



**University of
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Central Bank independence in light of constitutional principles

URPP Financial Market Regulation Annual Conference

June 6, 2018

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The Great Transformation of Central Banks

“The Federal Reserve has done, and will continue to do, everything possible within the limits of its authority to assist in restoring our nation to financial stability.”

Bernanke (February, 2009)

“Within our mandate, the ECB is ready to do whatever it takes to preserve the euro. And believe me, it will be enough.”

Draghi (July, 2012)

Institutional empowerment of the ECB

Function	Institutional framework	Objective
Microprudential and (limited) macroprudential supervision	SSM	Financial stability
Macroprudential oversight	ESRB	Financial stability
Participation in negotiation and monitoring of economic adjustment programmes	now ESM	Stability of the euro area, fiscal sustainability

Overview

1. Has the rationale for independence in monetary policy changed?
2. Does the same degree of independence apply to the new functions?
3. Will the new functions pose a threat to independence in monetary policy?

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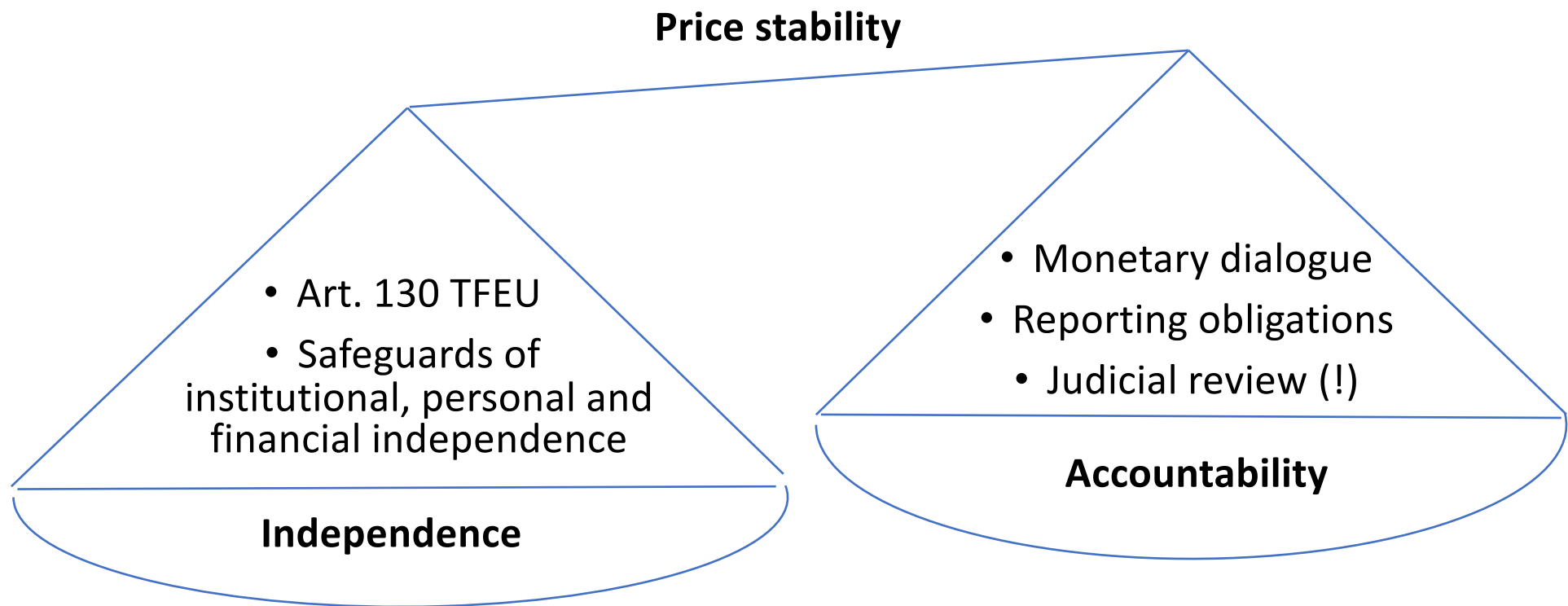
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ECB and the “new separation of powers”



- Expertise in a technical matter
- Credible long-term commitment to the public interest (low inflation)
- Single monetary policy (euro area)

“Accountable independence” of the ECB



Reality check: policy interdependence

1. ECB mandate and “broad discretion” are accommodative
2. Indirect (distributive) effects do not change monetary nature of a measure (*Pringle/Gauweiler*)
3. ECB must provide a “statement of reasons” (*Gauweiler*)

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Functional differentiation

	Supervision	ESRB	ESM (Troika)
Does Art. 130 TFEU apply?	Yes, but it is a bad fit	No	No
What degree applies (instead)?	Operational independence	“Impartiality” requirement	No mention

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Supervision: principle of separation

- Idea: independence of functions from each other
- Intra-institutional separation remains incomplete
 - Supervisory Board with exclusive right to propose “complete draft decisions”
 - Governing Council as ultimate decision-maker for both pillars
 - Objective of price stability seems to prevail

Troika: opacity and denial

- Little procedural formalization of decision-making under the ESM framework
- Legal powers vs *de facto* control
- Veil of secrecy and prerogative of legal interpretation

Conclusions

1. Has the rationale for independence in monetary policy changed?

Not radically.

2. Does the same degree of independence apply to the new functions?

No.

3. Will the new functions pose a threat to independence in monetary policy?

Less likely for supervision, more likely for Troika matters.

Extra slides

Art. 130 TFEU

“When exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and the Statute (...), neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks.”

Art. 19(1) SSMR

“When carrying out the tasks conferred on it by this Regulation, the ECB and the national competent authorities acting within the SSM shall act independently. The members of the Supervisory Board and the steering committee shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the institutions or bodies of the Union, from any government of a Member State or from any other public or private body.”