EEA LAW

Single supervisory mechanism

SSM

SSM – SINGLE SUPERVISION

- The proposition to create the Single Supervisory Mechanism was officially presented on the 12th September 2012 and later approved by the Council comprised of the ministers of finance ECOFIN on 12th December 2012.
- It was called the Banking Union, which was not supposed to come into existence in one single step but it was supposed to be built gradually
- So it happened

LEGAL FRAMEWORK

- Council Regulation (EU) No. 1024/2013 of 15th October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (hereinafter the ‘SSM Regulation’)
- based on Article 127 (6) TFEU, which under the Maastricht agreements allows the allocation of supervisory responsibility of the ECB (This article of TFEU was actually first used only as a legislative basis for the creation of the ESRB in 2011)

SINGLE SUPERVISION

- SSM proposal assumed that complete the Eurozone banking system will be carried out under the direct supervision of the ECB, which was unaffordable for most of the Member States
- direct supervision of the ECB will be carried out "only" over the systemically important financial institutions (credit institution), and major credit institutions (banks), which, however, as they cover almost 85% of banking assets in the Eurozone through 123 banking groups.
- The notion of importance is linked with the size of the bank—the number of assets, its influence on the EU as well as the national economy, the importance of cross-border transactions, etc

SINGLE SUPERVISION

- More specifically direct supervision will be realised in case one of the following criteria is met
- the total number of assets is worth 30 billion EUR;
- the ratio of total assets to the GDP of an EU member is higher than 20% (not applicable if the total number of assets is worth less than 5 billion EUR); Having notified the national supervisory authority, the ECB labels a particular bank as important;
- the ECB upon its own initiative labels a bank as important if the bank has subsidiaries in more EU countries and cross-border assets or bonds form the majority of their assets or bonds; if a bank has asked for or received financial support from the EFSF or the ESM;
- or, regardless of the criteria above, a bank is one of the three biggest banks in a particular member country

The criterion of total assets suggests that 32% of the banks are French, 22% are German, 14% are Spanish, 10% are Italian and Dutch and 13% are from the remaining Eurozone countries. There are 3520 less important banks, 48% of which are German (1688), 16% are Austrian, and 15% are Italian.

SINGLE SUPERVISION

- EU emergency funds are supposed to offer help to banks in trouble directly and the ECB assumes the main supervisory tasks such as
  - granting and revoking the licence, supervising risk transactions, issuing directives and recommendations, issuing binding decisions along with effective supervision,
  - monitoring and enforcing the observation of capital requirements for banks according to the CRD Directives, performing supervision on a consolidated basis and sharing supplementary supervisory tasks over financial conglomerates .
  - The setting of higher or supplementary capital buffers according to Basel III or the CRD IV: systemic risk buffer and counter-cyclical buffer.
- The ECB also possesses a relatively wide range of investigative competence as it can impose administrative sanctions, assess mergers and credit institutions acquisitions

OTHER BANKS SUPERVISION

- Supervision of the other banks will be carried out by national supervisory authorities with the option to delegate the power to the ECB, if it accepts it
- National supervisory authorities are responsible for the less important supervisory tasks such as everyday supervision, consumer protection, supervision of money laundering, payment services and setting up branches from third countries—they must comply with directives and regulations issued by the ECB

ORGANIZATION STRUCTURE SSM

- Supervisory Board was created as the executive body supposed to fulfil tasks and to perform decision-making activities within the SSM, supported by a completely new administrative structure.
- The ultimate decision maker within the SSM is, however, the Governing Council of the ECB as is stipulated in the TFEU treaty.
- The Supervisory Board does not have decision-making power as such; it rather does preparatory work in supervisory issues of the ECB and it prepares draft decisions for the governing Council of the ECB

SUPERVISORY BOARD

- The Supervisory Board started its activities at the beginning of 2014; as it is part of the ECB, its place of residence Frankfurt upon Main. It is to be found in a different building, though—a clear signal of its separation from the remaining parts of the ECB. The Supervisory Board consists of the Chair and the Vice-Chair, four ECB representatives and 19 representatives of national supervisors (1 from each country)
- *the Chair is Daniele Nouy, a former secretary general of the French Prudential Supervision and Resolution Authority (the ACPR); the Vice-Chair is Sabine Lautenschläger, who is also a member of the executive board of the ECB, other members are Ignazio Angeloni, Luc Coene, Julie Dickson and Sirkka Hämäläinen.*
- EBA also plays an important role within the SSM because it ensures effective and consistent implementation of the single set of rules in the banking sector. Moreover, it co-prepares stress testing for banks, carried out by the ECB, which co-ordinates stress testing in the whole of the EU