

ligne, la collection des documents officiels de la Société des Nations est devenue un nouveau corpus numérique d'étude. On peut alors se demander comment les chercheurs vont s'approprier ce corpus et s'ils vont appliquer de nouvelles modalités de recherche pour faire avancer l'étude de l'histoire des organisations internationales et du multilatéralisme en général. Quelles opportunités la science des données et l'analyse de données textuelles des documents de la Société des Nations vont-elles apporter à la démarche scientifique ? Comment l'étude des documents officiels de la Société des Nations et celle des documents officiels des Nations Unies vont-t-elles se compléter ?

## ***L'accesso ai contenuti di documenti ufficiali e periodici delle Nazioni Unite e il loro riuso. I dati testuali e l'eccezione del Text and Data Mining***

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La Biblioteca dell'Università Cattolica del Sacro Cuore di Milano fa parte da più di cinquant'anni del Sistema delle Biblioteche depositarie delle Nazioni Unite. Da cinque anni tale compito ha offerto un punto di osservazione privilegiato sulle dinamiche di evoluzione della disponibilità e accessibilità di documenti ufficiali e di pubblicazioni periodiche prodotte e appartenenti al Sistema delle Nazioni Unite. Di seguito verranno succintamente descritti alcuni snodi essenziali di tale evoluzione, come anche alcuni spunti di riflessione su questioni di attualità e prospettive future.

### *1. Il graduale passaggio dalla disponibilità cartacea alla disponibilità in formato elettronico*

La collezione speciale di documenti ufficiali e di periodici delle Nazioni Unite posseduta dall'Università Cattolica del Sacro Cuore di Milano, creata per volontà del professor Giuseppe Biscottini, docente di diritto internazionale, fa parte del Sistema delle Biblioteche depositarie delle Nazioni Unite dal 17 aprile 1969.<sup>1</sup> La raccolta dei periodici e una delle raccolte di documenti ufficiali sono conservati presso la sede di Milano, in una Sala dedicata chiamata "Sala ONU", mentre il resto del materiale si trova presso altri depositi in sede e nei depositi esterni della Biblioteca.

Negli ultimi anni un progetto di recupero e aggiornamento catalografico della collezione ha consentito di rimettere mano alla collezione nelle sue diverse tipologie documentali e ubicazioni. A tale prima fase di lavorazione ne è seguita una seconda di messa in valore della collezione attraverso la sua "visualizzazione" all'interno del campus universitario, grazie a una rappresentazione virtuale dei

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<sup>1</sup> D. Grbac, *Il patrimonio culturale delle Nazioni Unite presso la Biblioteca depositaria dell'Università Cattolica di Milano. La collezione di un giurista e la natura consortile delle Organizzazioni internazionali*, in "Biblioteche oggi", vol. 40 (2021), p. 40-46.

contenuti degli scaffali della Sala dedicata e un collegamento degli stessi con eventuali versioni elettroniche accessibili ad accesso aperto e gratuitamente.<sup>2</sup>

La conclusione della realizzazione di questa fase della lavorazione interna della collezione ha coinciso con la graduale disponibilità di documenti e di periodici in formato elettronico da parte delle Nazioni Unite. Si è passati dai database tematici come ODS (Official Document System)<sup>3</sup> per i documenti ufficiali e UNTC (United Nations Treaty Collection)<sup>4</sup> per le Treaty Series di accordi internazionali depositati presso il Segretariato, a mano a mano che i progetti di digitalizzazione delle Nazioni Unite si realizzavano, a *repository* istituzionali come la UN-iLibrary<sup>5</sup> ad accesso aperto solo per la lettura, fino alla Biblioteca digitale UN Digital Library, che dà accesso ai documenti ufficiali e alle pubblicazioni non a pagamento.<sup>6</sup>

## 2. Il passaggio dall'accesso aperto alla scienza aperta

La maggiore disponibilità di materiali online accessibili a partire da fonti autorevoli e che ne garantiscono la lunga preservazione ha portato *de facto* all'interno del Sistema delle Biblioteche depositarie al passaggio a una sorta di “deposito elettronico”, come definito da Ramona Khors,<sup>7</sup> che consente potenzialmente di offrire nuovi servizi agli utilizzatori e nuove modalità di accesso ai contenuti dei documenti ufficiali e delle pubblicazioni delle Nazioni Unite. Senza il venir meno dell'attività di custodia e di preservazione del cartaceo, si è accentuata la componente di consulenza nel servizio offerto che ha potuto godere, soprattutto in seguito alla crisi per l'epidemia Covid-19, di un ambiente virtuale di collaborazione per la condivisione di capacità tecniche e nozioni scientifiche all'interno del Si-

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<sup>2</sup> D. Grbac, *The United Nations Depository Libraries System as an “Open Community”. The ongoing evolution from a knowledge base to a knowledge network*, in “Umanistica digitale”, “DHs for society: e-equity, participation, rights and values in the Digital age”, n. 11 (2021), p. 199-216. Pagina del Catalogo d'Ateneo contenente la visualizzazione accessibile all'interno del *campus* della Collezione speciale: [http://opac.unicatt.it/record=e1001010~S13\\*ita](http://opac.unicatt.it/record=e1001010~S13*ita).

<sup>3</sup> Sito ufficiale ODS, <https://documents.un.org/prod/ods.nsf/home.xsp> (consultato il 13 aprile 2023).

<sup>4</sup> Sito ufficiale UNTC, <https://treaties.un.org/> (consultato il 13 aprile 2023).

<sup>5</sup> Sito ufficiale dell'UN-iLibrary, <https://www.un-ilibrary.org/> (consultato il 13 aprile 2023).

<sup>6</sup> Sito ufficiale della Biblioteca digitale, <https://digitallibrary.un.org/> (consultato il 13 aprile 2023).

<sup>7</sup> Si cita qui volutamente una definizione non ufficiale, quella di «deposito elettronico», ma particolarmente chiara ed evidente, che appartiene all'ex responsabile del Programma delle biblioteche depositarie delle Nazioni Unite: Ramona Khors. Cfr. S. Aldis, R. Kohrs, *Access to UN Information in the Digital Era: Reengineering the UN Depository Libraries Programme*, intervento a Convegno “IFLA WLIC 2016” (2016), disponibile alla pagina: <http://library.ifla.org/1429/> (consultato il 28 febbraio 2023).

stema delle biblioteche depositarie.<sup>8</sup> La terza fase di evoluzione nella consulenza all'utente consiste nell'indirizzarlo correttamente in merito non solo all'accesso, ma anche al "riuso" dei contenuti di documenti e pubblicazioni. I testi elettronici, infatti, forniscono il vantaggio di poter disporre di "testi pieni" che oggi, grazie alle nuove strumentazioni tecnologiche, possono essere facilmente riproducibili per diversi "riusi".

Tecnicamente parlando, una collezione di testi pieni rappresenta di per sé un potenziale *data-set* di dati testuali sottoponibile a diverse tecniche di analisi testuale e anche a diversi riutilizzi, dalla citazione di stralci fino alla sua riproduzione completa, ovvero al riuso di "copie" dello stesso.

### *3. Alcune premesse necessarie alle operazioni di analisi testuale*

La possibilità di avere a disposizione testi in formato elettronico non significa che si possa farne un libero uso, in quanto gli utilizzi sono sempre vincolati dai diritti della proprietà intellettuale degli autori. Le Nazioni Unite detengono il diritto della proprietà intellettuale di documenti e pubblicazioni prodotti nell'ambito del Sistema delle Nazioni Unite.

L'accesso legale ai testi e ai dati testuali è quindi vincolato dalle condizioni di utilizzo stabilite dall'Organizzazione. L'accesso legale ai testi delle pubblicazioni a pagamento, ad esempio, è subordinato al pagamento di una sottoscrizione (è questo il caso dell'UN-iLibrary). D'altronde così era anche quando circolavano solo copie cartacee; le biblioteche depositarie, contribuendo finanziariamente al Sistema, mettevano a disposizione degli utenti le copie cartacee delle pubblicazioni a pagamento per la consultazione. In questo caso le Nazioni Unite si sono riservate il diritto allo sfruttamento commerciale di tali pubblicazioni, al fine di rientrare dai costi di produzione delle stesse.

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<sup>8</sup> D. Grbac, *La trasmissione dell'eredità culturale ed intellettuale delle Nazioni Unite online nel contesto internazionale della definizione di un ecosistema della governance di Internet e in particolare della scienza aperta*, in "Rivista italiana di informatica e diritto", a. 4, f. 1 (2022).

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Ora le attività di *web scraping* e di estrazione automatica dei contenuti sono tipiche dell’analisi testuale; ciò che si può dedurre dalla lettura delle condizioni sopra menzionate è che le Nazioni Unite si riservino un *droit de regard* sull’esercizio di tali attività effettuato sui loro contenuti, ma in principio non le vietino.<sup>11</sup> D’altronde non potrebbero farlo, dato che a livello internazionale e nazionale esiste un’eccezione al diritto d’autore, per consentire una tale attività, anche se non un diritto al *Text and Data Mining* incondizionato, da cui l’esistenza di alcune limitazioni.<sup>12</sup>

<sup>9</sup> Le condizioni per lo scarico dei dati sono disponibili sulla pagina: *Hammar skjöld Library Data Terms of Use*, <https://digitallibrary.un.org/pages/?ln=en&page=tos> (consultata il 13 aprile 2023).

<sup>10</sup> *Ibidem*, testo della clausola di non responsabilità presente anche alla pagina: <https://www.un.org/en/about-us/terms-of-use#Disclaimers> (consultato il 13 aprile 2023).

<sup>11</sup> Probabilmente la richiesta di autorizzazione risponde all’esigenza di verificare che il caso d’uso superi il *three-step test* introdotto dalla Convenzione di Berna per la protezione delle opere letterarie e artistiche, ripreso poi dall’accordo TRIPS e WIPO Copyright Treaty. Definito da Deborah De Angelis come l’unico strumento attualmente disponibile a livello internazionale per operare una «mediazione tra gli interessi dei titolari del diritto d’autore e della collettività nel sistema delle eccezioni e limitazioni», D. De Angelis, *Verso una regolamentazione sovranazionale dei diritti fondamentali alla ricerca, educazione e accesso alla cultura*, in “Rivista italiana di informatica e diritto”, a. 5, f. 1 (2023), in *Ricerca, educazione ed accesso al patrimonio culturale. Un confronto fra i diritti fondamentali ed eccezioni al diritto d’autore*, DOI: <https://doi.org/10.32091/RIID0096>.

<sup>12</sup> S. Orlando, *Il diritto di Text and Data Mining (TDM) non esiste*, in “Rivista italiana di informatica e diritto”, a. 5, f. 1 (2023), *Ricerca, educazione ed accesso al patrimonio culturale. Un confronto fra i diritti fondamentali ed eccezioni al diritto d’autore*, DOI:

#### 4. *L'eccezione del Text and Data Mining*

Se prendiamo in considerazione il diritto europeo, l'eccezione per il TDM (Text and Data Mining) ha sole tre concessioni possibili:<sup>13</sup> la ricerca, l'insegnamento e la preservazione nel caso di enti che di questo si occupino (biblioteche, archivi, musei...). L'attività deve altresì essere espressa tramite metodi automatici e non prevede la riproduzione o l'integrazione in tutto o in parte di contenuti in prodotti derivati, che rimane diritto esclusivo dell'autore dei testi.

Torniamo all'esempio fatto di una collezione di testi ai quali si è avuto accesso legalmente e sui quali sono state fatte delle analisi di tipo testuale. Tale collezione di testi può essere preservata per la durata della ricerca e ai fini della dimostrazione dei risultati della ricerca, può anche essere oggetto di pubblicazione, nel caso se ne pubblicino stralci necessari a sostenere la ricerca, ma oggetto della pubblicazione dovrebbero essere i risultati dell'analisi testuale effettuata.<sup>14</sup> Poiché i contenuti non possono essere pubblicati in tutto o in parte, in quanto questo è un diritto esclusivo che rimane in capo all'autore dei testi.

L'accesso ai contenuti dei testi non significa poterne disporre liberamente, ma poterli "ri-utilizzare" nel rispetto del diritto della proprietà intellettuale dell'autore, come afferma il professor Orlando quando parla della non esistenza del diritto al TDM, il diritto di chi fa TDM non è sui testi che sono solo l'oggetto di un'analisi che dovrebbe essere principalmente automatica, e limitarsi ad attività di estrazione di dati e di conoscenza, ma il diritto a quanto prodotto attraverso questa analisi, che non può essere la mera riproduzione di contenuti già pubblicati da altri, ma la creazione di nuovi contenuti, facendo del TDM un volano per la produzione di nuova attività intellettuale.<sup>15</sup>

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<https://doi.org/10.32091/RIID0096>.

<sup>13</sup> "Direttiva (UE) 2019/790" del Parlamento europeo e del Consiglio, del 17 aprile 2019, sul diritto d'autore e sui diritti connessi nel mercato unico digitale e che modifica le direttive 96/9/CE e 2001/29/CE (PE/51/2019/REV/1), in GU L 130 del 17.05.2019, p. 92-125, ELI: <http://data.europa.eu/eli/dir/2019/790/oj>.

<sup>14</sup> Come affermato ad esempio dall'art. 70 della Legge italiana del 22 aprile 1941 n. 633 e ss., dove si indica che citazioni o riproduzioni di brani e la loro comunicazione al pubblico devono essere effettuati per "uso di critica o di discussione, nei limiti giustificati da tali finalità", a condizione che non concorrano all'"utilizzo economico dell'opera", e che le finalità siano meramente "illustrative" e non "commerciali" e siano svolte a fini di insegnamento o di ricerca scientifica. Infine, l'articolo 70-ter ribadisce chiaramente che la comunicazione al pubblico degli esiti della ricerca debba essere espressa in "nuove opere originali". Cfr. "Protezione del diritto d'autore e di altri diritti connessi al suo esercizio (041U0633)", GUE n. 166 del 16 luglio 1941. Accessibile da Normattiva al seguente indirizzo: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1941-04-2;633!vig#:~:text=quanto%20segue%3B%20Art.-1.,o%20la%20forma%20di%20espressione>.

<sup>15</sup> S. Orlando, *L'eccezione di Text and Data Mining e le nozioni legali di informazioni*"

Sempre citando Ramona Kohrs, la principale attività delle biblioteche depositarie oggi non è più solo quella di trasmettere l’eredità culturale delle Nazioni Unite, ma di permettere agli utilizzatori, soprattutto nelle università e nei centri di ricerca, offrendo loro le necessarie informazioni, di produrre nuova proprietà intellettuale a partire da questa eredità.<sup>16</sup>

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e “dati” nella legislazione del mercato unico digitale, intervento al Convegno “Ricerca, educazione e accesso al patrimonio culturale. Un confronto tra diritti fondamentali ed eccezioni al diritto d’autore”, IGSG, C.N.R., 6 maggio 2022, Roma, [https://www.igsg.cnr.it/wp-content/uploads/2022/05/Orlando\\_6.5.2022.pdf](https://www.igsg.cnr.it/wp-content/uploads/2022/05/Orlando_6.5.2022.pdf) (consultato il 17 aprile 2023).

<sup>16</sup> R. Kohrs, *Navigating UN Documents, Part 2*, in “Help! I’m an Accidental Government Information Librarian Webinars”, video, 9th April 2020, NCLA, North Carolina Library Association “Government resources section. Ensuring public access to government information”, video, 9 aprile 2020, disponibile alla pagina: [https://www.google.com/search?q=youtube+%22Navigating+UN+Documents%2C+Part+2%22&rlz=1C1GCEU\\_itIT936IT936&oq=youtube+%22Navigating+UN+Documents%2C+Part+2%22&aqs=chrome..69i57j33i160i4.28064j0j15&sourceid=chrome&ie=UTF-8#fpstate=ive&vld=cid:c3f77c67,vid:d\\_Vfs\\_YZR8U](https://www.google.com/search?q=youtube+%22Navigating+UN+Documents%2C+Part+2%22&rlz=1C1GCEU_itIT936IT936&oq=youtube+%22Navigating+UN+Documents%2C+Part+2%22&aqs=chrome..69i57j33i160i4.28064j0j15&sourceid=chrome&ie=UTF-8#fpstate=ive&vld=cid:c3f77c67,vid:d_Vfs_YZR8U) (consultato il 17 aprile 2023).

## ***The Constitutive Process of European Central Bank: Issues and Problems of the Institutional Aspects***

Leonida Tedoldi

To Gianni Toniolo

### *1. Disputes among Member States on the ECB*

Despite the flood of publications on the European Central Bank over the last twenty years, study and analysis of the institutional genesis of this body has not been similarly copious, apart from the significant work of René Smits in 1997 and to some extent also that of Seymour and Zilioli.<sup>1</sup> However, these scholars do not reconstruct in depth the reasons for the political choices of the actors who participated in the “invention” of the European Central Bank but dwell almost exclusively on the legal aspects.

If, as Chesini and Fauri argued, the ECB «acted as a glue at a time of deep economic crisis and inability to initiate new cooperative policies»<sup>2</sup> becoming a bulwark against the financial crisis and an engine of integration, we believe that this outcome, if we can call it such, is the result of the politico-diplomatic action taken at the very beginnings of its conception.

The establishment of a European Central Bank – almost as a fulfilment of the hopes and recommendations of the economist Robert Triffin – took shape within the process of development of European monetary unification, strengthened by the convergent political action of France and Germany in the mid-eighties after the deterioration of the Snake in the Tunnel (Monetary). It was designed to be symmetrical as among the different currencies, because the French had disapproved of the privileged role of the dollar during the Bretton Woods years; but once the Snake gained independence, the Deutschmark became Europe’s refer-

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Abbreviations: HAEU, Historical Archives of European Union; TPS, Tommaso Padoa Schioppa’s Fund in HAEU.

<sup>1</sup> R. Smits (ed.), *The European Central Bank. Institutional Aspects*, The Hague, Kluwer Law International, 1997 and C. Zilioli, M. Selmayr, *La banca centrale europea*, Bologna, Il Mulino, 2007.

<sup>2</sup> G. Chesini, F. Fauri, *La banca centrale europea: baluardo contro le crisi finanziarie e motore di integrazione*, in E. Calandri, G. Laschi, S. Paoli (eds.), *L’Europa adulta. Attori, ragioni e sfide dall’Atto Unico alla Brexit*, Bologna, Il Mulino, 2020, p. 113.

ence currency and anti-inflation anchor and, as a result, the Bundesbank assumed the leading role in setting monetary policies across the continent. This situation deprived the other states of a means of control over their own currencies.

For this reason, in 1979 the French government, convinced that Germany's influence had prevented the other Member States from actively participating in the Snake, tried to overcome this crisis by creating the European Monetary System and by expanding the powers of the Monetary Committee of the European Community.

Subsequently, the process of monetary unification was strengthened, despite the major critical issues pointed out by the Bundesbank, which was concerned that a European monetary system more balanced as among the currencies would be a vehicle for exporting inflation from France to its more prosperous neighbours rather than a system for importing German monetary discipline into France.<sup>3</sup>

Thus, this convergence came about by two different, almost opposite routes. On the German side, it was stimulated by the fact that the Deutschmark was now a reference currency on the continent,<sup>4</sup> especially after the devaluation of the dollar in 1985 (*Plaza Agreement*, liberalization of exchange rates), and this caused the other European currencies to become weaker as against the Deutschmark, with consequent tensions in the EMS; while this situation put Germany in a certainly advantageous political position, it did not protect it from criticism within the EEC about the instability of the EMS.

For these reasons, the German government (rather than Deutsche Bank) felt that, by joining the process of monetary unification – which would involve pegging intra-European exchange rates – it could free itself from a perceived uncomfortable position.

On the French side, the government saw monetary integration as a means of regaining room for manoeuvre as against German dominance in the EMS,<sup>5</sup> given

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<sup>3</sup> G. Toniolo (ed.), *Central Banks' Independence in Historical Perspective*, Berlin, de Gruyter & Co., 1988 and M. Arcelli (ed.), *Il ruolo della banca centrale nella politica economica*, Bologna, Il Mulino, 1992 and J.B. Goodman, *The Politics of Central Bank Independence*, "Comparative Politics", 3 (1991), p. 329-349, A. Blinder *Central banking in Theory and Practice*, Cambridge, MIT, 1998 and also A. Morelli, *Nascita ed evoluzione della Banca centrale europea. Aspetti istituzionali, economici e monetari*, Troina, Kore University Press, 2009.

<sup>4</sup> In the absence of control over movements of capital, the other European central banks were obliged to follow the leadership of the Bundesbank, and thus to strengthen its centrality, to prevent their exchange rates from being excessively depreciated. For the French government, this meant bearing a significant and disproportionate share of the burden of adjustment.

<sup>5</sup> See B. Eichengreen, *The European Economy since 1945: Coordinated Capitalism and beyond*, Princeton, Princeton University Press, 2007 and P. Guerrieri, P.C. Padoan (eds.), *L'economia politica dell'integrazione europea. Stati, mercati e istituzioni*, Bologna, Il Mulino, 1988.

that the French franc had suffered some devaluations in 1981, 1982 and 1983 and that there had been an urgent need to reduce the central rate in April 1986 and January 1987, leading the government also to embark on a policy of austerity, much contested in French society.

In short, there was joint Franco-German support for strengthening monetary integration against exchange rate fragility and the stalling of the single market, also shared by the respective governors Pöhl and de Lavosière, who both agreed on the idea of a “two-speed” process towards monetary union and were also protagonists of a reorientation of their central institutions towards the process of monetary union.

However, it may be said that the acceleration, or impulse, towards the establishment of a European Central Bank took place in three or four decisive steps: the Genscher memorandum (and the position adopted by a large majority by the European Parliament, on the proposal of the MP Otmar Franz in April 1989<sup>6</sup>), the European Council in Hanover and, of course, the Delors Committee, also in 1989.<sup>7</sup>

The German Minister Genscher was the first to act, in 1988, to move beyond the European model of the “European Reserve Fund” and introduce the prospect of the establishment of a genuine Central Bank as the centre of gravity of the European monetary area which was now being set up, including in political terms.

That is, on the more cultural level, he created (or re-affirmed) a pivotal theoretical “bridge” between the German “ordoliberal” tradition, based on the independence of the Central Bank and the constant search for price stability,<sup>8</sup> and the approach of the French socialist government, which was more aimed at policies for growth. Even though at that time he had chosen the austerity option by contrast with the progressive European governments.

The German perspective, in several ways, shook the foundations of the hitherto deep-rooted idea of full national sovereignty in the management of currency and therefore, in the words of Robert Roosa in response to Triffin,<sup>9</sup> «the money created

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<sup>6</sup> In the same year, the Spinelli Foundation also published a report on the project for a European Central Bank.

<sup>7</sup> See Delors Committee in HAEU, Tps 184, 185, 186 and A. Graziani, *La politica monetaria della Banca Centrale Europea*, in “Rivista italiana degli economisti”, n. 4, 2004, p. 48.

<sup>8</sup> L. Peace, *Il principio dell'indipendenza della banca centrale e la stabilità dei prezzi come obiettivo della politica monetaria: quale influenza dell'ordoliberalismo in Germania e nell'Unione Europea?*, in “Moneta e Credito”, n. 288, 2019, p. 349-364. F. Martucci, *La BCE et l'Ordolibéralisme: étude des discours sur la constitution monétaire de l'Union*, in B. Bertrand, F. Picod and S. Rolan, (coord.), *L'identité du droit de l'Union européenne. Mélanges en l'honneur de Claude Blumann*, Paris, Bruylant 2015 and C.-L. Holtfrerich, *Relations between Monetary Authorities and Governmental Institutions: The Case of Germany from the 19th Century to the Present*, in G. Toniolo (ed.), *Central Banks' Independence*, cit., p. 150.

<sup>9</sup> Roosa, disputing the theories of Robert Triffin.

by a super-bank would be the most high-powered ever generated by a man-made institution, yet [the bank] would have no supporting super-government to make good on its debts or claims»; for this reason it was difficult to conceive some sort of monetary super-authority existing outside a super-state.<sup>10</sup>

Precisely for these reasons, on the level of theoretical elaboration, the idea of the European Bank hinged on a system of central banks which would connect the supranational, independent banking authority to the sovereignty of the member states. And this is the point of divergence: how to harmonize this institutional interlocking.

Discussions at European level, which were held on and off between 1988 and 1991, from the outset grafted the founding of the European Central Bank into the process of establishing the European System of Central Banks (ESCB). In these three years, the founding characteristics of a central bank that would need to connect itself to the system of national central banks, ESCB, were set by means of the template provided by the Delors Report.<sup>11</sup> This report, which was the outcome of the work of the Delors Commission, already clearly defined the profile of the European banking system: «The system (ESCB) would be committed to the objective of price stability, subject to the foregoing the system should support the general economic policy set at the Community level by the competent bodies».

In addition, the Report assigned to the European Bank a wide range of tasks in the coordination of Community policies and the function of guiding the transitional stage to the single currency at the beginning of the so-called third stage.<sup>12</sup> Thus, the establishment of the ECB was already part of a step-by-step process leading to the launch of Economic and Monetary Union and Political Union, reserved for countries forming part of the European Monetary System (EMS).

More generally, the Delors Committee pointed the way towards greater macroeconomic convergence, greater harmonisation of economies and better distribution of common resources, as being tasks which are easier to implement within monetary union.

This stage of discussions in the Delors Committee and at European summits was followed by another closely following stage, to which we can add, in November of the same year, an important meeting of the Monetary Committee<sup>13</sup> at

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<sup>10</sup> See D. Caviglia, *La diplomazia della Lira. L'Italia e la crisi del sistema di Bretton Woods (1958-1973)*, Milano, FrancoAngeli, 2013, p. 80.

<sup>11</sup> Delors Report, paragraph 32. See in addition N. Thygesen, *The Delors Report and European Economic and Monetary Union*, in "International Affairs", vol. 65, 4 (1989), p. 637-652.

<sup>12</sup> T. Padoa-Schioppa, *La lunga via verso l'euro*, Bologna, Il Mulino, 2004, p. 296.

<sup>13</sup> A committee with the task of promoting the coordination of the monetary policies of the Member States of the European Communities, reporting regularly to the Council and the Commission: it consisted of two representatives for each Member State and the Commission. Its activity ceased with the start of the "third stage" of economic and monetary union

which Delors specified, perhaps in more detail than in the Report issued to the commission, the approach to be taken in establishing the system of central banks and the ECB.<sup>14</sup>

Au stade de l'union monétaire complète, la Communauté aura une seule politique monétaire guidée par l'objectif suprême de sauvegarder de la valeur de la monnaie. La formulation de cette politique monétaire unique dans le processus menant à l'union monétaire complète rend nécessaire, pour presque tout le Comité, l'adoption de nouvelles dispositions institutionnelles, savoir la création d'un système européen de banques centrales (SEBC).

But 1990 was the central moment in the development of the debates and the decisions to be taken. Both in the July meeting of ECOFIN and in that of the Committee of the Governors of the Central Banks, a draft of the ECB's Statute produced following the work of the EEC Committee of Alternates was discussed.<sup>15</sup> But it was at the European Council in Rome in October that there appeared not only the ratification of the Delors Report, which had not reached unanimity in Madrid a few months earlier, but also the express decision to create «a new institution comprising Member States' central banks and a central organ, exercising full responsibility for monetary policy».<sup>16</sup> This statement was in a sense the product, in terms of debate, of the state of progress. However, it was only the beginning of the confrontation taking place in that year among the delegations of the member states.

Although several of the positions were in favour of the creation of a European Central Bank, they stressed the need to give the new central banking institution a multiplicity of functions and a genuine "social policy", as clearly shown by the paradigmatic intervention of one of its most combative supporters, the Spanish minister Carlos Solchaga:

La mise en place d'une banque centrale européenne faisant exécuter ses opérations par les banques centrales nationales ; une convergence accrue des politiques budgétaires nationales; une convergence des fiscalités en matière d'impôts tant directs qu'indirects, en soutien de la libération des échanges de biens et services et des mouvements de capitaux. La banque centrale européenne doit être autonome, mais ne peut opérer dans un vide politique. Elle devra donc organiser des relations avec

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and its tasks were absorbed by the Economic and Financial Committee.

<sup>14</sup> HAEU, TPS-223, *Comité monétaire des Communautés Européennes*, 10 November 1989.

<sup>15</sup> See HAEU, TPS-227, *Draft Statute*; also, *Special report on the operations of a European Central Bank*.

<sup>16</sup> Conclusions of the European Council of 27 and 28 October 1990 in Rome, [https://www.consilium.europa.eu/media/20554/1990\\_october\\_-\\_rome\\_\\_eng\\_.pdf](https://www.consilium.europa.eu/media/20554/1990_october_-_rome__eng_.pdf).

le Conseil des Ministres des Finances de la Communauté. Elle doit privilégier les objectifs de stabilité et s'interdire notamment à ce titre de monétiser la dette publique. Les déficits publics auront à être financés par l'émission de titres sur le marché, opérant des arbitrages entre Etats, ce qui renforcera l'exigence de convergence des politiques budgétaires.<sup>17</sup>

In any case, during 1990, discussions on the profile of the new central bank and on the organization of the system of central banks showed that some guidelines were agreed among the governments of the Member States. The reference model became that of the Bundesbank and, accordingly, also the traditional objectives of that body: independence from political power, price stability, acceptance of the principle of "no monetary financing" of state and Community budgets, and adaptation to the model also as concerns the structure of the internal decision-making system: a Council consisting of the Governors of the national central banks and a management board consisting of 5 to 6 members (appointed by the EEC Council of Ministers).

In substance, the Member States strongly agreed with the German "constitutional philosophy" of the second half of the twentieth century,<sup>18</sup> which considered it necessary to have a third monetary power, which by acting precisely to ensure the priority of price stability would protect democracy in the face of possible political adventurism; this last being understood as a pathology which could, by its impact on inflation, damage the founding agreement underlying democracy itself.<sup>19</sup>

The value of the currency could only be kept stable if those in charge were not directly influenced by the ups and downs of politics or parliamentary majorities.

Accordingly, the ECB should be an authority independent of politics and far from the political to-and-fro between consensus and inflation, with the exceptions, of course, of injections of liquidity made for reasons of a public economic order to protect the stability of the credit and financial sector.

The cultural matrix shared by the Member States was certainly the liberal constitutional, ordoliberal one, aimed at «balancing the conditioning force of politics with the ECB; that is, a technostructure, a 'bureaucracy of knowledge'», the apolitical nature of which was to be understood as lying in its independence from other powers and which identified its mission as being the stabilisation of prices.<sup>20</sup> Certainly, then, on the argument of Marcello De Cecco, it was an economic philosophy perhaps too focused on the danger inherent almost exclusively in the monetization of public deficits.

<sup>17</sup> See in HAEU, TPS-223.

<sup>18</sup> It has been pointed out that the German tradition in this sense is the most recent historically and developed by replicating the model of the American Federal Reserve.

<sup>19</sup> See R. Welter, *L'indipendenza della BCE. La prospettiva tedesca*, in F. Belli, V. Santoro (eds.), *La Banca centrale europea*, Milano, Giuffrè, 2003, p. 30.

<sup>20</sup> F. Morosini, *Banche centrali e questione democratica. Il caso della Banca Centrale Europea (BCE)*, Pisa, ETS, 2014, p. 91.

This German approach was certainly not close to the French one, which did not agree with the idea of independence of the monetary authority, and indeed advocated a close link between the Central Bank and the Minister of Finance; and, consequently, a political counterweight to the ECB, even if subsequently the French delegations in the political debate among member states often limited themselves to calling only for the construction of a coherent common economic policy. It should also be added that at that time most of the central banks of the Member States (with the exception of Italy) did not have independence, comparable to that in Germany, and monetary policy was mainly conducted by governments.

Apart from the question of independence, an agreement among the delegations was reached, by unanimous vote, on the introduction of full control over internal liquidity and interest rates to be credited to the ESCB.<sup>21</sup> Above all, a sort of action plan was agreed among some of the States for the defence of the independence of the ECB in its three characteristics: functional, personal and intellectual.

Italy (and Greek) government also proposed that further policy objectives should be set by the ESCB and the future ECB, in addition to the much-invoked price stability: functions of intervention concerning growth, employment and the balance of payments should be introduced.<sup>22</sup>

Similarly, the governments of the new Member States that had recently joined the EEC, such as Spain, were thinking of an ESCB which would be consistent with the achievement of a more general objective of monetary stability, but also of an institution responsible for monitoring the structure of the financial markets. These States were aware of the urgent need to strengthen economic and social cohesion, taking account of the levels of development of each country.<sup>23</sup>

More generally, we may single out two topics on the institutional characters of future European central bank. The first was encapsulated in the proposal to grant independence to the central Bank in the management of exchange reserves<sup>24</sup>; it was certainly a hotly debated topic, because some governors, such as those of the French and Dutch central banks, Trichet and Wicks, were opposed to this and argued that the setting of exchange rate policy was traditionally a matter for the political authorities and could not be assigned to the ESCB; while governors Dini, Tietmeyer, Rojo (and others) reiterated, with a somewhat fluctuating attitude, on the one hand the impossibility of separation between the management of internal and external monetary policy, but on the other the conviction that it was the task

<sup>21</sup> See HAEU, TPS-224, Monetary Committee, meeting of 6 February 1990 in Brussels.

<sup>22</sup> HAEU, TPS-224. *Note for the Directory on the meeting of the Monetary Committee of 6 February 1990*, 7 February 1990.

<sup>23</sup> The documentary sources left by Tommaso Padoa-Schioppa show this well. See Minister Carlos Solchaga's speeches in HAEU, TPS-223; also, the minutes of the Monetary Council of 23 July 1990 in HAEU, TPS-227.

<sup>24</sup> See HAEU, TPS-224. *Note for the Directory on the meeting of the Monetary Committee of 6 February 1990*, 7 February 1990.

of other authorities (especially the political authorities) to set the exchange rate regime with the rest of the world.

The second topic for comparison may be found in what we may call the traditional French position, which, on the recurring topic of the independence of the European central institution, held that the European banking system should also be accountable to a political authority, such as, for example, the ECOFIN Council.

This position therefore clashed with the conviction of the other governments which agreed on ensuring the independence of the ESCB and, above all, of the ECB, from any intrusion and interference by national governments or Community political authorities, as in the German model.

In addition, there remained differences of opinion on further proposals by the Spanish minister, Mr Solchaga, who was very active at this stage, advocating the assigning of other functions to the Central Bank, such as multilateral surveillance, but also compliance with and monitoring of the growing constraints on public deficits, also calling for a greater role for the Community budget.<sup>25</sup>

But the ESCB's balance sheet was also under discussion, as between a centralist model and another model that would allow central banks to keep their balance sheet structure more in accord with the Federal Reserve model.

In fact, it must also be added that, at this juncture, between 1989 and 1990, Tietmeyer – who at that time was an authoritative member of the board of the Bundesbank and the following year became vice-president – defended the idea of separation between supervisory functions and the monetary policy function, an approach that was not displeasing to the Belgian government of Martens (VI-II-IX). He was also reluctant to attach much importance to the “accountability” of the ESCB, since the chairman of the governing board could not, according to the German governor, speak on behalf of the governing board itself, but could at most express only personal opinions and advice.

If these were the main topics, the most heated debate among the delegates of the member countries took place around the transition process from the creation of the EU to the launch of the ECB and the ESCB and then the path towards the single currency. On this subject, there were two options canvassed: to launch the ECB immediately, to be the moving force to establish the single currency, a position agreed with by Italy,<sup>26</sup> or to set up a transitional institution to manage the second stage.

The Delors Report paid scant attention to the transitional arrangements and therefore gave no indication of the configuration of a possible institution or body that could manage this stage. In fact, the immediate issues to be resolved were the distribution of monetary powers in the second stage, which was no more than hint-

<sup>25</sup> HAEU, TPS-227, *Minutes 24th Committee of Governors, 10/08/1990*.

<sup>26</sup> According to Padoa-Schioppa and the Italian delegation, «the effective creation of the ECB in the second stage would ensure that monetary policy decisions of a structural, that is to say qualitative, nature were taken in time», see HAEU, TPS-227, *Notes on the meeting of the Monetary Committee, Brussels, 2 September 1991*.

ed at in the Delors report, even if it had not given rise to doubts about the need to achieve a gradual centralization of monetary control functions. On this topic, some States (Greece, Netherlands, United Kingdom) were opposed to an “indivisibility of monetary powers” at this stage, because centralization would entail strengthening the Committee of Governors and thus the complete independence of the national central banks throughout the stage prior to the introduction of the single currency.

Indeed, in 1990 the German and Dutch delegates broke with the traditional Community approach, as reinforced by the Delors Report, and in the Monetary Committee recommended that the creation of the ECB should take place at an opportune moment before the third stage and, above all, that it was important to avoid an “empty shell” situation, as they called it; that is, the configuration of a transitional institution without powers, which, according to them, would undermine, most of all, its credibility.

The same position was also briefly aired at the European Council in Rome in October 1990, although that forum had managed to find a common direction on the creation of the ECB at the beginning of the second stage. Some Member States were also opposed to the creation of the Board of Governors of the EEC Central Banks, because it would have the same powers as the Committee of Governors which would manage the transition.

The German delegation refused to contemplate a transfer, albeit very partial, of sovereignty before the final stage to a transitional institution other than the ECB (and Britain once more advanced the proposal for the establishment of a European Monetary Fund responsible for the management of the ECU). However, within a few months, a dialogue more favourable to compromise was reached.

The Intergovernmental Conference reiterated that the ECB would be brought into being only shortly before the start of the third, final, stage, of monetary union, which would also be marked by the launch of the single currency, and the preparatory work would be entrusted to the European Monetary Institute (EMI).

Reference models for this policy process were not lacking: the Luxembourg Monetary Institute and the Bank deutscher Länder (1948-1957), pre-Bundesbank; above all, in this way the Institute could be regarded as the logical continuation of the Committee of Governors, even with the granting of legal personality and supported by the documents presented by Finance Ministers Solchaga and Kok, on which, however, there was, at least until the end of 1990, a certain coolness, including on the Italian side.

Indeed, Padoa-Schioppa wrote in his notes on the ECOFIN Council meeting of 8 October 1990 that «it was not reasonable to create institutions that would be useful only for a transitional stage and are destined to be abolished and replaced in the final stage: it is necessary instead», he continued, «to create institutions in their final form and then gradually, with their concurrence, increase their competences».<sup>27</sup>

However, the Spanish minister even went further: at the meeting of ECOFIN, he proposed that the EMI should be given the function of issuer of non-deprecia-

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<sup>27</sup> See this topic in HAEU, TPS-227.

ble ECUs and would thus be put in a position to exchange the ECU for the various European currencies according to their weakness and therefore their needs.

In addition, Solchaga argued, it would be necessary for the EMI to be introduced concurrently with a «coordination of monetary policies» of the member States before the arrival of the euro.<sup>28</sup> This was certainly a stretch, but it was a good expression of the importance attached by the Spanish Government to the need to give EMI the competence to steer monetary policy in order to facilitate the convergence process.

Tietmeyer was extremely cautious, if not averse, about these proposals and continued to show a certain opposition «to any transfer of power-responsibility in the transitional stage» during the establishment of the ECB and the last stage of EMU.<sup>29</sup> This approach then translated into opposition to the option of designating the heads of the Institute by providing for a Council chaired by “non-governors”, that is to say, essentially by politicians.

It was not until September 1991, at the ECOFIN meeting held in Apeldoorn, that real progress was made on the Dutch proposal – reprising the Belgian proposal of Bernard Snoy – for the establishment of the European Monetary Institute, but still with vague powers, as pointed out very cogently by Padoa-Schioppa<sup>30</sup>, subject to the fact that the Institute would cease to exist at the beginning of the third stage, as proposed by the Italian delegates. The Institute would perform only an advisory function on the coordination of monetary policies, the responsibility for which would remain with the national authorities.

Certainly, this plan represented a departure from the “pro-European” recommendations of the Delors Report.

The intention was to put the entire process of transition to the ECB on an inter-governmental and voluntary level, in which monetary policy would remain at the second stage in the hands of the national authorities (governors etc.) and certainly not on the supranational and community level, as would have happened with the establishment and launch of the ECB in the second stage (albeit leaving the last word to ECB on monetary policy decisions).<sup>31</sup> After a series of discussions, this institution was entrusted with the same functions as the Committee of Governors as concerns responsibilities in the field of the coordination of monetary policy.

The Italian position, once the perplexity about the structuring of an institution in the transition stage had been overcome, strongly supported the assigning of powers concerning functions, structure, and responsibilities to the EMI.

In fact, in a study prepared by the Italian central bank officials for Padoa-Schioppa dated November 1991, it was stated:

<sup>28</sup> See C. Solchaga, *Las cosas como son. Diarios de un político socialista (1980-1994)*, Barcelona, Galaxia Gutenberg, 2017.

<sup>29</sup> See notes of the meeting between Tietmeyer and Padoa-Schioppa at the Bundesbank on 9 October 1990, in HAEU, TPS-227.

<sup>30</sup> T. Padoa-Schioppa, *La lunga via verso l'euro*, cit.

<sup>31</sup> T. Padoa-Schioppa, *La lunga via verso l'euro*, cit., p. 301-302.

If the EMI lacks the powers to complete the transition to the third stage effectively and promptly, we may find ourselves in the situation of wishing to move to the third stage, of being able to do so, so far as economic convergence is concerned, but of not being able to do so because the organizational and logistical platform has not been set up. Markets, representative organisations and even public authorities cannot fail to notice this contradiction, and the reduced credibility of our commitment may lead them to behave in a way that could jeopardise the success of EMU.

Despite these comparisons and discussions on the functions to be assigned to the Institute, from another perspective, Padoa-Schioppa argued that «no measures were taken to avoid the risk of inconsistencies arising in the period of transition between exchange rate stability in the EMS and the independent conduct of monetary policies».<sup>32</sup>

## 2. *The Maastricht Treaty*

As compared with the Delors Committee, the Maastricht Treaty had less impact on the objective of integration and instead described monetary union as an end in itself and, therefore, as a prerequisite for accession to political union through a process of macroeconomic convergence to be implemented only under the full and exclusive responsibility of each individual member country.<sup>33</sup>

Following the previously issued guidelines, the Maastricht Treaty empowered the European Monetary Institute to formulate opinions and recommendations to governments and the Council on the monetary situation of the Member States, on the internal and external situation of the Community and on the general approach to monetary and exchange rate policy, but its functions did not include monitoring price stability and exchange rates.

In addition, the Treaty was clear on the role of the EMI in promoting the efficiency of cross-border payments in preparation for the third stage and on the role of operators of payment systems in the oversight of initiatives for the processing of international payments and harmonising the rules and accounting standards of national central banks.

Be that as it may, the Committee of Governors (CoG) constituted the first bare bones of EMI (and the future ECB), which had independence since its establishment, but which did not have monetary policy responsibilities and had no specific powers to strengthen the coordination of monetary policies as such, though it could promote macroeconomic convergence guidelines.<sup>34</sup>

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<sup>32</sup> T. Padoa-Schioppa, *La lunga via verso l'euro*, cit., p. 306.

<sup>33</sup> R. Tamborini, *Dal Rapporto Delors al Trattato di Maastricht e oltre. Cos'hanno da dire gli economisti?*, in "Economia Politica", 3 (1997), p. 8.

<sup>34</sup> See H. James, *Making the European Monetary Union*, Cambridge-London, The

So subsequently the Treaty entrusted the function of monetary governance to the future ECB, which would be launched after a transitional stage managed by the European Monetary Institute, and at the same time consolidated its independence, as a guarantee against political interference, although it chose, paradoxically, not to include the ECB among the EU institutions in Article 18 of Part One of the Treaty.<sup>35</sup>

The Maastricht Treaty, which crystallized the policy of member states on independence as a guarantee of stability against the “monetary discretion” of politicians, did not however put forward a precise definition of monetary stability; nevertheless, it led to the enshrining in constitutional terms of a “philosophy of money” that interpreted the stability of the currency in a predominantly defensive manner. By contrast, however, there is no trace of a common economic and fiscal policy.

Moreover, it goes without saying that the involvement of the national central banks in the European monetary governance in the making was conducive to the integration process and not to the principle of subsidiarity, i.e. their participation in the Governing Council of the future European Central Bank meant integrating them into the Community monetary level and was not a restraint on the transfer of monetary sovereignty by the Member States.<sup>36</sup>

For some economists, who find something undemocratic in the Maastricht Treaty, the choice of a hard-line rejection of inflation as the main motive for action demonstrates a neoconservative vision of social relations.

However, as Chiara Zilioli argued, the ECB has nevertheless become «the most supranational entity ever established by means of Community law».<sup>37</sup> This seems to me to be a fundamental point and one of the present-day sources of strength.

The ECB therefore emerges from the Treaty as an independent organisation with a specialised nature in Community law (and therefore is part of the Community legal order that established it), comparable to international bodies with legal personality, such as the EC, the ECSC and the EEC, equipped with decision-making bodies and independent powers of regulation, financial resources, privileges, and immunities. An organisation forming part of the first pillar of the EU, subject to the principles of primary Community law and the jurisdiction of the ECJ (articles 230, 237, 241, 288).

For the reasons given, the internal decision-making process of the ECB is not subject to any right of suspensive veto by politicians (as happened, for example with the decisions of the Bundesbank Council, which the German government

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Belknap Press of Harvard University Press, 2012.

<sup>35</sup> *Draft Constitution for Europe. The institutions of the Union.* The ECB is addressed in Title IV, Chapter II: *Other institutions and bodies.*

<sup>36</sup> O. Roselli, *Profili costituzionali dell'integrazione monetaria europea*, in O. Roselli (ed.), *Europa e Banche centrali*, Naples, ESI, 2004, p. 19. See also R. Smits, *The European Central Bank. Institutional Aspects*, and A. Palazzo, *I profili giuridici ed istituzionali della Bce e del Sebc*, in O. Roselli, (ed.), *Europa e Banche centrali*, cit., p. 43-46.

<sup>37</sup> C. Zilioli, M. Selmayr, *La banca centrale europea*, cit.

had power to suspend for two weeks).<sup>38</sup> In this context, it acts on the basis of a single objective, the «maintenance of price stability», to which it subordinates various macroeconomic policy choices.<sup>39</sup>

For these reasons, the ECB is essentially based on two pillars. The first, the monetary pillar, which is essentially constituted by the quantity of money. The ECB assumes a very large monetary aggregate, M3, containing deposits on demand, deposits with a fixed maturity not exceeding two years, deposits that can be collected on notice not exceeding three years and bills of exchange. The second pillar is made up of a set of indicators of various kinds: the level of activity, developments in salaries and the exchange rate of the euro against major currencies. In addition, owing to its high degree of independence, the ECB will have power to bring proceedings against a national central bank which has failed to fulfil its obligations under Community law.

It is therefore an institution of primary Community law as a specific body for monetary policy and has the three powers, legislative, judicial and executive in the adoption of regulations. In substance, it does not depend on the three original Communities, because it received tasks, powers, and duties directly from the EC Treaty and from the Statute and not by delegation from the Community institutions (it does not operate as a financial instrument of the Community institutions).

Despite its independence, the ECB is part of the Community legal order that established it. The ECB's resources are separate from the budget of the three original Communities. However, the legal basis of the ECB lies in article 8 (formerly article 4a) of the Treaty. It is under that provision that a European System of Central Banks (ESCB) and a European Central Bank are established «act[ing] within the limits of the powers conferred upon them by this Treaty and by the Statute of the ESCB and of the ECB» annexed to the Treaty and thus forming part of a system. It is clear from this provision that the legal framework of the ECB is to be sought not only in the Treaty but also in the Statute of the ESCB, which forms an integral part of the Treaty under art. 311 (formerly art. 239) and has the same legislative force as the Treaty.<sup>40</sup>

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<sup>38</sup> On this topic see C. Zilioli, M. Selmayr, *La banca centrale europea*, cit.

<sup>39</sup> See A. Graziani, *La politica monetaria*, p. 51-52, and A. Palazzo, *I profili giuridici ed istituzionali della Bce e del Sebc*, cit., p. 63.

<sup>40</sup> This means, first of all, that the ESCB and, within it, the ECB, must act within the limits of the powers conferred on it by the founding Treaty, in accordance with the principle of conferral of powers which governs the entire Community system. Art. 4 (formerly art. 7) of the Treaty recognises that «each institution shall act within the limits of the powers conferred upon it by this Treaty». In this context, the ESCB has full and exclusive powers in important areas, such as the setting and implementation of monetary policy, the conduct of foreign exchange operations and the holding and management of the official foreign reserves of the Member States, in accordance with Art. 105 of the Treaty.



# Abstracts and keywords

Cristina Bon e Andrea Santini, *Un momento hamiltoniano? Riflessione interdisciplinare comparata tra Stati Uniti e Unione europea sul problema del debito*

The Recovery and Resilience plan approved by the European Council of 17-21 July 2020, known as the Next Generation EU, introduced a decision of extraordinary importance in the recent history of European integration. The aforementioned importance is both quantitative, due to the total amount of money involved in the plan, and qualitative, since it gave the Commission the power to raise up to 750 billion euros on international markets through the issuance of European debt securities. It is precisely this last feature of the plan that has led many academics, opinion leaders and high-profile institutional figures to speak of a “Hamiltonian moment” for Europe, with reference to the process of financial and fiscal integration at the origin of the US federal experience. Building on a well-established comparative scholarship on federalism, with a particular focus on the literature that contrasts the US case with the European one, this essay offers a diachronic comparison between both the fiscal and financial instruments adopted by the American patriots to revive the fortunes of the Republic in the midst of the War of Independence and the European measures to counter the economic shock following the Covid-19 pandemic. By means of a diachronic comparison, this essay will test the validity of the historical analogy that ascribes the title “Hamiltonian moment” to the current European situation. To this end, the essay adopts an interdisciplinary approach that combines the heuristic tools of institutional history with a detailed analysis of the European legal framework.

*Keywords:* Comparative federalism; European integration; Next Generation EU; US History; Public Debt.

Ludovica Aricò, *La genesi di un core labour standard: l'organizzazione internazionale del lavoro e la convenzione sull'età minima del 1973*

Since its foundation, the International Labour Organisation (ILO) has promoted the establishment of minimum standards of protection, which member states undertake to guarantee through the adoption of legally binding documents. Today, the international community recognises the existence of five fundamental principles, known as Core Labour Standards (CLS), which have their origins in the ILO's ten core conventions. They form part of a broader international strategy to counter the negative effects of globalisation. Their effectiveness is ensured by the ILO's monitoring and review work, which allows the CLs to adapt to economic, social and political developments within the international community. This process of adaptation is clearly visible in the evolution of the principle of the effective abolition of child

labour, which has its legal basis in the Minimum Age Convention, 1973 (C138) and the Worst Forms of Child Labour Convention, 1999 (C182). Some authors have pointed out that the ILO has sought to implement these standards in response to demands from economically advanced countries to prevent social dumping in modern liberalised international trade. Others have emphasised the political dimension of this process, claiming that it has been used by European and North American countries to impose their ideologies universally, especially during the Cold War. This paper aims to contribute to the living literature on the origins and evolution of core labour standards by reconstructing the path that led to the adoption of the Minimum Age Convention of 1973. It seeks to understand whether this instrument was the ILO's response to structural changes in the international community and, ultimately, whether the interests of a particular group of actors shaped the content of the Convention. To this end, it reconstructs the internal debates within the ILO, highlighting the most influential actors and motivations in the negotiation of Convention C138. The first part presents the first legal measures to combat child labour, both nationally and internationally. It will illustrate the basic steps of the Minimum Age Campaign, the ILO's historic action to establish a universal minimum age for access to work from 1919 to 1973. The second part reconstructs the debate on the drafting of the Minimum Age Convention of 1973, from the initial discussions in the Governing Body, through the preparatory work of the International Labour Office, to the final negotiations in the International Labour Conference. In line with this analysis, the conclusions provide an assessment of the main elements and actors involved in the process of drafting the Convention.

**Keywords:** Child labour; Minimum Age Campaign; Core Labour Standards; the International Labour Organisation; Standards-setting Activity; ILO Convention C138.

Jacopo Cellini, *The European Investment Bank and the Environment. The History of the EIB's Environmental Strategy from the 1970s to the 1990s*

This article reconstructs the environmental strategy of the European Investment Bank (EIB) from the early 1970s to the early 1990s. Drawing on an extensive body of primary sources in the EIB archives, this article makes an innovative contribution to the literature on the EIB and to the growing academic debate on the role of economic and financial actors in the emergence and development of European Community (EC) environmental policy. The article argues that four main factors pushed environmental issues up the EIB's agenda to the point where they became strategic and political priorities: the evolution of EC legislation, the institutional example of other financial institutions, pressure from environmental NGOs, and the proactive attitude of some of its management and staff.

**Keywords:** European Investment Bank; EC/EU Environmental Policy; Banks and Environmental protection; European Integration; Economic and Financial History.

Michael Selis, *The Hand of Friendship. NATO's Institutional Reform in the 1990s Analyzed Through New Narratives and Innovative Policy Measures Towards Central and Eastern Europe*

The metamorphosis that NATO underwent in the early 1990s took two main directions: the political-diplomatic binary of the “hand of friendship” and the military binary of the New Strategic Concept. The ambitious reform, which was designed to enable NATO to remain at the forefront in the new post-1989 scenario, then underwent two surprising and in some ways unexpected developments over the course of the decade: enlargement and out-of-area operations in the former Yugoslavia. This paper analyses part of the major institutional reform that the Alliance has undergone from a diplomatic, military and political point of view, and therefore the functioning, objectives and founding motivations of the three main bodies established during the decade: the North Atlantic Cooperation Council of 1991, the Partnership for Peace of 1994 and the Euro-Atlantic Partnership Council of 1997.

*Keywords:* NATO Institutional Reform; Hands of Friendship; Diplomatic, Military and Political Integration; Enlargement.

Nicola Melis, *L'Impero ottomano: uno stato tra “civiltà” e “barbarie”?*

In the last two decades, Ottoman studies have renewed and incorporated the latest historiographical discourses, taking into account the perspectives of comparative, global, world, entangled histories and postcolonial studies. In this context, a historiographical debate has developed on the nature of the Ottoman state in the context of the history of colonialism. Was the empire a victim of European colonialism? Was it an actor in the imperialist scenario of the time? This article critically evaluates the discourse of this literature in an attempt to answer these questions.

*Keywords:* Ottoman Empire, Colonialism, Imperialism, Civilising Mission, Orientalism.