Chapter 35

Slovakia: The Path From Monetary Sovereign to Common European Rules

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Abstract

This chapter focuses on the monetary policy of Slovakia, a member of both the EU and the Eurozone. Slovakia's membership in the euro area has fundamentally influenced, and continues to influence, its monetary policy. From the Slovak perspective, we distinguish between the period up to 2009, when the Slovak Republic – represented by the National Bank of Slovakia (NBS) – was the monetary sovereign, and the period from 2009 onwards, when the NBS participated in the common monetary policy set by the European Central Bank for the entire Eurozone. In the introduction, we highlight the historical background of Slovakia's entry into the euro area in terms of its fulfilment of the convergence criteria. We also discuss the advantages and disadvantages of Eurozone membership in terms of assumptions and subsequent realities. The bulk of this chapter deals with the European Banking Union from the perspective of Slovakia, which, as a member of the Eurozone, is obliged to participate in its existing pillars. It takes a closer look at the powers entrusted to the national authorities (NBS, Resolution Board, Deposit Guarantee Fund) to achieve the objectives for which the banking union was created. Finally, the chapter concludes by highlighting Slovakia's limited influence on the European Union's monetary policy, in which it participates mainly through the NBS governor in the Governing Council of the European Central Bank.

Keywords: *monetary policy, convergence criteria, banking union, crisis resolution, deposit guarantee*

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1. The introduction of the euro in Slovakia

From 1993 to the end of 2008, the monetary system in Slovakia had the characteristics of a nation-state legal tender system, that is, it used banknotes and coins – Slovak crowns and hellers, respectively. The tradition of referring to banknotes and coins as 'crowns' and 'hellers' was inherited from the joint Czech-Slovak state, which ceased to exist at the beginning of 1993 with the establishment of the independent Czech and Slovak Republics.

Even before joining the EU in 2004, the Slovak Republic began taking steps to fulfil the criteria for introducing the euro as a single currency. Before turning to the introduction of the euro to the Slovak Republic, it is necessary to provide background information on the introduction of the euro to EU Member States. Monetary integration and the current use of a single currency within the euro area are the result of rather long and difficult developments – the path towards a common monetary union (i.e. a grouping in which a single currency, a single monetary policy, and a single central bank are used) has involved several stages.

The first stage involved the removal of monetary and exchange-rate barriers between Member States; the second the creation of the European Monetary Institute; and the third the introduction of a single currency (the euro), a single monetary policy, and a single central bank.[1]

The legal basis for a monetary union was the Treaty establishing the European Community, which also laid down the conditions for a Member State's entry into the third stage.[2] These criteria, which must be fulfilled cumulatively, are as follows: (i) The achievement of a high degree of price stability; this is apparent from the rate of inflation which is close to that of, at most, the three best-performing Member States in terms of price stability (the inflation criterion); (ii) The sustainability of the government's financial position, which will be apparent from having achieved a government budget position without an excessive deficit (criterion on the government budgetary position); (iii) The observance of the normal fluctuation margins provided by the exchange rate mechanism (ERM II) of the European Monetary System for at least two years, without devaluing against the currency of any other Member State (exchange rate stability criterion); (iv) The durability of convergence achieved by the Member State and its participation in the exchange rate mechanism is reflected in the long-term interest rate levels.[3]

From a theoretical perspective, these criteria can be divided into fiscal (criterion on government budgetary position) and monetary convergence criteria (all other criteria).[4] Art. 140 of the Treaty on the Functioning of the European Union (TFEU),

1 Tomášek, 2007, p. 50.

2 The criteria for a Member State to join the euro area are also known as the Maastricht criteria or convergence criteria.

3 Art. 121 of the EC Treaty.

4 Daudrikh and Szakács, 2022, p. 107.

as amended by the Treaty of Lisbon, similarly defines the basic criteria for the introduction of the euro as a single currency, with exchange rate stability linked to the euro as a single currency.

The beginning of Slovakia's efforts to join the euro area and introduce the euro can be defined as the date it adopted the Strategy for the Introduction of the Euro, 16 July 2003 (the 'Strategy'). The Strategy was prepared by the Ministry of Finance and the NBS and clearly stated that Slovakia would introduce the euro as soon as it fulfilled all convergence criteria in a sustainable manner.

When the strategy was adopted, Slovakia fulfilled only one convergence criterion (the exchange rate stability criterion). To fulfil the other criteria, several reforms had to be implemented (e.g. public finance, pension, healthcare, and tax reforms, which occurred from 2000 to 2006). Slovakia managed to fulfil all convergence criteria in the relatively short period of one legislative term. Specifically, it fulfilled the price stability criterion in 2007, the interstate convergence criterion in 2005, and the final criterion of the government budgetary position in 2008 by Council Decision 2008/562/EC on 3 June 2008 abrogating Decision 2005/182/EC on the existence of an excessive deficit in Slovakia. Subsequently, the European Central Bank (ECB) and the European Commission issued a Convergence Report stating that Slovakia fulfilled all convergence criteria for joining the euro area.[5]

1.1. Act on the introduction of the euro in Slovakia

The Commission's report on the fulfilment of the criteria for the introduction of the euro by the Slovak Republic culminated in a multiannual process aimed at fulfilling these criteria. As the introduction of the euro in Slovakia was scheduled for 1 January 2009, the National Council adopted the Act on the Introduction of the Euro in Slovakia on 28 November 2007.[6] It was not clear at this time when Slovakia would join the euro area – some of the provisions of this Act came into force on 1 January 2008 and others only on the date Slovakia introduced the euro. The date of the introduction of the euro is defined in the Act as the date of the changeover to the euro for both cash and non-cash circulation in the Slovak Republic. The date of the introduction of the euro was identical to the euro adoption date set by the Council of the EU in accordance with the European Community (EC) Treaty (1 January 2009).

This Act (also called the General Act on the Introduction of the Euro) regulates certain necessary measures and procedures related to the preparation and introduction of the euro in Slovakia as an exclusive legal tender, single currency, and currency unit in accordance with the legally binding acts of the EU.

5 Daudrikh and Szakács, 2022, pp. 109–110.

6 Act No. 659/2007 on the introduction of the euro currency in the Slovak Republic, amending certain acts, as amended.

The adoption of this Act had a number of objectives, including: (i) to ensure an organised and smooth process of the change of legal tender and currency units in the Slovak Republic as a result of the changeover from the Slovak currency to the euro; (ii) to prevent an increase in the inflation rate resulting from the changeover to the euro; (iii) to protect the economic interests of citizens and consumers during the changeover to the euro; (iv) to preserve the continuity of existing legal relations; (v) to achieve price neutrality when money, prices, payments, and other financial and asset values are converted from the Slovak currency to the euro; (vi) to enable natural and legal persons to gradually prepare for and adapt to the assessment of the real value of income, expenses, prices, payments, and living costs in euros through the dual display of prices, payments, and other amounts.[7]

The basic principles and rules of this Act are linked to these objectives. These are: (i) the principle of the protection of economic interests of citizens and consumers; (ii) the principle of price neutrality when money, prices, payments, and other values are converted from the Slovak currency into the euro; (iii) the principle of continuity of existing legal relations in compliance with the principle of freedom of contract, without any change in the real financial value of the object of the legal relations and without any change in their parties, validity, or other content, unless otherwise agreed upon by all the parties concerned or provided for by a law or special regulation.[8]

On the date of the introduction of the euro, cash circulation in the Slovak Republic changed from the Slovak currency to the euro, while euro banknotes and coins, including euro collector coins issued by the NBS, became legal tender at their respective face values for all cash payments in Slovakia. In this context, it is necessary to define the concept of the conversion rate, which is essential for the introduction of the euro.

The conversion rate is the fully irrevocably fixed exchange rate between the euro and the Slovak currency adopted by the EU Council in accordance with the EC Treaty, according to which the Slovak currency was replaced by the euro in Slovakia from the date of its introduction. The conversion rate was set at 30.1260 SKK/EUR on 8 July 2008.

The date of the introduction of the euro marked the beginning of a dual cash circulation period lasting sixteen calendar days, including the date of the introduction of the euro. During this period, legal tenders for all cash payments in the Slovak Republic were, at their respective face values, valid euro banknotes and coins, including commemorative euro coins denominated in euro or euro cents, issued by the ECB, the National Bank of Slovakia (NBS), other euro area countries, or participating third countries. Additionally, Slovak banknotes and coins, including commemorative Slovak coins denominated in Slovak crowns or hellers,

7 Art. 1 para. (1) of the Act on the Introduction of the Euro in Slovakia.
8 Art. 2 para. (1) of the Act on the Introduction of the Euro in Slovakia.

issued by the NBS and valid as of the date of the introduction of the euro, were also accepted.

At the end of the dual cash circulation period, all banknotes and coins issued in Slovakia before the introduction of the euro ceased to be legal tender in Slovakia and their validity expired. At the end of the dual cash circulation period, euro banknotes and coins became the exclusive legal tender for all cash payments in the Slovak Republic at their respective face values.

The Act also laid down detailed procedures for withdrawing Slovak banknotes and coins from circulation. Slovak banknotes and coins were gradually withdrawn from circulation from the date of the introduction of the euro by exchanging them for the euro at the conversion rate and during the exchange periods provided by the Act. The exchange of Slovak banknotes and coins into euro was carried out by the NBS, banks and other credit institutions, branches of foreign banks and branches of other foreign credit institutions, and foreign banks and other foreign financial institutions carrying out banking activities in Slovakia, in all their establishments used for treasury operations in Slovakia.

The exchange of Slovak banknotes and coins from the date the euro was introduced has been carried out during the exchange periods specified by the Act. Slovak banknotes were exchanged by banks and institutions other than the NBS for one year from the date of the introduction of the euro. However, the NBS has been allowed to exchange Slovak banknotes without any time limits. Slovak coins were exchanged by banks and institutions other than the NBS for a period of six months from the date of the introduction of the euro. Slovak coins were exchanged by the NBS for a period of five years from the date of introduction of the euro in the case of Slovak coins other than commemorative coins, and for an unlimited period in the case of commemorative coins.

The General Act on the Introduction of the Euro also regulates a number of other issues related to the introduction of the euro, such as the protection of Slovak banknotes and coins, the conversion and transfer of money and procedures for the conversion of assets and monetary amounts, continuity of legal relations, conversion of nominal values of share capital, conversion of nominal values of securities, assumptions and conditions for dual display, and monitoring of compliance with rules and obligations in preparation for and during the changeover to the euro, including corrective measures and sanctions.[9]

1.2. Benefits and disadvantages of the introduction of the euro in Slovakia

When discussing the advantages and disadvantages of introducing the euro in Slovakia, it is important to distinguish between the *ex ante* and *ex post* views. One of the first documents to estimate the positive and negative effects of the introduction of the euro in Slovakia *ex ante* was the NBS study of March 2006 entitled 'Effects of

9 Babčák, Cakoci and Štrkolec, 2022, pp. 448–452.

the introduction of the euro on the Slovak economy'.[10] This study distinguished, in a precise and analytical way, the direct and indirect benefits of introducing the euro as well as the permanent and one-off disadvantages.

Among the direct benefits, this study identified those that would be experienced almost immediately after a changeover. The most important benefit of the euro was the elimination of some of the transaction costs of trading in euros, including the administrative costs of making payments. The exchange rate risk for payments in the euro area was eliminated, and a slight reduction in the exchange rate risk against the dollar and other important currencies for Slovakia was also made possible. Among the direct benefits of introducing the Euro, this study also identified an increase in price transparency in the single European market and a reduction in interest or capital costs for some companies.

Among the indirect benefits, the study identified those that may not be felt immediately after joining the euro area and whose effects may be uneven. The overall effects of the introduction of the euro, such as increased foreign trade, increased foreign direct investment, and, most importantly, improved economic performance and living standards, were the main reasons for the creation of the euro and Slovakia's decision to join the euro area.

The study also examined the disadvantages associated with the introduction of the euro. For example, it identified the loss of independent monetary policy as a major disadvantage of joining the euro area; however, this was likely not a major concern for Slovakia because its ability to use monetary policy to stabilise its real economy was already low. The direct costs of the technical conversion of financial systems and cash changeovers are also considered disadvantages. Other threats mentioned in the study were price increases after the introduction of the euro, either as a long-term increase in inflation above the euro area average or as an immediate jump in the price level and a corresponding reduction in the value of savings or pensions.[11]

As far as *ex post* views are concerned, despite the lack of a comprehensive study by public authorities, it can be concluded that predictions regarding the prevailing benefits have been fulfilled. Despite the loss of monetary sovereignty, the inflow of foreign investment, currency stability, the elimination of exchange rate risk, increased average economic growth, and low inflation were repeatedly cited as benefits.[12] At the same time, fear of significant increases in the prices of goods and services did not materialise.[13]

10 Šuster, 2006.
11 Šuster, 2006, pp. 2–3.
12 Bukov, 2018.
13 Vlnková and Rojek, 2019, p. 8.

2. The banking union and its implementation in Slovakia

The European Banking Union (EBU) was launched in response to the 2008/2009 crisis. However, this was not a greenfield project, as its predecessor in 2010/2011 was the European System of Financial Supervision.[14] The main objective of the European System of Financial Supervision was to ensure that the rules applicable to the financial sector were properly applied to preserve financial stability, promote confidence in the financial system as a whole, and provide adequate protection to users of financial services.

The legal basis for the establishment of the European System of Financial Supervision (the ESFS) was provided by regulations by the European Parliament and the Council adopted at the end of 2010, which established that the ESFS would come into effect on 1 January 2011. The ESFS comprises the European Systemic Risk Board (ESRB), European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA) and European Securities and Markets Authority (ESMA).

Building on the common ESFS framework, efforts to strengthen and complete banking unions in response to the crisis have gradually intensified. The main objectives of the EBU are to ensure adequate risk diversification across Member States, build stable confidence in the banking sector, and support the functioning of the monetary union.[15] The EBU consists of three pillars: a single supervisory mechanism (SSM), a single resolution mechanism (SRM), and a single deposit insurance scheme (SDIS).

2.1. Single Rulebook

In terms of timing, the introduction of the EBU was preceded by the adoption of the CRR/CRD IV package. These were fundamental changes to banking regulation, adopted as (i) Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 (CRR) and (ii) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to credit institutions and prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (CRD IV).

Together, the CRR and CRD IV form a comprehensive package that fundamentally changes banking regulations. As the CRR and CRD IV significantly altered the previously existing system, structure, and content of banking regulations, it was necessary to approach their transposition into national legislation at the level of

14 Šimonová, 2012, p. 137.
15 Čunderlík et al., 2017, p. 182.

the Member States, and thus also at the level of Slovakia, in the most consistent manner.[16]

Implementation in Slovakia has occurred at several levels. First, there was an amendment to Act No. 483/2001 on banks, which was implemented in Act No. 213/2014, and most of its provisions came into force on 1 August 2014. According to the explanatory memorandum, the implementation of the CRD IV and CRR was mainly aimed at introducing new international Basel III standards into banking regulations in the context of the financial crisis, which revealed shortcomings in the functioning of banks and the procyclical mechanisms that contributed to its occurrence. The Slovak legislature assumed that the introduction of these stricter requirements for banks and securities dealers would reduce the risk of failure, which would contribute to greater stability of the financial systems in both Slovakia and the EU as a whole.

The need for multilevel implementation is reflected in the question of which authority carries out certain tasks under the CRR and how. In many places, the CRR obliges a Member State or competent authority to choose a certain procedure or introduce an exception. These are the so-called ‘options and national discretion’ (ONDs); that is, the (national) powers of a Member State or competent authority have the ability to choose between two or more options or introduce derogation from a certain procedure. In other words, they can introduce rules that deviate from underlying regulations. It was necessary to analyse which of these provisions are enforceable only on the basis of the text of the CRR and therefore do not require any further interpretation (so-called ‘case-by-case’ or ‘individual ONDs’), and which of these provisions need to be elaborated in national legislation (so-called ‘general ONDs’). At the same time, it was necessary to determine the level at which the relevant provisions of the CRR should be elaborated on in national legislation (e.g. acts, decrees, measures). This national legislation became the NBS measure[17] based on an enabling provision in the Act on Banks. The purpose of this measure was to specify the selected general national authorisations under the CRR and apply the individual national requirements, limits, methods, levels, coefficients, percentages, ratios, and other rules derived from the CRR.[18]

2.2. The Single Supervisory Mechanism

The SSM was established by Council Regulation (EU) No. 1024/2013 on 15 October 2013 conferring specific tasks to the ECB concerning policies relating to the prudential supervision of credit institutions. The SSM is a system of financial

16 Oravec, 2015, p. 7.

17 Measure of the NBS of 9 December 2014 establishing national elections for institutions under a special regulation. This measure was later repealed and replaced by the Measure of the NBS of 14 November 2017.

18 Oravec, 2015, p. 8.

supervision composed of the ECB and competent national authorities of participating Member States; that is, the NBS in Slovakia.

The NBS is the only national financial market supervisor that supervises credit institutions either directly or in cooperation with the ECB. The legal basis for the powers and duties of the NBS in supervising credit institutions in Slovakia is provided by several legal acts; namely: (i) Act No. 566/1992 on the National Bank of Slovakia, (ii) Act No. 747/2004 on financial market supervision, and (iii) Act No. 483/2001 on banks.

As a member state of the Eurozone, Slovakia is required to participate in the SSM. The essence of the SSM is cooperation between the ECB and competent national authorities (i.e. the NBS) in the supervision of credit institutions, which are divided from a prudential perspective into significant and less significant credit institutions. The ECB is responsible for the effective and consistent functioning of the SSM.

The group of significant credit institutions comprises more than 100 entities, including three Slovak banks (Slovenská sporiteľňa, a.s., Tatra banka, a.s., and Všeobecná úverová banka, a.s.), which belong to this group for the purposes of the SSM because they are the three most significant credit institutions in the Slovak Republic.[19] Other less significant credit institutions remain under the supervision of national authorities (the NBS); however, this does not mean that they are not subject to the SSM. Indeed, the ECB exercises certain powers over all credit institutions operating in SSM Member States.

Cooperation between the NBS and the ECB is also reflected in the fact that, in the case of these less significant credit institutions, the NBS is required to notify the ECB of any material supervisory action, to further assess certain aspects of the action at the request of the ECB, and to submit material proposals for supervisory decisions to the ECB, on which the ECB may issue an opinion. Additionally, in well-defined cases, the ECB may decide to exercise direct supervision over a less significant credit institution if this is necessary for the consistent application of a high level of supervision. This may be the case, for example, if the credit institution is close to reaching one of the criteria that would qualify it as a significant institution or if the competent national supervisory authority has failed to follow the ECB's instructions in the exercise of supervision.

The ECB's specific supervisory powers in relation to all credit institutions include granting and withdrawing the authorisation of credit institutions and assessing the acquisition of a qualifying holding in a credit institution.

19 In this context, it should be added that these credit institutions (Slovenská sporiteľňa, a.s., Tatra banka, a.s. and Všeobecná úverová banka, a.s.) are subsidiaries of Erste Group Bank AG, Raiffeisen Bank International AG and Intesa Sanpaolo S.p.A., and are referred to within these groups in the ECB's supervisory framework.

2.3. The Single Resolution Mechanism

The openness of financial markets and the interconnectedness of their players have led to various initiatives aimed at establishing a SRM. At the EU level, Directive 2014/59/EU of the European Parliament and Council, adopted on 15 May 2014, established a framework for the recovery and resolution of credit institutions and investment firms (BRRD).

This Directive was implemented in Slovakia through the adoption of Act No. 371/2014 on resolutions in the financial market, which amended certain acts. The aim was to introduce a new framework for the prevention and resolution of potential financial market crises, which was developed at the EU level in response to the financial crisis. It demonstrates the significant scale and different forms of risks in the financial market, where the complexity of interconnectedness creates the possibility of a systemic crisis in the event of the failure of a single financial institution, which can be transmitted to the entire financial system.

The Act regulates the procedures of selected institutions in resolving financial market crises and the preparation and approval of financial market resolution plans in the Slovak Republic by the newly established Resolution Board, which has the status of a national resolution authority. At the same time, the Act provides for the establishment and functioning of the National Resolution Fund (the 'National Fund').

Thus, the Resolution Board exercises resolution powers in Slovakia. It is responsible, among other things, for on-site and remote supervision as well as for acting and deciding on resolution proceedings. In these proceedings, the Resolution Board decides on the imposition of a resolution measure, which may take the form of the sale of a business, an asset separation tool, or a bail-in tool. Although the Resolution Board, as the national resolution authority, has significant power to intervene in the property rights of creditors and shareholders, its primary role is to prevent crises in selected institutions.[20]

Establishing a National Fund is an important step. Selected institutions – banks and securities dealers with share capital of at least EUR 750,000 – were required to participate in the resolution by paying contributions to finance an effective resolution. Specifically, these selected institutions were required to pay an annual contribution and an extraordinary contribution to the National Fund. The annual contribution is determined by the Resolution Board in consultation with the Ministry of Finance and the Deposit Guarantee Fund in a manner specified by law, so that the accumulated resources of the National Fund reach the target level of 1% of the covered deposits of selected institutions operating in Slovakia in the transitional period until 31 December 2024.

The resources of the National Fund may only be used to the extent necessary to finance an effective resolution; namely, for: (i) guaranteeing the liabilities of the customers of a selected institution or the liabilities of a selected institution under

20 Satinová and Slezáková, 2014, p. 13.

resolution; (ii) providing loans to a selected institution or its subsidiaries; (iii) providing funds to a bridge institution and an asset management vehicle free of charge and on a no-return basis; (iv) paying compensation to shareholders or creditors; (v) providing funds to a selected institution instead of writing off its debt or converting the liabilities of certain creditors if the bail-in tool is applied and the board decides to deprive certain creditors of their right to apply the bail-in tool; (vi) lending funds voluntarily to the financial arrangements of other Member States, (vii) repaying loans, interest on loans, and other costs related to the loans provided to the National Fund; (viii) using the National Fund's resources in any of these combinations.[21]

2.4. Single Deposit Insurance Schemes

The primary legislation on deposit protection is Directive 2014/49/EU on deposit guarantee schemes, implemented in Slovakia under Act No. 118/1996. The institutional component of Slovakia's statutory deposit guarantee scheme is the deposit guarantee fund. The fund concentrates monetary contributions from banks and branches of foreign banks to provide compensation for deposits placed with banks and branches of foreign banks and uses them in accordance with the Act. The scope of compensation provided by the fund has been amended several times by law in recent years. For the sake of clarity, the following three decisive periods can be outlined. From 1 May 2004 to 31 October 2008, the compensation limit was 90% of the nominal value of the deposit, up to a maximum of EUR 20,000, converted into Slovak crowns according to the exchange rate announced by the NBS on the day the deposits became unavailable. From 1 November 2008 to 29 December 2010, bank deposits were fully guaranteed – that is, they were not subject to any limit; the fund would cover the full amount of unavailable legally guaranteed deposits. As of 30 December 2010, bank deposits of up to EUR 100,000 were protected by the fund.

On 15 October 2015, an amendment to the Act came into force, according to which the compensation limit of up to EUR 100,000 remained unchanged. However, in certain specific cases, compensation is granted in the full amount of the deposit even if it exceeds the established limit; specifically, this occurs if deposit becomes unavailable within a period of 12 months from the date the deposit was first credited or from the date the deposit became legally transferable if the deposit had a specific origin (e.g. transfer of real estate, inheritance, insurance claim, old-age pension, compensation for damages).

Slovakia's attitude towards the completion of the banking union through the third pillar, a common European deposit guarantee scheme, is rather positive. At the same time, official voices have suggested that a hybrid model based on the coexistence of national deposit guarantee schemes and a common European scheme could be the most promising solution.[22]

21 Art. 92 para. (4) of the Act on resolutions in the financial market.

22 European Central Bank, 2023.

Such a compromise could overcome the objections raised by the incomparable capitalisation of national schemes and the problems of banks in selected countries. At the same time, it would partially eliminate the risks associated with the so-called ‘moral hazard’, whereby some states may pay to cover failed deposits in the banks of other states. In Slovakia, we did not observe any significant disagreement between the banking sector and the government regarding a common deposit guarantee scheme.

3. The monetary aspects of crisis management

Slovakia has been a member of the euro area since 2009 and has thus lost sovereignty over its monetary policy, which is an exclusive competence of the EU according to Art. 3 para.(1) of the TFEU. Unlike before 2008, when the NBS was the monetary authority in Slovakia, as of 1 January 2009, the NBS participated only in the common monetary policy of the EU, which is defined by the ECB for the Eurozone. The Governor of the NBS is a member of the Governing Council, the decision-making body of the ECB, which is responsible for formulating monetary policy for the Eurozone. According to the founding treaties, the primary objective of a single monetary policy is to maintain price stability, thereby contributing to a favourable economic environment and creating conditions for higher employment and sustainable economic growth in the medium term. Therefore, the monetary policy power of the NBS is limited.

Nevertheless, the NBS still has certain powers. For example, it can issue banknotes and coins to manage the circulation of money in Slovakia or impose sanctions. However, in terms of monetary policy in times of crisis, whether triggered by the COVID-19 pandemic, armed conflict in Ukraine, or inflation, Slovakia has applied EU measures.

The ECB’s main monetary policy instrument is the interest rate range.[23] This area has experienced relatively turbulent development in recent years, with the interest rate on the main refinancing operations and the base interest rate of the ECB remaining at 0.00% from 2016 to 2022. Since July 2022, the Governing Council has continuously decided to increase it at almost every meeting; currently, it is 4.5%.

The Governing Council’s decision to keep the interest rates unchanged at its meeting in October 2023 brought some cooling to this area. The Governing Council justified this decision by stating that the key ECB interest rates were maintained at the same levels for a sufficiently long duration, making a substantial contribution to achieving the 2% medium-term inflation target. At the same time, the Governing Council sent a clear message by stating that its future decisions would ensure that

23 Slezáková, Slezák and Nádaský, 2018, p. 21.

the key ECB interest rates would be set at sufficiently restrictive levels for as long as necessary.[24]

Other instruments, such as signalling the future stance of monetary policy, asset purchases, and longer-term refinancing operations, which have helped ease the constraints imposed by the existence of a lower bound on nominal interest rates over the past decade, will remain an integral part of the ECB's toolkit and will be used as appropriate.

In recent years, quantitative easing – that is, asset purchases in advance of interest rate increases in times of crisis – has emerged as an important monetary policy tool. One of the ECB's most notable examples of quantitative easing was the Asset Purchase Programme (APP), which it launched to achieve its 2% inflation target. The Governing Council decided to discontinue net asset purchases under the APP as of 1 July 2022. At the same time, however, the Governing Council indicated that it intends to continue reinvesting, in full, in the principal payments from maturing securities purchased under the APP for an extended period of time after raising the key ECB interest rates and, in any case, for as long as necessary to maintain favourable liquidity conditions and an ample degree of monetary accommodation. Regarding the Pandemic Emergency Purchase Programme (PEPP), the Governing Council intends to reinvest the maturing principal payments from securities purchased under this programme until at least the end of 2024.[25]

4. Conclusions

There is no doubt that Slovakia, as a member of the euro area, has limited sovereignty in monetary policy. Joining the euro area in 2009 entailed a partial loss of monetary sovereignty for Slovakia, as monetary policy fell under the exclusive competence of the EU. However, there is no question of a complete loss of sovereignty as Slovakia, like other Eurozone countries, participates in common European monetary policy. For example, Slovakia follows the decisions of the Governing Council of the ECB (e.g. on interest rates and asset purchases), in which the governor of the NBS also participates.

In the area of banking policy, Slovakia, as a member of the euro area, participates in the first two pillars of the banking union: the SSM and the SRM. Although competencies in this area are shared between the ECB and NBS, it can be concluded that there are no major conflicts in the exercise of these competences between these (European and national) authorities.

24 European Central Bank, 2023.

25 *Kažimír podporuje, aby ECB ukončila kvantitatívne uvoľňovanie v lete*, 2022.

With regard to the possible conflict between European and national regulations and the relationship between competencies in the adoption of new legislation, we highlight the new regulation of cash payments in Slovakia. With effect from 1st July, 2023, Title Two of the Constitution was amended by Constitutional Act No. 241/2023 in such a way as to guarantee the use of cash as legal tender. Consequently, everyone has the right to pay for goods and services in cash – cash payments may only be refused for reasonable or generally applicable reasons. In any case, banks and branches of foreign banks do not have the right to refuse cash payments.

It follows that the National Council has systematically enshrined the right to pay cash at the constitutional level in the Constitution, which regulates fundamental rights and freedoms. Since July 2023, the right to pay cash has become fundamental in Slovakia. However, this move by the Slovak legislature raises questions about whether such a regulation might interfere with the EU's exclusive competence in monetary policy. To implement the Constitution, a special law was adopted to define the conditions and limits for the exercise of the right to pay cash. However, at present (October 2023), the only restriction in force is laid down in Act No. 394/2012, which limits cash payments to a maximum of EUR 15,000.

Although at first glance it may seem that the abovementioned constitutional provisions fall within the sphere of monetary policy, we believe that such a conclusion cannot be drawn automatically. In our view, this is essentially a question of the way in which payments for the purchase of goods and services are made without encroaching on the EU's exclusive competence for the euro area's monetary policy. At the same time, this regulation essentially confirms the *status quo* because according to Art. 128 paras. (1) and (2) of the TFEU, only banknotes issued by the ECB and national central banks have the exclusive status of legal tender within the EU. Member States may also issue euro coins subject to approval by the ECB of the volume of issue. Of course, European regulators may have a different view on the subordination of this issue to the content of the concept of monetary policy.

In any case, it should be noted that, from a substantive point of view, a similar regulation is being prepared by the EU itself, at the level of which a proposal for the Regulation of the European Parliament and of the Council on the legal tender of euro banknotes and coins was presented on 28 June 2023. The motivation for this proposal is based, *inter alia*, on a judgment of the Court of Justice of the EU of 26 January 2021 which clarified that the concept of 'legal tender' mentioned in Art. 128 para. (1) of the TFEU is a concept of EU law that must be given an autonomous and uniform interpretation throughout the EU. The Court also held that the concept of 'legal tender' as a means of payment denominated in a currency unit signifies 'that means of payment cannot generally be refused in settlement of a debt denominated in the same currency unit, at its full face value, and without any surcharges for the payer, with the effect of discharging the debt'. Finally, the Court stated that an obligation to accept euro banknotes and coins may, in principle, be restricted by Member States that use the euro for reasons of public interest and pursuant to their competences outside of the area of monetary law and policy and other exclusive EU

competences, provided that those restrictions are justified by a public interest objective and proportionate to it.[26]

This proposal for the regulation is based on similar principles as the Slovak constitutional provision on cash payments; that is, it (i) confirms the legal tender status of euro banknotes and coins, (ii) provides for their mandatory acceptance, at full face value, with the effect of discharging a payment obligation, (iii) provides for exceptions to the principle of the mandatory acceptance of euro banknotes and coins, and (iv) establishes the obligation on Member States to ensure sufficient and effective access to cash throughout their territory in all their regions, including in urban and non-urban areas.[27]

26 See: CJEU, 26 January 2021, C-422/19 and C-423/19, *Hessischer Rundfunk*, ECLI:EU:C:2021:63, paras. 45, 46, 67 and 68.

27 European Commission, Proposal for the Regulation of the European Parliament and of the Council on the legal tender of euro banknotes and coins, COM(2023) 364 final, p. 21.

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