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MODERN TRENDS OF LEGAL DEVELOPMENT OF THE BANKING SYSTEM OF CENTRAL-EASTERN EUROPEAN COUNTRIES

Abstract. The article explores that the important scientific and practical task of the modern stage of development of world civilization is the globalization of all spheres of public life — cultural, information, and economic. One of the components of the globalization of the economy and one of the highest stages of globalization is the globalization of the world banking system. Banking sector is one of the key factors ensuring stable economic development of the country. Transparency, reliability, resistance to financial-economic shocks, a temple driven depositor confidence — a characteristic feature of the banking systems of countries with developed economy.

It is determined that banks should be considered as an important part of business, business world. They accumulate cash, provide loans, make cash settlements, issue currency trademarks, serve securities markets, and provide various economic services. Banking in the capital of the Central Bank of the European Union originated and developed on the basis of capital that brought interest. Even at the formation of the primitive communal system used usurious capital. Rich representatives of the top government were lending money. The development of usurious capital and initiated a banking business.

In antiquity, there were some institutions that performed the functions of banks. In the historical literature, there are indications that the banks functioned in Poland, the Czech Republic. They performed a variety of operations — from commission operations for the purchase, sale and payment at the expense of customers to the issuance of loans and acted as guarantors and trustees in the implementation of various acts and transactions. Thus, the origins of modern banking can be seen in the activities of banks in the old days. It is noted that by the end of the XIX — early XX centuries. In the years of its existence, the multi-faceted credit system was formed. Public and private banks served, mainly, large borrowers; the credit needs of the small clients were managed by an extensive system of small loan applicants, whose resource base was formed, including at the expense of the State Bank. This model of functioning of the credit system is reflected and at the present stage of development, as the most suitable for the needs of all categories of borrowers, adequate to the transitional type of economy and which most contributes to the economic development of countries.

Keywords: banking system, countries of Central and Eastern Europe, current trends, shapes, aspects, regulatory banking system.

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СУЧАСНІ ТЕНДЕНЦІЇ ПРАВОВОГО РОЗВИТКУ БАНКІВСЬКОЇ СИСТЕМИ КРАЇН ЦЕНТРАЛЬНО-СХІДНОЇ ЄВРОПИ

Анотація. Досліджено, що важливим науково-практичним завданням сучасного етапу розвитку світової цивілізації є глобалізація всіх сфер суспільного життя — культурної, інформаційної, економічної. Однією зі складових частин глобалізації економіки та одним з найвищих етапів глобалізації є глобалізація світової банківської системи. Банківський сектор — один із ключових чинників забезпечення стабільного економічного розвитку країни. Прозорість, надійність, стійкість до фінансово-економічних потрясінь, високий ступінь довіри вкладників — характерні ознаки банківських систем країн із розвинутою економікою.

Визначено, що банки слід розглядати як важливу складову частину бізнесу, ділового світу. Вони акумулюють грошові кошти, надають кредити, проводять грошові розрахунки, емітують в обіг грошові знаки, обслуговують ринки цінних паперів, надають різноманітні економічні послуги. Банківська справа у країнах Центрально-Східної Європи виникла і розвивалася на базі капіталу, який приносив відсотки. Ще при формуванні первіснообщинного ладу використовувався лихварський капітал. Багаті представники верхівки влади давали в борг кошти. Розвиток лихварського капіталу і поклав початок банківської справи.

У давнину існували деякі установи, які виконували функції банків. В історичній літературі є вказівки на те, що банки функціонували в Польщі, Чехії. Вони виконували різноманітні операції — від комісійних операцій із купівлі, продажу і платежів за рахунок клієнтів до видачі кредитів і виступали поручителями і довіреними особами при здійсненні різних актів і угод. Таким чином, витоки сучасної банківської справи можна бачити в діяльності банків в давнину. Відзначено, що до кінця XIX — початку XX століть у країнах Центрально-Східної Європи сформувалася багатоланкова кредитна система. Державні і приватні банки обслуговували в основному великих позичальників; кредитні потреби ж дрібних клієнтів були у віданні розгалуженої системи здобувачів дрібного кредиту, ресурсна база якої формувалася, у тому числі, за рахунок коштів державного банку. Модель функціонування кредитної системи знаходить своє відображення і на сучасному етапі розвитку як найбільш відповідна потребам усіх категорій позичальників, адекватна перехідному типу економіки і яка найбільше сприяє економічному розвитку країн.

Ключові слова: банківська система країн Центрально-Східної Європи, сучасні тенденції, форми, аспекти, регулятори банківської системи.

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СОВРЕМЕННЫЕ ТЕНДЕНЦИИ ПРАВОВОГО РАЗВИТИЯ БАНКОВСКОЙ СИСТЕМЫ СТРАН ЦЕНТРАЛЬНО-ВОСТОЧНОЙ ЕВРОПЫ

Аннотация. Исследовано, что важной научно-практической задачей современного этапа развития мировой цивилизации является глобализация всех сфер общественной жизни — культурной, информационной, экономической. Одной из составных частей глобализации экономики и одним из самых высоких этапов глобализации является глобализация мировой банковской системы. Банковский сектор является одним из ключевых факторов обеспечения стабильного экономического развития страны. Прозрачность, надежность, устойчивость к финансово-экономическим потрясениям, высокий уровень доверия вкладчиков — характерные признаки банковских систем стран с развитой экономикой.

Определено, что банки следует рассматривать как важную составную часть бизнеса, делового мира. Они аккумулируют денежные средства, предоставляют кредиты, проводят денежные расчеты, эмитируют в обращение денежные знаки, обслуживают рынки ценных бумаг, оказывают различные экономические услуги. Банковское дело в странах Центрально-Восточной Европы возникло и развивалось на базе капитала, который приносил проценты. Еще при формировании первобытнообщинного строя использовался ростовщический капитал. Богатые представители верхушки власти давали в долг деньги. Развитие ростовщического капитала и положило начало банковскому делу.

В древности существовали некоторые учреждения, выполнявшие функции банков. В исторической литературе есть указания на то, что банки функционировали в Польше, Чехии. Они выполняли разнообразные операции — от комиссионных операций по покупке, продаже и платежей за счет клиентов до выдачи кредитов и выступали в качестве поручителей и доверенных лиц при осуществлении различных актов и соглашений. Таким образом, истоки современного банковского дела можно видеть в деятельности банков в древности. Отмечено, что к концу XIX — начала XX века в странах Центрально-Восточной Европы сформировалась многоуровневая кредитная система. Государственные и частные банки обслуживали в основном крупных заемщиков; кредитные потребности же мелких клиентов были в ведении разветвленной системы соискателей мелкого кредита, ресурсная база которой формировалась, в том числе, за счет средств государственного банка. Данная модель функционирования кредитной системы находит свое отражение и на современном этапе развития как наиболее соответствующая потребностям всех категорий заемщиков, адекватная переходному типу экономики и которая наиболее способствует экономическому развитию стран.

Ключевые слова: банковская система, страны Центрально-Восточной Европы, современные тенденции, формы, аспекты, регуляторы банковской системы.

Формул: 0; рис.: 1; табл.: 1; библи.: 10.

Introduction. The main tendencies of the legal development of the banking system of the countries are based on the rule of law principle and the preservation and strengthening of the market bases of the banks activity and the use of predominantly indirect methods of influence on processes taking place in the banking sphere through the formation of an appropriate legislative and regulatory framework for the functioning of banks and the market of financial services and implementation of follow-up to fulfilment of the established requirements. A number of Central and Eastern European countries, like Ukraine, after the destruction of the central planning system were forced to create a new type banking system as a market model. After undergoing excessive banking liberalization, banking panics and crises, later it was realized the need to consolidate capital in the banking sector, transforming the latest from oligarchic group enrichment into an instrument of national economic growth [1, p. 176].

Analysis of research and problem statement. The study of the legal development of the banking system of the countries of Central and Eastern Europe has received considerable attention from domestic and foreign scientists, namely: I. Liutyi, O. Snizhko, I. Shkolnyk, V. Kornieiev, S. Liovochkin, S. Hluschenko, A. Beliaieva, Ye. Kasian, Y. Abarbanell, Y. Bonin, A. Aslund, Y. Uboupin, S. Vilborg, S. Diankov and R. Levin, studied the issues of legal relations in the banking sphere. Nevertheless, in the economic development of transition economies, including the banking sector, under the influence of various reasons (financial crisis, and accession to the EU, etc.), there are negative or positive changes that require a constant evaluation of the efficiency of their economic development in general and the banking system in particular [2, p. 7].

The purpose of the article: to analyse the main tendencies of legal development as the banking system of the countries of Central and Eastern Europe.

Research results. An overview of current sources suggests that banking legal supervision and regulation is carried out at three levels. The first level is presented by the bank's management, which assesses processes and risk management. The second level is presented by the regulatory body, which promotes banks' adequate policies aimed at supporting financial policy. The third level is the preferred supranational and supervisory bodies, as they develop and make recommendations for banking regulation and supervision to national regulators. The leading role in theoretical and methodological positions is played by the Directives of the Basel Committee on Banking Supervision [3].

Basel's principles are neither a law nor a dogma. The countries themselves decide what principles and to what extent to introduce into national legislation that regulates the banking sector. Principles are developed as minimum requirements for countries, public authorities and participants in banking, aimed at strengthening and stability of the world banking system.

Legislation in Central and Eastern Europe distinguishes two forms of banking activity regulation: administrative and indicative (Fig. 1). The basis of administrative regulation is the use of means of influence mainly of organizational and government nature. It form a holistic system and ensure the normal functioning of the banking system Indicative Regulation provides instruments to regulate monetary circulation and lending to the economy with the help of monetary policy.

Banking supervision should promote an effective and competitive banking system that responds to the needs of the population in providing quality financial services. In addition, banking supervision should dynamically react to all market changes, be willing to periodically review policies and supervisory practices, taking into account new developments and market tendencies. This requires a fairly flexible legislative system [4, p. 16].

Banking supervision may only be effective in the case, if it is realised in the appropriate macroeconomic environment; in a mode of smart and sustainable macroeconomic policy; with well-developed infrastructure; for effective market discipline; in the presence of procedures for the effective resolution of emerging problems and the mechanism capable of providing an adequate level of system protection (or the security and credibility of credit organizations) [5].

The complexity of the internal construction of the functional system of transactions that are part of the banking supervision mechanism determines the need for a unified approach to harmonize the content and procedures for the implementation of these functions, which should ensure the effectiveness of supervisory activities in general. First of all, the creation of such an approach should

be based on the organization of a system of principles, which, in the process of developing a banking supervision mechanism, will help to solve this problem [6].

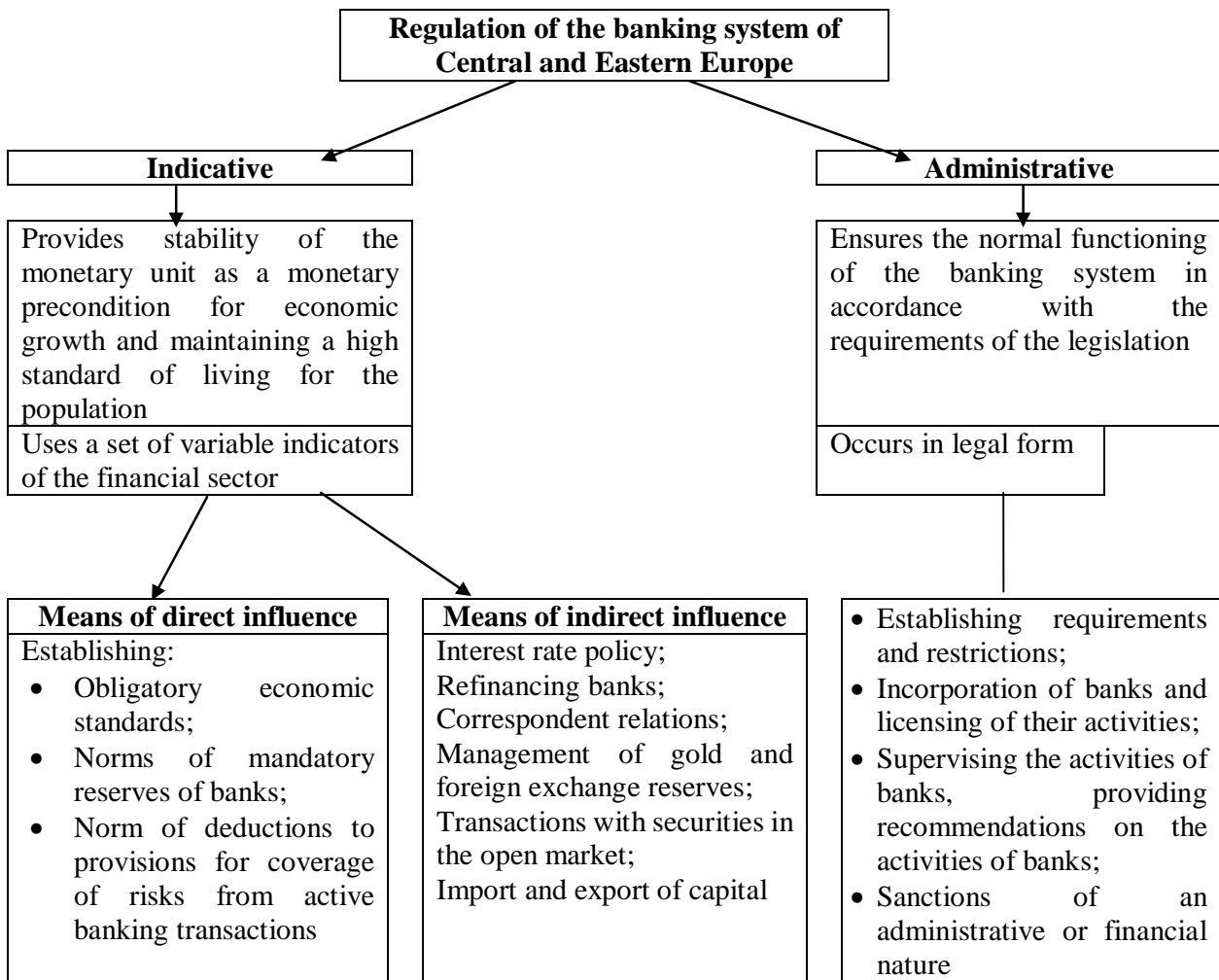


Fig. 1: Forms of legal regulation of banking activities in the countries of Central and Eastern Europe

The regulators of the banking system develop and implement systems for effective supervision of compliance with the requirements and standards for the prevention of financial risks. According to modern international approaches, banks use supervision, which is based on the policy of risk management assessment by the management of the bank, and regulators contribute to such a policy.

Each country has its own system of legal acts regulating various aspects of banking activity, the work of non-bank credit and financial institutions and stock exchanges, etc. These peculiarities of the development and formation of national banking and financial legislation, forms and methods for realization of supervision over the work of banks contribute to the peculiarities of historical development and the impact of various political and economic factors [7, p. 13-14]. There are various systems of banking activities. In addition to operations on attracting contributions and issuing loans, banks in the countries of Central and Eastern Europe often carry out payment transactions (cash and non-cash, both domestically and abroad), as well as operations with securities that provide in particular, these securities (trustee services for storage of securities). It is necessary to distinguish between so-called universal banks and specialized banks. Universal banks carry out all of the above activities within a single legal entity, whereas specialized banks are usually limited to one or more specialized functions, such as providing mortgage loans [8 p. 125]. Currently, there are different models of legal supervision of the financial sector exist within the framework of the countries of Central and Eastern Europe and the EU countries. One of them involves concentrating the supervisory powers of the Central Bank, the other involves the existence of a special single State

supervisory body; the third is a combination of elements of the first and second models. However, none of the models can be considered as theoretically superior or optimal. Each country should choose a model that will be implemented according to the political point of view as efficiently and effectively, and which will fit the financial structure of that country.

As you know, the financial system almost every country include the banking sector, insurance sector, sector and stock that are distributed with varying degrees of concentration of functions of the national bodies of regulation and supervision. Accordingly, there are three main models of the organization of banking legal regulation and supervision: *‘the unified financial authority of management model’*, the *‘two peaks’ model* and *the sectorial model*. The third model is typical of the countries of Central and Eastern Europe. It is characterized by the full delegation of a single regulator of the financial market as a mega-regulator. This model is adopted in the following countries of Central and Eastern Europe: Germany, Poland, Slovakia, Czech Republic, Hungary, Latvia and Estonia. In this case, the functions of supervision are separated from the central bank and transferred to the mega-regulator in most countries. The exception is the Czech Republic and Slovakia, in which the powers of the mega regulator is secured by the central bank.

The *Banking Association of Central and Eastern Europe*, hereinafter referred to as **the BACEE**, headquartered in Hungary, was founded in 1996 to promote the business relations of its member banks with the financial institutions of *Central and Eastern Europe*, hereinafter referred to as **the CEE**. To support the expansion of business in these countries, the BACEE provides information and analytical services for countries and their banking risks. On the other hand, the BACEE provides advisory services to the CEE member banks who want to develop a more active presence in international markets. These services include business policy proposals, transparency, presentation of bank documentation to foreign partners, do-it-and-after-rendering consultations; attraction of credit lines from foreign banks and international financial institutions, and preparation for sale to foreign investors. The BACEE has created a unique database of the CEE-based banks that is freely available to its members and has become one of the most important sources of information about banks. In general, the BACEE is a mega-regulator in the CEE countries [9].

As a response to the global financial and economic crisis in Europe, the third rules of the Basel Committee on Banking Supervision (The Basel 3) were formulated, the essence of which is focused on three aspects of banking activity:

- Strengthening capital quality requirements. Significant costs of the economy and the banking sector during the period of the global financial crisis of 2008-2009, as well as the long recession forced the European states to think about the need to form an *‘anti-cyclical buffer’*;
- Introduction of the debt (leverage) ratio (the ratio of borrowed funds to own funds) at the level of 3% and new liquidity ratios: the ratio of liquidity coverage and the ratio of net stable financing;
- Reforming the mechanisms of guaranteeing deposits to the population. The recommended minimum for EU banks is set at EUR 100,000 (UAH 200,000 is set in Ukraine) [10].

In more detail, the influence of these areas of banking activity on micro levels and macro levels is presented in Table 1.

Table 1:

Main directions of banking activity at micro and macro levels

Levels of influence	Aspects of banking activity		
	Strengthening capital quality requirements	Implementation of the debt (leverage) ratio	Reforming mechanisms of deposit guarantee
Separate bank	It will allow to counteract shock effects, manage market, credit and operational risks more efficiently; reducing profits, reviewing the model of banking business by refusing to participate in highly risky operations but profitable operations and returning to simple business schemes	Improvement of risk management system; monitoring of the level of liquidity and quality of sources of attraction of funds; prevention of accelerated growth of debt load, taking into account borrowers' risks in banks' credit policy; and change of profitability of operations will stimulate banks to develop new products and services	Stimulating the inflow of deposits, reducing the risk of sudden outflow of deposits in the event of the development of panic mood

Banking system	Acceleration of processes of capitalization, preventing the rapid growth of the external debt of banks in the phase of economic boom that preceded the crisis, increasing trends of consolidation and monopolization, weakening competition and facilitate state regulation of the banking system	Mitigating liquidity risks, increasing competition for reliable sources of financing; and strengthening of the banking system	Increasing competition in the deposit market, expanding and improving the quality of the resource base
Macroeconomic	Increasing the stability of the financial system, preserving macroeconomic stability, smoothing economic cycles by reducing the pro-cyclical impact of bank lending, ensuring stable rates of economic development	Reducing the risks of the debt crisis, preventing a liquidity crisis while reducing the financial capacity for expanded lending to economic development	Increasing confidence in the banking system and curbing panic among depositors, stimulating the savings process, and improving the conditions for the efficient operation of the mechanism of transformation of savings into investments

Conclusion. For the stable development of the economy of the countries, functioning of the banking system, in accordance with European standards, should be predictable, uninterrupted and sufficiently transparent. All these tasks are achieved through a system of banking regulation and supervision based on the standards and principles developed by the Basel Committee on Banking Supervision. In general, the development of the banking sector in the countries of the region remains rather heterogeneous. On the one hand, the CEE comprises high-growth banking services markets, Bulgaria and Greece, along with more stable banking systems in Poland and the Czech Republic, and on the other hand, the weak banking sectors of Slovenia, Hungary and Romania. In general, the CEE countries, both at the beginning of banking system formation and at present, are faced with certain problems, namely: the problem of reliability, availability of loans and high interest rates on them; exceeding the inflation rate permissible for transition economies; a low level of capitalization of banks in some the CEE countries; the growth of external debt and the uncontrolled penetration of foreign bank institutions into their territory, which requires increased supervision by the state and central banks over the development of the CEE national banking systems.

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