Free movement of capital in the context of the implementation of monetary policy in EMU and the European Union

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Abstract

Free movement of capital has been one of the main objectives of Article 3 of the EC Treaty, as part of the development of the common market. Nowadays, the domestic market and almost all of other freedoms (eg. workers, goods and services) depends on the freedom of movement of capital. Unlike other freedoms, freedom of movement is more liberalized. European investment, cross-border transfers, bank accounts, purchases and authorization of purchases of real estate, inheritance etc., are included in the free movement of capital. Free movement of capital has lost somehow its sense with the entry into force of EMU and the introduction of the Euro.
This liberalization aimed at realizing a collaboration and coordination of economic policies and to some extent even political at the higher levels of the central banks where the fulfillment of the convergence criteria (four criteria), was a prerequisite for a country to adopt the single currency. But EMU and its implementation in the third phase brought significant consequences with regard to the institutional, economic and monetary policy having an impact directly on the free movement of capital in the EU, which will be the object of analysis in this paper.

Keywords: Free movement of capital, Euro, monetary liberalization, the Economic Monetary Union, the European Court of Justice.

Introduction

The principle of free movement of capital had been established in the Treaty of Rome. This was a principle that would take matters in subsequent periods by returning to the fourth most important basic freedom. The creation of the common market and furthermore of a European single market, can not be conceived without the fulfillment of a fundamental freedom such as that of circulating capital. This is one of the fundamental freedoms of its four operating a joint union like the European Union; furthermore it is directly related to the realization of Economic and Monetary Union. European dream can not be complete if the free movement of capital is not liberalized among other freedoms (eg. persons, goods and services). It would be impossible to carry out those freedoms without the possible transfer from one member state to another of workers payments, the prices of goods and services, investments and cross-border transfers (Cyril, 2010, 217).
The Treaty of Rome had not sanctioned any formal obligation to liberalize capital movements. Article 67 of the treaty is about determination of the measures necessary for the normal functioning of the internal market. The following years did not bring any

major changes in Community legislation relating to this freedom, but directives of the years 60-62 aimed restrictions on foreign exchanges that in practice score success in the process of integration of national capital markets. Capital liberalization occurred gradually after seeking the approval of a number of directives, starting from the 1960 measures, then as a part of the single market program of the years 1985-86 and finally in connection with step by step introduction to the economy and unity EMU monetary via ECT (former Article 73 of the ECT) (Andres & Gromely & Hajdiemmonuil & Harden, 1997, 245).
It would be March 1986, when the Commission presented a detailed plan "Program for full liberalization of capital" which introduced details of the plan to create a single European financial area. The unification of financial markets, the free flow of capital and foreign exchange was demanded. Was needed A revolution within its European union which. It took shape with the entry into force of the Single European Act which gave at of the same importance to this freedom in relation to other freedoms. Full liberalization of capital occurred after one decade and a half a whole by the presentation of the program to stop all restrictions on the movement of capital within the member states and member states with third countries. Full liberalization of capital was decided on 1st of July 1990 by Directive n. 361/88 and sanctioned the principle of the free movement of capital and currency transfers tout court, as between Member States and third countries taking an erga omnes character. Even in this free movement, restrictions will be defined in exceptional cases and only after a special authorization from the Commission. So, opening bank accounts, obtaining loans, and transfer funds between Member States and Member States with third countries will become possible towards a closer integration economy, where free movement of capital would be identified in the first phase of Economic and Monetary Union (Cana & Bana, 2014, 243).
On the other hand, BEM was just a strategy with a goal to introduce the euro as the successful integration of multi-year effort. BEM itself represented the convertibility of all currencies Community without fluctuation at the rate of exchange of currencies, replacing them with a single common currency which will circulate freely in the European Union countries. The introduction of the euro, in its beginning had a very strong impact on money markets not only in the integration of the common European market, but also in world currency markets. Thus, the Euro was determined not simply a financial but also a deep perspective of economic policy and perhaps a major catalyst of change in Europe. The first phase of implementation of the EMU, (which will be achieved in three stages) coincided exactly with the liberalization of movement of capital and currency which was decided on 1st of July 1999 between Member States and third countries. This liberalization aimed at realizing a collaboration and coordination of economic policies and to some extent the higher political levels where the central banks meeting the criteria of convergence was a prerequisite for a country to adopt the single currency. But EMU and its implementation in the third phase brought significant consequences related to the institutional, economic and monetary policy having a direct impact on the free movement of capital in the EU. Of course, a number of questions arise: What was this impact, and how does it led EMU to the free movement of capital? EMU was useful also because the exchange rate exceeding policy instruments had become a source of asymmetric shocks. The impact brought legal consequences associated BEM and just over a third phase in the structure as follows:

In the aftermath of the institutional structure: The third phase is related to the creation of the European Central Bank ECB1, an independent institution in support of EMU, delegating to it the monetary policies especially in determining the interest rate in the euro area.
Consequences of monetary policy structure: EMU led to the establishment of single currency (Euro). In the third stage the Council fixed the exchange rates for Member States to enter the single currency (Letessier & Silvano & Soin, 2009, 93).
Consequences of economic policy: EMU marked the implementation of many of the irrefutable provisions of treaty about fiscal and budgetary matters. Member States should avoid excessive government obligations and not just try to avoid them. Council took power in the third stage of EMU, to take action against states that fail to implement its recommendations on excessive budget deficits.
Foreign policy consequences: EMU and the introduction of Euro gave more importance and significant impact on a developing collective identity, a sense of belonging to a single community.
Well how can we better express the desire for a reunion ever closer cooperation between the peoples of Europe than by a currency that replaces various francs, lira or the German mark? A generation later, the population will reach adulthood would not have known currency other than the euro. Inevitably EU citizens will feel closer to one another, with the feeling of belonging to the same community. Europeans now speak as a separate entity, called with the family name Euroland (Cohen, nr.20, 2003).
The impact of the common euro currency: It represents the culmination of decades of efforts to join Europe for economic and political reasons and is an evident symbol of European monetary integration, where economic growth is based on a number of factors like the saving transaction costs. The single currency removed exchange cost rates when moving money within the EU. Having a single currency is a way for businesses to save costs, by not maintaining different systems on the market price. The existence of a single currency protects the costs associated with large changes in exchange rates and competitive devaluation. A single market needed a single common currency as a very strong impact on money markets not only in the integration of the common European market but also in international markets.

EMU and free movement of capital, a historical retrospective

The first attempts and the lead to EMU and free movement of capital.
The debate on EMU was influenced by the idea that the euro can compete dollar within the MIS[1] agency. Europeans saw in it the opportunity to play a more important role in the world economy, especially in relation to the US. Europe is at the same level or higher than the US in terms of production or international trade, but not to its

[3] With the creation of the ECB, is merged its predecessor EMI, the ECB has legal personality and is supra-national financial and independent institution. The organizational structure has an Executive Board and Governing Council. The Executive Board comprises the President, Vice President and four members who must be experts in monetary or banking matters. The independence of the ECB is defined by Article 108, which provides that the decision making process is totally independent from any influence of the Community or a Member State. The ECB has the power to issue regulations and decisions, recommendations and opinions. It is entitled to impose fines or periodic penalties on companies for failure to meet the obligations stipulated under its regulations and decisions.

currency. The function of Brenton Woods' System had an asymmetric character in terms of benefit to the US. Although the system itself is not discriminatory, it's functioning in a world dominated by American economic supremacy, led to the strengthening of the US position. Considering this risk, many European industrialized countries recognized the large trade deficits and the need to take measures was necessary and immediate function of the single market.

The European Single Act composed of a series of amendments, predicted among others setting on 31st of December 1992, a space without internal frontiers in which is provided free movement of persons, goods, capital and services, and that did not contain a commitment to EMU. The opening of the big European market, under this treaty set the functioning of SME indiscussion. The increase movement of goods and capital between countries is not very consistent with maintaining stable exchange rates. It seemed to impose a greater integration. On the other hand as a result of problems with the US economy European currencies began to waver, and feel the need to take urgent measures to prevent further speculation on the part of the sales agents (campers), some weak currencies. 6

Since 1969, European Heads of State had decided that had to be worked for the realization of a project within 10 years EMU. Commission directed by Werner, Luxembourg Prime Minister, had shed ideas before going to work as EMU. This project would involve either convertibility of all currencies of Community without shaking at the rate of exchange, or that these coins can be replaced by a single currency of Community. This report also emphasized that the purpose of the functioning of EMU would force centralization of monetary policy, fixing a Community system for the community central banks, as well as the presumption was based on fixed exchange rates (Tsoukalis, 1977, 84).

This would be a catalyst for the start of a security system for European currencies fluctuations, which put the principle that the difference between the exchange rates of two Member States can not be greater than 2.25 %. Outlined in 1972, monetary integration in the European Economic Community went up in 1979 where the Europeans found themselves forced by the failure of the system to anticipate the building of a new system to ensure the monetary sustainability by creating of the European Monetary System (SME) then by opening a process leading to a single currency. This idea came from the conclusions of the Committee headed by Commission President at that time, Jacques Delors, who developed a good rapport study giving appropriate guidance by drawing lessons from the community method implemented until that moment. This report advised the establishment of EMU in three stages (Jakub, 2008, 57).

The first phase was the completion of the internal market, closer economic convergence and membership of all states in MSW.

The second phase began with the European System of Central Banks (ESCB); its task would be to coordinate the monetary policy for the Community.

The third stage will achieve the close of exchange rates and increase the single currency managed by the ESCB led by the European Central Bank (ECB). According to the report, ECB should have central control over fiscal policy of a country when it comes to free movement of capital. The action of a certain state can bring adverse consequences for inflation or interest rates in all other states. Member States have already set up their structures by adopting a budgetary line and economic policy based on respect for the convergence criteria, such as limiting the budget deficit (3% of GDP) and debt (Ibid, 26).

The euro was defined not simply a financial creatia, but also a deep economic and political perspektive and perhaps a major catalyst of change in Europe it came as a fiduciary coins having disappeared from circulation national currencies and began to circulate only in the territory 16 member States. But the realization of EMU is not an ultimate goal after including many other implications getting special attention with regard to the economic policy of the Member States which under Article 99 EC is considered as a common interest and assumes coordinated under Council (it is an illustration of the stability pact.

The impact and consequences of EMU brought free movement of capital?

The purpose of this paper is precisely focused on the impact and legal consequences that brought the transition to the third stage of EMU on the free movement of capital following the introduction of the euro. Euro was really a very strong entry into the world of currency markets and transactions. Not only within Member States but outside the borders of the euro area are strongly influenced in relief and controlled capital movements. Likewise Euro has consequences for a range of community policies, such as the budget, agriculture and the internal market that were affected directly by the introduction of this currency.

The legal consequences that brought the transition to the third stage of EMU on the free movement of capital

The third stage of EMU should begin no later than 1st of January 1999. TEU contained detailed criteria about the transition from the second to the third phase, which were enshrined in Article 121. The Commission and the EMI were imputed to control and report to the Council on progress and steps made by countries to the EMU. Realization of the convergence criteria and the institutional independence of the Central Banks of countries controlled as a precondition for adoption of the single currency (Barnard & Dehousse, 2002, 198). During the transition to the third stage of EMU brought significant consequences with regard to the institutional structure, monetary policy and economic policy, contributing directly to relief and free movement of capital within and outside the EU.

Legal consequences that brought the transition to the third phase, related to the establishment of an institution supranational independent ECB, as a mechanism controller sanctioned already in Article 108, provides that the ECB will not take any instructions from community institutions, Member States or other organism. This independence is also reflected in its decision-making structure. The beginning of the third stage of EMU also marked the establishment of the Economic and Financial Community, consisting of no more than two members of the States, the Commission and the ECB. This Commission holds in:

a) Supervision of the economic situation and financial of the member states and the community,
b) It controls the situation of free movement of capital, especially after the introduction of the Euro, bringing greater price stability through low inflation and increasing the eurozone economy.
The most notable factor is transaction cost savings, especially in the context of free movement of capital. The single currency had succeeded in averting the cost of exchange rates on cash flow within the EU. An estimate made by the EU Commission pointed out that the total savings that was achieved thanks to the supervision and control had reached a record figure of approximately 25 billion Euros, contributing directly to the economic growth of the EU (Pelkmans, 1987, 249).

The most important legal consequences of the third stage on monetary policy

The most important influence of the EMU monetary policy had been centralization of the single currency which will replace national currencies. Since the beginning of the third phase, the Commission fixed the exchange rates for Member States that joined the single currency. It was SME with ECU[2] replacing these currencies at this rate becoming a currency with full rights. The objectives of the monetary policy of the EC were set out in article 105 TEU. The basic objective of the ESCB was the preservation and keeping in control of price stability provided in Article 105 TEU. Likewise, the ESCB should support the general economic policies of the Community in order to achieve the goals set out in Article 2, acting in accordance with the principle of an open market economy and free competition. In connection with the free movement of capital, consequences that brought this monetary policy were favorable and very fruitful because the ESCB has as its core task to:
a) Define and implement the monetary policy of the Community,
b) Guides the actions of the monetary foreign exchange,
c) Holds and manage the official foreign reserves of the Member States,
d) Promotes the good functioning of the payment system.
All these components are included in the wide range of capital represented in the Eurozone and beyond. Self ECB in its field of competence has to be consulted on any decision of the Committee and designated national authorities regarding any draft legal provision. The ECB has the exclusive right to issue banknotes within the EU and the ESCB shall provide guidance on the direction of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system (Civici, 2011, 21).
Likewise, the transition to the third phase marked the implementation of more irrefutable treaty provisions over economic treaty policy on economic policy, especially concerning fiscal and budgetary issues where free movement of capital had encountered setbacks succumbing various speculations and misinterpretations. EMU

[2]The function of SMEs (European Monetary System) supported the ECU (European Currency Unit), which was built starting from a basket of currencies of the community. The weigh t of each national currency of ECU's determination depended on the size of the country, measured by GDP and the volume of trade exchanges.

will promote market efficiency, price stability, public finances by giving the EU the advantages of issuing a currency not only European but also international. EMU helped in the development and convergence of the poorest member countries through synergies from national development programs, the single market program by displaying the slogan of the Commission (1999)"one market, one currency". Likewise, EMU brought a positive impact, which later would be known as "Healthy Paradise" for governments that pursue low inflation and fiscal solvency. EMU institutionalization of fiscal and budgetary policies which were composed and were represented by capital would create a circle of uprightness all stable prices and public finances would allow lower interest rates, will disclose investments and will lead toward one stronger growth.

Euro and its impact on free movement of capital

The argument that the EMU would lead to greater economic growth and a positive impact on the full liberalization of the capital with the introduction of the single currency relies on a number of factors. The single currency lifted the cost of exchanging currencies when money moves within the EU bringing a colossal benefit in total savings and put an end to abuses and speculation, especially with the exchange rates of currencies. Another important factor is the existence and circulation of the single currency manages to defend the costs associated with large changes in exchange rates and competitive devaluation. Single market needed a single currency as currency fluctuations can often slow down economic growth by creating uncertainty for businesses and increase the risk of not absorbing investments. The existence of vast price differences, fed in part by different currencies, also serves to feed the efforts of member states to prevent parallel imports and to stop intra-Community trade (Sorenses, 2006, 43). The single currency will incite growth by lowering interest rates and encouraging investment. Having a single currency in the way businesses save costs and not have to keep different systems on the market price. For example: a) From a manufacturer perspective, this fact facilitates the development of marketing strategies in the Community; b) From the customer perspective it enables direct comparison of prices for the products in different countries.
Many companies and foreign investors were not confident in their capital circulation when they had to obtain high profits or to repay the expensive debt borrowed in money and also when they distribute dividends. Standing in the EMU and the single currency application is based on one strong argument as keeping stable prices and low inflation. Savers benefit from low inflation because their money preserves their purchasing power for a long time. High inflation makes more difficult to keep long-term business plans and redistributes income in an arbitrary way (Zajmi, 2009, 147).

Conclusions and findings

Mobility and free movement of capital occupied a special place in the legal regime of the EU. This freedom in terms of liberalization, did not work consistently with other freedoms, especially that of setting despite the fact that these liberties are destined to follow the same fate. But in the European practice, freedom of establishment was liberalized faster as the free movement of capital had a liberalization of partial and slow, as was influenced directly by the EMU and the implementation of the euro, blurring and losing thus the sense of movement of free capital.

EMU was a strategy that aimed to introduce the euro as the successful integration of multi-year effort. EMU itself represented convertibility of all Community currencies without changes in the rate of exchange of currencies, replacing them with a single common currency which will circulate freely within the European Union. Euro had a very strong impact on markets and monetary policy not only in the integration of the European single market, but also in the world currency markets, despite the fact that there were often significant decreases in relation to other currencies. Thus, the Euro was defined not simply a financial means but also a deep perspective of economic policy and perhaps a major catalyst of change in Europe. The transition to the Euro has had consequences in a range of community policies, such as the budget, agriculture and the internal market, all of which are particularly affected by the introduction of Euro.

Full liberalization of capital was decided on July1, 1990 by the Directive n. 361/88 and sanctioned in general the principle of the free movement of capital and currency transfers tout court. There will be restrictions even the free movement in exceptional cases, defined only after a special authorization from the Commission. So including opening bank accounts, obtaining loans, salaries of employees, transfer funds between Member States and Member States with third countries will become possible towards a closer integration economy, where free movement of capital would be identified The first stage of Economic and Monetary Union will be fully liberalized in the third stage of EMU final. But EMU and its implementation in the third phase brought important legal consequences regarding the structure and the institutional establishment of an independent ECB; the economic policy concerning fiscal matters and budgetary and monetary policy with the establishment and adoption of the common currency Euro, having a direct impact on the free movement of capital in the EU. The single currency increased the cost of exchanging currencies during the internal move of the money, bringing a colossal benefit in total savings and by putting an end to abuses and speculations, especially with the exchange rates of currencies.

Another important factor is that the existence and circulation of the single currency manages to defend the costs associated with large changes in exchange rates. Single market needed a single currency as currency fluctuations can often slow down economic growth by creating uncertainty for businesses and the risk of not absorbing investments. The single currency will incite growth by lowering interest rates and encouraging investment.

Drawing on all this we said above, stance on EMU provides a much more sustainable way, to reduce inflation, especially when monetary policy is headed by an independent central bank, which is not subject to longterm political pressures affecting the free movement of capital and eventual liberalization in the EU.

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