

Collection of papers
International scientific conference

**“THE INFLUENCE OF EUROPEAN INTEGRATION
ON THE DEVELOPMENT OF MONETARY LAW”**



With the support of the
Erasmus+ Programme
of the European Union

Jean Monnet Module for European Monetary Law

Srđan Golubović
Marko Dimitrijević
Editors

**Collection of papers
International scientific conference**

**“THE INFLUENCE OF EUROPEAN INTEGRATION ON THE
DEVELOPMENT OF MONETARY LAW”**



With the support of the
Erasmus+ Programme
of the European Union

Niš, 2023

Collection of papers - International scientific conference
“THE INFLUENCE OF EUROPEAN INTEGRATION ON THE DEVELOPMENT
OF MONETARY LAW”

Publisher

Faculty of Law, University of Niš

For the publisher

Prof. Nebojsa Raičević, LL.D., dean

Conference Managers and Editors-in-Chief

Prof. Srđan Golubović, LL.D., Prof. Marko Dimitrijević, LL.D.

Jean Monnet Module for European Monetary Law (MONELA) Program Committee

Prof. Dušica Miladinović Stefanović, LL.D., Associate Professor, Vice Dean for Science and Finances,
Faculty of Law University of Niš, The Republic of Serbia

Prof. Tatjana Jovanić, LL.D., Full Professor, Faculty of Law University of Belgrade, The Republic of Serbia

Prof. Ivana Bajakić, LL.D., Full Professor, Faculty of Law University of Zagreb, The Republic of Croatia

Prof. Jovan Zafiroski, LL.D., Full Professor, Faculty of Law “Iustinianus Primus”, University “St. Cyril
and Methodius” in Skopje, The Republic of North Macedonia

Prof. Savina Mihaylova-Goleminova, LL.D., Associate Professor, Faculty of Economics and Business
Administration, University “St. Kliment Ohridski”, Sofia

Jean Monnet Module for European Monetary Law (MONELA) Organizing Committee

Prof. Srđan Golubović, LL.D., Full Professor, Faculty of Law University of Niš, The Republic of Serbia Prof.
Marko Dimitrijević, LL.D., Associate Professor, Faculty of Law University of Niš, The Republic of Serbia

Reviewers

Prof. Ivana Bajakić, LL.D., Full Professor, Faculty of Law University of Zagreb, Croatia

Prof. Aleksandar Mojašević, LL.D., Full Professor, Faculty of Law University of Niš, Serbia

Prof. Kristina Misheva, LL.D., Associate Professor, Faculty of Law, Goce Delcev University, Stip, North
Macedonia

Technical editor: Vladimir Blagojević

Proofreading: Gordana Ignjatović

Digital edition, optical disc

Circulation: 50

ISBN: 978-86-7148-309-4

The Collection of papers is the result within the project program “Jean Monnet Module for European Monetary Law” (Agreement Number: 620002-EPP-1-2020-1-RS-EPPJMO-MODULE), co-funded by the Erasmus+ Programme of the European Union. The European Commission’s support for the production of this publication does not constitute an endorsement of the content, which reflects only the views of the authors, and the Commission cannot be held responsible for any use that may be made of the information contained therein.



With the support of the
Erasmus+ Programme
of the European Union

©All rights reserved by the publisher. No part of this publication may be recorded, broadcast or reproduced in any form, including photocopying, photographing, magnetic recording or any other form of recording, without the prior written permission of the publisher.

www.prafak.ni.ac.rs

CONTENT

Editors' Note	4
Jovan Zafiroski CBDCS - A (R)EVOLUTION OF MONEY	9
Mirjana Radović CENTRAL BANK DIGITAL CURRENCIES: THE INFLUENCE OF THE DIGITAL EURO PROJECT ON THE DEVELOPMENT OF THE DIGITAL SERBIAN DINAR	21
Predrag N. Cvetković TOKENIZATION AS A LEGAL PHENOMENON: DETERMINANTS AND FEATURES	41
Jadranka Đurović Todorović THE EFFECTS OF MONETARY AND FISCAL POLICIES ON ECONOMIC GROWTH: SOME IMPLICATIONS FOR POST-COVID-19.....	53
Jasmina Labudović Stanković INDEPENDENT CENTRAL BANK BETWEEN PRICE AND FINANCIAL STABILITY	69
Savina Mihaylova-Goleminova, Magdalena Vlahova-Veleva CHALLENGES AND OPPORTUNITIES FACING BULGARIA ON THE PATH TOWARDS THE EURO AREA.....	87
Svetislav V. Kostić TAXATION OF DIGITAL ASSETS IN SERBIA: THE ROAD AHEAD	99
Kristina Misheva THE CHALLENGES OF THE MACEDONIAN TAX SYSTEM ACCORDING TO THE EU RECOMMENDATIONS AND EU TAX RULES	111
Srđan Golubović, Marko Dimitrijević MONETARY LAW AS AN INDEPENDENT AND POSITIVE LEGAL DISCIPLINE IN SERBIAN ACADEMIA.....	127

Collection of Papers from the Jean Monnet
International Scientific Conference

“THE INFLUENCE OF EUROPEAN INTEGRATION ON
THE DEVELOPMENT OF MONETARY LAW”

Faculty of Law, University of Niš, 2023

Editors' Note

Three years of successful project implementation of the Jean Monnet module for European monetary law at the Faculty of Law, the University of Niš, which was approved by the Executive Agency of the European Commission for Education, Audiovisual Activity and Culture (EACEA) at the Erasmus+ Program Calls for Proposal 2020 - Jean Monnet Activities, were ceremoniously marked by organizing the Jean Monnet International Scientific Conference titled “The Influence of European Integration on the Development of Monetary Law” at the Faculty of Law, the University of Niš, on 30-31 May 2023.

If we carefully examine the events in international monetary relations in the last decade, we can notice a new wave of European monetary law, which is more intense, richer, and more complex than all the other events on the previous global monetary scene. New tendencies are not only embodied in prioritizing soft legislation in times of crises over primary monetary solutions, new jurisdictions of international judicial instances for resolving monetary and fiscal disputes, new central bank powers, and the evolution of the concept of monetary sovereignty but also in generating more “human” approaches in implementing monetary law. In the circumstances of ongoing technological revolutions, environmental crises, and pandemic shocks, EU monetary legislation requires some modification of the central bank mandate and monetary-fiscal policy coordination mechanism. This professional belief was the starting point for addressing these monetary law issues by the Conference organization and program committee of distinguished scholars.

In this context, the papers presented at the JM Conference covered a wide range of monetary law topics and various aspects of contemporary monetary legislation dedicated to the challenges of European monetary and economic integration: a new model of economic governance in a time of crisis, implementation of the Banking and Fiscal Union concept in the EMU, monetary conduct and human rights protection, green central banking, new competencies of central banks, monetary sovereignty and sovereign debt crises, central bank digital currency issues, changes in the central bank management and legislation, monetary disputes and the role of courts, fiscal rules and

monetary-fiscal policy mix, and challenges of monetary and fiscal Integration of the South East European Countries and Western Balkans.

The Conference brought together respected and credible scholars from renowned domestic and foreign higher education institutions, as well as experts from legal practice and public administration. A total of 27 conference participants presented their papers, emphasizing the importance of a thorough, credible, dedicated and comprehensive study of the basic institutes, principles, and fields of application of monetary law of the European Union. It is a *conditio sine qua non* for successfully designing a long-term and sustainable economic policy and monetary stability as a pure public good that can only be guaranteed by adopting and implementing monetary legislation that is both normatively and economically efficient. Such legislation is aimed at protecting the rights of citizens to have a “healthy and stable currency” and a regulated monetary system. A joint conclusion refers to the idea that optimal legal regulation of monetary relations is a multidimensional practical challenge for the domestic legislator. In the conditions of globalized economic and financial flows, technical and technological progress, sustainable development, and accession to the EU, monetary relations are immensely gaining new characteristics in terms of their complexity, consistency, parification, expediency and moral, social and political justifications.

The eminent conference participants from diverse scientific fields presented their valuable research and papers closely related to the matter of contemporary monetary legislation. It clearly illustrates the multidisciplinary character of the contemporary monetary law science and a high degree of synthetic-dialectical connection with other legal disciplines. The Conference was attended by: the representatives of the European Central Bank (EU); J.W. Goethe University - Frankfurt (Germany); the National Kapodistrian University of Athens Law School (Greece); the Faculty of Law, University of Zagreb (Croatia); the Faculty of Economics and Tourism “Juraj Dobrila”, University of Pula (Croatia); the Faculty of Law “Iustinianus Primus”, University “St. Cyril and Methodius” in Skopje (North Macedonia); the Faculty of Law, University “Goce Delčev” in Štip (North Macedonia); the Faculty of Economics and Business Administration, University “St. Kliment of Ohrid” in Sofia (Bulgaria); the Faculty of Law, University of Belgrade (Serbia); the Faculty of Law, University of Kragujevac (Serbia); the Faculty of Economics, University of Niš (Serbia); the Faculty of Law, University of Niš (Serbia); the Croatian National Bank; and a number of prominent legal practitioners (lawyers, consultants, public enforcement agents, and public administration officers). Their participation contributed to creating a productive fruitful sci-

entific atmosphere for coherent analysis of both theory and practice, critical observation and reasoned discussion on both traditional and contemporary trends in the development of public and international monetary legal management in the contemporary society.

The Conference was officially opened by a welcome speech given by the Dean of the Faculty of the Law, University of Niš. The plenary addresses were delivered by keynote speakers: Prof. dr Chiara Zililoli (Director General of the Legal Services of the European Central Bank, Professor at the J.W. Goethe University- Frankfurt, and Chair of the Committee on International Monetary Law of the International Law Association) and Prof. dr Christos Gortsos (Full Professor, National Kapodistrian University of Athens Law School and Visiting Scholar at the University of Zurich). Prof. dr Chiara Zililoli delivered a presentation on “The High Integration and the Double Nature of Central Banks within the Eurosystem in the Jurisprudence of the ECJ”. Prof. dr Christos Gortsos had a presentation on “The Multiple Tasks of the ECB and their Exercise within the Various EU Systems and Mechanisms”. The presence of the most prominent experts in the area of European and International Monetary Law indicates the indisputable importance of this branch of law, in academic, scientific and practical terms. Given the fact that contemporary monetary law is an independent and positive branch of law, which is in many many social and economic circumstances manifested as a law of necessity (Fr. loi de la police; the law for the maintenance of public order), its meaning and implementation can significantly differ in periods of economic turmoil and earthquakes as opposed to peace-time circumstances.

The Conference activities were organized out in two thematic sessions. The topics in the first session focused on a number of important issues: the heterogeneous mandate of central banks in the field of environmental protection and the need to preserve natural resources; the experiences of the new member states of the Eurozone, including an argumentative review of current opportunities and challenges on the way to full monetary integration; an overview of institutional and other forms of independence of the central bank as the supreme monetary institution in maintaining monetary and financial stability; the need for legal regulation of the central bank digital currencies, the revolution in the development of these forms of money and the legal definition of digital money, with specific reference to the influence of the Digital Euro Project on the development of the digital money; the features of tokenization as a legal phenomenon, its characteristics and determinants in practice; and the real effects of the coordination of monetary and fiscal

policy measures and instruments on economic development in post-pandemic circumstances and taxation of digital assets.

In the second thematic session, the panelists focused on the importance of establishing a sustainable and permanent macroeconomic dialogue between the European Parliament and the European Central Bank, in terms of discussing both procedural and substantive issues, the challenges of harmonizing and adapting domestic fiscal systems in line with the recommendations and values of the European fiscal and tax system, the challenges of full liberalization of capital movement in the circumstances of accession to European integration, and the multidisciplinary approach of general victimology in line with the concept of green central banking. The Conference participants also focused on determining the domain of legal protection of the virtual property market in the domestic legal environment, the influence of public policies, the scope of regulatory competencies on the efficiency of public management, as well as the issue of gender in the domain of money, prospectus liabilities in the EU, bank credit cost in legal practice, and specific crypto assets as the subject of contractual obligations according to the current trends in European law.

In their reports, the Conference participants confirmed the need to introduce Monetary Law at all levels of legal education. The basic aim of studying Monetary Law as an independent course is the advancement of scientific knowledge, academic and practical skills by taking into consideration of new tendencies in the development of monetary legislation in the contemporary economic, legal, political and business environment, which will promote students' understanding of the nature and importance of optimal public monetary management in light of appropriate legal regulations and economic dimensions in the contemporary market economy system. Upon the completion of the course, students will be able to apply relevant methods and procedures for assessing the impact of various factors that determine the development and structure of monetary sovereignty in globalized financial relations, and understand the monetary jurisdiction of national and supranational courts, legal rules in resolving monetary disputes as *sui generis* types of administrative disputes, and the implications of monetary and legal relations on human rights protection. They will also acquire specific skills needed for a future career in various monetary institutions, particularly bearing in mind that this field of law is not sufficiently represented in contemporary legal theory and empirical jurisprudence.

In a nutshell, the Conference participants concluded that the emergence of new legal disciplines that have modern nomotechnics and a multi-juris-

dictional approach in regulating complex and challenging socio-economic relations (neither opposing nor strictly insisting on orthodox and often redundant demarcation lines between “hard” and “soft” rules, procedural and substantive sources, but sublimates and transforms them into a creative and constructive synergy) is, if we may say, “an intellectually exciting and immensely inspiring legal spectacle of immeasurable theoretical and practical potential”. For this reason, we believe that monetary law and the process of its qualitative disintegration, as a par excellence example of a new branch of law, confirms the thesis about the evolution of the legislator’s awareness of the emerging issues. Thus, the monetary legislator places legal categories and institutes in a contemporary value-based discourse that is extremely expedient and keeps pace with the changes regarding the normative regulation of monetary flows and the economic system. A new and qualitatively different approach to the regulation of the legal-economic factual situation underlying the monetary legal norm avoids the pitfalls of unitarian attitudes and the problem of legal gaps arising thereof; in effect, we must take into account that the economic sphere of social life (including the monetary order) is more prone to changes.

The Conference participants’ research, elaborate reports and the application of diverse and sophisticated methodological instruments have fully confirmed the thesis that monetary legal thought in the EU area is topical and highly valued. In addition to the general discipline of substantive and procedural EU Monetary Law, there are new subject-specific disciplines dealing with EMU Law and Law of the European Central Bank (ECB), which have been established as special legal disciplines in process of disintegration of EU monetary law.

Conference Managers and Editors-in-Chief

Prof. Srdjan Golubović, LL.D.

Prof. Marko Dimitrijević, LL.D.

Niš, October 2023