A Single European Banking Supervisor - An anachronistic move?

Whether a fully-fledged and smoothly functioning Economic and Monetary Union - or in Euro jargon a completion of- can be achieved with the most recent transnational legislative experiment a joint Banking Supervision.

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Abstract

Following the European sovereign debt crisis and the detrimental consequences this had for the European financial markets, Europe found itself at a crossroads, with an uncertain future ahead. As the choice was between fragmentation of the Member States or embarking on a journey almost as meaningful as a common currency, the 28 Member States decided on further integration, thereby establishing joint supervision for the euro area financial institutions and granting the ECB exclusive powers in its role as supervisor. The decision was supported by a unanimous decision of the European Council which pushed for fast action, and within only two years the mechanism began operating. Applying the theories of legal pluralism and globalization this research paper evaluates different arguments for and against a common banking supervision and tries to establish whether the relevant institutions and Member States are in fact ready for this rapid development. Using evaluation research as the methodological foundation for the scientific research a conclusion was reached based on interviews, media content analysis and statistics, providing an answer to the question of whether the mechanism is anachronistic or in fact a necessary step for the future of Europe.

Key words: Single Supervisory Mechanism, Banking Union, ECB, Legal Pluralism, Globalization

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Abbreviations

DG **-** Directorate General

EBU/BU **-** European Banking Union

ECB **-**European Central Bank

EMU **-** European Monetary Union

EU **-** European Union

ECJ **-** European Court of Justice

JST **-** Joint Supervisory Teams

NCA **-** National Competent Authorities

NCB **-** National Central Banks

SSM **-** Single Supervisory Mechanism

1. Introduction

The global financial crisis, which escalated in 2008, came to have a large effect on Europe's financial stability and lead to a euro area sovereign debt crisis. In order to "create a safer and sounder financial sector for the single market"[1], the European Union is in the process of establishing deeper integration of the banking system through the creation of a Banking Union. This consists of two parts - a **Single Supervisory Mechanism[2]** (SSM) and a Single Resolution Mechanism (SRM) - both based on a Single Rulebook. SSM will operate through the European Central Bank[3][4] (ECB) as the central supervisor of financial institutions in the euro area. This paper intends to assess the suitability of the SSM, with the assessment being focused on the time supervision began and whether or not it is anachronistic.

This **introduction** will set out to describe some specific problems related to the SSM. Consequently these problems will be the focus of the paper. Thereafter, the aim and approach used will be explained. Following this, a short description of the significance of the problem for the field of sociology of law will be given and, lastly, in a separate subsection, the delimitations of the areas which this study will ***not*** cover will be outlined.

The second section of the paper will outline the **literary review of the thematic background**, which has been divided into the two subsections: the financial background and the regulatory background. In the subsequent section, the **theoretical foundations** of the research will be explained. The theories which will be applied for the evaluation are legal pluralism and globalization. Next the **methodological approach** of evaluation research will be described as well as the different qualitative and quantitative methods of gathering relevant data. The findings of the research will be presented in the section called **results** and subsequently processed in the **analysis** unit. Finally, the **conclusion** will summarize the thesis and give suggestions for further research.

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[1] European Commission. (2014). "Financial Services: Banking Union". *European Commission*. 8th of July, 2014.

[2] Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17)

[3] Council Regulation (EU) No 1024/2013of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions

[4] Regulation (EU) No 1022/2013 of the European Parliament and of the Council of 22 October 2013amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013

1.1. Problem Description

Following the crisis and the devastating impact it has had on the European economy, society and banking sector, the European Union is taking steps in what they have called 'completing' the European Monetary Union. The apparent novelty of the subject of supervision and a banking union was commented on by an author who wrote that the subject had "rarely [been] discussed in European policy-making circles prior to 2012".[5] Another commentator remarks that the topic had previously been reserved "to regulators and bankers along with a few parliamentarians, academics and professional naysayers"[6] - a statement which is supported by the publication of the De Larosière Report in 2009. Nevertheless, there seems to be a mismatch between the importance of the supervision and the shaping of the process without the involvement, opinions and support of different stake holders. Regardless of these aspects the idea of a 'banking union' was relocated to the front page news in 2012[7] and has since then been considered the *sina qua non* of a fully established EMU.[8]

Creating a joint supervision leads to significant changes on an institutional level. The establishment of the SSM is not only a step towards completing Europe's monetary union, it is also a decision to grant the ECB supervisory powers over the Eurozone banking system, marking a significant transfer of power from national to EU level, allowing the latter much more autonomy in decisions regarding previously sensitive sovereign functions in the banking sector. Transferring supervisory powers to the ECB however comes at a certain cost for the institution, as it will be required to separate powers concerning monetary policy from power concerning supervisory activities.[9] In practice this means that the ECB will build a complete new division, with staff specifically trained in European banking supervision, within a short period of time. The central bank will also be faced with challenges concerning the framework, as changes to the final legislation must be passed with the consent of Eurozone and non-Eurozone members alike. According to Verhelst, the creation of the SSM has made the completion of the Banking Union indispensable as its

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[5]Howarth, David & Lucia Quaglia. (2013). Banking Union as Holy Grail: Rebuilding the Single Market in Financial Services, Stabilizing Europe's Banks and 'Completing' Economic and Monetary Union. *Journal of Common Market Studies.* Vol. 51: 103.
[6]Germain, Randall. (2012). Governing global finance and banking. *Review of International Political Economy.* Vol. 19(4): 530.
[7]Germain 2012: 530
[8]Howarthet. al. 2013: 103
[9]Gheorghe, Carmen Adriana. (2013). Single Banking Supervision and the Single Supervisory Mechanism. *Bulletin of the Transilvania University of Brasov.* Vol. 6(55). No. 1 Series V: Economic Sciences: 224

importance creates a “point of no return for the Banking Union.”[10] The problem which therefore remains is whether or not the EU Institutions as well as the Member States are in fact ready for this giant leap of faith.

As regards the Eurozone Member States which will be supervised by the ECB, certain issues have become evident in the aftermath of the crisis. While it clearly demonstrated a prevalent need for better cross-border supervision and a reduction in national biases, it also showed how some Member States pocketed the loss of their banks out of fear of putting national financial institutions at a monetary disadvantage in the pan-European context of market integration and competition.[11] This toxic relation is supposed to be targeted by the SSM, which aims to “break the vicious link between sovereigns and their banks.”[12][13] In order to avoid the financial stability of Member States on the whole to be threatened[14] the mechanism will try to make sure that the losses of banks no longer become the debt of Europe’s citizens. Even if the Member States have taken a large step in transferring powers to a supranational institution, fears that national supervisions have been and will continue not to face up to the scale of banking sectors misconducts prevail. This anxiety has been an argument for the creation of a European supervisor[15] but it seems almost naïve to expect the Member States to have made a radical change towards transparency and EU cooperation within only two years.

This timely issue could mean that the relevant EU institutions and the Eurozone Member States are not sufficiently prepared to move into this new phase of EU integration and instead more time would have been necessary to establish a sound framework. To many the speed at which the transfer took place may be regarded as somewhat hasty, especially when considering the complexities involved in establishing a supranational functioning supervision, let alone doing so between politically sovereign Member States. Gheorghe remarks that the current reform has been constructed around the single attribute ‘promptitude’[16], showing that perhaps not enough time has been granted to a carefully designed SSM framework. In this regard Verhelst also highlights that a cautiously crafted

[10]Verhelst, Stijn. (2013). Assessing the Single Supervisory Mechanism: Passing the Point of No Return for Europe’s Banking Union. Paper 58. Brussels, Belgium: Egmont –The Royal Institute for International Relations: 9
[11]Véron, Nicolas & Guntram B. Wolf (2013). From Supervision to Resolution: Next Steps on the road to European Banking Union. *Bruegel Policy Contribution.* Issue 2013 (4). February 2013: 6
[12]Verhelst 2013: 9
[13] José-Manuel Barroso said in Press Release. European Commission. (2012). Commission proposes new ECB powers for banking supervision as part of a banking union. European Commission. 12th of September 2012.
[14] European Commission 2012
[15]Verhelst 2013: 12
[16] Gheorghe 2013: 224

design "is of essential importance"[17], hinting that the consequences of a malfunctioning framework could have negative externalities on the Union. Meanwhile skepticism prevails regarding whether or not increased integration through enhanced regulation can indeed be successful. It questions if the rapidity of the implementation allows for fundamental sovereign values to be considered[18] and apprehensions about whether or not Europe is in fact ready for a Eurozone-wide regulation and supervision.

Despite the intentions presented by the EU in favor of a joint European supervisor being mainly positive, the risks it entails should not be underestimated. A clear lack of transparency, both with regard to EU institutions as well as Eurozone Member States, makes it difficult to only see the positives. Beyond this, a supranational supervision presents a unique economic, political and even social experiment which has been unprecedented and where the outcome is far from certain. Currently it seems as though European supervision "is clearly linked to the ongoing crisis"[19], rather than convincingly proving to be crafted from a deeper-rooted European-wide need for supervision. In order to assess these issues, the main research problem which will be explored is: *Is the European Banking Union and entailed Banking Supervision anachronistic?* The aim and approach for this evaluation will be considered in the subsequent section.

1.2. Aim, Hypothesis and Approach

As mentioned above, this research paper sets out to explore if the European supervision of the Eurozone banking systems is anachronistic. In other words, whether the establishment of the SSM and the EBU is taking place at the optimal time or should have been created either at an earlier or a later stage. This will be established by determining if the relevant European institutions and the Eurozone Member States are ready to take on the responsibility and respectively delegate powers to a supranational institution. Following this the time issue will be considered, challenging the idea that two years was enough time to implement the mechanism. Thereby the aim is to critically evaluate the situation of the ECB and the Member States since the outbreak of the financial crisis and their subsequent behavior as regards achieving the best possible results for the European Union. This will be done by individually addressing the three sub-questions:

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[17]Verhelst 2013: 12

[18]As can be seen by Germanys attempt to challenge the banking union in its constitutional court, in which five academics "filed a case claiming that the EU's banking union is illegal under German law because it was created without the necessary treaty changes." Wagstyl, Stefan. (2014). EU Banking Union challenged. *Financial Times*. February 7th 2014.

[19]Verhelst 2013: 11

- *Are the European Union institutions[20] ready for a European Banking Supervisor?*
- *Are the European Member States[21] ready for a European Banking Supervisor?*
- *Would more time[22] have been necessary to establish a successful supervision?*

At the outset, the authors' hypothesis questioning whether two years of preparation time was sufficient for allowing for the necessary quality was skeptical; whether the EU institutions are sufficiently prepared for the task which has been transferred to them from sovereigns and if in reality the sovereigns are ready to, not only give up power on paper, but to actually transfer powers to a supranational level and to act in accordance with this. In other words, the author from the outset questioned the creation of the Banking Supervision as a Regulation misplaced in time – too early or too late, i.e. anachronistic.

The approach to the assessment is the execution of **evaluation research** based on the theoretical foundations of **legal pluralism** and **globalization**. The method of evaluation research allows for qualitative and quantitative data collection which is aimed at providing a comprehensive analysis of the current situation. The collected data will give an insightful answer to the research and sub-questions. In terms of qualitative data collection, interviews were executed with people from relevant institutions; a combination of qualitative and quantitative research was done by analyzing media content; and finally with regard to the quantitative data collection, relevant statistics were produced using information provided by the national and supranational institutions.

1.3. Socio-legal Significance

In socio-legal literature lawyers have sometimes been criticized for seeing international law only as a response to crisis rather than "issues of structural justice that underpin everyday life."[23] Supervision and the SSM have also primarily been seen as clearly linked to the ongoing crisis[24], meaning that it is simply a tool created to fill the holes exposed by the crisis and not, as stated by the EU, the necessary step towards completing the EMU. Furthermore, it could be argued that the transfer of competencies to a supranational level was only the result of a crisis and not in fact a genuine dedication towards integration. While this historically has been cause for integration, this argument in itself does not legitimize the legislative power transfer and one has to look closely at the Supervisory Mechanisms to assess its validity.

[20] Primarily the ECB will be considered, but the Treaty and the EP will also be considered
[21] National Central Banks and National Supervisors
[22] Than the two years since the agreement to establish the SSM
[23] Cotterrell, Roger. (2006). Comparative Law and Legal Culture. In: Oxford Handbook of Comparative Law. Oxford: Oxford University Press.: 4
[24] Verhelst 2013: 11

Barker writes that "persuading Eurozone countries to give up national control over their banking systems" was something that "the EU's single currency club did not think realistic."[25] Nevertheless, seeing the Banking Union and Supervision merely as a product of the crisis may not reveal the whole picture. Thus, applying the theories of legal pluralism and globalization to assess the research question will allow a broader assessment of what brought the SSM into being and provide a link to sociology of law, thereby establishing whether the SSM and the banking union are in fact anachronistic

Applying the theory of legal pluralism on the topic of banking supervision calls into question some fundamental aspects. Although the decision for a joint supervision was taken by a unanimous vote, legal pluralism questions if harmonization is in fact a suitable tool for governing hybrid legal spaces. As regards the establishment of the mechanism, the theory advocates the creation of mechanisms which manage via legal pluralism without eliminating it. Considering that legal pluralism encourages the incorporation of various opinions and voices of those concerned and affected by a piece of legislation, differences in opinion regarding a joint supervision and the feeling of *not-being-heard* could possibly jeopardize the supervision. This would mean that an incorporation and recognition of a variety of normative systems would be a necessary prerequisite for the functioning of the SSM.

In regard to the globalization theory the notion of the sovereign state is continuously being challenged in the context of internationalization of economic activity. The theory suggests that states have become impotent vis-à-vis global economy and that they have lost their exclusive jurisdiction over their territory. This would mean that Member States depend on a strong institution to protect them from outside risk. However, if countries continue to put national interests before European-wide interests, they risk a sound functioning of the mechanism, which would endanger not only supervision but also financial stability. This brings forward the importance of networking between the national and supranational levels, as the mechanism "will require a good working relationship between the national supervisors and the ECB."[26] This calls for heightened sensitivity, which is necessary as regards the interferences of the ECB with the work of the NCAs. If this is not considered carefully and it is "not properly managed, its decentralized functioning could prove to be the SSM's weak spot."[27]

[25]Barker, Alex. (2014). European banking union: Foundations laid but bricks still to fall in place. *Financial Times*. Future of the European Union. May 8, 2014.
[26]Verhelst 2013: 20
[27]Verhelst 2013: 20

1.4. Delimitations of the Study

As can be seen, the European Banking Union consists of different components, which in itself leads to manifold problems. This paper sets out to focus on the supervisory tasks granted to and operated by the ECB instead of laying its focus on a different matter, as this research paper does not provide for a more extensive research. Moreover, while financially and economically it would be relevant to consider the need for legislation to counter further fragmentation of the European financial services markets as well as considerations regarding the possibility of a regulation restricting operations in the financial sector, these aspects will not be considered here. This is because such studies would move too far into the field of economics, which is a different subject matter.

2. Thematic background: A Literary Review

This chapter examines the thematic background for banking supervision, encompassing the historical evolution which paved the way for a joint supervision in the form of SSM, which will start operating in November of this year. In doing so, it gives a portrayal of previous scientific publications in the form of statistical/financial data (quantitative sources) and the major literary publications (qualitative data). Due to its technicality and novelty, the topic has not yet been analyzed from a socio-legal perspective. The literature gives insight into expressed concerns and criticisms as well as opportunities related to the current construction of a European Banking Union, based on the financial implications of the crisis and previous legislative considerations.

2.1. Financial Background

The results of the financial crisis have been damaging, not only have the intra-national economies of EU Member States been severely affected, but also the transnational social and economic relations have suffered. Even if state centered solutions may have been successful just a few decades ago, the current interconnectedness of markets, the establishment of the EMU and the existence of a common currency have made a common approach with regard to the Single Market, EMU and a possible EBU, indispensable. A common approach has thus been advocated by the economist Verhelst,[28] an attitude shared by the ECB and the Commission. In 2012 almost half of the annual report of the ECB was concerned with the effects and benefits of financial integration as well as highlighting the "deleterious effects of disintegration on monetary union and the effectiveness of monetary policy."[29] The crisis came to influence the financial services market of Europe and led to a subsequent wave of fragmentation that spread across the continent, which in turn affected the ECB's ability to operate effective monetary policy. In the words of Nicolas Véron[30], a French economist, writing on the necessity of common action to counter the crisis: "In Europe too, united we stand or divided we fall."[31]

The degree to which countries had been economically integrated pre-crisis impetus had clearly not been advanced enough "to prevent renationalization of credit conditions, even though the effect has been muted by the European Central Bank's exceptional liquidity

[28] Verhelst 2013: 14
[29] Howarth et. Al. 2013: 104
[30] Véron is a French economist and Expert on Financial Crisis
[31] Véron, Nicolas. (2011). Stress tests fail to rescue Europe's banks. *Financial Times: Opinion.* July 14, 2011.

provisions."[32] Despite efforts by the central bank, the crisis immediately brought about less integration of banking markets. Factors which had previously been indicators for a high level of market integration began decreasing, evidenced by a fall in the establishment and activity of assets held by foreign branches and subsidiaries and a decline in cross-border merger and acquisition activities of banks.[33] The Member States deliberately sought different approaches to counter the crisis. For example, Member States set different levels of depositor protection - ranging from €20,000 in many new Member States and the UK to more than €100,000 in Italy and France[34] - causing discrepancies in the level of trust towards banks. In an attempt to regulate deposit guarantees, some countries, e.g. Ireland and Germany, took further uncoordinated decisions, thereby worsening the crisis. Such nationalistic behavior distorted the "level playing field competition and created the potential for bank runs"[35] as consumers in some Member States were inclined to shift deposits to countries with more generous guarantee schemes.

On the other hand, some authors would argue that it was precisely the closer interconnectedness between profoundly different sovereigns that brought about some of the consequences seen in the crisis. Rather than the reckless indebtedness of a few countries as the cause for the European sovereign debt crisis, Scharpf argues that difficulties arose with the decision to establish an EMU between 'economically, socially, institutionally and in its political preferences heterogenic Member States.'[36] He argues that Member States renounced their macroeconomic instruments in favor of a ECB 'one-size-fits all' policy, with the result that countries with a below average growth and inflation rate went into recession (e.g. Germany in the early 2000s) and countries with high inflation rates (e.g. 'PIIGS countries[37]') lending at extremely low real interest rates.[38] Domestic demand for loan financing was escalated visibly by the real estate bubble in Ireland and Spain, leading to an increase in wages and imports. Scharpf finally states that this led to an ever growing account deficit which was automatically financed under the EMU, through surplus countries without resulting in a balance of payments deficit.[39]

[32] Véron 2011
[33] Howarth et. Al. 2013: 105
[34] Howarth et. Al. 2013: 107
[35] Howarth et. Al. 2013: 107
[36] Scharpf, Fritz Wilhelm. (2012). 'Soziales Europa: Bestandsaufnahme - Erosion der Legitimation in der Europäischen Union durch eine soziale Krise?'. *Soziales Europa unter den Bedingungen der Krise*. Düsseldorf, 21 August 2012.
[37] Portugal, Ireland, Italy, Greece and Spain
[38] Scharpf 2012
[39] Scharpf 2012

On a domestic level, as a result of the economic turmoil, a number of enterprises went bankrupt, investors experienced financial losses[40] and harsh austerity measures were imposed. The situation was made even more difficult by "government spending cuts, output, and income caus[ing] unemployment to increase, tax revenues to fall, and sovereign deficits and debt to rise, triggering more financial stress, and so on in a downward spiral."[41] As some banks were perceived to have a deteriorating solvability, this soon came to influence the solvency of entire countries, leading to higher public borrowing costs for these Member States and consequently for banks.[42] Elliott writes that this cycle can be sparked by national bank runs, as citizens fear default of national debt or even withdrawal from the euro, and start moving their funds outside their county. The repercussions this has on the banks can be a compromised solvency and "it has forced many of them to rely on the ECB for liquidity life support, which does not reassure anyone about the long-term ability of these banks to survive."[43] Many governments used *public money* to support and save banks and to "eliminate assets that are difficult to evaluate from balances."[44] A negative spiral developed as domestic banks came to hold an increasing amount of sovereign debt, while simultaneously being bailed out to avoid systemic risk. [45] Finally, in an unprecedented effort to avoid the collapse of the banking system and simultaneous bankruptcy of entire nation states, the EU and the IMF stepped in to provide financial assistance.[46] This action was taken despite the ECB continuously denying being the 'lender of last resort' as well as their initial reluctance to bail out banks and Member States. As the crisis expanded and some countries came to suffer more severely than others, it became clear that Member States could not be left to their own devices without risking destabilizing the entire European financial structure. Therefore the only solution was a collective approach.

The consequences of the crisis have been detrimental to both intranational economies of the EU and to transnational social and economic relations. Financial implications range from a slow rate of global macroeconomic recovery, financial markets still not functioning normally,[47] a total of €4.5 trillion in taxpayers money and state guarantees having been

[40] Gheorghe 2013: 223
[41] Semmler, Will. (2013). The Macroeconomics of Austerity in the European Union. *Social Research.* Vol. 80(3). Fall 2013: 883
[42] Verhelst 2013: 11
[43] Elliott, Douglas J. (2012). Key Issues on European Banking Union: Trade-Offs and some Recommendations. Brookings, Global Economy and & Development. Working Paper 52: 7.
[44] Gheorghe 2013: 223
[45]Howarthet. Al. 2013: 106
[46] Gheorge 2013: 223
[47] Gheorghe 2013: 223

committed to support and guarantee EU ailing banks[48]. Before the outbreak of the crisis the level of cross-border inter-bank loans in the EU had peaked at a level of 45% in 2007. Cross-border bank holdings of the Eurozone's monetary financial institutions, for example in terms of government and corporate bonds held by monetary financial institutions, had been at a high of over 40%.[49] As these figures began to drop following the 2008 outbreak of the crisis, the result was a brutal demonstration of how devastating "the impact of the international financial crisis and then the Eurozone sovereign debt crisis [had been] on the single market in financial services."[50] The crisis did not only negatively impact the level of integration of financial and bank markets, but it exposed the existence of nation-centered interests and the heterogeneous situations they were in. While the problems were global, the effects and ability to act remained mainly national, despite European solutions being necessary.

2.2. Regulatory Background

The sovereign debt crisis "laid bare structural weaknesses in the EU's policy framework".[51] These were to be countered by the establishment of a new framework of international supervision, taking into account the European and global dimensions of the crisis.[52] Previous regulations had already existed before the outbreak of the financial crisis, but as Germain argues, the notorious Basel Regulations, for example, worked in favor of and "could not but be the creation of the biggest banks, given their information rich position in the global financial system and their extensive ties to key national regulatory communities."[53] In an attempt to counter the link between "the banking and sovereign debt crises"[54] the EU sought solutions which would offer a European response to the financial crisis, thereby deciding to finally break the "vicious link between sovereigns and their banks."[55]

Also the form of legislation has become more efficient. While previously the Basel Regulations[56] and other financial legislation had taken the form of directives, these had the disadvantage that their operation was dependent on their implementation by Member

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[48] Zavvos, G.S. (2013). "Towards a European Banking Union: Legal and Policy Implications." 22 Nd Annual Hyman P. Minsky Conference. Evy Economics Institute Bard College, New York. 18th of April 2013. *Levy Institute*.: 4
[49] Howarth et. Al. 2013: 105
[50] Howarth et. Al. 2013: 105
[51] Verhelst 2013: 9
[52] De Larosière, Jacques, Leszek Balcerowicz, Otmar Issing, Rainer Masera, Callum Mc Carthy, Lars Nyberg, José Pérez, & Onno Ruding. (2009). *The High-Level Group on Financial Supervision in the EU*. Rep. Brussels: European Union.
[53] Germain 2012: 533
[54] Verhelst 2013: 9
[55] See Introduction
[56] Capital Requirement Directive (CRD) Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006

States. As these leave “open the possibility of national options or ‘specificities’ in the implementation of EU rules”, subsequent legislation includes a mix of directives as well as *regulations* which need to be adopted by the Member States in order to be implemented. As directives contain a number of national discretions, leaving “open the possibility of national options or ‘specificities’ in the implementation of EU rules”, the subsequent legislation passed following the crisis included a directive as well as a regulation.[57] While supervision of the financial sector has traditionally been a national competence with limited cross-border effects, the change of legislative form indicates an attempt to achieve a maximum level of harmonization for a more unified supervision in future.

To many the introduction of a banking union and common supervision seemed to come as a surprise. A closer look, however, reveals that the idea was on the table long before the public announcement of the decision in mid-2012. This can be taken from a report written for the Commission by De Larosière in 2009, making initial proposals for a common supervision. The move of the topic “from a public backwater (…) to the status of the front news”[58] is justified by Bradley as being the result of connections between domestic regulators becoming increasingly significant.[59] Additionally it had also to be reformulated in a manner that would more adequately and securely anchor financial governance on an international scale.”[60] As the Eurozone sought for an answer on how to counter the crisis that seemed to worsen by the minute, the solution of a new supervisory mechanism was tinkered on a solution which intended to shift the major part of supervisory responsibilities to a European level.

The three-year gap between the De Larosière Report and the announcement of an agreement can most likely be traced back to intense intergovernmental negotiations. Discrepancies in the affiliation towards regulatory measures prevented rasher action. While having strong support from France, Italy and Spain as well as the Commission from the beginning, Germany remained reluctant and raised several objections. Debates on a common supervision and banking union “paralleled long-standing debates on Eurozone governance and solutions to the sovereign debt crisis” as the European ministers initially “failed to overcome major ongoing obstacles.”[61] Germany and other northern countries were primary concerned by the prospect of being forced into contributing more funds into

[57] Howarth et. Al. 2013: 107
[58] Germain 2012: 530
[59] Bradley, Caroline. (2014). Breaking Up Is Hard to Do: The Interconnection Problem in Financial Markets and Financial Regulation, a European (Banking) Union Perspective. *Texas International Law Journal.* Vol. 49(271):: 276
[60] Germain 2012: 530
[61]Howarth et. Al. 2013: 111

the ESM to bail out banks in other countries, now slightly dampened by the decision that the ESM funds will only be used under the supervision of the ECB within the realms of the new banking union.[62] As a consequence of these long-standing negotiations, supervision will be put into place approximately two years later than envisaged by France or the Commission. Nevertheless, the establishment of a Banking Union marks a major transfer of national competencies to European level.

The new supervisory mechanism which will start operating in November of this year "amount[s] to a radical initiative to stabilize the EU`s national banking systems [which have been] exposed directly to the sovereign debt crisis."[63] Founded on a single rule book, this intends to harmonize all legislation in this field, consistently on a euro area level.[64] Another important institutional consideration discussed to whom to grant the supervisory role: the final choice to designate the ECB was heavily influenced by institutional and legal considerations.[65] The report of De Larosière and his expert team recommended that the ECB and the European System of Central Banks be explicitly and formally charged with responsibility[66], as an agency would not have the necessary discretionary powers essential for supervision.[67] The report further suggests that the competencies which are currently found at national level should be transferred to the ECB, including the ability to "license the institutions concerned, enforce capital requirements, [and] carry out on-site inspections."[68] Even though the ECB will be the institution to exert final control, [69] certain aspects of the supervision will remain the responsibility of NCAs.

The final supervision mechanism undertakes a more nuanced division of competencies and many responsibilities have been left at a national level. This can be seen as grounded by the sensitive nature of banking supervision and a reluctance on the part of the sovereigns to transfer too much power to a supranational level. The idea of granting NCAs certain competencies was already proposed in the De Larosière Report, suggesting that the supranational supervisor should collaborate with already existing national financial supervisory authorities[70], while at the same time "leaving a substantial part of the supervisory tasks at the national level".[71] Verhelst acknowledges that it is an immense step

[62]Howarth et. Al. 2013: 112
[63] Howarth et. Al. 2013: 104
[64] Howarth et. Al. 2013: 107
[65] Zavvos 2013: 4
[66] De Larosière 2009: 40
[67] Zavvos 2013: 4
[68] De Larosière 2009: 43
[69] Verhelst 2013: 13
[70] De Larosière 2009
[71] Verhelst 2013: 13

forward in addressing Europe's interconnected crisis, but warns that there are certain limitations with regard to the relationship between the supranational supervisor and NCAs. Highlighting the importance of an "effective working relationship between the ECB and the national supervisors", he remarks that this could otherwise turn out to be "the weak link in the Banking Union."[72] As intransparency, insincerity and difficulties in terms of negotiations have shown since the outbreak of the crisis, this could prove to be a difficult task for the ECB to master and concerns should not be disregarded.

The absence of "a central EU body responsible for financial crisis management and the lack of a common resolution and deposit insurance scheme"[73] continues to cast doubt over the ability of the Eurozone to effectively handle crisis management and resolution. The issue with establishing a crisis management body is the controversy it entails: a European financial crisis with decision-making powers having fiscal implications.[74] A possible fiscal union is highly controversial and the Swedish Finance Minister Anders Borg warns that the EU should be more hesitant talking about a fiscal union as "they might create something that solves very little, but undermines the whole fundamental structure of the European Union."[75] This aspect calls into question whether or not the institutions of the EU are in fact ready to take on the role of supervisors of the Eurozone banking sector, or whether a more solid structural foundation would indeed be required. While some policy-makers advocated a further enlargement of the banking union through the incorporation of an even larger part of the financial sector, it has been decided that the banking sector should be defined in narrow terms. This could lead to odd situations, such as in France when "the insurance arm of financial institutions [will be] supervised at the national level, while the banking arm of the same institutions will be supervised as part of the SSM."[76] This means that the different supervisory levels will need to cooperate closely for these issues not to become severe problems. All the while emphasizing the advantages of the SSM, Verhelst remains skeptical as regards the feasibility of the banking union. In his view it is both overly ambitious (as he believes that the deadlines will not be met) and incomplete (arguing that the fare of a common deposit guarantee remains unsure).[77]

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[72] Verhelst 2013: 5
[73] Howarth et. Al. 2013: 110
[74] Howarth et. Al. 2013: 110
[75] Milne, Richard. (2013). Euro fiscal union 'undermines' EU. *Financial Times: Europe*. February 19th, 2013.
[76] Verhelst 2013: 14
[77] Verhelst 2013: 7

3. Theoretical foundation

The theoretical foundation of the thesis will be based on the concepts of Legal Pluralism and Globalization. Both theories recognize the "irreducible plurality of legal orders in the world, the coexistence of domestic state law with other legal orders [and] the absence of a hierarchically superior position transcending the differences."[78] All of these aspects can be considered relevant when assessing the institution and legislation making procedures of establishing a common banking supervisor. In order to explain the different interest groups which prevail, not only in the EU in general, but in the creation of the EBU and the SSM in particular, the theory of legal pluralism will first be used to express the hybrid legal spaces that prevail in the EU. The second theoretical approach is the globalization theory, which will explain the modern development of legislation making and put it into a global context. The theories will first be defined and their origin will be considered. After this the aspects which are relevant to this study will be outlined.

3.1. Legal Pluralism

The notion of legal pluralism has been a long way coming, as an ideology of legal centralism has previously frustrated development of general theory and been considered a hindrance to accurate observations.[79] The definition which will be used for legal pluralism, stems from Michaels who defines it as "describing a situation in which two or more laws (or legal systems) coexist in (or are obeyed by) one social field (or a population or an individual)."[80] Within this study the *social field* will encompass features such as (amongst others) nationality and geography[81] while maintaining that the EU undoubtedly encompasses many more features. As several scholars independently of one another rediscovered that "society is plural rather than monolithic, that it is private as well as public in character and that the national (public, official) legal system is often a secondary rather than a primary locus of regulation"[82] the former focus on centralism became outdated. In regard to the subject matter, this theory is relevant as it displays a supranational institution operating at a transnational level to encompass the legal, cultural and political variations of all Eurozone countries.

[78] Michaels, Ralf. (2009). Global Legal Pluralism. *Annual Review of Law and Social Science.* Vol. 5: 244
[79] Griffiths, J. (1986). What is legal pluralism? *The Journal of Legal Pluralism and Unofficial Law*. Vol. 18(24): 4
[80] Michaels 2009: 245
[81] Griffiths 1986: 5
[82] Galanter, Marc. (1981). Justice in many rooms: courts, private ordering and indigenous law. *Journal of Legal Pluralism.* Vol. 19: 20

When looking at the concept of legal pluralism, it should first be acknowledged that it developed in the 1970s and 1980s within legal anthropology and sociology in order to analyze “overlapping normative orders within societies”.[83] Especially prominent in the development of the theory in regard to socio-legal studies was John Griffith who in 1986 proclaimed that legal pluralism is fact while legal centralism is “a myth, an ideal, a claim, an illusion.”[84] In the early 1990s it became evident “that a single-minded focus on state-to-state relations or universal overarching norms was inadequate to describe the reality of the emerging global legal system”[85], making room for the theory of legal pluralism. While legal rules had traditionally been tied to a specific territory, it became increasingly important in the modern world to recognize that physical location alone could no longer be seen as the sole criterions necessary for legal authority and that nation states “must work within a framework of multiple overlapping jurisdictional assertions by state, international, and even non state communities.[86] These overlapping jurisdictional assertions prevail in a society as multifaceted as the EU, and while at some level economic practice and legislation can be harmonized, it should not be ignored that there is always a social aspect to legislation making and implementation.

From an analytical point of view, the theory of legal pluralism offers a useful alternative to the traditional framework of centralism, as it recognizes and identifies the existence of hybrid legal spaces. These hybrid legal spaces can be defined as normative systems which occupy the same social field and are thus forced to negotiate these hybrid legal spaces.[87] The theory and practice of legal pluralism recognizes the existence of such spaces, and can thereby be justified as a technique of governance on pragmatic grounds.[88] Attempts to govern hybrid legal spaces have been seen in an increasing call for “harmonization of norms, more treaties, the construction of international governing bodies and the creation of ‘world law’”[89] approaches which do not seem to consider a possible embrace of legal pluralism. Berman suggests the development of procedural mechanisms, institutions and practices which could instead govern while using legal pluralism and without eliminating

[83] Michaels 2009: 225
[84] Griffith J. (1986). What is legal pluralism? *The Journal of Legal Pluralism and Unofficial Law*. Vol. 18(24): pp. 1-55:4
[85] Berman, Paul Schiff. (2009). The New Legal Pluralism. *Annual Review of Law and Social Science.* Vol. 19(10): 226
[86] Berman, Paul Schiff. (2012). Global Legal Pluralism: A Jurisprudence of Law beyond Borders. Cambridge: Cambridge University Press.: 5
[87] Berman 2009: 226-227
[88] Griffith 1986: 5
[89] Berman 2012: 9

it.[90] This solution sounds more like the European motto *in varietate concordia*[91] than a forced compliance under one normative system.

This research paper sets out to study the applicability of a legal pluralism approach to a number of state and non-state normative systems, encompassed in the creation of joint supervision. The theory of cosmopolitan pluralism will give guidance to the research, as the approach dictates that there is not a single answer on who decides, nor that there is an authoritative metric for determining which norms should prevail in a messy hybrid world.[92] Instead the theory suggests that by applying a cosmopolitan approach, society is provided with a legislation making model which focuses on creative interventions made by various communities drawing on an assortment of normative sources in political, rhetorical and legal iterations.[93] The proposed framework does not advocate for an undifferentiated inclusion of communities, but it rather suggests that, by expanding the range of voices heard, more opportunities can be created in order to forge a common social space. Unlike attitudes from sovereign and universal approaches, which limit the range of norms which are considered and where normative assertions of multiple entities compete for primary, the cosmopolitan approach would enable law to benefit from inclusion, diversity, creativity and dialogue.[94] Although the supervision has already been established, it would be important to evaluate whether a legal pluralist approach or whether centralism dictated the formulation of the legislation.

Although the attention of legal pluralism has traditionally been focused on clashes within one geographical area under a single sovereign authority, the fact that the countries of the Eurozone partially represent a geographical area makes it relevant for its study. If we apply the theory to the EBU and the supervision, we are only able to fully understand the meaning, if it is recognized that the legislation originates from and has an impact on “many local settings in which the norms of multiple communities – geographical, ethnic, national and epistemic – become operative.”[95] The study will focus on the overlapping jurisdictional assertions which have created hybrid legal spaces in the global arena.[96] It also presents the link between legal pluralism and the theory of globalization. Especially in regards to global or European governance, it is important to recognize the pluralist nature

[90] Berman 2012: 9
[91] United in diversity
[92] Berman 2012: 15
[93] Berman 2012: 15
[94] Berman 2012: 15
[95] Berman 2012: 22
[96] Berman 2009: 226

of law, and the fact that it is "accountable to a variety of relatively independent actors: domestic courts, international civil society, and competing international regimes."[97] This idea is also put forward by Cotterrell who remarks that, for some, harmonization may not be beneficial but that it rather represents an ignorance of the varied historic past and culture, as well as customs and potentialities, which can be considered a moral and political affront.[98] Considering the diversity of the Eurozone landscape it is important to recognize the diversity, which should in turn be reflected in the appropriate legislations.

3.2. Globalization Theory

Globalization theory can be seen as directly linked to legal pluralism, as "many of the challenges that globalization poses to traditional legal thought closely resemble those formulated earlier by legal pluralists."[99] The ongoing globalization process has challenged our view of the sovereign, thereby transforming its traditional conception and construction – a necessary step considering the internationalization of economic and social activity.[100] In order to meet the three criteria which Therborn considers necessary for social theory and analysis (precise meaning, usable in empirical investigation and wide variety of possible applications) the definition which will be used, defines globalization as "tendencies to a worldwide reach, impact, or connectedness of social phenomenon or to a world-encompassing awareness among social actors."[101] This definition can be applied to the EU and "its internal links of 'Single Market' and monetary union" as these have a worldwide reach and impact due to the economic and political significance of the EU on a global scale.

Before entering into discussions about the applicability of the theory to the study of the relevant EU institutions and their relation to the impacted Member States, the author will give a short account of the development of the globalization theory. Although different waves of globalization have been recognized by many scholars[102] the current wave seems to be linked to economics. Barr and Avi-Yonah loosely define the ongoing period of globalization "as increasing global economic integration."[103] The date of origin varies depending on the literature but is usually related to either the expansion of foreign currency

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97 Michaels 2009:249
98 Cotterrell 2006: 304
99 Michaels 2009: 244
100 Jayasuriya, Kanishka. (1998-1999). Globalization, Law, and the Transformation of Sovereignty: The Emergence of Global Regulatory Governance. *Indiana Journal of Global Legal Studies.* Vol. 6(2): 425
101 Therborn, Göran (2000). Globalizations: Dimensions, Historical Waves, Regional Effers, Normative Governance. *International Sociology.* Vol. 15(2).: 154
102 Barr, Michael S. & Reuven S. Avi-Yonah. (2004-2005). Globalization, Law & Development: Introduction and Overview. *Michigan Journal of International Law.* Vol. 26(1).; Therborn 2009; Wallerstein 1999
103 Barr et. Al. 2004-2005: 1

trading[104]or with the liberalization of exchange and capital controls directly linked to the lowering of trade and investment barriers[105]. All of these changes took place during the 1980s and were the result of the economic turmoil of the 1970s, the changing political affiliations and the end of the Cold War. These economic and political changes came to challenge the notion of sovereignty as the world economy globalized rapidly and the regional institutions of the EU came to question "the concept of the sovereign State as an entity that has exclusive jurisdiction over its territory."[106] Although the EU has not made the nation-state redundant, it is important to recognize that Eurozone Member States were undoubtedly overwhelmed by the financial crisis and that they may have felt safer under the umbrella of the EU.

Therefore the theory of globalization can be applied to the study of EU institutions in regard to what Therborn calls the "state of (im)potence in the face of the global economy."[107] The effects of the crisis, which were discussed in detail in the previous chapter, clearly demonstrated the inability of individual Member States to counter the crisis on their own terms. Therborn addresses this concern when he writes that controversies "center around the questions about the extent that the state has lost or is going to lose the capacities to govern and control."[108] Having established the EMU, the Single Market and introduced a common currency, steps which were by Wallenstein considered as "achiev[ing] the financial underpinning necessary to pull away from its close political links to the United States" it seems as though Member States are only slowly waking up to the idea, that they single-handedly are not as powerful in the global-political arena as they used to be.

When applying the theory of globalization on the establishment of a 'complete' EMU and a common supervisor, Berman offers an option for *Law Beyond Governmental Institutions.* His theory moves away from the traditional approach towards international law, which he argues has ignored "the multifaceted ways in which legal norms are disseminated, received, resisted, and imbibed "on the ground" in daily life"[109]. In order to avoid the missing out on the complexity of how law actually operates, he instead offers four areas to be considered:

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[104] Therborn 2000: 163
[105] Barr et. al. 2004-2005: 1
[106] Yayasuriya 1998-1999: 426
[107] Therborn 2009: 152
[108] Therborn 2009: 152
[109] Berman, Paul Schiff. (2004-2005). From International Law to Law and Globalization. *Columbia Journal of Transnational Law.*: 492

1) legal consciousness – how people imbibe, transform and resists law over time;

2) role of lower-level bureaucrats in how law is implemented in daily life;

3) importance of networking of governments and/or non-governmental actors; and finally

4) the legal pluralism approach of recognizing different affiliations and multiple conflicting norms which arise from this.[110]

While all aspects are interesting and could be applied to the study, the focus will only be on the last two points. The networking aspect will be discussed below, while the fourth point regarding legal pluralism was already extensively explored in the previous section.

When describing the network aspect of globalization, Berman refers to The Basle Committee on Banking Supervision as a trans-governmental organization which has been responsible for financial stability around the world and which was mentioned earlier in this paper. As regards the EU, Berman also notes that with the establishment of the single market "the EU itself emerged as a "regulatory state" and sought to harmonize (or at least reconcile) the regulations of its diverse and growing members through a series of networks"[111]; a statement which on the one hand highlights the novelty of the EU as a regulator but also shows the interconnectedness of decision-making on EU level. The danger of such networks is present in the risk of reduced transparency, impede in political accountability and be subject to capture by powerful interests,[112][113] risks which could be of socio-legal concern in regards to networks and the Banking Supervision.

3.3. Interconnectedness of Theories

The notion of legal pluralism is not unfamiliar to those who apply globalization theories in their studies. Yet, even though scholars tend to recognize the importance of these two theories, Michaels points out that "the three disciplines equipped to deal with the transnationalization of law[114] have been slow to embrace globalization, and one may add, legal pluralism."[115] The danger when creating an institution such as the joint supervision is not recognizing the increasing importance of legal pluralism and globalization. As regards a common solution to economic distress, a central global or European authority can be fruitful in preventing fragmentation. Michaels argues that the existence of a global authority to mediate is of utmost importance for the proliferation of treaties and

[110] Berman 2009: 493
[111] Berman 2009: 502
[112] Such powerful interests can be stakeholders from regulated industries or economically dominant nation-states
[113] Berman 2009: 503
[114] Comparative law, private internatinal law (conflicts of laws), and public international law
[115] Michaels 2009: 247

institutions, if these are to prevent decentralization into semiautonomous regimes which could consequently not be considered a unity.[116] In regard to the EU such findings would support the need for a joint supervision, which would be aimed at eradicating fragmentation. This result would however be more likely if the decision-making bodies would recognize and embrace the theories of legal pluralism and globalization.

[116] Michaels 2009: 249

4. Methodology

The method which was chosen to conduct the research and consequently gather empirical data is the method of *evaluation research.* Weiss writes that "evaluation is the systematic assessment of the operation and/or outcomes of a program or policy, compared to a set of explicit or implicit standards, as means of contributing to the improvement of the program or policy".[117] The method of *evaluation research* has been chosen due to its role in quality assurance of regulations and because the legislation is part of a public service to the citizens of the European Union. Therefore it is considered to have an important role in the stabilization of the EU as well as the global financial system.

While there are different understandings of reality, the evaluation of the Supervision attempts to highlight certain aspects which can be empirically tested in order to give an all-encompassing assessment of the situation. In this respect the following section will start with describing the method, followed by an explanation of the three different ways of collecting data. After that the reasons for the choice of the method will be given, after which acknowledgement of the criticism will be touched upon.

4.1. Method Description

Within the realms of *evaluation research* it is common to use 'a mixture of quantitative and qualitative methods.'[118] Therefore the research has been divided into the following three subsections:

a) qualitative research in the forms of interviews;

b) quantitative and qualitative analysis in the form of media analysis;

c) quantitative research in the form of gathering and visualizing relevant statistics.

4.1.2. Qualitative Research: Interviews

One method applied while collecting data was the execution of interviews, as part of the qualitative research. The interview partners were chosen based on their involvement in process of establishing or executing the SSM. In total a number of four interviews were conducted with representatives from the institutions: European Commission, ECB and German Bundesbank. The European Commission and the German Bundesbank were contacted via e-mail. At the European Commission Benjamin Angel, Head of DG for Financial Institutions and Financial Stability was contacted due to his privileged role and

[117] Weiss,Carol. (1998). Evaluation: Methods for Studying Policies and Programs. New York: Prentice Hall: 4
[118] Travers, Max. (2005). The Formalisation of Research Ethics. In: Banakar, Reza & Max Travers. (2005). Theory and Method in Socio-Legal Research. Oxford: Hard Publishing: 357

indepth understanding of the topic. Angel further recommended conducting an interview with Martin Merlin, Head of Internal Market and Services. As Mr. Merlin was no longer available on the arranged date, 3rd of April 2014, Charlotte Sickermann from the same team, was instead interviewed. Both interviews took place in Brussels, Belgium after having been arranged via email. The interview with Benjamin Angel took 1h11min and the interview with Charlotte Sickermann lasted 40min - the transcript of both interviews can be found in the **Appendix**.

The contact with the German Bundesbank went via their website and a request for an interview on the topic of the SSM was sent. After the email was processed, a SSM expert contacted the author outlining on one hand the willingness to be interviewed and on the other hand the legal circumstances. The interview took place at the German Bundesbank February 6th 2014 and lasted for 1h30min. As the interview could not be recorded, it was subsequently not transcribed and only a summary of the interview could be published. The contact with the ECB Expert was established via a recommendation. As the interviewee wished to remain anonymous, the disclosed information remained confidential. The interview was organized outside the ECB premises and lasted for approximately 45min. All interviewees were presented with the questions before the interview took place. The final results were either transcribed or summarized[119] and the key findings are presented in the next section: **results**.

The purpose of conducting interviews was to "explore the views, experiences, beliefs and/or motivations of individuals on a specific matter" as this method is believed to "provide a 'deeper' understanding of social phenomena that would be obtained from purely quantitative methods".[120] By interviewing people from different institutions, who have been involved in the establishment of the SSM, insightful information can be collected. The analytical method used to process the interviews is the Interpretative Phenomenological Analysis (IPA). It offers insight into how a given person, within a given context, makes sense of his/her social world and the meanings that particular experiences, events and states hold for the participant.[121] By applying this method the interviewer will not only focus on what is said, but also how it is said and what underlying messages and emotions are being communicated.

[119] See Appendix
[120] Gill, P., Stewart, K., Treasure, E. & B. Chadwick. (2008). Methods of data collection in qualitative research: interviews and focus groups. *British Dental Journal.* Vol. 204(6): 291
[121] Smith, Jonathan. A. & Mike Osborn. (2007). Four: Interpretative Phenomenological Analysis. In: Smith, Jonathan A. Qualitative Psychology: A Practical Guide to Research Methods. Thousand Oaks, California. SAGE Publications Ltd: 53

IPA can be defined as wishing "to explore the individual's personal perception or account of an event or state as opposed to attempting to produce an objective record of the event or state itself."[122] The method has a theoretical commitment to the cognitive, linguistic, affective and physical being and aims at establishing a link between what is told, thought and the emotional state of the people questioned.[123] The approach allows the conduct of a small sample in which each case is analyzed individually the aim thereby is to gain insight into the perceptions and understandings of the person interviewed. In order to grasp this apparent reality, a section reflecting "the perceived attitude towards the project" will be incorporated, which is aimed at capturing the epistemological aspects of what has been said during the interview.

Furthermore the form of the interviews is semi-structured, enabling a dialogue to arise guided by, but not limited to, the questions and the schedule.[124] This type of interview "consists of several key questions that help to define the areas to be explored, but also allows the interviewer or interviewee to diverge in order to purse an idea or response in more detail."[125] As this type of research only asks for a limited amount of interview partners, due to the intensity of the results as well as the answers providing far more insight into the subject matter, than a higher number of interviews could have. The results will be processed through transcription which is the procedure of typing out the entire interview. [126] Within this procedure, the exact method which will be applied is called *denaturalism* - an approach which removes idiosyncratic elements of speech (e.g., stutters, pauses, nonverbal, involuntary and vocalizations).[127] Although the incorporation of these aspects could have been beneficial in terms of epistemology it was not used due to the previously mentioned segment on "the perceived attitude towards the project", aimed at capturing the knowledge, understanding and emotional state of the interviewees.

As not all interviews could be recorded and thus transcribed due to legal matters,[128] a method to deal with anonymity and confidentiality needed to be applied. While the aspects of anonymity and confidentiality are in fact distinct but nonetheless related concepts, they will be defined individually. Confidentiality refers to some information being 'mundane'

[122] Smith, Jonathan. (n/a). IPA. Interpretative Phenomenological Analysis/About IPA. Birkbeck University of London.
[123] Smith et. al. 2007: 54
[124] Smith et. al. 2007: 58
[125] Gill et. Al. 2008: 291
[126] Lindlof, Thomas R. & Byran Copeland Taylor. (2002). Qualitative Communication Research Methods. Thousand Oaks, California: SAGE Pubn. Inc: 206
[127] Oliver, Daniel G., Serovich, Julianna M. & Tina L. Mason. (2005). Constraints and Opportunities with Interview Transcription: Towards Reflection in Qualitative Research. *Social Forces.* Vol. 84(2): 1273-1274
[128] Certain Interview partners could not be recorded due legal matters. The *legal clearance* of the results would have cost to much time and could have distorted the results.

while other information may be viewed as highly confidential by participants. This information is thus not intended to be shared with others.[129] Anonymity is when a person's identity is kept secret.[130] Within this research both aspects will be applied, in one interview anonymity prevailed due to matters of legal clearance from the institution, while in the other interview anonymity rests on the concept of confidentiality due to "principles of privacy and respect for autonomy"[131] of the individual being guaranteed.

4.1.2. Qualitative and Quantitative Research: Analyzing Media Messages

Applying the method of media content analysis, the two publications which were used were the newspaper Financial Times and the news agency Reuters. Financial times was used as a source, as it places a special emphasis on international business and economic news, is considered "one of the world's leading business news organizations, [and] is recognized internationally for its authority, integrity and accuracy."[132] The second source Reuters was chosen to be used as a control group in order to eliminate bias and create reliable baseline data. The news agency is "the world's largest international multimedia news agency, providing investing news, world news, business news (…)" and makes sure that its journalist is "subject to an Editorial Handbook which requires fair presentation and disclosure of relevant interests."[133] All articles written on the topic of the SSM between July 2012 and July 2014 were collected, counted (Financial Times: 100; Reuters: 188) and subsequently categorized into tone (affirmative, critical or neutral) and subject (institutional level, Member State level or other).

The findings of the media coverage will be defined by the search items 'Single Supervisory Mechanism' and 'SSM'. All articles containing these words will then be assessed on whether they seem positive or negative towards the establishment of the SSM. A title such as "a highly imperfect banking union"[134] will be considered negative; "slow but real progress on resolving Eurozone crisis"[135] will be considered positive; and "Transcript of interview with Danièle Nouy[136]"[137] will be considered neutral. Subsequently the articles will be assessed on whether they highlight an issue on an institutional level, a Member State level, or other issue. After giving the total amount of search hits, of articles

[129] Wiles, Rosey. (2013). What are Qualitative Research Ethics? New York: Bloomsbury Collections: 41
[130] Wiles 2013: 41
[131] Wiles 2013: 42
[132] Financial Times. (2014). About us. *Financial Times.* Web. 11th of May, 2014. http://aboutus.ft.com/#axzz39KB6ezJJ
[133] Reuters. (2014). Home. Reuters. Web. 12th of June 2014. http://www.reuters.com/
[134] Ft.com 2014/ March 2014
[135] Ft.com 2012/ December 17
[136] Chair of the Supervisory Board of the Single Supervisory Mechanism
[137] Ft.com 2014/ February 9

containing the topic Single Supervisory Mechanism/SSM, only the articles with a clear focus on this topic will be evaluated. The time period will cover the two years since the agreement on a joint supervision and a banking union, i.e. July 2012 to July 2014.

In order to execute content analysis (of media messages) conclusions will be drawn from the observations of press releases and media coverage of the 'banking union' and the SSM. The method enables the research to study and analyze communications in "a systematic, objective and quantitative manner to measure variables" although it sometimes runs the risk of being used simply "to determine the relative emphasis of frequency of various communication phenomena."[138] Within this research paper, the method is used in order to highlight not only the frequency but also the meaning of the messages found in press releases and articles. Subsequently these communications will be analyzed both in qualitative as well as quantitative terms to give a more holistic insight into the subject matter. All articles which were analyzed are listed in the Appendix of this paper.

A definition of content analysis is

> the systematic and replicable examination of symbols of communication, which have been assigned numeric values according to valid measurement rules, and the analysis of relationships involving those values using statistical methods, in order to describe the communication, draw interferences about its meaning, or infer from the communication to its context, both of production and consumption.[139]

Through the application of this definition for the conduct of the research, the review of official articles published in media will be done via "observation" and "evaluation of documents."[140] The reason that these methods have been chosen, is that they can give an indication of the interaction on a national level, interaction between national and supranational institutions as well as document issues on a supranational level. To address the gap between what has been published on official sites[141] a documentation of the media coverage in terms of amounts of articles published related to the subject and their content will be executed.

4.1.3. Quantitative Research: Quantifying Relevant Statistics

A considerable amount of documents covering the SSM has been made available by the European Commission and the ECB. As the mechanism will start operating in November of this year, both the EU institutions and the NCBs should ideally be informing their citizens of the progress made, decisions which have been taken and consequences that

[138] Riffe, Daniel, Lacy, Stephen & Frederick Fico. (1998). Analyzing Media Messages: Using Quantitative Content Analysis in Research. United Kingdom: Lawrence Erlbaum Assoc. Inc: 19
[139] Riffe et. Al. 1998: 20
[140] Weiss 1998: 257-261
[141] ECB, Commission and NCBs

these changes have on the banking systems in the individual countries. Even though it is difficult to measure the commitment towards this project by simply considering the amount that has been written about it, it will nonetheless be an indication of the transparency and commitment of the individual Member States. Another issue which will highlight discrepancies and thus a possible concern for the SSM, is that Member States will individually decide which national institution will be responsible for the supervision.

The data was collected by analyzing the websites of the EU institutions and Euro area Member States central bank and national supervisor websites. To address the two separate issues different approached were applied: in order to retrieve information on who has responsibility for national supervision, the NCBs websites were searched for links to banking supervision. If no information was provided it was considered whether this country had a separate supervisor, responsible for banking supervision. If still no information could be found, an email was sent to both the NCB and the NCA in order to receive clarification. For the information on publications related to the SSM each NCB website was searched for publications related to the topic. The amount of published information should serve as an indicator of transparency and importance of the mechanism for corresponding NCB.

In terms of data collection, the different websites[142] from which information has been collected will be categorized as the different units[143]. Subsequently the information found on these websites, is labeled variables as they represent "any characteristic of the unit we are interested in and want to collect."[144] Examples of such units are on the one hand "the number of publications on the SSM topic" which can be found on the different sites and on the other hand "institutions with supervisory authority on national level". The results will be used as indicators in assessing the EU institutions and national organizations, in terms of problems on national and/or supranational level; concerns which could be indicating the lacking keenness and preparedness of the different establishments.

The data was collected using quantitative research methods which can be defined as "explaining phenomena by collecting numerical data that are analyzed using mathematically based methods (in particular statistics)."[145] When applied to the research which has been conducted, the phenomena which will be explained are the commitments towards the SSM project, through the collection of numerical indicators

[142] ECB, EC, NCBs and NCAs
[143] Muijs 2004: 10
[144] Muijs 2004: 11
[145] Aliaga, Martha & Brenda Gunderson. (2000). Interactive Statistics. 3rd Ed. London: Pearson.

(publications/statements by the institutions and the NCBs; existence of an independent supervisory authority). Despite the fact that the data did "not appear in quantitative form" it could still be collected in a quantitative way.[146] This numerical data will subsequently be translated into statistics and visualized in graphs, thereby relying on "mathematically based methods."[147] The reason the data is expressed in numerical form, is the attempt to objectively display the current state of the institution and the Member States commitments to the project analyzed.

4.2. Choice of Methods

The general method of *evaluation research* was chosen as it was most suitable for an assessment of the research problem, as well as its intent to provide a critical analysis of the framework being established. The method enables a high level of transparency and the philosophy of positivism is additionally concerned with "explicit or transparent procedures or methods."[148] By executing *evaluation research* in terms of positivism, sound knowledge could be achieved, which is sometimes also referred to as procedural objectivity.[149] The method enables replication of the research, if necessary, as well as allowing a level of certitude regarding the soundness of the gathered information. This is done to avoid research being distorted on the part of the researcher. The applied methods have been used to "guarantee a degree of quality control" and to "ensure the internalization of standards and values underlying any particular discipline."[150] As quantitative research is often described as "positivist" and qualitative research is seen as "subjectivist"[151] both were used, in order to avoid a unilateral analysis. The methodology has thus been chosen in order to guarantee transparency, soundness as well as both quantitative and qualitative data to give a balanced view of the situation.

4.3. Methodological Criticism: Acknowledgement

The method of *evaluation research* has been criticized on the accounts that the methodological standards have been considered lower than in other areas of social science, as 'small-scale' evaluations are considered poorly resourced.[152] While the author acknowledges that the scale of empirical data collection and research could have been

[146] Muijs, Daniel. (2004). Introduction to quantitative research. In: Doing Quantitative Research in Education with SPSS. London: SAGE Publications, Ltd: 4
[147] Muijs 2004: 5
[148] Cohen, Louis; Lawrence, Manion and Morrison, Keith (2000). Research Methods in Education (5 th Ed.). London: 8
[149] Alkan Olsson, Johanna. (2013). Lecture 3: The interpretive research paradigm in the social sciences. Lecture given in the Master's Programme in Sociology of Law: European Law (SELA), May 2013. Lunds University: Lund: 3
[150] Banakar, Reza & Max Travers. (2005). Theory and Method in Socio-Legal Research. Oxford: Hard Publishing: 33
[151] Muijs 2004: 6
[152] Travers 2005: 357

more extensive and encompassing, it should nevertheless be considered that empirical data has been collected to the best of the author's ability. Further criticism has been expressed in respect to a certain level of managerial bias, which can be part of *evaluation research* when it is executed on the level of paid-consultants. This possibility also questions the intellectual independence of researchers because the "evaluation industry draws on mainstream social science for its methods, but often tries to keep its distance from the theoretical and methodological debates that interest university-based researchers."[153] Having acknowledged these points of concern, the author of the paper can guarantee that the work has not been influenced by any external interest groups and scientific theories and methods have been used to make the paper scientifically viable.

A concern which does prevail in the collection of data is the so-called "impossibility of telling facts from fictions in stories from the field"[154] thereby questioning the positivist approach of producing reliable data. Even with the attempt of trying to collect data as scientifically as possible, it should be recognized that the information gathered is collected in terms of the current mindset of the author which is always accompanied by a certain level of bias. This concern is also expressed as a methodological obstacle by Banakar who addresses the tension between "'experience-near' concepts and perspectives of insiders on their field activity, and the 'experience-distant' theoretical concepts of outsiders on the inside' perceptions, beliefs, intentions, and actions."[155] As was written in respect to the attempt of producing 'validity' and 'reliability' in social science, "the correspondence theory of truth is untenable because the only things with which we can compare statements are other statements."[156] Having said this, the methodological approach was consistently applied, as objectively as possible, in order to produce scientific results. Problems related to the execution and application of the different methods in gathering relevant information, will be discussed in the next section **Results**.

[153] Travers 2005: 359
[154] Czarniawska, Barbara. (2004). Narratives in Social Science Research. Thousand Oaks, California. SAGE Publications Ltd: 132
[155] Banakar, Reza. (2000). Reflections on the Methodological Issues of the Sociology of Law. *Journal of Law and Society.* Vol. 27(2): 274
[156] Czarniawska 2004: 133

5. Results

This section will present the empirical data gathered to answer the overarching research question, as well as the relevant sub-questions. The material has been divided into the three subsections of:

- qualitative data in the form of interviews,
- qualitative and quantitative data in the form of media content and
- quantitative data in the form of institutional indicators

Only the relevant findings and figures will be presented in this section as questions, transcripts of interviews and other more explicit data will be found in the Appendix section. Finally a criticism towards the collected data well be presented, outlining the limitations of the collected results.

5.1. Qualitative Results: Interviews

Person[157] working at the Deutsche Bundesbank

Summary of Interview: The supervision is necessary in order to integrate the financial markets and guarantee higher standards for clients throughout the Eurozone. The positive effects of integration could already be seen in the currency union which already enabled European banks to deepen their integration. The 'banking union' and SSM are necessary to break the 'vicious-circle' between banks and sovereigns as well as removing the *home base bias* which exist if NCAs set the rules and are in charge. Before and without the SSM almost everything was done on national basis and Member States would tend to favor their own banks. Additionally the legal bases are different in every Member State and consist of special features which would be eradicated or at least lowered through intensified harmonization.

Furthermore, the SSM and the 'banking union' are necessary as it may be able to detect risks on the EU level and address these directly. On an institutional level, the EBA was not powerful enough and, e.g. stress tests were not a direct success. As the ECB will be applying EU law it is both supported and questioned before the ECJ, which gives the SSM a stronger backing. Bankruptcy risk of banks will be minimized, which is positive due to its severe effects on society. The euro is strengthened as risk is reduced and a feeling of

[157] The person who was interviewed at the Deutsche Bundesbank asked to remain anonymous, as the statements would otherwise have had to been processed through the Legal Division. The published information gives a broad outline of the interviews as well as the relevant suggestions for further research

injustice[158] will decrease. Even if risk is minimized it cannot be completely eliminated and tax payers' money will continue to stand as the final backstop.

The consequences for the German central bank (Deutsche Bundesbank) and the German Supervisor (BaFin) is the decision, who will supervise the German banks. The two institutions are currently discussing the division of the workload/responsibilities. While the ECB will supervise some banks, Germany and France are the countries with the largest banking sectors and the most banks in the Eurozone, which leaves a considerable amount of work left on national level. On an operational level German supervisors must learn English/take English lessons as the vehicular language of the SSM is English.[159]

Perceived Attitude towards Project[160]: The interviewee seemed to be very optimistic towards the banking union and the SSM in terms of the benefits they would provide for Europe as a continent. Affiliations were not nationalistic and did not stress the "loss-of-power" towards a supranational level to be a problem. Instead the interviewee continuously highlighted the positive effects for the banking sector and for financial markets. The enthusiasm seemed genuine, as did the personal dedication towards the project, especially when considering that the interviewee knew that he would remain anonymous.

Person working at the European Central Bank

Summary of Interview: Having worked for the ECB as well as for the central bank of his Member State, the Senior Expert summarizes his experience with transnational cooperation within the Eurozone and the EU as follows: "Cooperation across central banks has been particularly fruitful to build up the Euro system (ECB + national central banks of euro area countries) and European System of Central Banks (extended to all EU national central banks) and operationally run it in its monetary policy function, stepwise extended – by the European legislator also for this reason – to financial stability analysis and policy, and now to banking supervision. The governance of the Euro system and ESCB is often recognized to be smoother and more effective than that in other institutions."

While two years has in fact been a short time for the establishment of a joint supervision, the risk of not having supervision seem to outweigh the disadvantages of creating a common body. Throughout the crisis, a certain amount of regulatory arbitrage of certain

158 Member States/Banks/Clients will feel more equally treated amongst each other
159 Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (article 24)
160 Referring to IPA method, the "Perceived Attitude Towards Project" gives an interpretation of the interviewees social world and the meanings that particular experiences, events and states hold for the participant (see Method)

institutions became prevalent thereby increasing the risk of the system. Therefore a risk sensitive regulatory regime is necessary in order to lower the risk of exposure of the Single Market in general and financial institutions in particular. As systemic risk is highly contagious, due to its ability to risk the collapse of an entire financial system or market, it will be in the responsibility of the ECB to limit risk exposure of individual institutions thereby creating a sound financial system. If supervision would remain on national level, risk and excess exposure would perhaps not be recognized in time. As the ECB will have insight into the operations of all the financial institutions it will be in an advantageous position to assess the entire market.

Perceived Attitude towards Project: While this was a rather short and technical interview, the interviewee showed a lot of insight into the field of supervision in general, and close cooperation between the various institutions in particular. Considering that the interviewee will remain anonymous lends further credibility to his statements as they will not be put in relation with him directly. Generally it became apparent that the ECB Expert was very passionate about the subject matter and talked freely about his observation and experience.

Charlotte Sickermann at the Commission (DG Internal Market and Services)

Summary of Interview: Many Central Banks have the task of banking supervision, thus the move to grant the ECB supervisory powers is perhaps more an evolutional step and not a change of direction. In the example of the United Kingdom, banking supervision had been part of the responsibility of the Bank of England before it was moved to the SFA approximately 10 years ago. Today the responsibility is once again part of the competencies of the Bank of England. Even if Germany is rather doubtful on placing supervision in the hands of the central bank, thus sharing competencies, for other central banks it is a natural part of operation.

In regard to an increasing EU power structure, the supervisory competencies have been modeled in a similar way to monetary policy i.e. there is a European and a national dimension. The ECB will have responsibilities towards the whole banking sector and all Euro area countries with the power to take over supervision of any bank, at any time. The ECB cannot become lenient towards one country or towards certain banks as this would have huge implications. While these factors discipline the ECB to look at the whole system, it will also discipline Member States to act within the guidance given by the ECB. The ECB has a lot of rights beforehand: it can request information at any point in time, it can give general guidance of how to conduct supervision, it will develop a supervisory manual and the NCAs will have to send major decisions to the ECB either *ex ante* or *ex post.* The ECB stepping in to take over supervision of otherwise nationally supervised banks, will however remain a "nuclear-option" and only applied in the worst-case scenario.

The previously mentioned strong European dimension is the forte of the ECB and thus the SSM. On a national level, Supervision will be executed by JSTs consisting of five members from the ECB working with a specific amount of national supervisors from the respective Member State who will look towards the European and not the national interests. Such observations will make it harder for the Supervisory Board to act in a way that the Council may have acted, as the observations rests on relatively objective investigations. Unlike previous undertakings[161] where national interests prevailed, the Supervision within the realms of the ECB is likely to be more successful as they have so far been effective in its monetary policy and there have not been issues about national interests. Consequently the system will quickly adapt a European stance and a take on a European view.

In terms of temporality, the legal provisions for supervision were already in the Treaty in the form of the legal base 127(6) on which the framework has been established. It shows that the responsible entities at the time, were considering joint supervision beforehand. It was also already discussed when the EMU was established but a union can only be brought forward or be deepened in terms of a crisis as it is difficult for Member States to surrender or transfer power to a European institution. Ten years ago such an undertaking would not have been possible, as "we were still in a very national system in terms of supervision."[162]

Perceived Attitude towards Project:

Ms. Sickermann, who had joined the Commission from the Deutsche Bundesbank in 2012, had been able to witness the project development from up close. During the interview she did not display any emotional connections or personal opinions but had in advanced prepared answers to all questions. Nevertheless she seemed to be convinced of the necessity as well as the advantages that a joint supervision will have for the Euro area. Nevertheless it was difficult to assess the meaning of the project on her personally and whether or not, there were any concerns towards its establishment.

[161] For example the relative failure of the Stability and Growth Pact
[162] See Transcript of Interview with Charlotte Sickermann

Benjamin Angel at the Commission (DG Financial Institutions and Financial Stability)

Summary of Interview: Angel starts by referring to studies if supervision should be in the hands of the central bank, after considering whether the banking union supervision is a natural step for the EMU and finding that it differs from country to country. The conclusion is that the ECB will have to pay more attention to liquidity than traditional supervisors which have been more focused on solvency. While there were some provisions in the Treaty for entrusting the ECB with supervisory powers it "did not necessarily point to entrusting **the** supervision to the ECB; but rather some aspects." When working on the first package five years ago it took considerable time and effort to convince people to exchange supervisory information and thus "the idea that you could move to a common supervisor was pure science fiction." Only after the severe crisis was it possible to convince people to take such a step.

Regarding the statement by Padoa-Schioppa[163] on the need for a "true and effective collective euro area supervisor", Angel says that, especially in economics, anything can be predicted. If one waits long enough predictions are bound to become true. Predicting the banking union was not possible as Member States only gave up sovereignty as a result of the crisis. This combined with the expected advantages of having the ECB as a supervisor were the reasons that this step was taken relatively quickly in regard to the gradual development of the EU.

The ECB is a strong institution which has proven itself during the crisis but when supervision is shared within a banking union, it is about sharing consequences of mistakes. This is why the ECB will be accompanied with the SRM and a common fund. Joint supervision is almost as big a step as sharing a currency. The ECB lends credibility to the market, it will not be caught up in the environment as NCAs would and local interests will be far away from the decision-making center. In terms of power the ECB can take any decision on banking there is and can call on any bank within the Euro area. The operations and functioning of the Board are not considered a problem, especially when headed by Nouy. She is considered a strong character, not afraid to move into the decision-taking process if necessary.

On an institutional level the ECB will face the issue of balancing the two tasks: monetary policy and supervision. Problems could arise when cross-border banks have problems, which Angel considers "the worst case, but more for the ECB than for the resolution

[163] Former member of ECB:s executive board

authority." What is currently also lacking on an institutional level is accountability, although the ECB is accountable to the EP, the EP does not necessarily represent the citizens of the EU as they do not recognize themselves in the EP. Therefore there is a risk of making the average EU citizen more hostile towards the EU. The ECB is lacking cooperation and accountability conscience, and while this ivory tower is useful in terms of monetary policy, it is not good for supervision.

In terms of creating a common handbook and setting up operations, these things had to be done in a very short time. The handbook, which was a result of negotiations between ECB and NCAs, has been made very quickly. The result is that the ECB will be in charge but in cooperation with the NCAs. JSTs will head the supervision but there are of course problems with language as not every banker is fluent in English. When making the JSTs the ECB must be careful in balancing the backgrounds of the staff in order to avoid possible collusions. In this regard national differences can be an advantage because it will give a critical perspective on the side of the JST towards the work of the NCAs. As regards the setup of the ECB supervisory department, it means recruiting a large number of new staff. This does not only refer to the 700 people which have been recruited or the aimed 1,000, but rather the entire supporting staff. This could create problems also for the NCAs and the NCBs who are left with the "leftovers" of the ECB. On the level of Member States two different situations (Cyprus and Ireland) show why it is necessary to have a joint supervision. Had such supervision been in place before both of the collapses and consequences could have been dealt with, making them less severe. In another example Germany froze the assets of Lehman Brothers in an overnight action[164], money which could otherwise have been transferred to the UK. Had they allowed a transfer of money, perhaps the failure of the entire Lehman Brothers corporation, could have been avoided. While it is the role of a NCA to behave in this manner, on a European level decisions like this will be taken by the ECB which has insight into the operations of the entire system. In an additional example, Germany and Austria took the decision, not to allow a transfer of funds from their countries to Italy by Unicredit. This is something which is normally part of everyday operations and such behavior could jeopardize the stability of financial institutions with cross-border impact. While it is in the interest of the German, French and Italians to protect their interest and markets, protection of national interests have not been

[164] BaFin. (2008). "*BaFin Orders Moratorium on Lehman Brothers Bankhaus AG*". BaFin- Federal Financial Supervisory Authority. Bundesanstalt Für Finanzdienstleistungsaufsicht, 15 Sept. 2008. "BaFin issues a stoppage of disposals and payments for Lehman Brothers Bankhaus AG. BaFin also prohibited the bank from receiving payments not intended for payment of debts towards it "moratorium".

“as bad as it was expected and should be seen as a normal process when constructing a supervisory authority” considering the gigantic effects supervision can have on Member States.

While the UK remains critical towards the banking union, other non-Eurozone countries (such as Sweden and Denmark) want to join the SSM. The problem with the UK, which always opts-out is that it is putting itself in the corner and it has become more their own problem than that of the EU and Eurozone. The fears of the UK have however materialized in the increasing power of the ECB, making other institutions (such as the EBA) satellite structures. The only option for the UK to stay powerful is in joining the euro, which is an unlikely scenario. Only focusing on cultural differences and state centered action is not a solution to the problem. On a national level problems can also occur by playing it too safe, as was seen in the case of Spain.

In regards to implementing the SSM now it is a necessary step. The issue of large recruitment may seem overwhelming, but 1,000 people is not much if you compare with to other institutions or large banks. The complexities of large banks should not be underestimated. Despite the toll the crisis took on banks they have again become too big to fail. As could be seen in the case of Anglo Irish, it cost Ireland 40 points of its GDP overnight. BNP Paribas accounts for 120% of the French GDP, with such large numbers it is impossible even for big states such as France to rescue the bank. States are at risk today, not only because of the banks which are in fact too big to fail, but also because of the large banking sector in the EU. Systemic risk is contagious and 2/3 of European credit comes from its banks. If the banks fall then the whole economic activity falls and market financing is not created overnight.

In conclusion there is not an option for not creating a joint supervision or banking union. If you put the experts in a room together with the finance ministry and the central banks they will find an infinite amount of reasons arguing against the establishment of the supervision. During the decision-making process however, many heads of states did not realize the importance and consequences of the process and it was a top-down decision. The ECB entered discussions and convinced the governments that it was best suited for this position. In retrospect, the result of the supervision and the negotiations has been quite good. Although it is a huge step for people like him, most citizens do not care about the supervision and its impact is not visible on a social level unless there is a crisis.

Perceived Attitude towards Project:

Throughout the interview it becomes apparent that Angel is very dedicated and knowledgeable about the topic of supervision. Although he did not have time to read the question in advance his answers were very detailed and provided great insight into the different aspects which need to be considered. It becomes apparent that the dedication towards the project is genuine as are the concerns in regard to the power of the ECB as a supervisor. Despite these concerns he seems to be positive towards the outlook of the project and that certain matters will become more visible when it is in operation. In conclusion, the advantages and possible consequences of having a joint supervision overweigh clearly the negative aspects.

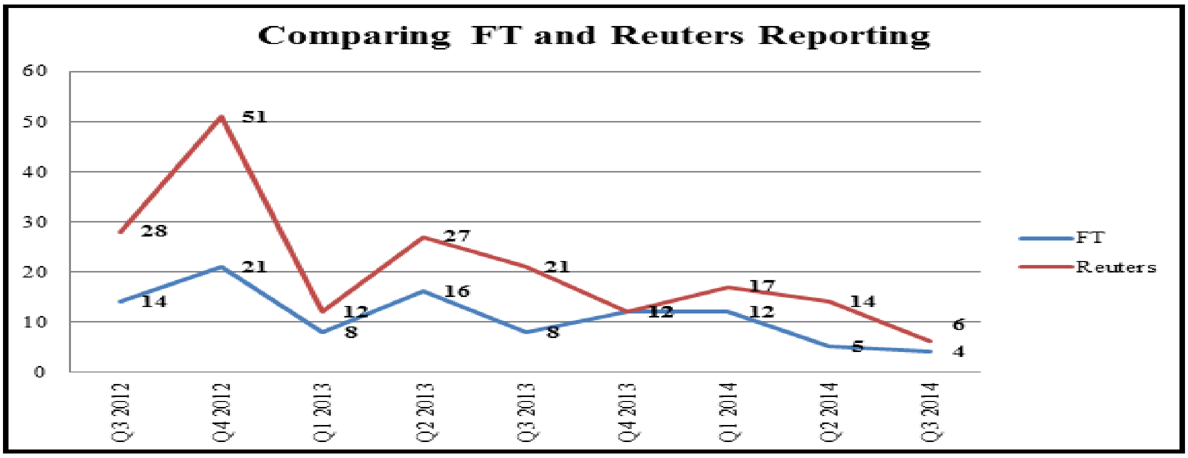
5.2. Qualitative and Quantitative Results: Review of Media Content

5.2.1. Amount of Media Coverage July 2012 to July 2014

The table on Amount of Media Coverage by the two publications, *Financial Times* and *Reuters* show the exact amount of articles published between July 2012 and July 2014. The articles were found using the key words SSM and Single Supervisory Mechanism. The data was subsequently divided into Annual Quarters to show the trend of media coverage on the subject.

July 2012-July 2014	Publications	
	Financial Times	Reuters
Q3 2012	14	28
Q4 2012	21	51
Q1 2013	8	12
Q2 2013	16	27
Q3 2013	8	21
Q4 2013	12	12
Q1 2014	12	17
Q2 2014	5	14
Q3 2014	4	6
Total Amount	100	188

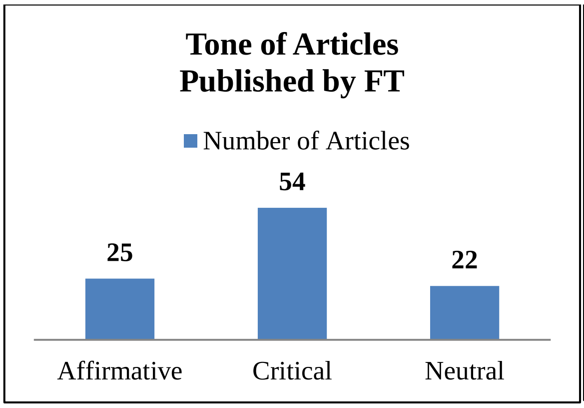
The table "Comparing FT and Reuters Reporting" show that Reuters has more frequently published articles on the SSM and that the amount of articles published peaked in the 2nd Quarter of 2012 and has since then never reached the same amount of media attention. Despite the fact that the mechanism will start operating within the next few months, media coverage on the topic for 2014 has remained incredibly low.

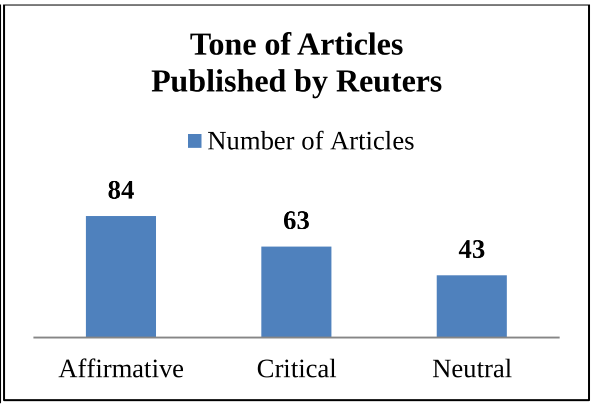


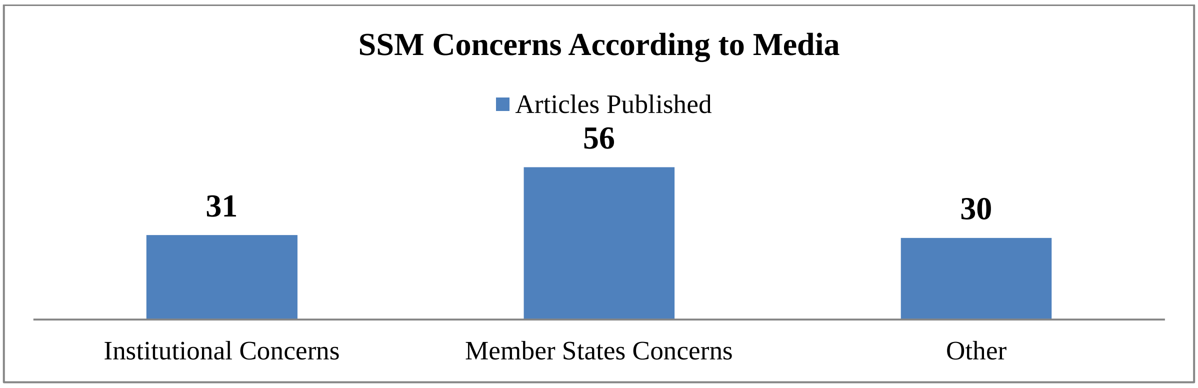
5.2.2. Affiliations towards SSM Project

The tables “Tone of Articles Published by FT” and “Tone of Articles Published by Reuters” reflect the three possible attitudes of the articles: “affirmative”, “critical” and neutral.

There is a clear difference both in regards to the number of articles published by the two different publications as well as in the tone towards the SSM. Reuters seems to be more balanced in their tone towards the project: 44% affirmative, 33% critical and 23% neutral. Financial Times was more one sided in their reporting: 53% critical, 25% affirmative and 22% neutral.







5.3. Quantitative Results:

5.3.1. Press Releases/Publications on Institutional Websites

The table shows the "search results" generated from the search engines on the EU institutions and NCBs websites. The list encompasses the ECB, the EC and all of the Euro area NCBs in alphabetical order. The search words used were 'SSM' and 'Single Supervisory Mechanism'.

State/Institution	Year	Press Releases Single Supervisory Mechanism/SSM
EU-ECB	2012-2014	2230
EU- European Commission	2012-2014	1635
Austria- Oesterreische Nationalbank	2012-2014	111
Belgium- Nationale Bank van België / Banque Nationale de Belgique	2012-2014	107
Cyprus- Central Bank of Cyprus	2012-2014	10
Estonia- Eesti Pank	2012-2014	9
Finland- Suomen Pankki- Finlands Bank	2012-2014	54
France- Banque de France	2012-2014	267
Germany- Deutsche Bundesbank	2012-2014	105
Greece- Bank of Greece	2012-2014	20
Ireland- Banc Ceannais na hÈireann/Central Bank of Ireland	2012-2014	60
Italy- Banca d'Italia	2012-2014	68
Latvia- Latvijas Banka	2012-2014	1[165]
Luxembourg- Banque Centrale du Luxembourg	2012-2014	0[166]
Malta- Bank Ċentrali ta' Malta / Central Bank of Malta	2012-2014	19
Netherlands- De Nederlandsche Bank	2012-2014	50
Portugal- Banco de Portugal	2012-2014	1
Slovakia- Náradná banka Slovenska	2012-2014	43
Slovenia- Banka Slovenije	2012-2014	30
Spain- Banco de España	2012-2014	197

5.3.2. List of NCBs, National Supervisors and Separation of Power

The table considers the separation of power of some Member States in regard to banking supervision. The table lists which body has thus far been responsible for supervision on a national level and if this is a separate body from the Central Bank.

[165] Although the search engine recognized SSM, Single Supervisory Mechanism and what is the Latvian translation of Single Supervisory Mechanism "*Vienotais uzraudzības mehānisms, VUM*"

[166] One result found after SSM was translated into the French version MSU

State	Central Bank	National Supervisor	Separate from CB?
Austria	Oesterreische Nationalbank	Österreichische Finanzmarktaufsicht	Yes
Belgium	Nationale Bank van België / Banque Nationale de Belgique	Nationale Bank van België / Banque Nationale de Belgique	No[167]
Cyprus	Central Bank of Cyprus	Central Bank of Cyprus	No
Estonia	Eesti Pank	Estonian Financial Supervision Authority	Yes
Finland	Suomen Pankki- Finlands Bank	Finnish Financial Supervisory Authority	Yes
France	Banque de France	French Prudential Supervisory Authority	No
Germany	Deutsche Bundesbank	BaFin	Yes
Greece	Bank of Greece	Department for the Supervision of Credit and Financial Institutions	No
Ireland	Banc Ceannais na hÈireann/Central Bank of Ireland	Banc Ceannais na hÈireann/Central Bank of Ireland	No
Italy	Banca d'Italia	Banca d'Italia	No
Latvia	Latvijas Banka	Financial and Capital Market Commission Latvia	Yes
Luxembourg	Banque Centrale du Luxembourg	CSSF	Yes[168]
Malta	Bank Ċentrali ta' Malta / Central Bank of Malta	Malta Financial Services Authority	Yes
Netherlands	De Nederlandsche Bank	De Nederlandsche Bank	No
Portugal	Banco de Portugal	Banco de Portugal	No
Slovakia	Náradná banka Slovenska	Náradná banka Slovenska	No
Slovenia	Banka Slovenije	Banka Slovenije	No
Spain	Banco de España	Banco de España	No

5.4. Data Limitations

Although the applied methods allowed for encompassing insight into the subject matter, some limitations arose, this hindered the application of the methods from gathering all relevant information. Some of the limitations in regard to the interviews were that a higher number of interviews from an array of interviewees could have widened the spectrum of the generated research results. Such interviews could have been conducted with more people from the already interviewed institutions (in order to get different perspectives) as

[167] Information not provided for on website but through explicit question by email
[168] Information not provided for on website but through explicit question by email

well as representatives from different interest groups (e.g. NCB, NCA, EBA, financial institutions). Questioning these groups could have given insight into the different reactions of the various groups and voices on the topic. Such data would thus have contributed with a broader perspective of opinions.

In terms of media content analysis, a number of diverse newspapers from several diverse countries could have provided a deeper understanding of the problem from a Member State perspective. Insight into these perspectives could have shown the origins of concern as well as reduce a possible national bias. Further, a more in-depth analysis of the collected articles could have more critically displayed if a certain theme had been reoccurring, disappeared or persisted over time. Such an analysis would also have allowed for a more comprehensive understanding of the underlying media message of the analyzed articles. Considering the results of the media analysis, it could also have been interesting to question both publications on the used tone, with Financial Times being assessed as very critical with 53% and Reuters more balanced with 44% affirmative and 33% critical.

Finally, as regards the data collected from the official websites, it could have had an added value if a statement on the SSM would have been provided by each NCB, and if applicable NCA. This could also have been done using a survey or questionnaire which could have allowed for a direct comparison of the results. Another difficulty which arose when collecting the data was the language barrier: although the official language of the SSM is English, many countries did not provide any information in English, on other websites it was difficult to know what SSM is called in the respective language. A greater insight into the published data would have allowed a more detailed analysis of the attitude towards the mechanism.

The suggested limitations concerning the data collection could possibly have been eradicated in a more encompassing research project. One of the greatest difficulties which keeps reappearing is the language barrier, which would have enabled a wide-ranging understanding of different affiliations. Further the explicit search for criticism of the SSM could have been intensified, in order to understand why the SSM and the banking union have been contested by many. As sovereign power is being granted to a supranational level, research should be conducted to reflect criticism thereof as such criticism can be valuable in strengthening the undertaking. Acknowledging weaknesses can be useful in strengthening a legislation and make it more suitable for a diverse society.

6. Analysis

The following section will set out to explore if European banking supervision is anachronistic in light of the research results. Although the **Treaty of Maastricht Article 126(7)** provided a legal basis for the supervision, pre-crisis Europe was not ready to give up power. As highlighted by Benjamin Angel[169] only five years ago it took considerable effort to convince the different states to change supervisory information and thus "the idea that you could move to a common supervisor was pure science fiction." This was supported by Charlotte Sickermann who said that ten years ago "we were still in a very national system in terms of supervision."[170] Starting from the realization that a joint supervision would have been useful but not politically possible earlier, this analysis sets out to evaluate the empirical data in light of the three sub-questions.[171] The analysis will provide a basis for answering the overarching research question, in the light of socio-legal theory: Is the SSM anachronistic?

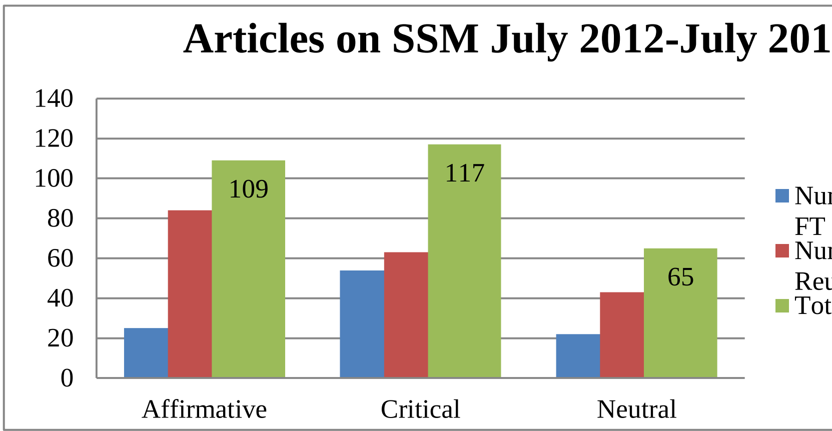


Table 6.1.

6.1 Are the European Union Institutions[172] ready for a European Banking Supervisor?

There have been a number of concerns expressed in regards to the appointment of the ECB as supervisor of the Eurozone banks. While some question the ECBs ability to keep monetary policy and supervision separate, others such as the Commission, have been concerned with granting the ECB even more power than it already has. When considering the amount of articles which have been published on the topic of SSM it shows that the total amount of affirmative articles represent 38% while the number of critical articles towards the SSM project was only 2% higher. If one considers the attitudes expressed within these articles, it becomes apparent that only 26% focus on institutional concerns.

[169] See Appendix: Transcript of Interview with Benjamin Angel
[170] See Appendix: Transcript of Interview with Charlotte Sickermann
[171] See Introduction: Aim, Hypothesis and Approach
[172] ECB, Legislation and EP

This shows that there still seems to be a mismatch if the affiliations towards the project in terms of doubts and support which are not concerning the question of the ECB being the right institution for the job.

Two years ago the decision on the SSM was taken by the process of unanimity. Thus the decision was based on the support of all 28 Member States and not only those which will be directly and automatically affected by it as part of the Eurozone. The concept of unanimity has been discussed within the realms of legal pluralism as allowing for a greater equality of participation and will be considered in more detail in the next section. What is relevant in regard to unanimity is however the need for a normative system which occupies the same social field (as the ECB will in the role of Supervisor) to negotiate hybrid legal spaces. In the first round of discussions consensus was achieved on a common supervision and the result was the ECB "convincing the heads of states that the [it] would be most suited for this position."[173] Furthermore, the different voices of both Eurozone and non-Eurozone were being considered in the establishment of the handbook. It was a result of negotiations between the ECB and the NCAs who gave their input into the subject matter.[174]

Recognizing the existence of different legal voices did not however seem to be part of the process leading up to the agreement on a common banking supervisor. As was already mentioned earlier in this research paper, the topic had previously been referred to only a small amount of people (i.e. parliamentarians, academics and professional naysayers[175]) a statement which is supported by Benjamin Angel who said that "if you put the experts in a room [with] the finance ministry and the central bank, each of them will find 200 reasons arguing that it will not work."[176] This indicates that the ideal amount of normative sources in terms of political, rhetorical and legal statements was not applied when the initial decision was taken. It was rather suggested that it was a top-down decision, in which Member States did not realize the importance thereof before it was too late to change their minds.[177] This should however not be seen as an excuse for Member States as they have the obligation to know what they are deciding upon before entering into negotiations. Nonetheless, not recognizing the array of different normative orders can make it difficult for the ECB to operate, as legal pluralism in the form of these different voices and opinions

[173] See Appendix, Transcript of Interview with Benjamin Angel
[174] See Appendix: Transcript Interview with Benjamin Angel
[175] Germain 2012: 530
[176] See Appendix: Transcript Interview with Benjamin Angel
[177] See Appendix: Transcript Interview with Benjamin Angel

could have instead been used as a pragmatic technique of governance. By simply harmonizing norms and establishing legislation thereby giving specific powers to an institution, the EU risks forgoing the varied historic past and culture which are found within the Eurozone.

Considering the institutional position for a globalization point of view, the ECB has been successful in its monetary policy. It has displayed a high level of competence in managing the financial crisis. As mentioned previously, taking into account the globalization process in terms of economic integration, the ECB has the possibility to stand as a *watchdog*[178] over both the financial system and the banking sector of the EU. In the appearance of an increasing impotence, failure, unwillingness or political cowardice of nation states, to act when presented with financial distress, a strong institution will grant the EMU more international credibility and security. Through its supranational position, the ECB will also be able to keep a distance from national or local interests, thereby also reducing the power of specific banks. Through the SSM, the ECB has the power to take charge of any bank, which Verhelst writes is “a pivotal element in the credibility of the SSM” and that “without such a provision, the ECB would not be able to exercise its final supervisory authority.”[179] As was highlighted in the interview with Charlotte Sickermann, the strength of the ECB and consequently the SSM is the strong European dimension. Unlike the EU-Council, it will be more difficult for the ECB to look at national interests, which enhances the chances that the ECB will be more successful. Additionally it was stressed in the interview that since national interests have previously not been a matter of concern for the ECB, the SSM will also adapt quickly to take on a European stance and thus a European view.

Even though from a globalization perspective, there are advantages to having a common banking supervisor, there are also certain dangers that may come with it. Especially in regard to the ECB, there is a risk of reduced transparency, the process can impede political accountability and the ECB could be subject to capture by powerful interests. In terms of transparency we can consider the publications of the ECB on the SSM (see Table 6.2.) which clearly show that the ECB and the European Commission have published a lot of information on the SSM over the last two years. Even though there has been a lot of information published on the SSM, it would be beneficial to have more than a high number of publications on ECBs website. Considering that the SSM will start operating in just a few months, the ECB would be well advised to incorporate “banking supervision” in the

[178] A term often used by Reuters
[179] Verhelst 2013: 19

section on their "tasks" in order to create more transparency and allow for participation of the general public, at least from an epistemological point of view.

From an accountability perspective the ECB will officially be accountable to the EP and in-officially it will be accountable to a variety of independent actors in the form of domestic courts, international civil society and competing international regimes.[180] As regards being accountable to the EP, a possible problem is that the EP has not yet managed to establish itself as a credible representative of all European citizens, which makes it difficult to see it as a "true watcher of European democracy."[181] Further, as highlighted by the Bundesbank Expert and in legal pluralism theory, the ECB can also be questioned before the ECJ as it will be applying EU law. This can be seen as giving both the ECB and the SSM a stronger backing, when decisions are in line with the rulings of the ECJ. As regards general accountability of the ECB, Angel expressed concerns about its accountability conscience. The topic of ECB's accountability has already been extensively discussed[182] and the ECB has been encouraged to be more open in terms of publishing formal and public records of their decision-making process.[183] Arguments for more accountability in respect to the SSM concern possible mistakes which could occur in the supervisory process. If a mistake happens on an EU-level, citizens will continue to lose faith and feel misrepresented if they do not understand what is actually going on.

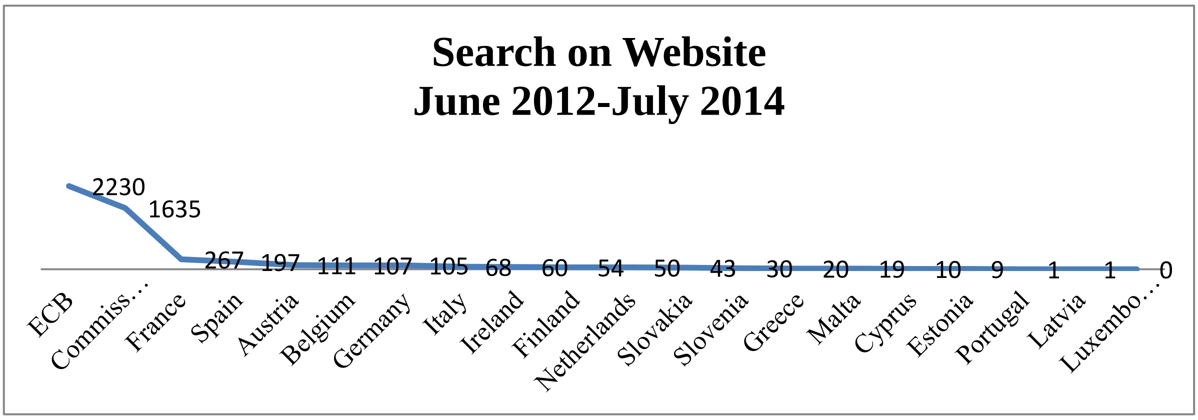
Finally the concerns in regards to strengthening the ECB will be considered in respect to it being "subject to capture by powerful interests". Both Germany and the UK have openly expressed their doubts on having the ECB as a supervisor: "German finmin[184] signals: ready to compromise on banking union"[185] and "UK opposes Mario Draghi role as watchdog".[186] While there seem to have been clearly expressed concerns about the power position of the ECB, Charlotte Sickermann expressed in her interview that the ECB is most likely not to play its power-card unless it is ultimately necessary. This was also written by Verhelst: "The ECB will have to dare to use its powers to claw back the delegation of supervision when it has doubts regarding a national supervisor's actions." The reason for toning down, the nonetheless obvious power position, would be the consequences that it could entail such as market unrests, transnational conflicts and the feeling of being treated

[180] See 3.1. Legal Pluralism
[181] See Appendix Transcript of Interview Benjamin Angel
[182] Bini-Smaghi, Lorenzo & Daniel Gros. (2000). Open Issues in European Central Banking. United Kingdom: Palgrave and Macmillan; Mittermeier, Jana & Carl Dolan. (2012) Improving the accountability and transparency of the European Central Bank. *Transparency International: the global coalition against corruption.*
[183] Mittermaier & Dolan 2012: 3
[184] Finance Minister was shortened to Finmin by Financial Times
[185] Financial Times December 9, 2012
[186] Financial Times January, 27, 2014

unfairly. This was also touched upon by the Bundesbank expert who said that, the system is strengthened as risk is reduced and a feeling of injustice[187] will decrease. Especially since being lenient towards a specific Member State and/or bank would have huge implications for the framework. This aspect could potentially discipline both the ECB and Member States to act in accordance with the guidelines.[188]

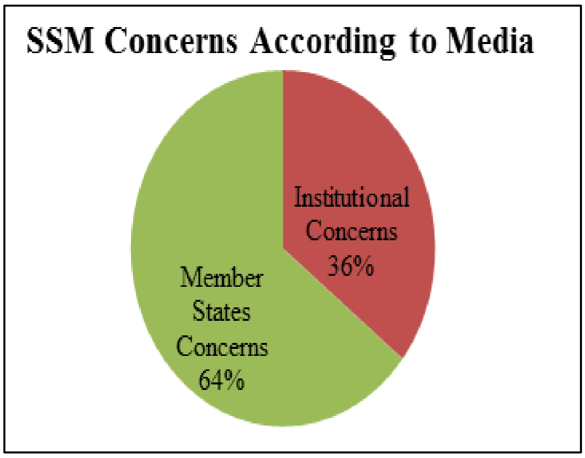
5.5. Are the European Member States[189] ready for a European Banking Supervisor?

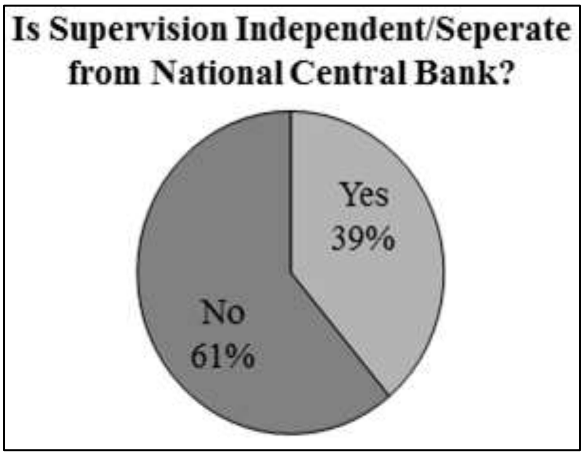
When looking at the results from the media coverage data it becomes clear that the concerns which have been most frequently vocalized in all of the articles published within the last two years are those related to issues regarding Member States. A clear majority of 48% of the articles have been written about matters such as "Divisions hamper Europe's plan to tackle failing banks"[190], "UK demands hold up on European banking union"[191] or "Germany seeks to limit ECB role in banking union."[192] While the Member States cling to their status as sovereigns, it seems that they have not yet realized that notion of sovereignty has been transformed in regards to its traditional conception and construction. By creating a Single Market, the EU Member States did not only strengthen their worldwide impact in terms of economic and political significance, they also allowed the EU to emerge as a "regulatory state"[193] with certain powers. These powers had until recently remained relatively limited which hindered the EU to take more action during the crisis. When considering the action that it did take, one can see that it is now being legally challenged by a Member State.[194]



[187] Member States/Banks/Clients will feel more equally treated amongst each other
[188] See Appendix: Interview Transcript with Charlotte Sickermann
[189] Governments, NCBs and NCAs
[190] Reuters May 14, 2013
[191] Financial Times October 11, 2013
[192] Reuters, November 7, 2012
[193] See 3.2. Globalization Theory
[194] Wagstyl, Stefan & Claire Jones. (2014). German court refers ECB bond-buying programme to European justice. *Financial Times.* Friday, February 7th 2014.

Considering this from a legal pluralist perspective the various Member States in negotiation with the ECB have been forced to find common ground in terms of their hybrid legal spaces. In terms of the agreement on creating a Banking Supervision, it was a decision taken unanimously by the 28 Member States, after having consulted the EP and the ECB. It has been suggested, that this allows for greater equality of participations as a representation is "not simply to the unanimous opinions of its members but rather to structures of authority – to 'multicultural jurisdictions'."[195] When the handbook for the SSM was being established it "was the result of a negotiation between the ECB and the national supervisors"[196] which suggests that the concerns about the Supervision in regard to the Member States, is rather a concern of the Member States themselves.





Differences in the national attitudes towards the SSM did not only become apparent when analyzing the articles which have been published over the last two years, but also when looking at the publications of the different NCBs. While some NCBs, such as France, Spain, Austria, Belgium, Germany and Italy, all have been eager to publish a high amount of articles, press releases etc. two countries, Latvia and Luxembourg, did not publish anything at all. This shows a clear lack of transparency on national level for some countries even though it is the obligation and responsibility of national institutions to keep their citizens informed about undertakings on a supranational level which will come to affect them. Here it becomes especially apparent that the different legal spaces which exist in the EU are not only found on transnational level but can be found on national level, between governments, NCBs and NCAs, as well.

The globalization theory expresses the importance of networking, especially when sovereigns transfer power from a national to a supranational level. That cooperation

[195] Webber 2006: 188
[196] See Appendix: Transcript Interview with Benjamin Angel

between the ECB and the NCBs have in the past proven to be rather successful, can be taken from the statement by the ECB Expert who said that “the governance of the Euro system and the ESCB is often recognized to be smoother and more effective than that in other institutions.” Perhaps this is also an indication towards a reduced role of political power-plays in supervision and instead a call for incorporating legal pluralism without eliminating it.

Actions by Member States, NCBs and national supervisors have however not always been an example for smooth sailing. During the crisis there were a number of situations in which either governments or national supervisors operated in a way which will become impossible through the introduction of the SSM. The case of Cyprus, where Cypriots bought Greek bonds in support of Greece due to their deep-rooted patriotism, shows that legal pluralism is not necessarily rational but it expresses beliefs and affiliations which are founded on tradition, history, patriotism etc. Such affiliations can be positive at times but when it comes to banking supervision, perhaps other norms should be considered and encouraged. The second case refers to the German supervisor freezing Lehman Brothers assets in the night of the collapse, without considering that allowing a transfer could have saved Lehman Brothers from collapsing.[197] Both examples show that nation-based norms put the European financial system at risk and risk within the banking industry is contagious (as can be seen from the subsequent unraveling of the crisis). The argument that the author tries to make here, is that stepping up to defend national interests now, is not about defending legal pluralism and the historic past and culture of the individual Member States, but it is rather an attempt of trying to force legal centralism on others.

As approximately 98% of the banks in the Eurozone will not meet the requirements necessary to be deemed significant enough to be supervised by the ECB, these banks will continue to be supervised on a national level.[198] This division of power between the ECB and the NCBs can be seen as a creative way of embracing legal pluralism, especially as national supervision will be supported by JSTs. This will be a European team sent out by the ECB to help supervision on national level and make sure that national interests do not prevail. One other issue which remains in regard to national supervision is the decision of whether the NCB or the NCAs should be in charge (given that these are two separate entities). While 3 out of 5 NCBs are also in charge of supervision, 40% of the Member States have a supervisor which is separated from its NCB. While the freedom of allowing

[197] For details on both examples see Transcript of Interview with Benjamin Angel
[198] Verhelst 2013: 20

these institutions to decide for themselves, who will be in charge of supervision, embracing the different cultures and traditions can be seen as recognizing legal pluralism as a pragmatic technique of governance.

Through the process of globalization, internationalization of economic and social activity has taken place. While this means that the EU has gained in economic and political significance, it also makes individual countries more exposed to foreign dangers as could be seen by the effects of the global economic crisis which began in the USA but came to infect the EU with financial turmoil. In reference to Berman, who wrote that states have become impotent in face of global economy, it seems that this was also the case for some of the Member States during the crisis. Before the crisis Ireland was considered a sound country but when Anglo-Irish went into distress, the bank cost 40 points of GDP of debt for Ireland overnight.[199] The support for the bank from a citizen point of view may have been in order in terms of democratic accountability, because, as Angel points out, "there was an Irish supervision, an Irish mistake and an Irish checkbook."[200] This was a few years ago but the citizens and the banks of the EU are not the same anymore. Citizens are tired of bailing out banks and even if the governments saw this as an option, banks have become too big to be rescued.

Instead of continuously criticizing the structure of the Single Supervisory Mechanism and the Banking Union, it would be more effective and efficient for Member States to embrace and support it and thereby exert power and influence. Sweden, while not in the Eurozone, has been an active participant in the discussions on the SSM as they realized that their wishes and thoughts are more likely to be expressed if they act from within. According to one article, "the suspected improvement in the supervision of cross-border banking groups by the SSM would benefit Sweden as well."[201] This interconnectedness of decision-making is one of the benefits of the globalization process and the entailed system of networks allows for the expression of diversity. Throughout the process it is however important for both the ECB and the NCBs to remain honest and transparent about their actions as these aspects are key for a successful functioning of the system.

The dangers of globalization and networking on Member State level are the same which were previously referred to in regard to institutions: reduced transparency, impede political accountability and being captured by powerful interests. While some countries have been

[199] See Transcript of Interview with Benjamin Angel
[200] See Transcript of Interview with Benjamin Angel
[201] Darvas, Zsolt & Guntram B. Wolff. (2013). Should Non-Euro Area Countries Join the Single Supervisory Mechanism? *Bruegel Policy Contribution.* Issue 13(06): 8

good in terms of transparency the Luxembourg and Belgian websites did not even clarify who was currently responsible for banking supervision on a national level. This is surprising considering that the ECB writes that “today, most central banks, including the ECB, consider transparency as crucial.”[202] In terms of accountability it is important not to turn the EU, the ECB, the SSM and other supranational intuitions into scapegoats of their own national problems and mistakes. While the institutions are far from perfect, so are the Member States. The only way to improve either is through successful cooperation and taking own responsibility and responsibility for each other. Finally, in regards to being captured by powerful interests, the risk has been reduced for Member States through the act of granting power to the ECB.

5.6. Would more time[203] have been necessary to establish a successful supervision?

When considering whether or not the creation of the SSM would have needed more time, it becomes apparent that the risks of not having a joint supervision, is one of the major reasons why it was established within such a short time. When considering the size of banks in the Eurozone, such as Deutsche Bank representing almost 60% of Germanys GDP or BNP Paribas accounting for 120% of the French GDP, it becomes clear that such large institutions cannot be saved by a single Member State. In line with the EU motto *In vaerietate Concordia* Europe faced the decision of whether to continue forward together or if they should fall apart. Having been forced to act without explicit competencies during the crisis, the EU and the ECB have now called for an increase in power to avoid the repetition of the same mistakes in future. Discussing legal pluralism within the realms of time-duration for the establishment of the mechanism is difficult as more negotiation time would not necessarily have improved the final outcome. Therefore the only thing worth mentioning is that there were differences in regard to **when** the mechanism should start operating, most notably from France and the Commission which supported a fast implementation and Germany which tried to push it back.

From a globalization perspective there is an increasing global economic integration which continues to exist despite the crisis. As financial markets continue to operate and banks continue to grow and complete cross-border operations, it is impossible to assess what will be the next blow to financial stability and the European banking system. Considering that 2/3 of European credit comes from banks, meaning that if the banks fall, then the whole

[202] ECB (n/a) Transparency. *European Central Bank.* http://www.ecb.europa.eu/ecb/orga/transparency/html/index.en.html

[203] Than the two years of creation and implementation

economic activity of the EU falls, two years should not be seen as a short time to act. As can be seen from the most recent European bank failure in Portugal,[204] Europe should be relieved that nothing more devastating has happened so far (even if the full consequences cannot yet be seized in their entirety).

As regards the establishment of the mechanism in practical terms, the ECB has, in negotiation processes with NCAs, established a framework and outlined guidelines. EU, which has emerged as a regulatory state since the establishment of the Single Market is now gaining increasing power and real competencies to actually manage this role. In order to do so, the ECB has had to create a new department with staff specialized on oversight of financial institutions. They will have the task to supervise the Euro area banking system. The existence of language barriers was mentioned by the Bundesbank expert, who said that not all national supervisors are fluent in English. The question of English on an EU level, not always being easy, was addressed in an article in the Financial Times from May this year highlights this issue.[205] In terms of transnational transparency it would be beneficial for the NCBs to at least offer some information on their websites in English, as well as in the national language(s) and also information on the soon to be implemented mechanism. However, only a few member states do offer this. It seems that the real time issue is not the need for more weeks, months or even years to negotiate what aspects should be incorporated into the mechanism, as no amount of time will be able to tell how the mechanism will work once it has been implemented. Instead the actual efforts made by the institutions and Member States will be the indicators of whether or not two years have been sufficient. Good organization and good logistics go a long way and could pave the way to success.

5.7. Ethical Problems

The topic of introducing a banking union and to establish a joint supervision is being intensely debated with most authors, commentators, experts and other contributors to the discourse choosing a firm side and sticking with it. As a scientific researcher, executing evaluation research, it is the authors' duty and obligation to carefully consider arguments from both sides when assessing whether or not the SSM is anachronistic or perhaps the missing tool for a successful EMU. Fundamental values for autonomy, non-maleficence, beneficence and justice have been expressed as important factors to consider in regard to

[204] Financial Times. (2014). Portugal pays up for Espírito Santo. August 4th 2014.
[205] Skapinker, Michael. (2014). Brussels dialect is a gift to the EU's foes. *Financial Times.* May 21st, 2014

research ethics.[206] These values will be considered in terms of objectivity, anonymity and legal clearance.

In terms of objectivity both quantitative and qualitative data were applied in order to provide a more balanced account of the situation. Although objectivity within the realms of social sciences is difficult to achieve, the topic was enlightened from both the institutional and the Member State perspectives while keeping in mind that both sides have obligations towards the European society and its citizens. In evaluating the establishment of the mechanism, the underlying aim was continuously to assess the best possible outcome for the citizens by applying scientific research. Respecting scientific conduct remained a high priority throughout the research process and the publication of results.

The considerations of anonymity and legal clearance go hand-in-hand. In order to avoid "doing harm" to two of the interviewees by explicitly mentioning their names, their anonymity was guaranteed before the interviews were conducted. For the interview with the Bundesbank Expert, legal clearance of the entire interview would have been necessary. Although such legal clearance could have contributed to transparency, the time that it would have taken and the risk of certain aspects being deleted from the interview, led to the decision of not applying for such clearance. The reason of the Bundesbank insisting on this was that the opinions expressed by the Expert did not necessarily reflect the institution's own views, but were rather the individual opinion of the expert. In order to remain autonomous throughout the interview process, the author decided to work autonomously and not to be limited in regard to which questions to ask and which answers to publish.

[206] Boon, Andrew. (2005). The Formalisation of Research Ethics. In: Banakar, Reza & Max Travers. (2005). Theory and Method in Socio-Legal Research. Oxford: Hard Publishing: 541

6. Conclusion

The thesis set out to assess, using legal pluralism and globalization as theoretical foundations, and evaluation research as a methodological tool, if the ECB as a supervisory body in general, and the SSM in particular, could be considered anachronistic. This research question was answered through the application of theory on the three sub-questions:

- *Are the European Union Institutions ready for a European Banking Supervisor?*
- *Are the European Member States ready for a European Banking Supervisor?*
- *Would more time have been necessary to establish a successful supervision?*

By answering these three questions using in-depth analysis, the paper found that, despite some concerns, the SSM mechanism and the project of joint supervision is in fact not anachronistic. This conclusion will be summarized in the critical assessment part, which outweighs the pros and cons as well as the suitability of the theory, method and materials. Finally a look into the future will be provided by suggestions on further research.

7.1. Critical Assessment

The financial crisis pushed the EU into some uncomfortable discussions, questioning if the Union would even be able to survive or if it had in fact reached its limits. Throughout Europe cries could be heard proclaiming the EU dead, newspaper headings called for less EU and more sovereignty and one Council meeting after the other tried to find solutions to a seemingly never ending amount of financial problems which quickly turned into political, social, legal and cultural concerns. As the EU governments were standing at the crossroads, the question which was hovering over their heads was "whether the legacy of this crisis [was] an integrated European banking system or a move back to fragmentation."[207] When trying to consider the options for the EU, it soon becomes clear that a joint supervision is the only possible solution to reduce systemic risks and cascading failures of financial institutions. This generated the aim of the paper, to assess if the planned supervision was to be created and implemented in 2014 and whether or not the institutions and Member States were ready.

To summarize the findings, there are many aspects which speak for the SSM and joint supervision, such as it being a natural part of the globalization process and an innovative tool to strengthen the EUs position internationally. By granting powers to the ECB, which has operated successfully for almost two decades, the supervision will profit from entailed

[207] Véron 2011

international credibility and the strong European dimension. This reflects the globalization theory of nation-states losing importance and the need for innovative solutions. This position will also give the EU in general and the ECB in particular more exclusive competencies to act when necessary. Instead of continued impotence in the face of crisis at Member State level, the ECB, with its authority, high level of competence and recognized reputation on the financial markets, can be seen as the right institution for leading the euro area through this new journey of financial and economic integration. In the light of globalization, a strong institution with a European dimension has the possibility to supervise a number of financial institutions by applying networking between the different institutions.

As the decision to create a common supervision and put the ECB in charge was based on unanimity, it started off with united Member State support - an important aspect of legal pluralism. Negotiations and unanimity can be seen as a sign of respecting differences and trying to incorporate them into the creation of a common supervision. The decision to apply unanimity shows that the Member States found a common ground to start with and cooperation between the ECB and the NCBs has so far been successful. Due to the European dimension of the supervision, the political power-play between Member States will be reduced on a transnational level - an aspect which is related to globalization and the danger of being captured by powerful interests. The distance of the ECB to local interests will also hinder the supervision to be caught up by non-decisive factors when executing supervision. In order to keep some of the national features, the NCAs will, in line with the provisions, continue with supervision on national level. The applicability of EU law and its supremacy over national law further grounds the European dimension and is aimed at disciplining the ECB and Member States alike, all of which can be challenged before the ECJ. These aspects directly address concerns of transparency, accountability and powerful interests.

On the other side of the argument, certain aspects must be acknowledged and incorporated into supervision, in order to allow it to operate to the best of its abilities. As regards Member States concerns as well as the concerns on a national level, these issues should not be ignored but rather addressed in order to secure the support of all Member States. In this way, the change of generating an optimal input of voices and considerations can be achieved by embracing legal pluralism. Complaints about something which will become reality within the next few months are not going to be fruitful but just risk negatively influencing the start of the supervision instead of providing it the best possible support.

Taking into consideration that the markets have been calm for far too long and the geopolitical uncertainties which are increasing by the day, the European Member States should rather embrace a strong union rather than a weak fragmented one. By respecting the existence of differences on both a supranational level and a national level, thereby embracing legal pluralism, the mechanism could be further strengthened as it would acknowledge its weaknesses. While discussions leading up to the agreement should perhaps have been more inclusive, negotiations between different actors were incorporated into the negotiations once the decision had been taken. In future different norms should, however, be respected in order to create a smooth functioning of the mechanism. By simply ignoring these issues, they will not be eradicated but rather risk coming back in a more severe form. Another weakness which should be addressed as regards globalization is the problem of accountability. As the ECB is accountable to the EP, which is supposed to represent the citizens of the Union, it can be questioned whether this is a true representation of the citizens and thus an effective institution to be accountable to.

Having assessed both sides, it becomes clear that a general feeling of doubt and negativity should not dictate the future of integration. The EU was founded to promote peace and stability, aspects which have both been challenged through the sovereign debt crisis. In an attempt to reestablish these pillars, the supervision is aimed at reducing national bias in favor of a Union-wide stability. In order to avoid using taxpayers to bail out banks and before something worse happens, it is better to embrace the supervision and make the best of it. As was highlighted by Berman, law it "is an ongoing process of articulation, adaptation, rearticulation, absorption, resistance, [and] deployment" thus "scholars and policy-makers would do well to study the multiplicity and engage in conversation, rather than impose a top-down framework that cannot help but distort the astonishing variety on the ground."[208] In order to avoid such a top-down framework, interaction by the institutions and the Member States should be encouraged. The only way to improve is through successful cooperation, recognizing one's own responsibilities and taking responsibility for each other.

By applying legal pluralism and globalization, the author was able to move the topic of European supervision into a socio-legal discourse. The classic mistake of evaluation research and low methodological standards due to poorly resourced evaluations was addressed by incorporating a variety of different methods for gathering relevant information. As such evaluations are usually not concerned with academic understanding,

[208] Berman 2012: 22

this paper has set out to explicitly express both academic as well as non-academic aspects in order to provide a comprehensive assessment. The proposed suggestions should be acknowledged when implementing the mechanism and executing supervision for two reasons. First, in order to guarantee that supervision is operating to the best of its abilities in socio-legal terms, these suggestions will be indispensable. Second, as the ECB is embarking on a new journey of a worldwide unprecedented challenger, every consideration which can contribute to a successful operation between the various hybrid legal spaces should be taken into account.

6.2. Further Research

Looking into the future, other aspects which would have been both relevant and interesting from a Sociology of Law perspective include the morality and reason aspects, the choice of legal base and concerns regarding the intensification of a "two-speed Europe" and thus a Europe with *citoyen de seconde zone*. The morality-reason aspect would have evaluated the power situation and implications of granting the ECB supervisory powers. The question on the legal base involves doubts of whether or not the treaties provide for the establishment of a supervisor, if the ECB is legally allowed to function as a supervisor and if not a different legal base and thus an agency would have been a better choice. Lastly the worries about a "two-speed Europe" relates to concerns about the intensification of the Eurozone and its Member States, while other Member States are moving in a different/slower direction. However, retrieving and accessing the relevant information would, however, have exceeded the means available for this master's thesis. Instead, this author calls for further research in this field.

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Appendix I.

Questions for the Commission April 3rd 2014

<u>Master Thesis Subject</u>

The Thesis is written within the course *Sociology of European Law* at the University of Lund. The main aim of the thesis is to explore which effects the Banking Supervision will have for the European society. As the Eurozone countries will become more integrated due to the Banking Supervision, non-Eurozone countries run the risk of further distancing themselves from the countries united by a common currency and supervisory authority.

<u>Questions</u>

<u>Historical Developments of Central Banks</u>

- Historically central banks have changed in regards to their competencies: would you say that a banking supervision by the Eurozone central banks in general and the ECB in particular can be considered a natural part of this development?
- Padoa-Schioppa said in 1999 „Over time such a mode will have to be structured to the point of providing the banking industry with a true and effective collective euro area supervisor. "[209] Should/Could a banking supervision thus have been established earlier?

<u>Banking Union/ Banking Supervision (and SSM)</u>

- Do you believe that the SSM can be used as a model for other central banks globally?
- The European sovereign debt crisis was partially fostered through the discrepancies between EU Member States and the varying degrees of Banking Supervision within them. If one would compare the Banking Supervision and the Stability and Growth Pact (on the common denominator that they are both frameworks incorporating the financial aspects of a number of different countries and cultures) what lessons can be learned from the mistakes of the SGP?
- Within the European integration theory there exists the theory of deepening[210] which has the aim of bringing the people of Europe closer together, as was outlined in the preamble of the TFEU. Some of the older EU-countries have already decided against adopting the Euro, additionally countries are choosing not to be supervised by the Banking Supervision: does this mean that the distance between the countries will increase?
- When member states which have not yet adopted the Euro, adopt the euro, will the automatically fall under the SSM/ Banking Supervision?
- Would it be useful for these countries to implement the single supervisory mechanism in order to circumvent banking crises?

[209] Sprenger, Martin. (2013). The European Banking Union: Origins, state of play and way forward. http://www.chicagofed.org/digital_assets/others/events/2013/nineteenth_annual_capital_markets/sprenger.pdf
[210] http://europa.eu/legislation_summaries/glossary/deepening_european_integration_en.htm

- According to the Financial Stability Review November 2013 published by the ECB, a catalogue has been established, which summarizes as aspects which will be supervised by the SSM. How have these aspects been identified and incorporated?

The Role of the Commission

- In 2012 the Commission released a statement on the Banking Supervision, stating that:

  > Different supervisory handbooks and supervisory approaches between the Member States participating in the single supervisory mechanism and the other Member States pose a risk of fragmentation of the single market, as banks could exploit the differences to pursue regulatory arbitrage.[211]

  How is it possible to create a handbook which incorporates all the aspects of the various banks?

- On what basis did the Commission propose a European banking supervision?

European Society

- Would you say that the Banking Supervision is a natural step in the European integration process and that it is necessary in order to "lay the foundations of an ever closer union among the peoples of Europe"[212]?
- It is often accentuated, that the banking supervision aims to break the close bond between states and banks; what impact would this have on the society in general?
- Just as the European Society is made up of an array of cultures and traditions, so are the European banks. In how far have these cultural differences been considered in the construction of a European Banking Supervision?

[211] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012DC0510:EN:NOT
[212] http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012E/TXT&from=EN

Transcript of Interviews

Interview with: Charlotte Sickermann DG Internal Market and Services
Unit 02- Financial Services Policy, Relations with the Council
3rd of April 2014
Interview time: 40min35

Louise Mansson: So I send you the questions beforehand, so I will just start from the beginning.

Historically central banks have changed do you believe that this is now a natural part of the development of central banks? Was a supervisory task bound to be incorporated in central banks or is it something out of the ordinary?

Charlotte Sickermann: I am not sure it has changed, as already before many banks had supervisory responsibilities. It evolved, for instance in the UK, the Bank of England was in charge of banking supervision. Then they established the FSA (about 10 years ago) and now the Bank of England is again part of supervision. The responsibility is partly natural, having central banks in charge of supervision because they are closely connected to the banking sector and have a thorough understanding of what is going on in the banking sector. So it makes sense from that perspective.

But of course, you talked to the Bundesbank so I am pretty sure that they also talked about some possible problems of being a central bank and being involved in banking supervision at the same time. In conclusion, there are good arguments and synergies for it, but there are also arguments against it- it's a cyclical thing. Now there is a trend of giving supervision back to central banks, but in ten years things might change.

Louise Mansson: Ok. Mr. Padoa-Schioppa said in 1999 „Over time such a mode will have to be structured to the point of providing the banking industry with a true and effective collective euro area supervisor. "[213] Do you think this was already predicting that there should be a supervisory body and maybe it should have been implemented before?

Charlotte Sickermann: I am sure that he was partly predicting it. If you look at the Treaty we have the legal basis to confer such powers to the ECB. I mean people thought of it before hand. So I mean it was already discussed at some point when establishing the EMU. It is about how Europe works, you can only progress further or deepen the Union in terms of crisis- as joint supervision is also a question of national sovereignty and it is difficult for Member States to surrender or give supervision to a European institution.

[213] Sprenger, Martin. (2013). The European Banking Union: Origins, state of play and way forward. http://www.chicagofed.org/digital_assets/others/events/2013/nineteenth_annual_capital_markets/sprenger.pdf

Ideally we should have done it. With the knowledge we have today, of course we should have done it. You couldn't predict the crisis and I think that it would have been impossible ten years ago. At that time we were still in a very national system for banking system, so it would have been too early. In a perfect world we would have done it.

Louise Mansson: You said it is hard for NCB to give powers to the ECB and an EU level. With the banking supervision we will also have supervisory powers both with the ECB and the NCBs, how do you think the different bodies will deal with this power structure? Do you think that they will try to focus on the ECB, as standing above them, or do you think they will try to let their muscles play?

Charlotte Sickermann: It is a system; it is modelled very much in parallel to the way monetary policy is conducted. You have both a European and a national dimension, with the national supervisors. What is important for the SSM is that the ECB has responsibilities for the whole banking sector. So it is true that the ECB will only directly supervise the biggest banks from the start, but it has the responsibility for the whole sector.

The ECB also has the right to take over supervision of any bank at any point in time. So if the ECB detects a problem with one bank it can take over. This disciplines the ECB to look at the whole system and not only focus on the biggest banks, but it will also disciple many national supervisors to act within the guidance given by the ECB. If the NCBs/NCAs do not do a good job, then the ECB will take over. It will thus discipline the different institutions to carry out strong and solid supervision. It will discipline both on a supranational and national level, to make sure that both sides work together and have the same interests.

Louise Mansson: The framework regulation says that, before the ECB takes over a national bank, they have to give "heads up" to the NCBs. This reminded me of the Commission which has the power to enter certain organizations, or companies when they suspect misconduct. Is this a similar approach?

Charlotte Sickermann: I would not see it that formulistic. In any case, the possibility for the ECB to take over is what we always call a "nuclear-option". This is really the worse-case scenario and normally it should never come to this. The ECB has many rights already beforehand: it can request information at any point in time (which they will do to have an understanding of what is going on), the ECB will be able to give general guidance on how to carry out supervision, the ECB will develop a supervisory manual which gives clear instructions on the processes and finally, NCAs will have to send major decisions to the ECB either *ex ante* or *ex post.* So the ECB has many possibilities to get insight information and be informed. Then it would formally inform that they want to take over, at that point they will already have all the necessary information and will no longer "start" investigation. This is also for the ECB decide how they will do this.

Louise Mansson: Do you believe that the SSM can be used as a model for other central banks globally?

Charlotte Sickermann: I don't think that the SSM as such can be applied to other countries, as it is specifically designed for Europe. It is a specific case where you have independent Member States working together and the whole Board-Structure… In terms of the Board-Structure I am not convinced that it is necessarily the most efficient one.

We have a very large supervisory Board as there are 28 Member States but with a European dimension. We have a steering committee which will be much leaner, which also has an important role to play. But I would recommend a smaller decision-making body in general. So from that point I wouldn't see it as a model. Of course the idea of having a central bank entrusted with banking supervision and having a decentralized system of banking supervision makes sense. But as this is how it is done in most countries anyway. (08:15:12)

Louise Mansson: The European sovereign debt crisis was partially fostered through the discrepancies between EU Member States and the varying degrees of Banking Supervision within them. If one would compare the Banking Supervision and the Stability and Growth Pact (on the common denominator that they are both frameworks incorporating the financial aspects of a number of different countries and cultures) what lessons can be learned from the mistakes of the SGP?

Charlotte Sickermann: Well, I mean the main lesson which can be learned from the SGP is that we didn't really, or better said **couldn't**, enforce it. There were strong interests against enforcing it, the moment something went wrong. It is difficult to compare them, they are very different. What is different is that the ECB or the SSM has a very strong European dimension. Within the JST you have five members from the ECB which will look at the European interests and not at the national interests. This will already make it more difficult for the supervisory board to act in the way the council did in the example of the SGP.

I think this is the main difference and of course the ECB can take over supervision at any point. So far, if we consider the monetary policy which has been carried out, we didn't have any of the problems that we had within the Council. So you can see that the system adapts quite quickly to have a European stance and take a European view. So I wouldn't be too concerned. Especially since acting out of national interests would have huge implications for the ECB, so the ECB will do everything they can not to be perceived as acting in national interests. If the ECB is too lenient on one country or towards certain banks it will have huge implications. It will have financial implications, damage its reputation, have effects on its monetary policy… so I think everyone has an interest for the ECB to be strong and allow them to carry out supervision.

But we will have to see. It will take some time for the system to develop. In the long term NCAs should not see themselves as national supervisors but as part of the SSM.

Louise Mansson: This comparison between the ECB and the Council brings me to another question: It is often accentuated, that the banking supervision aims to break the close bond between states and banks; what impact would this have on the society in general? Will the ECB be more neutral and therefore break the bond?

Charlotte Sickermann: Yes. The problem which we had in the past, also in banking supervision, which is why I must say it was so reluctant to move supervision to a European level, was that of course it is used to create national champions. It is this idea of creating big strong banks. So supervisors were not objective. Whereas the ECB will not defend national interests, although there is of course the risk that the ECB will defend European interests and will want to have European champions in a way. But this would nevertheless detangle the relationship between banks and governments.

Louise Mansson: Within the European integration theory there exists the theory of deepening[214] which has the aim of bringing the people of Europe closer together, as was outlined in the preamble of the TFEU. Some of the older EU-countries have already decided against adopting the Euro, additionally countries are choosing not to be supervised by the Banking Supervision: does this mean that the distance between the countries will increase?

Charlotte Sickermann: Of course there is a certain risk that this happens and we cannot pretend that there isn't. In our view, this is more of a short-/medium-term problem, because in the long-term almost all Member States have to adopt the euro. When you then adopt the euro you also fall under the umbrella of banking supervision as it is mandatory for Euro area Member States.

Of course this leaves us with the UK and Denmark, Sweden also, but they will have to adopt the Euro. They will find ways to get around it, but in the long-term they are expected to do it. I think in the long-term we will not have this problem very much as it will solve

[214] http://europa.eu/legislation_summaries/glossary/deepening_european_integration_en.htm

itself. In the short-/medium-term we will have to make sure that internal market is not impaired by the banking union.

To do this we have the EBA which is quite important and will become more important in that area. Maybe we also have to distinguish between regulation and supervision. The regulation and the regulatory framework applies to all 28 Member States and then the ECB as a supervisor, which will apply to European level for the Euro area and other participating Member States. The EBA will make sure that there is appropriate coordination between different supervisors within the EU. So it could work, but it is important that we keep a look at this.

Louise Mansson: This already answers a little bit of the next question: Would it be useful for these countries to implement the SSM in order to circumvent banking crises but also to prepare for what is coming?

Charlotte Sickermann: Yes. In our view yes of course! It would only be useful to be there now, because now the SSM is being built and you could influence how it will look. If you wait for ten years the whole system will already be settled and you would just have to take it as it is and you wouldn't have any choice. The banking sector for many Eastern European countries is dominated by the banks from Western Europe. This already now puts them in a difficult position because they need to deal with their home-authority and the home-authorities of Western countries. This requires lot of coordination as the home-authority, e.g. Germany, will look at what is happening in Germany.

So in that sense, if they are part of the SSM, they will be part of the supervisor directly and they can protect their interests or at least make sure that there interest is being taken into account.[215] So far various reasons it may be useful for them, but for political reasons they may not want to do it. They would be giving a lot of authority to the European level and no Member States likes to do this. But it could help to avoid banking crisis and avoid coordination issues.

Louise Mansson: According to the Financial Stability Review November 2013 published by the ECB, a catalogue has been established, which summarizes as aspects which will be supervised by the SSM. How have these aspects been identified and incorporated?

Charlotte Sickermann: This is the basic principle of banking supervision: it needs to be proportionate and you need to take diversity of business models into account. Already in

[215] As the thesis is written Bulgaria has started talks with ECB to join Supervision: Tsolova, Tsvetelia. (2014) "Bulgaria central bank starts talks about European supervision" *Reuters*. July 15th 2014.

the CRD-package there was a segment on this and it was also added to the SSM regulation. In the SSM regulation you also have all of the criteria on which banks fall directly under the ECB supervision and which will be supervised by NCAs. What the ECB will do, is they will draw up a manual which will be very general and basically focus on the processes. Since the smaller banks, which have very different business models, will anyways be supervised by local supervisors. This already exists in supervision and will not change very much.

Louise Mansson: In 2012 the Commission released a statement on the Banking Supervision, stating that:

> Different supervisory handbooks and supervisory approaches between the Member States participating in the single supervisory mechanism and the other Member States pose a risk of fragmentation of the single market, as banks could exploit the differences to pursue regulatory arbitrage.[216]

How is it possible to create a handbook which incorporates all the aspects of the various banks?

Charlotte Sickermann: It is challenging. Maybe in order to clarify, because I think there are two processes going on. There is the ECB working on the manual (which will focus on process, procedures, who is in charge of what etc.) and then you have the EBA working in parallel of a supervisory handbook, which is the reference you make here.

This will be carried out by the EBA, which makes sure that it is not only applied to the Euro area but to the whole EU. This brings us back to the point about the potential risks to split the EU in two. This will be addressed here. Of course this is a huge project and it is not going to be a short handbook. In fact it will be quite long. But I think what the handbook will do is focus on big and complex banks, using internal models because these are the banks which directly compete with each other. The smaller banks, which in most cases only use standard models; there won’t be much about this in the handbook. If you use the standard approach under the CRD you don’t have much choice on the weigh your assets, calculate your capital requirements etc. also to keep it simple for these banks. So for them it is less important to have such a handbook.

Of course it will also give some guidance to supervisors to make sure they have the same standards and that they apply the same standards. These can however remain rather general and you do not need to go into detail as it is more about the way to carry out supervision, risk assessment etc. which you can do at the top level.

[216] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012DC0510:EN:NOT

Louise Mansson: On what basis did the Commission propose a European banking supervision?

Charlotte Sickermann: We started working on this project in April 2012 when the whole discussion about the Banking Union started to get momentum. I think the IMF mentioned it and the ECB and then there was this famous Council meeting in June, where the European Council asked the Commission to come up with a proposal using **Article 127(6)**[217] as a legal basis. So we did not really have much choice on which Article to base supervision and who should be entrusted with it, as this was already given.

Of course the Commission has the right to initiative but if we get a request from the Council and we make a proposal going in the complete opposite direction, especially given the urgency of the situation it would not have very helpful. That was the basis on which we worked and from which we developed the proposal.

We thus made a proposal in September, based on the guidance given by the European Council. Then we started negotiations with Member States, there we had three or four Member States proposal. Given the urgency and the fact that we needed to have unanimity we had to change quite a lot so that everybody could live with it and could agree to it.

Louise Mansson: Do you think that it that the outcome was as strong as intended, or do you think it was weakened considerably during the negotiation process?

Charlotte Sickermann: Overall it kept its strength, of course some areas have been weakened but from the outset it had been kept rather general. The idea behind this was to be flexible and keep flexibility to accommodate for future developments. So we did not have the distribution of work between the ECB, NCBs and NCAs. We said everything should go to the ECB knowing that the ECB would not do everything but would distribute power to the national level. But we wanted to give the ECB the flexibility to decide how to do this best and adjust the system in the future. You need unanimity therefore you need 28 Member States to incorporate all the wished of the Member States. This was during the crisis, so all the Member States were flexible, but if it needs to be changed this will be done in a normal situation. This is why we kept it shorter and more general and did not spell out everything explicitly.

One area where the text was weakened, I think, would be in the area of macro-prudential tasks as we had suggested the ECB should take over all powers of macro-prudential authority. This was significantly weakened. It was weakened in some areas but what not

[217] TFEU: Consolidated version of the Treaty on the Functioning of the European Union

over-all weakened. This is also the purpose of negotiations: we make some errors and don't take into consideration everything, so it is helpful to negotiate and clarify.

Louise Mansson: Would you say that the Banking Supervision is a natural step in the European integration process and that it is necessary in order to "lay the foundations of an ever closer union among the peoples of Europe"[218]?

Charlotte Sickermann: Yes I would think so. We already discussed this before. But what I mean is that during the crisis we thought that European Union was missing an important element. Moving to banking supervision is a very big step: it is similar to introducing the euro. You give a lot of sovereignty to a European level and banks are essential for the economy. So it can be seen as a big step for furthering integration, also to make the Euro area and the EMU more sustainable in long term. During the crisis we had the choice of going for more integration or going into the opposite direction and luckily we chose to have more integration.

Louise Mansson: It is often accentuated, that the banking supervision aims to break the close bond between states and banks; what impact would this have on the society in general?

Charlotte Sickermann: I would say that this will have many positive aspects for the society. During the crisis we had the problem that many banks had to be bailed out by governments and in the end tax payers had to pay for it. So if you manage to break this close link, this is not only done by the banking union but also the reform initiatives (see Bank Recovery Resolution Directive[219] etc.), in this way we will make sure that banks are no longer bailed out by governments anymore.

Louise Mansson: You mean this will only the last resort?

Charlotte Sickermann: In the very last resort. But there we have quite strict rules outlining on how and when the governments can step in, under what conditions and also the state-aid working parallel. So there will be very strict conditions. In general this will help a lot, but of course you need a final backstop. In general this will help a lot because tax payers will not have to bail out banks in the future, which will help all of us.

Louise Mansson: Just as the European Society is made up of an array of cultures and traditions, so are the European banks. In how far have these cultural differences been considered in the construction of a European Banking Supervision?

[218] http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012E/TXT&from=EN
[219] EU Bank Recovery and Resolution Directive (BRRD)

Charlotte Sickermann: What we have in the SSM regulation is that there should be an exchange of staff between the supervisors. The cultural differences are not mentioned explicitly but it should be taken into account that we have the exchange of staff and that we have the principal that supervisors' should take into account the differences. So this is also part of the cultural difference aspect. We try to accommodate for this and we are aware that there are cultural differences, but I don't think we have something else.

I think that overtime you will have people at the ECB working together who used to work on a national level and then they are working at a European level. This will not always be easy and there will be different supervisory approaches and cultures but overtime they will converge. This will then also spill-over to national supervision, even if it takes time and some cultural diversity will remain. The existence of cultural differences is also a positive thing, it is enriching. Also at the Commission we are working with different backgrounds and different thinking and this is very positive. You get different ideas and more input so I would see it as a positive thing which should be maintained.

Louise Mansson: How important is it that the Banking Union and Supervision is successful for the cititzens?

Charlotte Sickermann: I think it is very important. If it is not successful and if we do not manage to overcome the tendency to protect our national system, then the whole economy will collapse. I mean leaving the Euro would be expensive for all of us. It would also be a big step back in terms of integration; it would be costly in economic terms but also as a normal citizen. Perhaps this is the problem of the EU- that as a normal citizen you do not realize the benefits. You live day by day with the benefits, but going would also be quite a change. Now you are used to travel with one currency, compare prices, you can work wherever you want in Europe… Going back would have quit a strong impact on all the citizens.

Interview with: Benjamin Angel DG Economic and Financial Affairs
Head of Unit: Financial Institutions and stability mechanisms
3rd of April 2014
Interview time: 1hr11min46

Louise Mansson: First I will consider the historical developments of central banks in general, in this regard I was asking: Historically central banks have changed in regards to their competencies. Would you say that a banking supervision by the ECB and the NCBs can be considered a natural part of the development of central banks?

Benjamin Angel: You start with a difficult question. First, there was no natural model in regard to supervision in Europe. Some countries had supervision done by the central banks, while others did not. The funny thing was that, with the crisis, countries which had not entrusted supervision with the central banks had reformed it to entrust supervision with the central banks, while the other countries which had entrusted supervision with the central banks, made reforms to have supervision done by another body. Basically, everyone was unhappy with the way supervision had developed, which was very much independent of what body was in charge.

Some surveys have been done by academics, regarding whether it is good or bad to have supervision entrusted to the central banks. The main pro is that central banks will pay more attention to liquidity problems than more traditional supervisors, which focus more clearly on solvency. This is a natural development in central banks- to provide liquidity support. The fact that they pay more attention to liquidity sometimes means that they can act more quickly before liquidity problems turn into solvency issues- there is a thin line between these two. Thus, in this respect it is not bad to have a central bank in charge.

Now as far as the EU overall is concerned, the Treaty was ambiguous. Article 127(6) mentions the possibility to entrust tasks related to supervision to the ECB, which does not necessarily point to entrusting **the** supervision to the ECB; but rather some aspects.

Most likely, without the crisis, we would never have moved to central supervision. I also participated in the first package, five years ago when we created the European supervisory authority. At that time, it took a considerable effort to convince people to change supervisory information. The idea that you could move to a common supervisor was pure science fiction. So it took a really big crisis for people to be convinced to take such a step.

Should it be the ECB or not the ECB? The initial preference of the Commission was certainly not the ECB. We would have preferred to entrust an independent agency for many reasons. One aspect is related to the choice of legal basis, we would have preferred to use Article 114 and the entailed qualified majority rather than unanimity requirement which is always a bit of Russian roulette on a European level with 28 Member States. We were also afraid to make the already almighty ECB even more powerful against the background, where the ECB is not always cooperative. This is fine for monetary policy which is independently protected by the Treaty but it is less fine for supervision for which you need a high level of cooperation, treasuries and things like this.

Nonetheless the ECB managed, at a Council meeting, to extract references to a European Council conclusion under Article 127(6) for creating supervision thereby convincing the heads of states that the ECB would be most suited for this position even though different options were still being considered. While this was one of the options, it was not the favorite option of the Commission. Consequently the action papers were scaled down to one, and the ECB was kept as the only option.

Louise Mansson: In 1999 Padoa-Schioppa „Over time such a mode will have to be structured to the point of providing the banking industry with a true and effective collective euro area supervisor.“[220] Should/Could a banking supervision thus have been established earlier?

Benjamin Angel: You can find statements from everyone on everything, so one can be sure, especially in economy, that when you predict a recession or a strong growth one day you will be right. In the long term this could have been an option but Padoa-Schioppa did not have any influence on this process.

It is really the crisis itself as well as the expected advantages of entrusting the ECB that has made the difference: some visible and some invisible. I could explain if you are interested.

Louise Mansson: Yes, I would very much like to hear the explanation.

Benjamin Angel: One the visible and obvious part, entrusting the ECB considerably reduces the risk of supervisory capture. Let me explain using two examples:

1) Ireland was a perfectly sound country, which was killed by its banking sector. In 2008, which was an interesting year for the EU, because it was the year when the financial crisis started to cross the Atlantic and we lost the illusion that problems are just for the Americans and we ourselves will be much safer. It would have been the year in which you could have expected very active supervisory activity. For the whole year, *the whole year*, the Irish supervisor only made two inspections and took zero decisions. Not that they were stupid, but they were completely captured by the environment.

2) Even more spectacular is the case of Cyprus. I do not know if you have been to Cyprus, but the Cypriots feel Greek, you even see more Greek flags than you see Cypriote flags. When Greece started to have troubles, they wanted to show Greece solidarity by

[220] Sprenger, Martin. (2013). The European Banking Union: Origins, state of play and way forward. http://www.chicagofed.org/digital_assets/others/events/2013/nineteenth_annual_capital_markets/sprenger.pdf

buying Greek bonds. The supervisor shared this feeling of solidarity and did nothing to stop the Cypriote banks from building a huge exposure to Greek government bonds. He also wanted to help- which means that if we want to go to the restructuring of Greek debt there is a wall of Cypriote banking system that can collapse.

This can only happen when supervision is done on national level. It is clear that when you have a supervisor sitting in Frankfurt, he would have blown the whistle and said “Stop!” well before. He would never have let this huge excessive exposure to only one category of asset being built up.

It makes the system much safer because it creates a very strong distance between local interests and the decision-making center. This is the first advantage.

The second advantage, it can help somehow reigniting a normal functioning of the internal market. We have seen in this crisis a lot of ring fencing behavior of the supervisors. That is, the supervisor trying to do what they can do protect their own market, thereby not paying attention to the possible effects this can have on the others. This even happened in the first minute of the crisis in Europe: the night when Lehman Brothers collapsed the German supervisors immediately froze all assets of Lehman in Germany not even thinking for one minute, that transferring some assets to the UK which could have saved part Lehman in the UK.

You cannot blame the German supervisor, because the mission of the national supervisor was to protect the national market. More recently, we have seen supervisors such as the German and the Austrian ones trying to prevent UniCredit from transferring profits from its German and Austrian activities to Italy. So Unicredit which is a truly integrated bank, was somehow prevented by national supervisors acting to protect their all-national backyard, to operate as a normal European bank moving profits. This is not possible when you have a national supervisor as the decision, by definition will be taken on a central level in Frankfurt. Thus moving profits from Austria to Italy, is neither better nor worse.

Louise Mansson: So this means that European integration is enhanced?

Benjamin Angel: Yes exactly. Those two advantages are visible. There is however the problem that the ECB now has two responsibilities. If you look at the Treaty the primacy should go to price stability that is the target of the ECB.

Louise Mansson: Is there a risk of inefficiency due to the large board?

Benjamin Angel: To soon to judge: in my experience number is not an issue as long as a) you have clear rules and b) you have someone heading the system committed to using those rules. If you have a body of 25 people looking for consensus, that’s hell. If you have a body with 25 people, working with simple majority, and someone sharing it saying “you disagree, now let us vote!” then it works.

So we will see, then Nouy is a very tough personality. So I would assume that in term of profile that is rather the right profile because she is not exactly a consensus-builder but rather someone who goes straight to the point, trying to extract decisions as quickly as possible.

Obviously you still have a lot of friction and tension. Obviously the German, the French, the Italian are all trying to protect their interest and protect their markets, it is not that bad as it was to be expected and should be seen as a normal process when constructing a supervisory authority.

The real task will be when we have a real problem of cross-border banks. That will be the worst case, but more for the ECB than for the resolution authority.

Louise Mansson: Could the SSM work as a model for other countries, in the long-term future?

Benjamin Angel: Sharing a supervisor is an extremely big step, because it is not about just sharing a supervisor but ultimately it is also about sharing the consequences of mistakes. That is why we had to complement the ECB with the SRM and the common fund. At this means that we are back at the participating states, which means that it is nearly as big a step as sharing a currency which no other group of countries in the world has done yet. So I cannot think of a single case where things would be ready, for such a step. Apart from the countries which are already in monetary union, like the African countries.

It is quite a step. And it is a step which was taken relatively quickly if you take the long view. It has taken more than a century to get there.

Louise Mansson: The European sovereign debt crisis was partially fostered through the discrepancies between EU Member States and the varying degrees of Banking Supervision within them. If one would compare the Banking Supervision and the Stability and Growth Pact (on the common denominator that they are both frameworks incorporating the financial aspects of a number of different countries and cultures) what lessons can be learned from the mistakes of the SGP?

Benjamin Angel: I will be blunt with you. I am not sure that this comparison makes any sense.

Louise Mansson: That’s ok.

Benjamin Angel: The SGP is a set of common rules, essentially a set of “don’ts” not “does” and it has nothing to do with daily supervision of a bank. The “don’ts” in the SGP framework are binding while the does in the fiscal coordination framework were none binding. When you go to common supervision, the ECB as supervisor can take any decision on banking there is. It can call on the banks that are in its responsibility as well as the banks which are not in its direct responsibility. So it has the power to press the buttons and do the nitty-gritty.

The only common point between the two is that we are facing the same problem of democratic responsibility. In the SGP and fiscal coordination framework, the reforms that we have done in the last year in particular have gone extremely far. For instance: now Member States have to submit a draft budget to the Commission, and the Commission has the power to force resubmission. That would have been science fiction as well.

If you compare it to the US, the US does not have the power to force resubmission of California, Arizona or whichever state. We have this power. It is a huge power. But clearly we are touching here the heart of the historic accountancy of national parliaments. When we deal with supervision on a European level, we are also dealing with something which can have gigantic effects on the Member States.

I mentioned Ireland in the beginning of this interview. When Anglo-Irish went into trouble, the rescue of this bank cost 40 points of GDP of debt for Ireland: overnight! One bank! It was not a problem for the Irish citizens, from the democratic accountability point of view, because there was an Irish supervision, an Irish mistake and an Irish checkbook.

Now imagine that mistakes at the European level lead to the failure of a bank of the magnitude of Anglo-Irish. Now we have the European Resolution Fund to address it, but you would still have problems felt at a national level even if the cost of the recapitalization of banks is not only kept nationally. So we need to boost the accountability framework because, whether we like it or not, the citizens do not fully recognize themselves in the EP. That is, we have a lively and democratic space at national level, and at European level we very much have a procedural democracy. On paper, the system is fully democratic- everywhere!

Take my country for instance, I am French, the citizens elect the president, the president appoints the government, the government can be overthrown by the parliament etc. Every state appoint some kind of government, the Commission can be overthrown by the EP, which is elected by the citizens. So on paper it is very much the same- except that people feel as a French citizen, what is missing is the European citizen. The European space of discussion.

As long as the EP has not established itself as credible and representative of all European citizen and as a true watcher of European democracy, an accountability only to the EP, for the Commission as fiscal authority and the ECB as supervisor, does not produce the effect of accountability that would exist in the national parliament. There is a big risk to leave the citizen on the side line, making the citizen even more hostile towards the EU than he already is.

There is no easy solution. Some are saying that we need some kind of sovereign chamber alongside the EP which would gather representation of the national parliament. This is a funny idea if you see that historically, that is what the European Parliament used to be before we transformed it and creating the system in which it is elected directly by citizens.

Clearly we are struggling with this idea how best to associate national parliament. We have tried now with a set of legislations to give them the opportunity to contribute. During this crisis we have seen some national parliament taking it to the extreme. We have seen national parliament becoming far too powerful, work has been blocked for four months because there was a parliamentary recess in Finland. How can you work with this kind of thing? In the Eurozone area we have 18.

On the other extreme, it was 2012 or 2011 the draft budget of Ireland landed in the Bundestag before reaching the Irish parliament. This is completely outrageous.

We have to struggle to find a role for the EP with accountability framework, so that people don't have that they give all these powers to Brussels and Frankfurt and then have to worry about it. This is particularly difficult for the ECB, as the ECB has zero accountability conscience. They have a strong-ivory tower, which is basically "we can say whatever we want to the rest of the world, but no one in the world is allowed to make the slightest comment on what we do". It can't work like this, clearly!

That can work and is acceptable for monetary policy as was written in the Treaty but this is no longer monetary policy.

Louise Mansson: Yes, it will be very interesting to see how this will work in reality. Do you think that generally the fact that some countries (Eurozone) will adopt it now, and other countries will only adopt it once they have changed currency, could create a distance between these countries?

Benjamin Angel: We may have countries joining the banking union without joining the euro. There is an expectation that Denmark will join.

Louise Mansson: That Denmark will join?

Benjamin Angel: Yes they have all kinds political significance and while they are not about to join the Euro, they are considering joining the SSM. Not that the elites do not want to, but all the elites in the national central banks and in the finance ministry are pro Euro but they have always failed to complete the necessary steps. Then the situation is really absurd, it is far worse than the situation in your country [Swedish] because they are in the ERM two. They get the worst of both worlds. They have no autonomy over the monetary policy whatsoever, the only thing they can do is to align themselves on whatever is decided by the ECB without ever being able to influence the ECB because they are not in the board.

From a loss of sovereignty point of view, the thing that the Danish citizens were afraid of, is reality: they are in the worse possible situation. If you want full autonomy you stay outside and outside of the ERM, in the ERM and not joining the Euro then you have no advantage whatsoever. But so far the Danish political parties have not managed to explain it is convincing terms to their citizens. So banking union apparently is less controversial than a common currency- so they would actually like to join.

So for the other countries, some of them want to follow. If you only have branches of foreign banks they won't do anything, so it doesn't cost anything to join the banking union. You can gain influence, visibility and an in-depth understanding of the system and you can show to the outside world that "Hey, we are supervised by the ECB" which adds on credibility.

Louise Mansson: Clearly this is an aspect where communication is key. There seems to be a communication problem that exists in some Member States. Is this something that should be worked on? Highlight such issues on European level?

Benjamin Angel: Well Sweden has been playing with the Treaty for years.

Louise Mansson: Sweden does have an interesting position. While Denmark and the UK have special opt-out clauses, Sweden …

Benjamin Angel: But there is a nasty criteria which you can use in practice: "not opting-in". This is the ERM criteria. While Sweden is obliged to adopt the euro under the Maastricht criteria, they maintain that joining the ERM is voluntary, thus enabling Sweden a *de facto* opt-out. It is a strong movement. No one can be forced to join the ERM and as long as Sweden doesn't join the ERM it can never be in a position, where it respects the Maastricht criteria and is forced by the Treaty to join. This is what your country has done. Just stay out of it and you can forever stay out of the euro even when you are legally committed to join it.

Louise Mansson: According to the Financial Stability Review November 2013 published by the ECB, a catalogue has been established, which summarizes as aspects which will be supervised by the SSM. How have these aspects been identified and incorporated?
Benjamin Angel: This was the result of a negotiation between the ECB and the national supervisors. Even when the ECB is in charge it doesn't mean that the national supervisors are expelled. What it means is that the ECB conducts joint supervisory teams (JSTs) heading the supervision. But you still have national supervisory teams which makes sense! Don not misunderstand me, in many countries you may encounter even linguistic problems. Not every banker is fluent in English.
Louise Mansson: In this regard, I also think that, the JSTs with its team from the ECB and the NCB or national supervisor, i.e. people from the nation state and from other countries. How do you think neutrality will be handled?
Benjamin Angel: To avoid "you-scratch-my-back-I-scratch-yours" behavior? That is for the ECB to pay attention to when creating the teams. Obviously if you send a Greek to Cyrpus, or a Cypriote to Greece, or an Italian to France, and a French to Italy it will not help. But if you send a Greek to Germany or a German to Greece, no doubt! Perhaps they may even naturally be extremely biting. Of course I am joking but you need to balance the background to avoid possible collusion.
Louise Mansson: Do you also think that, perhaps it has been incorporated as I have not yet seen the Framework, that there needs to be set a specific time-period for the operations of the teams abroad? In order for them to stay long enough to understand the functioning abroad, but not so long as to be influenced and identify too much with the system?
Benjamin Angel: That is a problem which all supervisors have and it is not specific to the ECB. Even national supervisors are asked to find a right balance between building their expertise and to not reach a point where they are captured by the people and the banks that they have inspected and investigated for a number of years. The ECB has no experience in supervision so they will have to build their supervision first.
Louise Mansson: Yes, they are currently doing mass recruitment.
Benjamin Angel: 800 people. They currently have recruited 800 people and are searching for, I believe 1000. It is extremely difficult to find that many people who are competent, fluent in English and willing to live in Frankfurt which is considered at least by the Southern countries to be the worst possible city to live it. Rightly or wrongly- this is the image.

The ECB tried to use the stick it had, that is offer high wages compared with the rest of the EU institution. They had no choice, I do not blame them! It is impossible to recruit so many people so quickly if you do not have a big account. No other institution or organization from the private sector can compete with this.

Louise Mansson: Would this not create a discrepancy between the new employees and the former employees?

Benjamin Angel: Yes this creates such problems. It also creates the risk that some national sovereignties end up with the left overs of the ECB. This is not ideal either! It means that the quality of the national supervisors will deteriorate. It is a problem which we are faced with all over Europe and all over the institutions.

Particularly through the enlargement to the new Member States in 2004 this problem has prevailed. Not only because the wages are not comparable but in 2004, when we had the first enlargement process, we saw even ministers applying for junior administrative positions. We were offering wages which sometimes represented 13-15 times the average wage. 13 to 15 times!

Louise Mansson: There is no way to compete with that!

Benjamin Angel: Exactly! If you were in the Baltic state, the normal wage for people at that time was 250€ per month. So if you get a wage offer which multiplies this by 12 or 15 people accept and then they come to Brussels and realize that they are not rich with this salary because the cost of living is very different etc. But it draws many good people from those countries those people who did not get the jobs are frustrated …

Louise Mansson: So do you think it is “too much to fast”?

Benjamin Angel: It is a necessary step! It is a lot and not a lot! Having to recruit 1000 people within a year was almost mission impossible. It is spectacular what they managed to do. At the same time if you compare it with the staff working at other institutions this is peanuts. So it remains very much understaffed. You should not underestimate the complexity of large banks.

A bank such as BNP Paribas for instance if you are a lawyer it can have more than 7,000 legal structures within the bank.

Louise Mansson: This is why I think it is fascinating to make a handbook or manual attempting to incorporate all the banking structures when in Germany alone you have 2,000 different banks.

Benjamin Angel: Yes and the book was made very quickly. Their single supervisory book which is supposed to be much more successful than the EBA. The EBA has been working on similar stuff for years but with less capacity than the ECB has. It makes a difference when you can peak around the table and have the last word. Which the ECB has today!

The true number of recruitments is much higher than 1,000. You also have the all the external people, you have all the people that work for the NCB/ECB, national supervisors, legal services and all the people that will participate at the JSTs. So the true number is much bigger. It was not easy to get the people and it is not easy to start the machinery. But it is a very important step.

Louise Mansson: Are you satisfied with the results despite the fact that the Commission initially did not want the ECB to head the supervision?

Benjamin Angel: Yes we would have preferred an agency but the setup is good, the way it is now. A political decision was taken at the highest level, for the ECB to be in charge and the result is quite good.

The only problem now is really bringing the ECB to a more cooperative culture. It is not a cooperative culture and this is ultimately transforming the EBA to an empty chair. They are misbehaving. As long as you have topics which are discussed with the EBA and then after months you get a message from the ECB saying, I know that we have agreed this but we will be doing something else. Well they can do it because they are powerful but it is not nice.

It materializes the fears of the Brits for the none-Eurozone. For the non-EU, all the structures become satellites to the ECB. We have a good solution for it! Just join the Euro but I am not sure that they will.

Louise Mansson: No they will probably prefer to watch from afar. Do you think it is possible for the EU to continue if the UK always opts-out of different matters? This creates political tensions doesn't it?

Benjamin Angel: They have placed big efforts on putting themselves in the corner and they have been successful. Now they are in the corner, unless there is unanimity nobody actually cares what they have to say. So they have lost any influence any influence on the system if there is not unanimity.

Now they have the mixed feelings. They don't want to be in the system but they want to influence the system at the same time. It cannot work this way! You can influence the system if you play the game but if you don't play the game you cannot influence the system. This is the British situation and the more this continuous the more they feel useless in the system etc. So it is a self-fulfilling prophecy! Then you have crazy ideas such as holding a referendum… In fact we have not seen a pro EU government since the 70s.

Initially they were smarter in realizing that it is better to influence something from the inside than from the outside, which is what they did. In terms of the internal market I do not think we could or would have built it the way we did, if it wasn’t for the UK. Both the French and the German are very interventionist. So there have been positive aspects but the question is, what do they bring now?

Louise Mansson: This leads us to the question which I have on European society. Do you think that the banking union is a natural step in the EU integration process and that it is necessary to “lay the foundations for an ever closer union of the people in Europe”?

Benjamin Angel: For people like me this is a huge step. But the average citizen doesn’t care at all about supervision. So if I want to be lucid it is a super important step for the happy few.

Louise Mansson: Even if they don’t care, the closer union of the people is perhaps not something that the citizens are aware of on a daily basis. For example…

Benjamin Angel: You mean is it visible? The Euro for example is very visible you open up your pocket, you open up the border and you start crossing the border without a passport… everyone notices it! But banking supervision… Even the heads of state did not necessarily know what they were doing. For them or the majority of them it was something about a technical decision, sending someone to do technical things, doing some boring stuff. They had no idea of how important the step was.

That is how it is done. All that big progress is always top-down. You never, never, never get it from the man. If you put the experts in a room, finance ministry and the central bank each of them will find 200 reasons arguing that it will not work. Very often these are good arguments!

Whilst when you have a decision which is taken, people are no longer focus on listing or addressing the problems which gives a completely different twist to the situation.

Louise Mansson: It is often accentuated, that the banking supervision aims to break the close bond between states and banks; what impact would this have on the society in general?

Benjamin Angel: In a normal situation none. In an extreme situation when we have seen a bank collapse making the whole economy and financial system collapse, the fact that we will have a common resolution fund there will be a common burden sharing, thus it will avoid burdening the financial system.

For the average German and French it will have no impact at all. Though the citizens of Ireland would have been very happy to have it a few years ago as it would not have such a big mess as they have today. But the average citizen does not care about the banks and does not know if something is fishy with a bank.

For instance in Cyprus the banks were serving completely crazy rates on deposits. Normal rates are 6-7%, on normal deposits! If you tell this to a German or French they will say there is something fishy. But for the Cypriots all the banks were doing it! And if you live there and all the banks do it, then for the average citizen there is nothing wrong. It is what you have always been used to and you do not question it.

Louise Mansson: Some say that the states are in the iron hand of the banks. What do you think will be the effects on this relationship?

Benjamin Angel: The banks do not dominate the states. The states are at risk when volatile banks because it puts the states in bigger trouble. This is because of systemic risk. Banking remains far different from any other activity. If you manufacture computers and your largest competitor collapses this is great news for you, but if you are a bank and your main competitor collapses you are in the risk of collapsing next.

So it is a completely different area and one which is difficult to explain to the citizens. There is a big citizen fatigue towards rescuing the banks. The EU system howe.er remains very bank intermediated. For instance, if you compare it to the US, 2/3 of credit in the EU comes from the banks and 1/3 from other sources. In the US it is the opposite. So if the banks in Europe fall, the whole economic activity falls. So you do not create market financing overnight.

One effect of the crisis, paradoxically, it has made the big banks bigger. So the too-big-too-fail has become common. When we mention too-big-too-fail people often think of small country big bank, but it does well beyond that. Even big-country-big-bank, the country cannot always afford it.

BNP Paribas alone, one bank, represents 120% of the French GDP. So not even France could rescue it, it is just too big! When you have monsters like this you do not have a choice!

Louise Mansson: In a scientific I read that the French banks escaped nationalization which led to questions about the state of power of French banks over the state. That public accountability and responsibility was not necessarily with the state.

Benjamin Angel: That is a very strange point of view. First the French banks have gone through the crisis relatively well, if you compare it with Germany and the UK there was not a single bank failure in France. Why? Why France did not suffer to much or why nationalization should have been warranted, incidentally the whole system of French banks was nationalized in 1981 which was a big mistake.

I am not a fan of nationalization and you will not find many friends of nationalization within this institution. While being pragmatic in some extreme circumstances is it the right thing to do. Sometimes it is the necessary to do, but the state is not a better manager of than the private sector. The superior capacity of the state, and that was the argument, of your minister Borg is that it has a capacity to sit longer on the assets so if it rescues the bank it can wait long enough to settle for a profit.

Louise Mansson: Why would you consider that the French banks were so successful during the crisis?

Benjamin Angel: Yes they had exposure to Greece for example. But a) even this big exposure was only a small percentage of the total exposure; b) they were strong and large universal banks and when the crisis started on the investment part and moved to retail, but it never hit both at the same time; c) they are much diversified.

They are comparable to the rest of the EU but there is much more leverage. So in this respect that is the reason why people see them as more risky. There is always a suspicion towards the system but they went through the crisis very well, so there must be a reason for this.

Louise Mansson: Just as the European Society is made up of an array of cultures and traditions, so are the European banks. In how far have these cultural differences been considered in the construction of a European Banking Supervision?

Benjamin Angel: If there is one thing that should be learned from the crisis is that we should not be too receptive of this kind of argument. We have heard this argument used time and again at national level. There is one country were we heard "we have plenty of savings banks and we want these banks to have a very simple model. Not to enter into complex products and speculation that we don't understand but rather stick to the market that we know best." This sounds good, it sounds sound. But the only thing that they could finance locally was housing and commercial property…

Louise Mansson: Spain?

Benjamin Angel: Exactly. That is how the saving bank sector fell down. Complete collapse! You see sometimes you have good intentions and reality is very different from the intentions. So for all those local pacifists… well I do not have much sympathy for it.

Louise Mansson: This was my last question but do you think there is anything else I should know or be aware of?

Benjamin Angel: I think we have covered a lot but if you have any further questions you can write me an email.

Louise Mansson: Thank you very much for your time. It has been very helpful!

Appendix II.

Articles published by the Financial Times on the Topic of SSM July 2012-July 2014

Title	Date
Europe's banking union faces legal challenge in Germany	Jul 27, 2014
Bulgaria turns to ECB to stave off banking crisis	Jul 18, 2014
Potential for crisis aftershocks at eastern European banks	Jul 16, 2014
EU to rate lenders in effort for regulatory unity	Jul 8, 2014
Historic Monte Paschi looks to a future beyond ist tribulations	Jun 8, 2014
Bank of England urges revival of business register to ease SME lending crisis	May 30, 2014
Eurozone officials pin their hopes on a new regulatory toolkit	May 18, 2014
ECB needs to get house in order	Apr 17, 2014
Gentrification sparks divisions in Frankfurt's old districts	Apr 17, 2014
Protect Britain's interests in a two-speed Europe	Mar 27, 2014
Get your finances in order and stop blaming Germany	Mar 25, 2014
A highly imperfect banking union	Mar 23, 2014
Germany's property rush is based on concrete gold	Mar 23, 2014
City of London urges 'muscular' defence against EU regulation	Mar 18, 2014
Europe should say no to a flawed banking union	Mar 16, 2014
Barclays breach, warning for weak banks, and China's squeeze goes overseas	Feb 10, 2014
Transcript of interview with Danièle Nouy	Feb 9, 2014
Eurozone's new super-regulator prepares to be unpopular	Feb 9, 2014
Let weak banks die, says eurzone super-regulator	Feb 9, 2014
ECB vice-president defends strength of ist health check on banks	Feb 3, 2014
UK opposes Mario Draghi role at watchdog	Jan 27, 2014
ECB fails to attract enough female applicants to fill own quota	Dec 19, 2013
The European Banking Union is a disappointment	Dec 19, 2013
Rules for failing banks raise prospect of eurozone red-tape burden	Dec 15, 2013
ECB official Asmussen quits to serve in German coalition	Dec 15, 2013
A weak EU banking union risks deflation	Dec 9, 2013
ECB warns on external risks to eurozone financial system	Nov 27, 2013
ECB review must have sharp teeth	Oct 23, 2013
The year of assessing comprehensively	Oct 23, 2013
UK demands hold up European banking union	Oct 11, 2013
It is time to shore up Europe's banks	Oct 6, 2013
Live blog: Draghi on ECB monetary policy	Oct 2, 2013
Europe's banks undervalued, says ECB deputy Vítor Constancio	Oct 1, 2013
Draghi can save the euro again- but not alone	Sep 20, 2013
ECB pledges to promote more women to senior roles	Aug 29, 2013
Eurozone is heading for relapse back into crisis	Aug 28, 2013
Litany of ifs and buts hang over Europe's banking rehabilitation	Aug 26, 2013
Merkel's deutsche Michel' ploy is bad economics	Jul 11, 2013
Introducing the SRM, mangled at birth	Jul 10, 2013

Markets Insight: Bail-in regime risks old-style bank runs	Jul 3, 2013
Bail-in fears grow for big depositors in euro periphery	Jul 1, 2013
ECB exit from easing remains far off, Draghi says	Jun 26, 2013
ECB backs away from use of 'big bazooka' to boost credit	Jun 3, 2013
Merkel party allies accuse Hollande of shaking EU's foundations	May 30, 2013
Banking union's house of twigs (with cut out and keept optionality)	May 30, 2013
Europe must make up for time-wasting	May 19, 2013
The 6am Cut London	May 17, 2013
Stress you next year	May 16, 2013
NPLs and lights in dark places	May 13, 2013
Banking union must be built on firm foundations	May 12, 2013
Opinion: Hurdles remain high for banking union	May 9, 2013
Markets Insight: Eurozone crisis demands swift debt restructuring	May 8, 2013
Europe's ills cannot be healed by monetary innovation alone	Apr 24, 2013
NY Fed warns on 'go it alone' regulators	Apr 22, 2013
A German path for the eurozone	Apr 21, 2013
Europe's banks need to be recapizalised-now	Apr 15, 2013
ECB draws bail-in lessons from Cyprus	Apr 4, 2013
EU agrees on ECB bank regulatory role	Mar 19, 2013
Bonus issue marks start of a long battle	Mar 3, 2013
Bank reform is gathering pace	Feb 25, 2013
Zombie banks must not derail recovery	Feb 20, 2013
IMF urges speed on EU banking union	Feb 13, 2013
A misunderstanding of the banking union initiative	Feb 3, 2013
Brussels is making progress on banks	Jan 16, 2013
Juncker pleads for banking integration	Jan 10, 2013
Slow but real progress on resolving eurozone crisis	Dec 17, 2012
Politics undermines hope of banking union	Dec 16, 2012
European Council summits Brussels Day Two	Dec 14, 2012
FT Person of the Year: Mario Draghi	Dec 13, 2012
Draghi's rallying cry for new EU powers	Dec 13, 2012
Europe delivers on banking union	Dec 13, 2012
The stricks and carrots of a banking union	Dec 13, 2012
Debate rages on Eurozone banks supervisor	Dec 9, 2012
One regulator for all banks says Draghi	Dec 6, 2012
ECB cuts eurozone growth forecasts	Dec 6, 2012
Banking union	Dec 5, 2012
Europe Needs to embrance banking union	Nov 14, 2012
Banking union will not end Europe's crisis	Oct 21, 2012
EU bank supervisor- unfinished business	Oct 21, 2012
Rajoy takes long view over summit outcome	Oct 19, 2012
Were Hollande and Merkel at the same summit?	Oct 19, 2012
EU summit: What, exactly, was agreed Friday?	Oct 19, 2012
Clock is ticking on a European banking union	Oct 19, 2012
Only big debt restructuring can save euro	Oct 15, 2012

Live blog: Draghi presser	Oct 4, 2012
Poland: Rostiwski interview transcript	Oct 3, 2012
Buiter on good news, bad news	Sep 24, 2012
A five-step guide to European banking union	Sep 17, 2012
Consider the requirements of each nation	Sep 17, 2012
Dutch vote gives Europe extra time	Sep 13, 2012
ECB delves into messy world of supervision	Sep 12, 2012
Let's not be afraid of… banking union	Sep 12, 2012
Berlin pressed on banking union plan	Sep 10, 2012
Brussels urged not to raise hopes on eurozone	Sep 7, 2012
Ireland's similar case for banking treatment	Sep 5, 2012
EBA chief plots path to banking union	Jul 15, 2012
Spain brimming with Eurogroup win?	Jul 10, 2012
Eurozone draws up Spanish aid blueprint	Jul 10, 2012
Eurogroup statement	Jul 10, 2012
Details on Spanish bailout still unclear	Jul 9, 2012

Articles published by Reuters on the Topic of SSM July 2012-July 2014

Title	**Date**
Will Europe's banking "big bang" loosen lending?	Aug 4, 2014
Bulgaria starts talks about European supervision of ist banks	Jul 15, 2014
Bulgaria central bank starts talks about European supervision	Jul 15, 2014
Bulgarian parties agree to join banking supervisory mechanism	July 14, 2014
Bulgaria asks ECB to supervise ist banks	July 14, 2014
ECB watchdog says bank safety checks running according to plan	July 9, 2014
ECB extends one bank test deadline but overall timetable holds	Jun 25, 2014
ECB bank watchdog says markets favorable for capital raising	Jun 23, 2014
ECB will link up with bank watchdog to monitor stability	Jun 23, 2014
ECB banking watchdog says it is well on track to achieve goals	Jun 23, 2014
ECB's supervision head says banks in better shape than markets	Jun 11, 2014
Europe's new banking watchdog wants harmonized reporting template	Jun 5, 2014
Europe's banks don't add to economic growth, academics say	Jun 2, 2014
ECB goes on 300 mln euro spending spree for bank watchdog	May 27, 2014
ECB considering holding less frequent policy meetings- sources	May 20, 2014
ECB's Coeure: new supervisory set-up may induce bank restructures	May 19, 2014
Fitch Affirms Five Large Italian Banks	May 13, 2014
Excessive bank capital demands take equity away from SMEs	Apr 30, 2014
RPT-Fitch: EU Bank Stress Test tough enough but only the first	Apr 30, 2014
ECB finalizes legal framework for banking supervision	Apr 25, 2014
Fitch Affirms SRFs of 64 EMEA Banks; Downward Revisions Likely	Mar 26, 2014
Fitch Revises Outlooks for 18 EU State-sponsored Banks to Negative	Mar 26, 2014
ECB sends former board Member Hamalainen to new banking	Mar 7, 2014

watchdog	
RPT-Bankers' expertise needed to sharpen new bank watchdog's teeth	Mar 3, 2014
Update 1-ECBs Lautenschlaeger: European banking needs one	Feb 28, 2014
Lautenschlaeger: ECB will not let banks failing tests off the hook	Feb 28, 2014
New euro zone bank watchdog won't change accounting standards	Feb 19, 2014
EU ministers to conisder faster sharing of bank closure costs	Feb 18, 2014
Eurozone watchdog says some banks should go under	Feb 10, 2014
Press Digest- Financial Times- Feb 10	Feb 9, 2014
ECB in driving seat in new eurozone bank supervision draft	Feb 7, 2014
ECB to gain far-reaching powers as euro zone bank's supervisor	Feb 7, 2014
Fitch: EU Bank Stress Test Raises Hurdle, but lacks key details	Feb 5, 2014
Coeure gets key portfolios in ECB board reshuffle	Feb 4, 2014
ECB's Lautenschlaeger calls for swift agreement on	Jan 31, 2014
SRM should include all euro zone banks- ECB's Lautenschaleger	Jan 31, 2014
ECB proposes Lautenschlaeger for vice chair of banking watchdog	Jan 22, 2014
Eurozone set for drawn-out battle over banking rules	Dec 17, 2014
Germany proposes Bundesbank deputy for ECB Board Seat	Dec 17, 2013
Banking Union: nice idea but detail still devilish	Dec 16, 2013
ECB says Nouy appointed as head of banking supervisor	Dec 16, 2013
Single supervison to boost bank mergers- Constancio	Dec 2, 2013
Constancio expects single supervison to lead to bank mergers	Dec 2, 2013
Madame Nouy set to take on Europe's banks	Nov 27, 2013
ECB nominates France's Nouy to chair banks supervisor	Nov 20, 2013
ECB gives banks temporary reprieve in health check data haul	Nov 18, 2013
ECBs Mersch pushes for 2015 start for bank resolution mechanism	Nov 15, 2013
EU ministers agree euro zone bailout fund can be used as ultimate	Nov 15, 2013
EU banks outside euro zone likely to overcome stress test divide	Nov 12, 2013
EU leaders to set tight timetable on completing banking union	Oct 24, 2013
Euro zone banks to clean house ahead of ECB review	Oct 24, 2013
770 ECB banking supervisors within a year	Oct 23, 2013
Draghi wants European banks backstop in place by 2015	Oct 23, 2013
Western banks still in retreat from Central Europe	Oct 23, 2013
ECB sets out tougher bank health tests, shares drop	Oct 23, 2013
ECB eyes tough terms for bank balance sheet check-paper	Oct 14, 2013
Proposed agency to close failing EU banks would violate treaties	Oct 7, 2013
The road ahead for Europe's new banking watchdog	Sep 27, 2013
ECB bank assessment may expose capital gaps- Mersch	Sep 26, 2013
Austria's Fekter backs Schaeuble on banking union	Sep 17, 2013
Europe clears critical hurdle on road to banking union	Sep 12, 2013
ECBs Asmussen- bank supervision timetable doable	Sep 4, 2013
Asmussen wants ECB to decide alone which banks not viable	Sep 4, 2013
RPT-Fitch: Italian Banks to Step up Corporate Governance Changes	Sep 3, 2013
ECBs Mersch says timetable for new bank watchdog challenging	Aug 29, 2013
RPT-Fitch: Investors say banking union will not reduce default	Aug 8, 2013

ECB to complete bank health check-up in Feb	Aug 1, 2013
RPT-Fitch: Italian Mid-sized banks likely to raise fresh equity	Jul 30, 2013
RPT-Fitch: Single bank resolution fund positive for sovereign	Jul 12, 2013
European regulator preparing database on bankers	Jul 7, 2013
EU leaders push banking union despite German reluctance	Jun 28, 2013
ECB is ready to act but governments must reform, says Draghi	Jun 26, 2013
Draghi says ECB policy exit distant, ready to act	Jun 26, 2013
Pessimism surrounds EU bank union prospects	Jun 26, 2013
ECB still long way for exiting easy policy: Coeure	Jun 25, 2013
Irish bankers joke over bailout at EU's expense	Jun 25, 2013
Euro zone lenders count cost of EU bank impasse	Jun 24, 2013
Big economic policy decisions nont on hold: Eus Barroso	Jun 20, 2013
Euro zone single supervision launch may face three-month delay	Jun 18, 2013
ECBs Asmussen says EBA stress test in Q2 next year	Jun 14, 2013
ECB to avoid further crisis, ensure bank scrutiny: policymakers	Jun 10, 2013
Draghi urges swift implementation of bank resolution mechanism	Jun 6, 2013
ECBs Draghi says banks' single supervisory mechanism to take	Jun 2, 2013
ECB Focus-Single bank watchdog becomes mammoth project for ECB	May 26, 2013
ECB's Mersch says asset quality review could start in Q3	May 17, 2013
ECB's Asmussen wants single bank supervision, resolution next year	May 14, 2013
ECB's Asmussen wants single bank supervision and resolution scheme	May 14, 2013
Divisions hamper Europe's plans to tackle failing banks	May 14, 2013
Highlights: Draghi comments at ECB news conference	May 2, 2013
Decision on euro zone bank review within 2 months-Buba	Apr 30, 2013
ECB: Financial markets remain fragile, banking union needed	Apr 25, 2013
Growth to return only slowly in second half- EU's Rehn	Apr 22, 2013
Most EU bank union work can be done without law change: Eurogroup	Apr 20, 2013
G20 urges EU to complete banking union fast, Germany digs in heels	Apr 19, 2013
ECBs Asmussen urges govts to press ahead with banking union	Apr 19, 2013
Draghi urges governments to solve debt crisis, says ECB cannot	Apr 15, 2013
ECBs Mersch warns of possible supervisory delay	Apr 5, 2013
What next after Cyprus bailout?	Mar 26, 2013
RPT-Fitch; Cyprus stalemate shows dangers of ad hoc crisis	Mar 21, 2013
ESM should be temporary backstop for bank resolution- ECBs Knot	Mar 19, 2013
Bank Supervisor could move outside ECB eventually-Knot	Mar 19, 2013
Cyprus overshadows banking union as ECB prepares for watchdog role	Mar 18, 2013
ECB wins watchdog role under cloud over Cyprus deposit levy	Mar 19, 2013
Cheap money not getting through to those who need it	Mar 11, 2013
Sound bank union will help transmit ECB policy: Mersch	Feb 27, 2013
Nordea CEO Clausen sees more uniform banking rules	Feb 12, 2013
ECB mon. Policy to benefit from supervisory tasks-Coeure	Feb 7, 2013

Fitch assigns Societe de Financement Local 'AA+', outlook	Feb 1, 2013
Draghi comments at ECB news conference	Jan 10, 2013
IMF says no room for delay on EU financial sector reforms	Dec 20, 2012
Asmussen opposes ECB bond buys if conditions not met	Dec 19, 2012
Insight: Marathon talks set Europe on path to banking union	Dec 18, 2012
Euro zone rescuer Draghi faces daunting 2013	Dec 18, 2012
Mersch, Constancio to lead ECB bank union work	Dec 18, 2012
Draghi: ECB bank oversicht will revive confidence, lending	Dec 17, 2012
ECBs Constancio: several non-euro states to join SSM	Dec 17, 2012
Comments after EU leaders' summit	Dec 14, 2012
Fitch: Europe's SSM deal positive, broader EMU reform	Dec 14, 2012
ECB warns against complacency on crisis, says risks remain	Dec 14, 2012
Fitch affirms France at 'AAA'; outlook negative	Dec 14, 2012
UK lawmakers fear impact of EU banking union plan	Dec 11, 2012
EU wants summit backing for banking union	Dec 10, 2012
German finmin signals ready to compromise on banking union	Dec 9, 2012
EU sets out detailed "map" for euro zone's overhaul	Dec 6, 2012
Van Rompuy charts path to closer integration	Dec 6, 2012
EU's Regling: Moody's did not account enough for ESM paid-in	Dec 3, 2012
Comments from euro zone finance ministers, officals	Dec 3, 2012
EU's Juncker: disbursement for Spanish banks middle of next week	Dec 3, 2012
ECB ready for bond purchases if conditions met: Coeure	Nov 28, 2012
Europe's insurers may get single supervisor-industry body	Nov 20, 2012
ECB and Bundesbank at odds over bank supervision clout	Nov 19, 2012
ECB's Coeure says all banks should be covered by new supervision	Nov 19, 2012
ECB's Praet- bank union a necessity for euro zone	Nov 19, 2012
Fitch: European investors believe in banking union	Nov 12, 2012
Draghi comments at ECB news conference	Nov 8, 2012
Germany seeks to limit ECB role in banking union	Nov 7, 2012
Open full European banking union to emerging Europe, EBRD says	Nov 7, 2012
Main points of G20 communique	Nov 5, 2012
EU to mull plan to bring non-euro states into bank union	Oct 23, 2012
Comments from EU leaders' summit	Oct 18, 2012
Europe advances towards single banking supervisor	Oct 18, 2012
Europe pushes ahead towards ECB bank supervision	Oct 19, 2012
Fitch: slow progress at EU summit builds pressure on Dec	Oct 19, 2012
Germans hail Merkel "winner on points" at EU summit	Oct 19, 2012
EU leaders leave critical issues on banking union unanswered	Oct 19, 2012
Merkel raises new hurdles on EU bank union	Oct 19, 2012
Merkel says EU bank watchdog will take time to set up	Oct 19, 2012
Comments before EU leaders' summit	Oct 18, 2012
EU Commission dismisses problems with ECB oversight	Oct 18, 2012
EU seeks way to involve non-euro states in banking union	Oct 18, 2012
Global Markets- Shares set for weekly losses as growth concerns	Oct 18, 2012
Italy's Monti says ESM should aid banks directly	Oct 11, 2012

IMF Global Financial Stability Report	Oct 9, 2012
EBA regulators airs euro zone bank union concerns	Oct 10, 2012
Tax on trading threatens new division in Europe	Oct 10, 2012
ECB's Coeure says banking union a "game-changer"	Oct 8, 2012
Euro zone finance ministers meet to discuss Spain, Greece	Oct 8, 2012
Eurogroup comments on Spain, Greece, Portugal, Cyprus	Oct 8, 2012
Britan warns against dominant ECB in banking union	Oct 3, 2012
Germany says banking union won't happen by start of 2013	Oct 1, 2012
European lawmakers warn of banking union split	Sep 26, 2012
Euro zone split over how to interpret bank debt deal	Sep 26, 2012
ECB's Demetriades says banking union feasible, urgent	Sep 25, 2012
Fitch: Progress made on eurozone policy response, risks remain	Sep 20, 2012
Regulator warns banking union could split Europe	Sep 19, 2012
RPT-Barroso tells Germans their savings safe in an EU bank reform	Sep 16, 2012
Fitch: Banking union will make bank resolution more objective	Sep 13, 2012
EU's Barroso: ECB should oversee all banks in banking union	Sep 12, 2012
Commission and Berlin differ over ECB bank supervision	Sep 3, 2012
ECB to oversee all euro zone banks: report	Aug 30, 2012
Spain inches towards a full EU bailout	Aug 3, 2012
ESRB advisory committee queries Spanish banks plan	Jul 31, 2012
Euro zone banking union proposal seen in September: Barroso	Jul 26, 2012
Spain, France want single bank mechanism by end-2012	Jul 25, 2012
Forex- Euro higher on ESM comments but unterlying weakness seen	Jul 25, 2012
Euro rises from 2-year low, but gains expected to fade	Jul 25, 2012
Forex- Euro rises vs dollar but gains may prove short-lived	Jul 25, 2012
Global Markets- Euro rises on ECB talk of stemming debt crisis	Jul 25, 2012
Gold up nearly 2 percent on stimulur hopes for US, Europe	Jul 25, 2012
Euro rises on ECB talk, earnings buoy Dow	Jul 25, 2012
Fitch affirms Italy at 'A-', outlook negative	Jul 19, 2012
German lower house to pass Spanish aid despite Merkel revolt	Jul 18, 2012
EU finance ministers' meeting	Jul 10, 2012
Euro zone finance ministers' meeting	Jul 9, 2012
Euro zone can help banks directly once supervisor set up	Jul 9, 2012
Spain faces budget risks despite looser target: document	Jul 9, 2012
Direct ESM bank aid needs sovereign guarantee-offical	Jul 6, 2012
Fitch: banking union could support stability	Jul 2, 2012

Appendix III.

Listing of SSM related Publications on Websites

Institution/ Euro area Member State	**Results related to Single Supervisory Mechanism (SSM)**
ECB	2230
Commission	1635
France	267
Spain	197
Austria	111
Belgium	107
Germany	105
Italy	68
Ireland	60
Finland	54
Netherlands	50
Slovakia	43
Slovenia	30
Greece	20
Malta	19
Cyprus	10
Estonia	9
Portugal	1
Latvia	1
Luxembourg	0