601/2007, Article 62(1)-(2). See on this also **Bank of Greece (2014)**, pp. 50-52.

[74] Government Gazette A 180, 22.8.2011 and A 218, 03.10.2011, respectively.

[75] OJ L 302, 17.11.2009, pp. 97-119, and OJ L 329, 14.12.2010, pp. 3-35, respectively.

Children of the recent (2007-2009) international financial crisis, these Directives substantially amended core provisions of, and inserted new provisions (in particular on remuneration policies) into, the principle (at the time) above-mentioned EU banking Directives 2006/48/EC and 2006/49/EC (the CRD I).[76]

(b) Based on the timetable for the implementation of the "Memorandum of Economic and Financial Policy",[77] the BoG also demanded Greek credit institutions to develop and implement medium-term funding plans and maintain a minimum Core Tier 1 capital ratio of 9% (as of 1 October 2012) and 10% (as of 1 July 2013).[78]

2.2.5 Reorganisation measures and resolution tools

(I) Introductory remarks

The above-mentioned **Law 4021/2011** reinforced the principal banking **Law (3601/2007)** on the reorganisation of Greek credit institutions and laid down the (first) legal framework on their resolution. In particular, this Law (as amended by **Law 4051/2012**[79]) introduced provisions with regard to:

- the conditions under which a Commissioner to a distressed credit institution (as the main reorganisation measure under Greek banking law) might be appointed by the BoG, along with a definition of his/her powers,
- the resolution tools to be implemented by the Minister of Finance and/or the BoG (see below, **under (II)**), and
- the creation of a 'resolution fund' (**under (III)**).[80]

In addition, pursuant to the Bank of Greece Governor's **Act 2653/29.2.2012**, a 'Resolution Unit' was established within the BoG.[81]

(II) Resolution tools

Law 4021/2011 introduced three (3) resolution tools, which could be initiated by the BoG for the sake of protecting financial stability and boosting public confidence in the banking system.[82] Specific provisions were governing the conditions under which these tools could be activated, such as the impossibility of taking alternative measures of equivalent effect:[83]

---

[76] In that sense, Directives 2009/111/EC and 2010/76/EU are known with the acronyms 'CRD II' and 'CRD III'. On 'CRD IV', adopted in 2013, see below, **under 3.1.3 (a)**.

[77] Greece – Memorandum of Economic and Financial Policies, May 3, 2010, p. 66.

[78] Bank of Greece Governor's **Act 2654/29.2.2012**.

[79] Government Gazette A 40, 29.2.2012.

[80] The provisions of Law 4021/2011 on bank resolution (Articles 1-4) were adopted on the basis of the "Fourth Review Under the Stand-By Arrangement and Request for Modification and Waiver of Applicability of Performance Criteria" of the IMF Country Report No. 11/175 (July 2011).

[81] See on this **Bank of Greece (2014)**, pp. 168-169.

[82] **Law 4021/2011**, Article 4, adding Article 63B to Law 3601/2007.

[83] *Ibid.*, Article 4, adding Articles 63C, 63D and 63E-63F, respectively, to Law 3601/2007.

(a) A capital increase of the credit institution by decision of the Commissioner following a request by the BoG. Existing shareholders were not allowed to exercise their right of preference in this case.

(b) The sale of specific assets and liabilities of an insolvent credit institution to another credit institution or another legal entity and, in principal, the withdrawal of the former's authorisation, which was set under liquidation (the 'sale of business tool').

(c) The establishment of a 'bridge bank', by decision of the Minister of Finance, upon a BoG proposal on grounds of public interest (the 'bridge bank tool'). Bridge banks, to which specific assets and liabilities of an insolvent credit institution are transferred (while the latter's authorisation is withdrawn and it is set under liquidation) should, in principle, operate for a period of up to two (2) years and then be sold to another credit institution.

(III) The Hellenic Deposit and Investments Guarantee Fund's 'resolution scheme'

In accordance with **Article 7** of **Law 4021/2011**, a 'resolution scheme' was established in 2011, as the third pillar of the HDIGF. This scheme, which is the only one which was not (yet) premised on EU financial law, was independent from the other two pillars (the deposit guarantee scheme and the investor compensation scheme) and provided funding either in the case of activation of the sale of business tool or for a bridge bank were to be established.

Nevertheless, for a transitional period it was the HFSF which covered the resolution funding gap rather than the HDIGF.[84] This decision was taken in view of the significant amount of funds that would potentially be required (and, as a matter of fact, have been required) in order to cover the resolution funding gap of several credit institutions, including larger ones (see **Table 2** below).

2.3 The first two Greek bank recapitalisations and the first round of bank resolutions

2.3.1 The first (2012) recapitalisation exercise as a result of the debt write-down with private sector involvement (PSI)

In 2012, in the context of the Greek sovereign debt write-down and debt buyback operation as a result of credit institutions' inclusion in the PSI, Greek credit institutions suffered losses on account of Greek sovereign bonds held in their portfolios. As a result, on 20 April, the four (4) largest and systemically important Greek credit institutions announced losses of €27.9 billion,[85] which totally depleted their regulatory own funds and led to their recapitalisation by public funds through the HFSF.

2.3.2 The second (2014) recapitalisation exercise

(a) The fiscal crisis continued even in 2013 to have a severe negative impact on credit institutions' liquidity, balance sheets and financial results. In more detail, their assets continued to be negatively affected by the continuing rise in NPLs as a result of the cumulatively big recession that began in late 2008 and has been ongoing.

[84] **Law 4051/2012**, Article 9(12), amending Law 3864/2010.

[85] See above, **under 1.3.2 (b)(iii)**.

At the same time, there was a sharp decline in deposits (deposits held by domestic households and enterprises dropped from €228 billion in December 2008 to €164 billion in November 2014), thus directly impacting bank liquidity. In addition, on account of their low credit ratings, Greek credit institutions lost access to both the interbank market and the capital market and thus their ability to raise funds through bond issuance; as a result, their liquidity shortage further deteriorated.

(b) In April 2014, following a stress test conducted by the BoG, in compliance with a relevant commitment under the second Memorandum of Understanding, the second recapitalisation of the four (4) systemically important credit institutions was completed. In particular, €8.3 billion were raised through the private sector, compared with capital needs calculated at €5.8 billion under the stress test's baseline scenario. Following the successful completion of that second recapitalisation exercise, Greek credit institutions could once again return to international capital markets and raise funds through bond issuance. Gradually, since May 2014, ELA financing, which peaked in November 2012 (at €123.3 billion), essentially fell to zero, albeit temporarily as it would later turn out (see **Table 1** below).[86]

2.3.3 The first (extensive) round of bank resolutions

(a) In the period 2011-2014, the sale of business and the bridge bank (resolution) tools, which were established, as already mentioned,[87] in order to ensure the continuity of critical banking functions services and, hence, safeguard financial stability and protect depositors and investors, were used in twelve (12) cases.[88]

If insolvency problems arise, competent authorities are faced with a 'trilemma':

- *to bail-out undercapitalised (usually systemically significant) credit institutions by using taxpayers' money, judging that a withdrawal of their authorisation would have significant 'systemic consequences',*
- *to resolve insolvent credit institutions through the competent resolution authorities, or*
- *to withdraw their authorisation, wind them up and, subsequently, activate deposit guarantee schemes.*

Resolution actions are put in place in order to ward off the moral hazard in case of systemically important credit institutions, the winding up of which would endanger the stability of the banking (and, more generally, the financial) system, and, in addition, to prevent having to resort to a government bailout.

(b) This development drastically altered the Greek banking system landscape. In all these cases:

(i) The credit institutions resolved were considered to be non-viable and, concurrently, not systemically important.

(ii) These credit institutions were placed under liquidation, following the withdrawal of their license.

[86] See also below, **under 3.2.2 (b)**.

[87] See above, **under 2.2.5 (II)**.

[88] See on this **Bank of Greece (2014)**, pp. 174-183.

(iii) The deposit guarantee scheme was not activated, because, just before the license withdrawal, their viable property items (including all of their deposits and not only those covered by the deposit guarantee scheme) had been transferred to the one of the four (4) systemically important credit institutions (see **Table 2** below).[89]

3. The impact of the European Banking Union's establishment

3.1 The new institutional and regulatory framework

3.1.1 General overview

(a) The creation of a 'European Banking Union' (the **'EBU'**) is a very ambitious political initiative, which was tabled at the Euro Area Summit of 29 June 2012, amidst the current fiscal crisis in the euro area. The establishment of the EBU was aimed at creating a 'Europeanised bank safety net' to *"break the vicious circle between banks and sovereigns"*[90] consisting of three 'main' pillars:

- a Single Supervisory Mechanism exclusively for the banking system (*i.e.* not for the other two sectors of the financial system, insurance and securities) and mainly for credit institutions legally incorporated in euro area Member States, with regard to their micro-prudential supervision,
- a Single Resolution Mechanism for the resolution of unviable credit institutions (also mainly incorporated in euro area Member States), and a Single Resolution Fund to be used in order to ensure the effective application of resolution tools if a decision is made on the resolution of such credit institutions, and
- a single deposit insurance scheme.

The new EU institutional framework on the EBU should be coupled with a 'single rulebook' containing substantive rules on the prudential regulation and supervision of credit institutions, their recovery and resolution, and the guarantee of bank deposits.

(b) The most significant institutional and regulatory developments towards establishing the EBU took place in the course of 2013 and 2014 and with the exception of the creation of a single deposit insurance scheme (which is still pending), all the other components are in place. In this respect it is also worth noting the following:

(i) The three main pillars of the EBU, notably the new EU mechanisms and funds, are a by-product of the fiscal crisis in the euro area and are designed to *apply mainly (but not exclusively) to the euro area Member States* (see below, **under 3.1.2**).

[89] The bridge bank tool was activated only in two cases, nevertheless the first time *immediately* after the entry into force of Law 4021/2011 in the case of the resolution of 'Proton Bank', whose license was withdrawn and the bridge bank 'New Proton Bank' was simultaneously set up (Decision of the Minister of Finance 9250/9.10.2011 and Decision 20/9.10.2011 of the Bank of Greece's Credit and Insurance Committee. The second time was in January 2013 for the resolution of 'TT Hellenic Postbank', whose license was withdrawn as well and the bridge bank 'New TT Hellenic Postbank' was simultaneously set up (Decision of the Minister of Finance 95/18.1.2013 and Decision 7/18.01.2013 of the Bank of Greece's Resolution Measures Committee).

[90] **Euro Area Summit Statement, 29 June 2012**, first paragraph, first sentence, available at: http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/131359.pdf.

(ii) On the other hand, the 'single rulebook', adopted by the European Parliament and the EcoFin Council and further detailed by the European Commission and the EBA is *applicable across all EU Member States*.[91] It is a child of the recent international financial crisis, its content is substantially influenced by developments in international financial law, is part of the single market for financial services and is based on a 'total harmonisation approach' (**under 3.1.3**).

(c) Of significant importance is also the provision of direct public financial assistance to credit institutions by the European Stability Mechanism (the **'ESM'**) under the 'Direct Recapitalisation Instrument' (the **'DRI'**). This instrument entered fully into operation on **8 December 2014**, after the requisite national procedures were completed by the euro area Member States, by means of a unanimous **Resolution of the ESM Board of Governors**.[92] On the same day, the ESM Board of Directors adopted a Guideline on the modalities, including, *inter alia*, the eligibility criteria for the requesting ESM Member and the credit institution concerned, and the allocation of specific tasks to the Managing Director of the ESM, the Commission, the ECB and, wherever appropriate, the IMF, for providing financial assistance in the form of DRI.[93]

3.1.2 The institutional framework[94]

(a) As regards the establishment of a European supervisory authority for the banking system, the Council adopted **Regulation (EU) No 1024/2013** of 15 October 2013 "conferring specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions".[95] This Regulation, the **'SSMR'**, adopted on the basis of **Article 127(6) TFEU**, establishes a Single Supervisory Mechanism (the **'SSM'**) for credit institutions and some types of holding companies operating *mainly* in the euro area Member States,[96] which became operative on **4 November 2014**. This institutional development alleviated, at least for the euro area, the asymmetry between, on the one hand, banking micro-prudential supervision, which was conducted for all credit institutions at national level, and, on the other hand, prudential regulation, which had already been gradually Europeanised.

---

[91] On the single rulebook as a body of EU law, see **Lefterov (2015)**, pp. 4-22.

[92] This ESM Resolution is available at: http://www.esm.europa.eu/pdf/Establishment%20of%20the%20instrument%20for%20the%20direct%20recapitalisation%20of%20insti%20.pdf.

[93] This ESM Guideline is available at: http://www.esm.europa.eu/pdf/20141208%20Guideline%20on%20Financial%20Assistance%20for%20the%20Direct%20Recapitalisation%20of%20Institutions.pdf. On this new ESM instrument see **European Stability Mechanism (2014)**, **Hadjiemmanuil (2015)**, pp. 29-34 and **Vovolinis (2015)**.

[94] The legal acts of this institutional framework (as in force in mid-2015) are laid down in **Binder and Gortsos (2015)**, pp. 77-368.

[95] OJ L 287, 29.10.2013, pp. 63-89.

[96] Member States with a derogation may establish a 'close cooperation' with the SSM under the conditions laid down in **Article 7 SSMR**. In such a case, all credit institutions incorporated in their jurisdiction will be directly supervised by the ECB, in accordance with **Articles 2, point (1), and 7(1) SSMR**.

The institutional framework pertaining to the SSM is further specified in several ECB legal acts governing the detailed operational arrangements for the implementation of the tasks conferred upon it by the SSMR.[97] *The most important is* ***Regulation (EU) No 468/2014*** *of the ECB of 16 April 2014 "establishing the framework for cooperation within the SSM between the European Central Bank and national competent authorities and with national designated authorities ('SSM Framework Regulation')* ***(ECB/2014/17)****"*.[98]

(b) In addition, a European Single Resolution Mechanism (the **'SRM'**) for non-viable credit institutions (and investment firms) and a European Single Resolution Fund (the **'SRF'**) to fill in any funding gaps that might result from a resolution were created by virtue of two legal acts adopted in 2014 and became operative on **1 January 2016**:[99]

(i) The first is **Regulation (EU) No 806/2014** of the European Parliament and of the Council of 15 July 2014 "establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund (...)" (the **'SRMR'**).[100] This Regulation, adopted under **Article 114 TFEU** and entered into force on **19 August 2014**, is a necessary complement to the SSMR, as it would be a paradox, if credit institutions were directly supervised (by the ECB) at European level, but, in the event of a need for resolution, the relevant decision were to be made at national level.

The adoption of all decisions pertaining to the resolution of significant credit institutions directly supervised by the ECB are taken by the Single Resolution Board (the **'SRB'**),[101] which was established in accordance with **Article 42 SRMR**.

(ii) The second legal act is the **Intergovernmental Agreement** signed by twenty-six (26) EU Member States "on the transfer and mutualisation of contributions to the Single Resolution Fund"[102], which was established under **Article 67(1) SRMR**.[103]

(c) At the initial stage, the prospect of establishing a European Deposit Insurance Scheme (the **'EDIS'**), as the third main pillar of the EBU, had only been discussed in terms of 'high-level politics'. Accordingly, no specific regulatory proposals had been tabled by the European Commission on this field and DGSs still remain national, even though their merger or the establishment of cross-border DGSs is not ruled out. Nevertheless, in 2015 there was substantial progress:

[97] For an overview see **Gortsos (2015a)**, pp. 71-83.

[98] OJ L 141, 14.5.2014, pp. 1-50. The entire SSM framework is analysed in **Gortsos (2015a)**, with extensive further references.

[99] On the SRM framework see **Gortsos (2016)**, with extensive further references.

[100] OJ L 225, 30.7.2014, pp. 1-90.

[101] **SRMR**, Article 7(2). The same applies to less significant credit institutions to the extent that a resolution action requires the use of the SRF (*ibid*., Article 7(3), second sub-paragraph).

[102] The text of this Intergovernmental Agreement can be accessed at: http://register.consilium.europa.eu/content/out?lang=EN&typ=ENTRY&i=SMPL&DOC_ID=ST%208457%202014%20COR%201.

[103] On the SRB see **Gortsos (2016)**, pp. 55-82.

(i) In principle, the establishment of an EDIS was laid down in the "Five Presidents' Report" of **22 June 2015** entitled: "Completing Europe's Economic and Monetary Union", which is included in the framework of the proposals on the creation of an (EU) **'Financial Union'**.[104] According to this Report, and a Commission's follow-up Communication of 21 October 2015,[105] an EDIS would increase the resilience against future crises, and is also more likely to be fiscally neutral over time than national DGSs, since risks are spread more widely and private contributions are raised over a much larger pool of financial institutions.

(ii) Then, on **24 November 2015**, the Commission submitted a proposal for a Regulation of the European Parliament and of the Council "amending Regulation EU No 806/2014 in order to establish a European Deposit Insurance Scheme".[106] Under the Commission's proposal, the legal basis for this Regulation should also be **Article 114 TFEU**,[107] since the Regulation is intended to amend the SRMR. The EDIS is planned to be introduced gradually, in three stages.

The proposal includes a series of strict safeguards and is accompanied by a Communication setting out measures to reduce risks, such as future proposals to ensure that credit institutions' exposures to individual sovereigns risk is sufficiently diversified. A European Deposit Insurance Fund (the **'EDIF'**) will also be created from the outset. It will be financed directly by risk-adjusted credit institutions' contributions. The EDIF's management would be entrusted to the SRB.

3.1.2 The single rulebook

(a) On 26 June 2013, the following two (2) legal acts of the European Parliament and of the Council were published in the EU *Official Journal*:

- **Regulation (EU) No 575/2013** "on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012" ('Capital Requirements Regulation' or **'CRR'**),[108] and

- **Directive 2013/36/EU** "on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (...)" ('Capital Requirements Directive IV' or **'CRD IV'**).[109]

These two legal acts, adopted under **Articles 114** and **53(1) TFEU**, respectively, and in force since **1 January 2014**, set the framework governing (mainly) access to activity of the business of credit institutions (granting and withdrawal of authorisation, as well as the exercise of the right of establishment and the freedom to provide services in the

[104] This study is available at: http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf.

[105] This is available at: http://ec.europa.eu/finance/general-policy/docs/banking-union/european-deposit-insurance-scheme/151124-communication_en.pdf.

[106] This proposal is available at: http://ec.europa.eu/finance/general-policy/docs/banking-union/european-deposit-insurance-scheme/151124-proposal_en.pdf.

[107] On the suitability of Article 114 TFEU as legal basis for adopting the proposed Regulation, see the Opinion of the Legal Service of the Council of the EU, Interinstitutional File 2015/0270 (COD), 7862/16, 12 April 2016.

[108] OJ L 176, 27.6.2013, pp. 1-337.

[109] OJ L 176, 27.6.2013, pp. 338-436.

single market), micro-prudential supervision of credit institutions, and micro- and macro-prudential regulation of credit institutions.

(b) Almost one year later, on 16 April 2014, **Directive 2014/49/EU** of the European Parliament and of the Council "on deposit guarantee schemes"[110] (the **'DGSD'**) was adopted also as part of the single rulebook. It repealed the above-mentioned **Directive 94/19/EC** of the same EU institutions,[111] which remained applicable **until 3 July 2015**. Its legal basis being **Article 53(1) TFEU**, the DGSD lays down rules and procedures on the establishment and functioning of national DGSs in Member States, it substantially modifies certain aspects of Directive 94/19/EC and it contains several innovative elements.[112]

(c) Finally, on 15 May 2014, the European Parliament and the Council adopted **Directive 2014/59/EU** "establishing a framework for the recovery and resolution of credit institutions and investment firms (...)" (the **'BRRD'**).[113] This Directive, adopted under **Article 114 TFEU** and (with some exceptions) applicable from **1 January 2015**, contains provisions on three (3) main aspects:

- preparatory measures, including recovery and resolution planning, and intra-group financial support agreements (**Articles 4-26**),
- early intervention measures, including the appointment of a special administrator (**Articles 27-30**), and
- resolution tools and powers (**Articles 31-86**).

The BRRD, which divides all these measures into two categories ('crisis prevention' and 'crisis management measures'), applies, just like the CRR and the CRD IV, both to EU credit institutions and investment firms.

3.2 The impact on the Greek banking system

3.2.1 Institutional and regulatory developments

(a) As of **4 November 2014**, the four (4) Greek systemically important credit institutions ('significant' in the terminology of the SSMR) are being directly supervised, pursuant to that Regulation,[114] by the ECB. The BoG, a member of the SSM, remains the supervisory authority for the less significant Greek credit institutions,[115] including Attika Bank (the fifth largest credit institution) and several cooperative credit institutions.

---

[110] OJ L 173, 12.6.2014, pp. 149-178.

[111] See above, **under 2.1 (a)(ii)**.

[112] This legal act is analysed in **Gortsos (2014)**.

[113] OJ L 173, 12.6.2014, pp. 190-348. On this Directive see **Binder (2015)**.

[114] **SSMR**, Article 6(4).

[115] *Ibid*., Article 6(6). However, if necessary in order to ensure consistent application of 'high supervisory standards', the ECB may, at any time, decide to exercise directly the supervision of a less significant supervised entity (*ibid*., Article 6(5), point (b)).

(b) The SRM is in full operation as of **1 January 2016**. This implies that any potential resolution actions pertaining to significant Greek credit institutions (as in general to all entities directly supervised by the ECB) would be taken by the SRB. The BoG is a member of the SRM and has the tasks laid down in the SRMR.[116]

(c) Since the SRF is also in full operation as of **1 January 2016**, the 'resolution scheme' of the HDIGF[117] has, from that date onwards, become one of its compartments and must gradually transfer the contributions raised at national level thereto.[118]

(d) Finally, the three above-mentioned EU Directives which are part of the single rulebook have been transposed into Greek law (the two latter though with a substantial delay). In particular:

(i) The CRD IV (Directive 2013/36/EU) was transposed in May 2014 by **Law 4261/2014**,[119] which repealed the principal banking Law 3601/2007.[120]

(ii) The BRRD (Directive 2014/59/EU) was transposed in July 2015 by **Article 2** of the new resolution **Law 4335/2015**.[121] Use of the (novel for the Greek legal order) bail-in resolution tool (governed by Articles 43-55 of Law 4335/2015) could be made only as of 1 January 2016.[122]

(iii) Finally, the DGSD (Directive 2014/49/EU) was transposed in March 2016 by **Law 4370/2016**,[123] which repealed Law 2832/2000.[124]

3.2.2 The third (2015) recapitalisation exercise in the European Banking Union era

(a) In preparation for the exercise of its (new) supervisory tasks within the SSM, the ECB conducted since January 2014, in collaboration with the national competent authorities and supported by the private company *Oliver Wyman Consultants*, a Comprehensive Assessment of the credit institutions and supervised groups to be directly supervised by it,[125] consisting of three (3) components:

- a 'Supervisory Risk Assessment' to review, quantitatively and qualitatively, key risks, including liquidity, leverage and funding,

[116] **SRMR**, Article 7(3).

[117] See on this above, **under 2.2.5 (III)**.

[118] **SRF Agreement**, Articles 4 and 1(1), respectively.

[119] Government Gazette A 107, 5.5.2014.

[120] See above, **under 2.1 (a)(i)**.

[121] Government Gazette A 87, 23.7.2015. *Inter alia*, this law repealed Articles 139-144 of Law 4261/2014 on bank resolution, which were based on the initial bank resolution regime established by Law 4021/2011 (see above, **under 2.2.5 (II)**).

[122] **Law 4335/2015**, Article 3(1), first sentence. See also below, **under 3.2.3 (b)**.

[123] Government Gazette A 37, 7.3.2016.

[124] See above, **under 2.1 (a)(ii)**.

[125] These credit institutions were identified in the **ECB Decision 2014/123/EU** of 4 February 2014 **(ECB/2014/3)** (OJ L 69, 08.03.2014, pp. 107-111).

- an 'Asset Quality Review' (the **'AQR'**) to enhance the transparency of bank exposures by reviewing the quality of banks' assets, including the adequacy of asset and collateral valuation and related provisions,[126] and
- a 'stress test', in collaboration with EBA, to examine the resilience of banks' balance sheet to stress scenarios.

The results of this exercise were published **on 26 October 2014** and are contained in the ECB's "Aggregate Report on the Comprehensive Assessment".[127] The finding was that the four (4) significant Greek credit institutions, which took part in the exercise, were not short of capital even under the dynamic balance sheet assumption.

(b) Since December 2014, however, mainly as a result of domestic political and economic uncertainty conditions, deposit outflows further accelerated. It is indicative that between December 2014 and January 2015, households' and firms' deposits declined by €16.2 billion. This trend continued up to June 2015.

On aggregate, in the December 2014 – November 2015 period, deposits held by households and enterprises decreased by €43.4 billion; 97% of this decrease was recorded between December 2014 and June 2015.[128] In addition, during the period from December 2014 to December 2015, ELA financing surged again from €1.1 billion to €68.9 billion.[129]

In the meantime, the protracted negotiations between Greece and its lenders during the first semester of 2015 and the imposition of capital controls in June 2015, along with the substantial outflow of deposits and the constantly increasing ratio of NPLs against the backdrop of a worsening economic environment necessitated another bank recapitalisation, on top of the two previous ones in 2012 and 2014.

(c) In October 2015, the ECB conducted a new Comprehensive Assessment of the four (4) significant Greek credit institutions, in accordance with the conclusions of the 12 July 2015 EU summit and the Financial Assistance Facility Agreement signed on 19 August 2015. In the context of this Comprehensive Assessment, another AQR and a second stress test exercise were conducted, the latter containing a baseline scenario and an adverse scenario in order to evaluate the recapitalisation needs of individual credit institutions. In total, the stress test found the participating Greek credit institutions (and Attica Bank) to be short of €5.2 billion under the baseline scenario and €15.4 billion under the adverse scenario, i.e. at 21% and 62% respectively of the amount of €25 billion initially included in the above-mentioned Agreement for bank recapitalisations.

(d) Under these circumstances, the new resolution **Law 4335/2015**, which, as already mentioned,[130] incorporated into Greek law the BRRD, was activated the first time. This provides[131] that the resolution authority, i.e. the BoG, must take a resolution action in relation to each of these credit institutions if it considers that the following conditions were met cumulatively (for a summary, see **Table 3** below):

---

[126] On the legal aspects of this review, see **Joosen (2014)**.

[127] See on this **European Central Bank (2014)**.

[128] **Bank of Greece (2016)**: "Governor's Annual Report", February, p. 174.

[129] *Ibid.*, Annex, p. 22.

[130] See above, **under 3.2.1 (d)(ii)**.

[131] **Law 4335/2015**, Article 2, internal Article 32(1).

(i) The determination by the competent (supervisory) authority that a credit institution was failing or was likely to fail; according to the above-mentioned under (b), this condition was met for all credit institutions.[132]

(ii) A resolution action was necessary in the 'public interest', i.e. it was not advisable to wind up a credit institution under normal insolvency procedures; this condition was met for all credit institutions as well.

(iii) There was no reasonable prospect that any 'alternative private sector measures' (i.e. recapitalisation with the use of private funds) or 'supervisory action' (including early intervention measures or write-down/conversion of relevant capital instruments taken in respect of the institution) would prevent the failure of a credit institution within a reasonable timeframe. Hence, the four (4) significant credit institutions submitted their respective capital plans to the ECB, and Attica Bank to the BoG, detailing how they intended to address their capital shortfalls,

(e) Given that alternative private sector measures were available for all of them, no credit institution was resolved. The recapitalisation process with the use of private funds was completed successfully with substantial participation by foreign investors, who placed around €5.3 billion in the significant credit institutions. An additional €2.7 billion was covered through liability management exercises (voluntary bond swap offers to bank bondholders). The necessary additional funds for the two credit institutions that did not fully cover their capital needs from private sources (€5.4 billion) were drawn from the HFSF[133] in accordance with the conditions laid down in **Article 1** of **Law 4340/2015**, which amended the principal HFSF Law 3864/2010.[134]

3.2.3 The second (limited) round of bank resolutions in 2015

During 2015, bank resolutions continued, albeit on a limited scale, with the use of the 'sale of business tool (see also **Table 2** below). In particular:

---

[132] According to **Law 4335/2015, Article 2, internal Article 32(4)**, a credit institution is deemed to be failing or likely to fail if, *inter alia*, extraordinary public financial support is required, *except when*, in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability, the extraordinary public financial support takes, *inter alia*, the form of an injection of own funds or purchase of capital instruments at prices and on terms that do not confer an advantage upon the credit institution concerned. In this case, support measures must be limited to injections necessary to address capital shortfalls established in national, EU or SSM-wide stress tests, AQRs or equivalent exercises conducted by the ECB, the EBA or national authorities confirmed by the competent authority, where applicable.

In this context, **Article 8(1) of the Guideline** pertaining to the modalities of the DRI (see above, **under 3.1.1 (c)**) stipulates that it is strictly prohibited to use the DRI as a precautionary instrument according to the above-mentioned.

[133] See on this the relevant press releases of the ESM available at: http://www.esm.europa.eu/press/releases/esm-board-of-directors-approves-2.72-billion-disbursement-to-recapitalise-piraeus-bank-of-greece-.htm, and http://www.esm.europa.eu/press/releases/esm-board-of-directors-approves-2.71-billion-disbursement-to-recapitalise-national-bank-of-greece.htm.

[134] Government Gazette A 134, 1.11.2015. See also the delegated **Act of Governmental Council 36** of 2 November 2015 (Government Gazette A 135, 2.11.2015).

(a) The first credit institution resolved was "Panellinia Bank", a commercial bank whose shareholders were all Greek cooperative banks.[135] This resolution action took place in April and was the last bank resolution conducted under the initial resolution regime (**Article 63D** of **Law 3601/2007**).[136]

(b) In late December, the "Cooperative Bank of Peloponnese" became the first Greek credit institution to have been resolved[137] under the new resolution **Law 4335/2015**. It is worth mentioning that in this case the credit institutions' liabilities were not bailed-in, since resort to this resolution tool could only be made as of 1 January 2016.[138]

Concluding remarks

1. As analysed in this study, the Greek banking system belongs to the group of countries which did not burden the Greek state during the recent (2007-2009) international financial crisis, but was rather a victim of the latter's over-indebtedness and the subsequent fiscal crisis in the euro area. During this crisis, the Greek banking system has been completely transformed following the resolution of fourteen (14) credit institutions (including two traditionally large ones) and the three recapitalisation rounds of the four (4) systemically important ones.[139]

2. Taking into account all the above-mentioned parameters, in the current conjuncture the main challenges for the Greek banking system are as follows:

(a) The first challenge is the preservation of its (few) remaining credit institutions' solvency. To a large extent this is linked to the development of the still extremely vulnerable Greek economy, but also heavily depends with the resolution of the problem related to the large stock of NPLs. In this respect, they face challenges dealing with legal and judicial weaknesses (moratoria on auctioning collateral, seniority of state claims over banks' claims, and long waiting times for court appointments), the break-down of the real estate market, and the potential lack of human and administrative resources. Initial steps have been taken to improve the effectiveness of NPL resolution activities by updating the household insolvency law and introducing the "Facilitation Program," a medium-term forbearance scheme for over-indebted households.

---

[135] Decision 136/1/17.4.2015 of the Bank of Greece's Credit and Insurance Committee (Government Gazette B 633, 17.4.2015).

[136] See above, **under 2.2.5 (II)(b)**.

[137] Decision 173/18.12.2015 of the Bank of Greece's Credit and Insurance Committee (Government Gazette B 2762, 18.12.2015).

[138] See also above, **under 3.2.1 (d)(ii)**.

[139] This apart, and for the sake of completeness, during this crisis the Greek subsidiaries of three foreign credit institutions (namely, Emporiki Bank, Geniki Bank and Millennium Bank) were acquired by two of the Greek systemically important credit institutions. In addition, during the Cypriot banking crisis of 2013, the assets and liabilities of three Cypriot credit institutions' branches in Greece (Bank of Cyprus, Cyprus Popular Bank and Hellenic Bank) were transferred to a Greek systemically important credit institution, in the context of an action orchestrated by the BoG in order to insulate the Greek banking system from negative spillover effects of the Cypriot crisis (see on this **Bank of Greece (2014)**, p. 183).

Further steps are needed, including enhancing debt enforcement and collateral recovery and designing an effective out-of-court restructuring mechanism.[140] There is no doubt that this is a *conditio sine qua non* for resuming their role in granting credit to viable enterprises in order to support, as much as possible, the Greek economy's growth.

(b) The second challenge is on the front of liquidity. Maintaining the current levels of liquidity is also a *conditio sine qua non*, while the predominant task refers to the creation of favourable macro- and micro-economic conditions for the return of deposits and the gradual access of Greek credit institutions to ECB and market funding. This would allow them to reduce their disproportionally high (and extremely costly) ELA financing exposure and return to normal lending activities, especially to viable business seeking for borrowed funds.[141]

(c) Greek credit institutions are also taking significant deleveraging initiatives consisting in disposing assets, selling non-core foreign assets, cutting claims on foreign financial institutions, and reducing holdings in capital market instruments.[142] In any event, the primary objective is, for a long time now, the preservation, *to the extent possible*, of private ownership in the banking system.[143]

3. Turning, finally, to the recent EU institutional and regulatory developments pertaining to safeguarding banking system stability, the guiding objective of which is to break the vicious circle between banks and sovereigns, the author's opinion is that the objective banking stability can partly be achieved only through an appropriate design of the 'bank safety net'. Sound (national) fiscal and (EU) monetary policies are also indispensable (an issue obviously outside the reach of this paper).

It is also important to start addressing carefully and consistently the need to overhaul the 'fundamental asymmetry' within the EU economic and monetary union.[144] In that sense, the author views the establishment of the EBU not only as a goal *per se*, alleviating, at least for the euro area, the second asymmetry between, on the one hand, banking micro-prudential supervision, which was conducted for all credit institutions at national level, and, on the other hand, prudential regulation, which had already been gradually Europeanised, but also as a catalyst to enhance the appropriate consistency, at euro area level, in the conduct of the two main macro-economic policies, notably monetary and fiscal.

---

[140] On the development NPLs and the link between financial development and the credit cycle in Greece, see indicatively **Konstantakis, Michaelides and Vouldis (2016)**, as well as **Haliassos, Hardouvelis, Tsoutsoura and Vayanos (2016)**, respectively.

[141] There is no doubt, nevertheless, that apart from the demand for *working* capital most businesses are, given the prolonged recession of the economy, in search of own funds which cannot be satisfied directly by the banking system.

[142] **IMF Country Report No. 12/57 (2012)**, p. 7 (which is still accurate).

[143] *Ibid*., pp. 1 and 118.

[144] This asymmetry consists in the fact that, while monetary policy has been centralised at euro area level **(Article 127 TFEU)**, fiscal policies, even within the euro area, still remain national **(Article 120 TFEU)**, under the constraints laid down by the Treaties in the principles of economic coordination **(Article 121 TFEU)** and fiscal discipline **(Articles 123-126 TFEU)**. On this aspect see indicatively **Lastra and Louis (2013)**, pp. 35-71.

TABLE 1 Lending to Greek credit institutions related to monetary policy operations denominated in euro and other claims (emergency liquidity assistance-ELA) (in million euro)								
End-December	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**
Lending to Greek credit institutions related to monetary policy operations denominated in euro	38,355	49,655	97,669	76,120	19,347	63,226	56,039	35,918
Other claims on Greek credit institutions denominated in euro (emergency liquidity assistance-ELA	76,800	72,800	71,600	52,009	101,851	9,791	1,095	77,488
TOTAL	**38,432**	**49,728**	**97,740**	**128,129**	**121,198**	**73,017**	**56,040**	**113,406**
Source: *Bank of Greece, Financial Statements, Annual Accounts and Monthly Balance Sheets.*								

TABLE 2 **Amounts drawn from the HFSF and/or HDIGF towards covering the financing gaps resulting from the transfer of property items of non-viable credit institutions and recapitalising interim credit institutions**				
Resolved credit institution	**Tool**	**Date (m/y)**	**Amount (€)**	**Purpose**
Proton Bank *	Bridge bank	10/2011	259,621,860	Financing gap
Proton Bank *	Bridge bank	10/2011, 01/2013	910,000,000	Capital
T-Bank	Transfer of property items to TT Hellenic Postbank	12/2011	226,956,514	Financing gap
Three cooperative banks **	Transfer of deposits to the National Bank of Greece	03/2012	320,484,481	Financing gap
Agricultural Bank	Transfer of property items to Piraeus Bank	07/2012	7,470,717,000	Financing gap
TT Hellenic Postbank	Bridge bank	01/2013	3,732,554,000	Financing gap
TT Hellenic Postbank	Bidge bank	01/2013	500,000,000	Capital
FBB	Transfer of property items to the National Bank of Greece	05/2013	456,970,455	Financing gap
PROBANK	Transfer of property items to the National Bank of Greece	07/2013	562,733,502	Financing gap
Three cooperative banks ***	Transfer of deposits to Alpha Bank	12/2013, 07/2014	458,970,259	Financing gap
Panellinia Bank *	Transfer of property items to Piraeus Bank	04/2015	273,214,450	Financing gap
Cooperative Bank Of Peloponnese *	Transfer of property items to the National Bank of Greece	12/2015	99,583,000	Financing gap
TOTAL AMOUNT (€)			**15,271,805,521**	
Total amount of financing gap covered (€)			13,861,805,521	
Total amount of capital (€)			1,410,000,000	

***** Financing covered by the HDIGF ****** Achaiki Cooperative Bank, Cooperative Bank of Lamia and Cooperative Bank of Lesvos-Lemnos ******* Cooperative Bank of Western Macedonia, Cooperative Bank of Dodecanese and Cooperative Bank of Evia

Sources: HFSF, Interim Financial Statements (30-9-2014), December 2014, and Bank of Greece on 'Panellinia Bank' and the Cooperative Bank of Peloponnese.

TABLE 3 **The conditions for the resolution of credit institutions under the Bank Recovery and Resolution Directive (BRRD)**			
	Case 1	**Case 2**	**Case 3**
Conditions			
The institution is failing or likely to fail	Yes	Yes	Yes
A resolution action is necessary in the public interest	Yes	Yes	***No***
No reasonable prospect that any alternative private sector measures or supervisory action adopted would prevent the failure of the institution within a reasonable time	***No***	Yes	Yes
	Recapitalisation with the use of **private funds**	**Resolution**	**Winding-up** under normal insolvency conditions

Secondary sources

Aizenman, J. (2012): US Banking over two centuries: Lessons for the Eurozone crisis, in Beck, T. (2012a, editor): *Banking Union for Europe. Risks and Challenges*, Centre for Economic Policy Research (CEPR), London, UK, pp. 129-135

Alogoskoufis, G. (2012): *Greece's Sovereign Debt Crisis: Retrospect and Prospect*, Hellenic Observatory Papers on Greece and Southeast Europe, GreeSE Paper No.54, the London School of Economics and Political Science, January

Armingeon, K., and L. Baccaro (2011): *The Sorrows of Young Euro: Policy Responses to the Sovereign Debt Crisis*, Eighteenth Conference of Europeanists Organized by the Council for European Studies, Barcelona, Spain, 20-22 June 2011, pp. 1-39, Council for European Studies at Columbia University

Athanassiou, Ph. (2011): Of Past Measures and Future Plans for Europe's Exit from the Sovereign Debt Crisis: What is Legally Possible and What Not', *European Law Review*, 36(4), pp. 558-575

Avgouleas, E. and D.W. Arner (2013): *The Eurozone Debt Crisis and the European Banking Union: A Cautionary Tale of Failure and Reform*, University of Hong Kong Faculty of Law Research Paper No. 2013/037, available at: http://ssrn.com/ abstract= 2347937

Bank of Greece (2014): *The Chronicle of the Great Crisis: The Bank of Greece 2008-2013 – Public interventions and institutional actions to safeguard financial stability and overcome the crisis*, Bank of Greece, Centre for Culture, Research and Documentation

Binder, J.-H. (2015): Komplexitätsbewältigung durch Verwaltungsverfahren? Krisenbewältigung und Krisenprävention nach der EU-Bankensanierungs- und -abwicklungsrichtlinie, *Zeitschrift für das gesamte Handelsrecht und Wirtschaftsrecht* (ZHR), issue 173:1, pp. 83-133

Binder, J.-H. and Ch.V. Gortsos (2015): *Banking Union. A Compendium*, C.H. Beck, München - Hart, Ofxord - Nomos, Baden-Baden

Boudghene, Y., Buder, M., Dellidou, Z., Galand, Ch., Iftinchi, V., Lienemeyer, M., Malamataris Ch. and D. Malvolti (2011): *State Aid Control in a Stability Programme Country: The Case of Greece*, Competition Policy Newsletter, No 1

Buiter, W.H., and A.C. Sibert (2011): *The Icelandic banking crisis and what to do about it: The lender of last resort theory of optimal currency areas*, Centre for Policy Research, Policy Insight, No. 26

Caminal, R.O. (2012): *The EU Architecture to avert a Sovereign Debt Crisis*, in Organisation for Economic Cooperation and Development (2012): *OECD Journal: Financial Market Trends*, Issue 2, Paris, 23 March, pp. 1-32

Chiti, Ed. and P.G. Teixeira (2013): *The constitutional implications of the European responses to the financial and public debt crisis*, Common Market Law Review, Vol. 50, pp. 683-708

Christodoulakis, G. (2015, editor**)**: *Managing Risks in the European Periphery Debt Crisis: Lessons from the Trade-off between Economics, Politics and the Financial Markets*, Palgrave Macmillan, London

Claessens, S., Herring, R.J. and D. Schoenmaker (2010): *A Safer World Financial System: Improving the Resolution of Systemic Institutions*, Geneva Reports on the World Economy, no 12, International Center for Monetary and Banking Studies, Centre for Economic Policy Research, London, UK

Committee on the Global Financial System (2011): *The impact of sovereign credit risk on bank funding conditions*, CGFS Papers, No. 43, Bank for International Settlements, July

D' Arvisenet, Ph. (2015): The Genesis of the Eurozone Sovereign Debt Crisis, in Christodoulakis, G. (2015, editor): *Managing Risks in the European Periphery Debt Crisis: Lessons from the Trade-off between Economics, Politics and the Financial Markets*, Palgrave Macmillan, London, pp. 3-37

de Grauwe, P. (2013): *Design failures in the Eurozone: Can they be fixed?*, London School of Economics, "Europe in Question" Discussion Paper Series, February

Eichengreen, B. (2015): *The Irish Crisis and the EU from a Distance*, January, available at: http://www.imf.org/external/np/seminars/eng/2014/ireland/pdf/Eichengreen_IrishCrisisEU.pdf

Eichengreen, B., Feldmann, R., Liebman, J., von Jürgen, H. and Ch. Wyplosz (2011): *Public Debts: Nuts, Bolts and Worries*, Geneva Report on the World Economy 13, International Center for Monetary and Banking Studies (ICMB), Geneva, Switzerland

European Central Bank (2014): *Aggregate Report on the Comprehensive Assessment*, October, available at: http://www.bankingsupervision.europa.eu/banking/comprehensive/html/index.en.html

European Central Bank (2011): *The Monetary Policy of the ECB*, European Central Bank, third edition, May

European Central Bank (2008): *The incentive structure of the 'originate and distribute' model*, European Central Bank, December, available, at: https://www.ecb.europa.eu/incentivestructureoriginatedistributemodel200812en.pdf

European Stability Mechanism (2014): *FAQ on the ESM direct bank recapitalisation instrument*, Luxembourg, December, available at: www.esm.europa.eu/pdf/2014-12-08%20FAQ%20DRI.pdf

Giovanoli, M. (2000b): A New Architecture for the Global Financial Market: Legal Aspects of International Financial Standard Setting, in Giovanoli M. (2000, editor): *International Monetary Law - Issues for the New Millennium*, Oxford University Press, Oxford-New York, pp. 3-59

Gortsos, Ch.V. (2016): *The Single Resolution Mechanism (SRM) and the Single Resolution Fund (SRF). A comprehensive overview of the second main pillar of the European Banking Union*, second edition, available at: http://ssrn.com/abstract=2668653

Gortsos, Ch.V. (2015a): *The Single Supervisory Mechanism (SSM): Legal aspects of the first pillar of the European Banking Union*, Nomiki Bibliothiki - European Public Law Organisation (EPLO), Athens

Gortsos, Ch.V. (2015b): *Last-resort lending to solvent credit institutionsin the euro area: a detailed presentation of the Emergency Liquidity Assistance (ELA) mechanism*, available at: http://ssrn.com/abstract=2688953

Gortsos, Ch.V. (2014): *The new EU Directive (2014/49/EU) on deposit guarantee schemes: an element of the European Banking Union*, Nomiki Bibliothiki, Athens

Gortsos, Ch.V. (2013): The Impact of the Current Euro Zone Fiscal Crisis on the Greek Banking Sector and the Measures Adopted to Preserve its Stability, in: Hieronymi, O. and C.A. Stephanou (2013, editors**)**: *International Debt: Economic, Financial, Monetary, Political and Regulatory Aspects*, Basingstoke UK: Palgrave Macmillan, London, Chapter 6, pp. 164-188

Gortsos, Ch.V. (2012): *Fundamentals of Public International Financial Law: International Banking Law within the System of Public International Financial Law*, Schriften des Europa-Instituts der Universität des Saarlandes - Rechtswissenschaft, Nomos Verlag, Baden-Baden

Gortsos, Ch.V. (2011): *The European Banking Authority within the European System of Financial Supervision*, ECEFIL Working Paper Series, No. 1, August, available at: http://www.ecefil.eu//UplFiles/wps/wps2011-1.pdf

Gortsos, Ch.V. (2009): Assessment of the Banking "Rescue" Packages and "Recovery" Plans of the Member States in the European Union, in: *Banking Rescue Measures in the EU Member States – Compilation of Briefing Papers*, Report, European Parliament, Policy Department, Economic and Scientific Policy, IP/A/ECON/RT/2008-29, pp. 9-46

Hadjiemmanuil, Ch. (2015): *Bank Resolution Financing in the Banking Union*, LSE Law, Society and Economy Working Papers 6/2015, available at: http://ssrn.com/sol3/papers.cfm? abstract =2575372

Haliassos, M., Hardouvelis, G., Tsoutsoura, M. and D. Vayanos (2016): Financial Development and the Credit Cycle in Greece, in Meghir, C., Pissarides, C., Vayanos, D. and N. Vettas (editors): *Crisis in the Eurozone: Policy Options for Greece*, MIT Press forthcoming.

Joosen, B. (2014): Legal Aspects of the ECB Asset Quality Review as part of the Comprehensive Assessment, in Allen, F., Carletti, E. and J. Gray (2014, editors): *Bearing the losses from bank and sovereign default in the Eurozone*, FIC Press, Wharton Financial Institutions Center, Philadelphia, USA available at: http://hdl.handle.net/1814/34437, Chapter 3, pp. 13-24

Konstantakis, K., Michaelides, P. and A. Vouldis (2016): Non performing loans (NPLs) in a crisis economy: Long-run equilibrium analysis with a real time VEC model for Greece (2001–2015), *Physica A: Statistical Mechanics and its Applications*, Vol. 451, pp. 149-161

Lastra, R.M. (2015): *International Financial and Monetary Law*, second edition, Oxford University Press, United Kingdom

Lastra, R.M. (2011, editor**)**: *Cross-Border Bank Insolvency*, Oxford University Press, Oxford – New York

Lastra, R.M. and J.V. Louis (2013): European Economic and Monetary Union: History, Trends, and Prospects, *Yearbook of Economic Law*, pp. 1-150

Lastra, R.M. and G. Wood (2010): The crisis of 2007-2009: nature, causes and reactions, *Journal of International Economic Law*, vol. 13, n. 3, September, Oxford University Press, Oxford, September, pp. 531-550

Lefterov, A. (2015): *The Single Rulebook: legal issues and relevance in the SSM context*, European Central Bank, Legal Working Paper Series, No 15, October

Lowenfeld, A. F. (2009): *International Economic Law*, Second edition, International Economic Law Series, Oxford University Press, Oxford – New York

Mitchener, K.J. (2014): The Diabolic Loop: Precedents and Legacies, in Allen, F., Carletti, E. and J. Gray (2014, editors): *Bearing the losses from bank and sovereign default in the Eurozone*, FIC Press, Wharton Financial Institutions Center, Philadelphia, USA, Chapter 12, pp. 165-180, available at: http://hdl.handle.net/1814/34437,

Nobel, P. (2010): *Schweizerisches Finanzmarktrecht und Internationale Standards*, dritte Auflage, Stämpfli Verlag, Bern

Norberg, J. (2009): *Financial Fiasko: How America's infatuation with homeownership and easy money created the economic crisis*, Cato Institute, Washington, D.C.

Panetta, F., Faeh, Th., Grande, G., Ho, C., King, M., Levy, A., Signoretti, F.M., Taboga, M. and A. Zaghini (2009): *An Assessment of Financial Sector Rescue Programmes*, BIS Papers No. 48, Monetary and Economic Department, Bank for International Settlements, July

Petrovic, A. and R. Tutsch (2009): *National rescue measures in response to the current financial crisis*, Legal Working Paper Series, No. 8, European Central Bank, July

Rajan, R.G. (2010): *Fault Lines: How Hidden Fractures Still Threaten the World Economy*, Princeton University Press, Princeton

Shambaugh, J.C. (2012): The Euro's Three Crises, *Brookings Papers on Economic Activity*, Spring, The Brookings Institution, pp. 157-231, available at: http://www.brookings.edu/~/media/Projects/BPEA/Spring%202012/2012a_Shambaugh.pdf

Smits, R. (1997): *The European Central Bank - Institutional Aspects*, Kluwer Law International, The Hague

Stephanou, C.A. (2013): Building Firewalls: European Responses to the Sovereign Debt Crisis, in Hieronymi, O. and C.A. Stephanou (2013, editors): *International Debt: Economic, Financial, Monetary, Political and Regulatory Aspects*, Basingstoke UK: Palgrave Macmillan, London, Chapter 4, pp. 127-158

Vovolinis, D. (2015): *The European Stability Mechanism Direct Recapitalisation Instrument: An element for a complete European Banking Union*, ECEFIL Working Paper Series, No. 13, March, available at: http://www.ecefil.eu//UplFiles/wps/wps2015-13.pdf

Wymeersch, Ed. (2012): The European Financial Supervisory Authorities or ESAs, in Wymeersch, Ed., Hopt, K.J. and G. Ferrarini (2012, editors): *Financial Regulation and Supervision - A Post-Crisis Analysis*, Oxford University Press, Oxford, Chapter 9, pp. 232-317

Zimmermann, H. (2015): The deep roots of the government debt crisis, *The Journal of Financial Perspectives*, EY Global Financial Services Institute, March, Volume 3, Issue 1, pp. 33-42