PRINCIPLES OF INDEPENDENCE AND ACCOUNTABILITY IN THE ACTIVITIES OF THE EUROPEAN CENTRAL BANK AND THE CENTRAL BANK OF THE EU MEMBER STATE

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The scientific article is devoted to the study of the principles of independence and accountability in the activities of the European Central Bank and the central bank of the EU member state. The article focuses attention on Art. 108 and Art. 109 of the Treaty on the Establishment of the European Community, which is an integral part of the Treaty on the European Union, which contain norms according to which both the European Central Bank and the central banks of the EU member states must be independent, and on the national legislation of the EU member states and Ukraine, according to which national banks are economically independent bodies.

It was established that the principle of independence in the activities of the European Central Bank presupposes the absence of external and internal influence on the part of EU institutions, their employees, members of the governments of the EU member states on decision-making by the European Central Bank, but the principle of independence in the activities of the European Central Bank does not include the prohibition of free exchange opinions between the aforementioned subjects and the European Central Bank within the framework of the existing EU institutional mechanism.

Doctrinal approaches to the principles of independence and accountability in the activities of national banks of states are analyzed. It is argued that the degree of independence of one or another branch of state power cannot be an object for comparison with the central bank of the state, since this contradicts the content of the very principle of independence of one or another branch of government, and also levels the system of checks and balances as such - the Central Bank of the State does not belong to any of the three branches of state power and is not the fourth branch of power, although it is a special central body of state administration. The central bank of the state cannot be isolated from other bodies of state power - on the contrary, in the balancing of state powers between the bodies of state power, its importance is no less important, but this does not give grounds for classifying it as one of the three branches state power to separate into the fourth branch of power.

It has been established that in the legal literature the principle of independence in the activities of the Central Bank of the State is identified with functional and/or legal autonomy. An argument is given that refutes this approach. The principle of independence in the activity of the Central Bank of the EU member state is characterized. It was established that the principle of accountability corresponds to the principle of independence in the activities of the Central Bank of the State. This principle is characterized.

Key words: special central body of state administration, state power, branches of state power, principle of independence, principle of accountability, European Central Bank, central bank of the state, system of checks and balances, state power, functional autonomy, legal autonomy.
The purpose of this article is to prove the hypothesis that the Central Bank of the State is not completely independent.
Presenting main material.

E. Luhnu in his dissertation research emphasizes that «special importance for the constitutional and legal status of the Central Bank ... is acquired by such special principles as independence» [7]. At the same time, the independence of the Central Bank of the state cannot be an end in itself, it is a necessary prerequisite for the practical realization of the purpose of its activity.

«The activities of the Central Bank as the leader of monetary policy should be based on the principles of cooperation between the state authorities and the banking regulator and should be aimed at achieving the main goal – price stability and the development of inflation within the established limits,» notes M. Shchelegliuk [8, p. 41]. Thus, the scientist emphasizes cooperation between the Central Bank of the state and state authorities. Cooperation assumes the absence of direct subordination of the Central Bank of the state to state authorities.

Moreover, despite the fact that state power is divided into three branches - legislative, executive and judicial, nevertheless they do not exist in isolation from each other. There is a system of checks and balances, which is an element of the mechanism of separation of state power. V. Rebkala, M. Logunova, V. Shakhova emphasize that «its importance lies in the balancing of state powers between state authorities, preventing the concentration of all power in the hands of one of them (legislative-representative, executive-administrative, judicial) and thereby ensuring an effective system of checks and balances» [9]. Thus, it can be seen that the Central Bank of the state cannot be isolated from other state authorities. On the contrary, when balancing state-authority powers between state authorities, its importance is no less important.

Investigating the issue of the independence of the Central Bank of the State, V. Sovenkova notes that the performance of tasks by the National Bank of Ukraine is directly related to «ensuring the real political and economic independence of central banks» [3, p. 73]. Regarding the above, the opinion of O.P. is relevant. Orliuk, who also notes that «...in the banking environment, the bank supervisory body should have its own special status or at least parity with other main departments of the central bank, the ministry or be a separate independent organization» [2].

Thus, scientists distinguish only two components of the independence of the Central Bank of the state - political and economic. At the same time, other components, such as, for example, the independence of the banking system itself, are left out of consideration. In addition, emphasizing the presence of guarantees against external influence on the Central Bank of the state, consideration of the issue of internal influence is neglected.
to other functions of these structures, which they perform in connection with the implementation of the goals of currency regulation» [11].

Scientists are unanimous in their opinion that the principle of independence is addressed to the management bodies of the ESCB (the Governing Council, the Executive Committee and the General Council, which in the terminology of the primary source are qualified as decision-making bodies), their members, any management bodies of the NCB. This principle is aimed at excluding the potential political influence on these structures by the institutions of the Union (the European Parliament, the European Council, the Council of the EU, the European Commission, the Court of Justice of the EU and the Audit Chamber); bodies of the Union (in particular, the Economic and Social Committee, the Committee of the Regions, the European Prosecutor’s Office); institutions of the Union (in particular, Europol and Eurojust) [16]; any government bodies (by which are understood legislative, executive and judicial bodies, and the Charter covers all three levels of the management hierarchy in the state – national, regional and local); of any other bodies (referring to bodies within the jurisdiction of the Union) [11]. Thus, scientists focus on such a form of independence as political and organizational.

N. Yerpileva emphasizes that “the next moment in revealing the meaning of the principle of independence concerns the circle of persons who are prohibited from exerting political pressure on the EU currency regulation bodies. First of all, this applies to members of management bodies and organizations of the EU (at the same time, the emphasis is shifted from institutions to personnel), members of government bodies of member states (with an adequate shift of emphasis). It should be noted that a too strict interpretation of the expression “exclude political influence” would affect the free exchange of opinions between representatives of various structures within the EU. At the same time, the Chairman of the Council of the EU and members of the European Commission (the main political bodies of the EU), present at the meeting of the Governing Council without the right to vote (Article 284 (1) of the Treaty), or members of the European Parliament, listen to the President or members of the Executive Committee (Article 284 (3) of the Treaty), and should try to create an atmosphere of open dialogue and not cross the fine line that separates the free exchange of views from political influence [17, p. 107; 11]. Thus, scientists emphasize such a form of independence as political. At the same time, financial and personal independence remained outside the attention of scientists.

A similar situation exists with regard to the Court of Justice of the European Union, whose jurisdiction extends to the ECB (Article 35 of the Statute), and with regard to the Accounting Chamber, which has the right to conduct audits of the accounting statements and management of the ECB (Article 27 (2) of the Statute). The EU Court, when considering a number of cases related to the adoption of decisions on the implementation of a single economic policy of the Union, has already demonstrated strict adherence to the principle of independence [18, p. 107; 11]. Thus, scientists emphasize such a form of independence as organizational.

By actually classifying according to such a criterion as a subject of influence on the decision-making by the European Central Bank on EU institutions and their employees, members of the governments of EU member states, we prove that the principle of independence in the activities of the European Central Bank implies the absence of external and internal influence on the part of EU institutions, their employees, members of the governments of EU member states for decision-making by the European Central Bank. At the same time, the principle of independence in the activities of the European Central Bank does not include the prohibition of the free exchange of opinions between the above-mentioned subjects and the European Central Bank within the framework of the existing EU institutional mechanism.

A. Maruschak notes in his dissertation research that the current regulatory system in Europe is likely to be the subject of fundamental changes. The changes are caused by a political initiative to create a banking union throughout the EU. On September 12, 2012, the European Commission presented a proposal to transfer key competences of national supervisory authorities to the European Central Bank (“ECB”). This transfer aims to centralize the administrative standards of banking supervision in the European Union through a single supervisory mechanism (“SSM”) under the responsibility of the ECB. These proposals were discussed in the so-called “Triolog” between the European Commission, the Council of Ministers and the European Parliament. On March 25, 2013, ”Triolog” approved the draft of the creation of the ECB’s regulatory board regarding the policy of prudential supervision of the activities of credit institutions. The draft resolution was adopted on the basis of Art. 127 clause 6 of the Treaty on the Functioning of the European Union (“TFEU”) [19]. The legislative procedure requires the consent of all 27 member states of the European Union. According to the draft regulation, the ECB has the right to instruct the national regulator to take certain management decisions. As a result, the supervisory duties of BaFin and the Bundesbank will be significantly reduced [10, p. 135].
We cannot talk about the absolute independence of the central banks of the EU member states. According to the Treaty on the Establishment of the European Union and the Statute of the European Central Bank, the independence of the central banks of the EU member states is a mandatory element of their legal status. At the same time, as A. Olefir points out, "independence should not have an absolute character, but should be reduced to such forms as: political, financial, organizational, personal. There are examples when central banks are subordinate to the Ministry of Finance or the Treasury Service" [20]. In the European Union, the central banks of the member states are subordinate to the European Central Bank.

In addition, domestic scientists emphasize that there are several mechanisms of interaction between national governments and central banks: the government provides the central bank with macroeconomic indicators on the functioning of the state, the central bank performs the functions of the government’s financial agent, the management of the central bank participates in government meetings and presents information in terms of the conducted monetary policy, etc. Therefore, despite its important public importance, state authorities have limited influence on the activities of the central banks of the EU member states, which poses a significant threat of violation of national economic interests [20].

An additional argument that the central banks of the EU member states are not completely independent is that in the Federal Republic of Germany monetary and currency policy is independent is that in the Federal Republic of Germany monetary and currency policy is not completely independent in its activities. It was established that the principle of accountability corresponds to the principle of independence in the activities of the Central Bank of the State. The thesis that the Central Bank of the state is the fourth branch of government has been refuted. At the same time, attention is focused on its key importance in balancing state-authority powers between state authorities.

**Conclusions.**

It was established that in the legal literature the principle of independence in the activities of the Central Bank of the State is identified with functional and legal autonomy. An argument is given that refutes this approach. It has been proven that the Central Bank of the country is not completely independent in its activities. It was established that the principle of accountability corresponds to the principle of independence in the activities of the Central Bank of the State. The thesis that the Central Bank of the state is the fourth branch of government has been refuted. At the same time, attention is focused on its key importance in balancing state-authority powers between state authorities.

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