



# The Legal Status of Macro-Prudential Authorities in the EU Member States

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## Abstract

The study examines the main components of the organizational framework for macro-prudential management in the Member States of the European Union. The organizational design of macro-prudential management is a competence of the Member States, which can themselves be grouped into different models. First, the study provides an overview of the international and EU standards and recommendations on the legal status of macro-prudential bodies in the Member States. Then, it lists those basic features of the legal status of macro-prudential bodies which are relevant with a view to the present inquiry before finally turning to address those very features. The study concludes that there is a tendency for the EU macro-prudential body to standardize the basic elements of the legal status of the Member State macro-prudential bodies. However, the process of standardization, in terms of the content of the institutional framework, is still at an early stage and a variety of legal solutions may be identified for each of the substantive aspects. As such, we claim that the institutional framework of macro-prudential policy is best described by a coordinated standardization of the substantive pillars with different formal features and with different legal solutions.

## Keywords

institutional framework, macro-prudential management, Magyar Nemzeti Bank, financial stability, systemic risks

## 1 Introduction

Recently, macro-prudential policy has become a key issue for global financial stability. This macro-prudential policy serves to maintain the stability of the financial system as a whole, and to identify and address systemic risks, rather than focusing on the stability of individual financial institutions. That is why any consideration on this management activity ought to be systemic.

The macro-prudential authorities analyze the interconnections between financial institutions and those factors (so-called systemic risks) that are capable of causing instability in the

financial system in the long run. Macro-prudential authorities use, then, various legal and non-legal instruments to mitigate or eliminate the identified systemic risks. Such tools may include recommendations, warnings or various macro-prudential instruments such as capital requirements, liquidity limits, etc. Another important feature of macro-prudential management is international cooperation and information exchange. Given the global nature of financial markets and institutions, macro-prudential authorities are obliged to cooperate with each other to mitigate cross-border financial risks.

To put it briefly, macro-prudential management describes a set of interventional administrative tools designed to maintain financial stability, which take both the financial system as a whole and the complex interactions within it into account. Hence, macro-prudential measures contribute to financial and economic stability and sustainable growth, and minimize the risk of financial crises or mitigate their impact (in particular their costs) on the economy and society at large.

The aim of this study is twofold. On the one hand, it examines the institutional framework for the development of effective decision-making on macro-prudential management. On the other hand, it analyzes the basic features of the legal status of the bodies that form part of that framework in the Member States of the European Union.<sup>1</sup> In doing so, first, we provide an overview of the international and EU standards and recommendations on the legal status of macro-prudential bodies in the Member States. Then, we list those basic features of the legal status of macro-prudential bodies which are relevant with a view to the present inquiry before finally turning to address those very features. Our study analyzes the institutional features of the Hungarian macro-prudential body separately from the analysis of the other national authorities, yet in line with the prior methodology. We offer a tentative conclusion according to which the institutional framework of macro-prudential policy is best described by a coordinated standardization of the substantive pillars, having distinct formal features, and with different legal solutions.

## **2 International and EU standards and recommendations on the status of macro-prudential authorities**

As a result of the advancement of information technologies, the characteristic activities of financial institutions are being highly globalized, that is, they are typically not bound by any physical jurisdiction when providing financial services (Janovec, 2020, 31). It implies that there is a high degree of international coordination behind the legislation and enforcement of the activities of financial institutions. One shall bear in mind that this characteristic also applies when the definition of the institutional characteristics determining the legal status of the administrative bodies of macro-prudential management, i.e.: the macro-prudential authorities, are at stake, and that their peculiar legal status has a fundamental impact on their organizational structure as well.

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<sup>1</sup> The study does not examine the supra-national level of macro-prudential policy institutions, i.e. the EU and international levels of macro-prudential policy-making (these levels include the activities of the so-called international standard-setting bodies, international financial institutions and the EU in relation to macro-prudential policy). This is because the international level momentarily lacks the option of taking legally binding decisions, and so it relies essentially on coordination among states rather than legislative decisions to address systemic risks. Meanwhile, the EU macro-prudential governance system works in close cooperation with the macro-prudential bodies in the Member States, resulting in its own, distinctive characteristics.

The so-called *international standard-setting bodies* and *international financial institutions* have formulated recommendations on the basic organizational characteristics necessary for the effective functioning of macro-prudential management, and these have taken into account the fact that the institutional and organizational framework of macro-prudential management is not fully-fledged even in those countries with the most advanced financial systems (Fáykiss & Szombati, 2013; Mérő, 2017). The organizational features of macro-prudential management need to be adapted to country-specific circumstances (structure and development of the financial market, structure of the financial supervisory system and other specificities); hence, several organizational solutions are possible. That said, the recommendations set out a number of basic organizational features that are necessary for an effective organizational framework for macro-prudential management.

The organizational features of macro-prudential management are based on the expectation that the purpose (maintaining financial stability) and powers of the macro-prudential authority are clearly defined by law, since competing competences among multiple public authorities erode liability and risks-mitigating efficiency (IMF, 2011). Organizational decisions are a matter for national legislators, but central banks have important and prominent role to play in the organizational framework of macro-prudential management (IMF, 2011; Nier et al., 2011; IMF, 2013; IMF-FSB-BIS, 2016). Given their responsibilities for monetary policy, central banks have relevant operational experience in systemic intervention, identification and analysis of systemic risks, as well as communication of decisions. The macro-prudential authority ought to be also independent and autonomous from political and market influence in the performance of its tasks (BIS, 2011). The principal role of central banks in macro-prudential management can provide *de facto* greater independence for the exercise of macro-prudential responsibilities. However, while ensuring independence, it is also necessary to implement appropriate accountability mechanisms (IMF-FSB-BIS, 2016). The macro-prudential management organization should promote the capacity to respond to emerging systemic risks, ensure access to information and have the appropriate macro-prudential tools to achieve its objectives. Macro-prudential authorities ought to have complex powers, ranging from direct intervention tools to soft recommendations and warnings (IMF, 2013).

The effectiveness of European macro-prudential policy partly depends on national macro-prudential policies in the Member States, as the responsibility for adopting measures to maintain financial stability remains primarily at the national level. It is not surprising therefore that at the EU level there is a desire for a standardized legal status, albeit itself being of *soft law nature*, for the organization of macro-prudential management in the Member States. For this reason, in addition to the recommendations of international standard-setting bodies and international financial institutions, the recommendations of the European Systemic Risk Board (hereinafter: ESRB)<sup>2</sup> are of particular importance in the development of the macro-prudential governance of the EU Member States. (ESRB, 2011)

According to ESRB 2011, the authority entrusted with the conduct of macro-prudential policy should be designated by national legislation, generally in the form of a single institution or a council of authorities whose actions have a material impact on financial stability. The

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<sup>2</sup> The ESRB is the member of the European System of Financial Supervisors responsible for certain macro-prudential tasks, including making recommendations for corrective action to address identified risks. In the light of this mandate, the ESRB has also formulated recommendations to national authorities on macro-prudential mandates.

decision-making process of the governing body of the macro-prudential authority should also be specified in the national legislation. The design of the macro-prudential organization should ensure that the central bank plays a leading role in macro-prudential policy and that macro-prudential policy does not undermine the central bank's independence in the conduct of monetary policy. The macro-prudential authority should be granted operational independence at least in the pursuit of its objectives, in particular regarding policy bodies and the financial sector. As a minimum, the macro-prudential authority should be entrusted by national legislators with identifying, monitoring and assessing risks to financial stability and the enforcement of policies to achieve its objectives of eliminating and mitigating those risks. In addition, in view of the multi-level and complex macro-prudential governance of the EU, it is important to underline that the ESRB, and the European Central Bank (hereinafter: ECB) as further specified below, should coordinate the activities of national macro-prudential authorities within a single supervisory mechanism, while at the same time ensuring cooperation and exchange of information between national macro-prudential authorities on cross-border issues.

The review of Member States' compliance with ESRB 2011 was carried out in 2014 (ESRB, 2014). The next review was due to take place in 2016, but was not carried out, mainly due to the emergence of a strong demand from Member States to retain discretionary powers over macro-prudential management tools (Stellinga, 2021, 1449–1451). Nevertheless, the ESRB 2011 has had a decisive influence on the establishment of national macro-prudential bodies, partly because its broad discretionary wording.

### 3 Analytical framework and methodology for the status of macro-prudential authorities

As outlined in the introduction, the study analyzes the basic features of the legal status of macro-prudential authorities, grouped around four components. It analyzes national macro-prudential authorities':

- a) organizational structure and composition,
- b) macro-prudential tools,
- c) accountability and communication; and
- d) mechanisms to ensure national and international coordination.

The methodology of the analysis is based on a comparative analysis of national legislation on the macro-prudential body system in the Member States, in order to identify similarities and differences and to compare the regulation of the different legal institutions. For the availability of national legislation, see *Annex 1*.

Before going into details on the basic features of the legal status of national macro-prudential authorities, it is necessary to briefly summarize those foundations of each of these components which are relevant with a view to our inquiry.

The organization and composition of the macro-prudential authority is a key issue for the effectiveness of macro-prudential management and the legal status of macro-prudential authorities. From a theoretical point of view, three basic models emerge in Member State practice, based upon the organizational appearance and composition of the macro-prudential authority. In the first model, several authorities carry out macro-prudential policy tasks which are coordinated by a coordination committee set up by the Member States. In the second model, a single institution, itself having other responsibilities, e.g.: the central bank or the supervisory authority, is entrusted with macro-prudential policy tasks. Finally, in the third model, an independent authority is established specifically to perform macro-prudential tasks (IMF,

2011). Despite their differences, it is relatively safe to conclude that national legislators assign their central banks a prominent role in macro-prudential decision-making, predominantly due to their systemic perspectives, comprehensive knowledge of financial markets and payment systems, decision-making capacity independent of other economic policy branches and their role as lender of last resort (Szombati, 2013).

The dynamic evolution of the financial system requires that macro-prudential authorities have appropriate powers to identify, manage and prevent systemic risks, with the ability to react quickly where necessary. To this end, macro-prudential authorities should have information gathering powers, i.e. they should have access to data collected by micro-prudential supervisors, monetary authorities and other public authorities, and the power to request and collect information directly from market participants (Chiu, 2012). As part of this, the macro-prudential authority should have the power to identify the specific financial institutions to be subject to macro-prudential supervision with respect to the systemic risks they pose. Furthermore, macro-prudential authorities should typically have legislative, and to ensure due process (Vácz, 2022), enforcement powers.

It is essential that the macro-prudential authority be granted functional independence, which is not an autonomy based on constitutional principles, but an autonomy granted individually (Lapsánszky et al., 2017). The reason for this is that administrative autonomy always ensures independence from the executive power or the government at its apex, but such autonomy is not related to the organization itself, but to the specific administrative tasks and powers it performs. In this respect, even if the central bank plays a pivotal role in the organization of macro-prudential management, the guarantees of independence with respect to this function may differ from the constitutional guarantees of independence of monetary policy (de Haan et al., 2012; Duff, 2014). Attention should also be paid to the fact that the objective of macro-prudential policy is to prevent systemic risks, so the effectiveness of such policies is naturally difficult to measure, if they are contrasted with the definition of an inflation target for monetary policy and measuring actual inflation. Transparency, participation in macro-prudential decision-making, publicity and clear communication of macro-prudential decisions can provide a fundamental safeguard for the accountability of the macro-prudential authority. This could take the form of periodic financial stability reports to the public, reports to parliaments or mechanisms to ensure transparency in decision-making (Nier et al., 2011).

Finally, the institutional framework for macro-prudential policy should be examined in the context of national and international coordination mechanisms. The need for coordination at the national level is justified by the fact that macro-prudential authorities usually have other responsibilities in addition to their macro-prudential ones and that generally-speaking the instruments that can be used to address systemic risks do not lie within the competence of a single body. Regarding the need for coordination at international level, the basic premise is that the high degree of globalization of the financial system has made the various institutions in the system highly interconnected. Consequently, international coordination can both ensure that regulatory arbitrage is avoided and allow for a better understanding of the effects of risk-taking and financial cycles (Nier et al., 2011; Heath, 2014).



## 4 Basic features of the status of national macro-prudential authorities

### 4.1 Organization and composition of national macro-prudential authorities

As regards the composition of macro-prudential authorities, the EU Member States have several models.<sup>3</sup> Most EU Member States are part of the integrated central bank model. The essence of this model is that macro-prudential management tools are the responsibilities of the central bank. In this model, the coordination between monetary policy and micro-prudential management takes place within a single body. The central bank model with a consultative committee is a special type of integrated central bank model. The central bank exercises the macro-prudential authority and intervention tools, but a consultative committee is set up to analyze the financial intermediary system, collect information, issue recommendations and warnings. The members of these consultative committees are typically the central bank, the other regulators and the government (minister). At the same time, some EU Member States established independent systemic risk or stability councils, which are responsible for gathering and analyzing information, issuing recommendations and warnings and applying macro-prudential tools. The stability councils are composed of representatives of the central bank, regulatory agencies and other relevant authorities and government bodies. Typically, the central bank's governor is also the chairman of the council. Also, the central bank provides the organizational framework for its functioning. A common feature of all Member States falling into the above models or sub-models is the decisive influence and weight characterizing the central bank in macro-prudential management.

The Nordic countries follow a different path. They maintain a single model of supervisory authority, separate from the central bank and thus from monetary policy, where micro- and macro-prudential policy decisions are concentrated in this authority. In some Member States, the supervisory model is complemented by the establishment of a stability board to ensure coordination. These councils are typically chaired by a minister and involve the central bank, government and the supervisory authority or authorities. In this model, the council is normally responsible for information gathering, analysis, recommendations and warnings, but the application of macro-prudential authority and intervention tools is the responsibility of a supervisory authority separate from the central bank. Also in this model, the central bank may be assigned the tasks of gathering information, analysis, and issuing recommendations and warnings.

Finally, it is worth noting that there is also a national solution where macro-prudential powers are not vested in an authority independent of the government, but are the responsibility of a minister. In this case, too, a coordination body is set up, involving the government, the central bank, the supervisory authorities and external experts, to collect and analyze information and to formulate recommendations and warnings.

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<sup>3</sup> See *Table 1*.

**Table 1. National models of macro-prudential authorities**

<b>System of national macro-prudential authorities</b>	<b>Integrated model</b>	Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Portugal, Slovakia	
		<i>Integrated model with an advisory committee</i>	Croatia, Netherlands
		<i>Integrated model with independent systemic risk board</i>	France, Poland, Romania, Slovenia,
	<b>Separate supervisory authority model</b>	Finland, Sweden	
		<i>A separate monitoring model with a consultative committee</i>	Austria, Germany, Luxembourg, Spain
	<b>Ministerial model</b>	Denmark	

Source: Authors' own editing

#### 4.2 Tools of the Member States' macro-prudential authorities

The basis for making macro-prudential governance work is that Member States provide their macro-prudential authorities with the macro-prudential tools necessary for achieving macro-prudential objectives effectively and efficiently, in order to prevent and mitigate systemic risks to the financial system as a whole.

In general, national macro-prudential authorities in the Member States have the basic power to collect information, i.e. they have access to data collected by micro-prudential supervisors, monetary authorities and other public authorities. Furthermore, they have the power to request and collect information directly from market participants (Keller, 2013; Serena & Tissot, 2017).

When systemic risks to the stability of the financial intermediary system are identified, macro-prudential authorities may issue warnings and recommendations that do not constitute an effective intervention (Mérő, 2012). National legislation typically regulates the process for issuing warnings and recommendations, and it may also specify the financial or non-financial institutions to which warnings and recommendations could be addressed. Legislation often also regulates whether compliance with macro-prudential recommendations is mandatory or voluntary. If the recommendation is mandatory, the legislation typically provides for some enforcement mechanism. Mostly, there is an obligation for the addressee to inform the macro-prudential authority on how to comply with the recommendation.

In addition to warnings and recommendations, the macro-prudential management inventory includes a range of interventional tools. It is necessary to identify intermediate macro-prudential objectives to select the appropriate instruments. The identification of intermediate objectives based on specific market failures allows a clearer classification of macro-prudential instruments provides the economic basis for the precise content and application of the instruments and facilitates the accountability of macro-prudential authorities (Brunnermeier et al., 2009; ESRB, 2013; Noyer, 2014).

The ESRB 2013 identifies five such intermediate objectives: *a)* to mitigate and prevent excessive credit growth and leverage; *b)* to mitigate and prevent excessive mismatches in

maturity structures and market liquidity shortages; *c)* to limit the concentration of indirect and direct exposures; *d)* to limit the systemic impact of misaligned incentives to reduce moral hazard; and *e)* to strengthen the resilience of financial infrastructure. The effective functioning of macro-prudential policy requires, in practice, that complementary tools are available for the macro-prudential authority, reducing thereby the phenomenon of regulatory arbitrage and the uncertainties associated with the transmission mechanism. The ESRB 2013 describes informatively the tools it considers best suited to achieve the intermediate objectives.

Macro-prudential tools typically refer to the legislative activities of macro-prudential authorities with regard to systemic intervention, and partly to the use of regulatory tools. With the entry into force of CRD IV./CRR<sup>4</sup>, national macro-prudential authorities have the basic macro-prudential tools necessary to achieve intermediate objectives, in part directly under the CRR and in part through the implementation of CRD IV. In addition, Member States have the right to introduce additional macro-prudential tools, such as loan-to-value (LTV) and loan-to-income (LTI) ratios, and to extend their toolbox with other instruments, including fiscal policy instruments, in order to preserve the flexibility to respond to stability risks.

### **4.3 Accountability and communication mechanisms for national macro-prudential authorities**

Mechanisms to ensure transparency, publicity and clear communication of macro-prudential decisions should be seen as a framework for the operational independence of national macro-prudential authorities (Fazekas, 2022). These mechanisms are fundamentally designed to ensure the accountability of the macro-prudential authority.

In national practice, macro-prudential authorities typically operate under the authority of national parliaments, as it is the parliamentary public which guarantees democratic control over these bodies or institutions. A typical form of this control is for macro-prudential authorities to report annually, or in some cases more frequently, to the parliaments and to the concerned parliamentary committees. Accountability is clear in Member States where macro-prudential responsibility is not shared between different bodies, and there is a more limited accountability in the case of complex macro-prudential systems. The powers of specialized national parliamentary control bodies are closely linked to parliamentary control. In several Member States, the ombudsmen can examine whether the macro-prudential authorities have infringed fundamental rights in their procedures. Furthermore, national audit offices can also audit the management of macro-prudential authorities.

Decisions and actions taken by macro-prudential authorities may be subject to judicial review. This means that their actions can be challenged in court to ensure that they comply with the legislation in force. However, a significant limitation of this principle is that most macro-prudential measures are not individual decisions of public authorities but take the form of legislation, for which judicial review is generally limited, or at least difficult to obtain for Member States.

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<sup>4</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC and Regulation (EU) No 575/2013/ EU 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.



As a basic principle, macro-prudential authorities should communicate their macro-prudential decisions openly, unless this would pose a risk to financial stability, to regulated entities, the market, politicians, the general public and other authorities. Clear communication of macro-prudential objectives can improve the transmission mechanism of macro-prudential instruments, both when the macro-prudential authority has taken action and when it has failed to do so (Giese et al., 2013). It can signal that the authority is capable of addressing market problems, thereby strengthening its legitimacy and at the same time its accountability.

The most important element in the communication of macro-prudential decisions, as practiced in Member States, is the issuance of financial stability reports. Reports are typically comprehensive documents that review and analyze different aspects of financial stability. They usually start with an overall assessment of financial stability in a given country, often including a discussion of the international context (Born et al., 2011). Stability reports are complemented by press releases, policy statements, background notes and FAQ.

#### **4.4 National and international coordination mechanisms of national macro-prudential authorities**

Close cooperation between the bodies with macro-prudential responsibilities is needed to identify and address systemic risks (Neményi, 2012). This is most outspoken when other authorities are responsible for micro- and macro-prudential management. Indeed, the flow of information between the two administrative areas strengthens the ability to identify risks and to take appropriate public policy decisions. The benefits of cooperation can be best exploited when macro-prudential aspects are integrated into the *Supervisory Review and Evaluation Process* (SREP). However, mechanisms for cooperation need to be developed more widely, as many other areas of economic policy (monetary policy, fiscal policy, competition policy etc.) can contribute to the objectives of macro-prudential management. In many EU Member States, committees or councils have therefore been set up as macro-prudential authorities, including at least the micro-prudential authority, the central bank and the finance ministry (see France, Germany).

Where such committees are not set up, Member States typically opt for a cooperation agreement between their supervisory authority and their national bank, setting out the framework for cooperation and the exchange of information.<sup>5</sup> In addition to the conclusion of cooperation agreements, a usual solution is for the legislation to oblige the macro-prudential authority to consult prior to macro-prudential decisions (e.g.: in Finland).

The cross-border implications of macro-prudential decisions and their collective nature<sup>6</sup> (Viñals & Nier, 2014) also require coordination of national macro-prudential management at the EU level. To this end, the distinct national macro-prudential authorities may cooperate

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<sup>5</sup> See *Memorandum of Understanding between the Central Bank of Malta and the Malta Financial Services Authority on the setting up of a Joint Financial Stability Board*. Online: <https://bit.ly/3U2guIU>; *Memorandum of Understanding between Finansinspektionen and the Riksbank concerning a council for cooperation on macro-prudential policy*. Online: <https://bit.ly/3vkXw8j>

<sup>6</sup> The collective nature of macro-prudential decisions means that macro-prudential decisions are essentially taken at the Member State level, but are aimed at influencing activity that is not subject to Member State physical jurisdictions, and therefore their effectiveness is limited. A globalized financial market requires coordinated national decisions.

ex ante with their respective counterparts in the framework of the so-called colleges of supervisors<sup>7</sup> in cases where macro-prudential decisions may have cross-border implications. Before using macro-prudential instruments covered by CRD IV/CRR, national authorities are required to inform the ESRB, stating the reasons for the use of the instrument. The ESRB may issue opinions or recommendations on the use of national macro-prudential instruments. International coordination is also ensured through the participation of Member States in the ESRB, the European Supervisory Authorities and, in the context of Single Supervisory Mechanism (hereinafter: SSM), the Board of Supervisors, as well as in the institutions at the international level.

## 5 The Hungarian macro-prudential authority

The analysis of the Hungarian macro-prudential authority is conducted in the article to highlight the institutional specifics and practices of macro-prudential governance in Hungary. This examination helps evaluate how Hungary fits into the European context of macro-prudential policy and practice.

The development of the Hungarian macro-prudential institutional framework, with the single exception of the *Financial Stability Committee* (Pénzügyi Stabilitási Bizottság, hereinafter: FSC) which came into life in 2004, is linked to the global financial crisis. The FSC was a consultative forum<sup>8</sup> established by the Ministry of Finance, the State Financial Supervisory Authority (hereinafter: FSA) and the Hungarian National Bank (hereinafter: MNB), which had no decision-making powers and whose cooperation was essentially aimed at a coordinated solution to a possible financial crisis. The transparency of the FSC was questionable as no public records of its activities have been preserved.

On 1 January 2010, the Parliament established the *Financial Stability Board* (Pénzügyi Stabilitási Tanács, hereinafter: FSB I) to replace the FSC,<sup>9</sup> which also comprised the Ministry of National Economy (hereinafter: MNE), the FSA and the MNB. However, given its significant powers, the FSB I essentially gave the MNE and the MNB the possibility to influence the macro-prudential aspects of individual institutional supervision. Indeed, the prior consent of the FSB I was required for the issuance of non-binding recommendations by the President of the FSB I, setting out the basis for the application of the FSB I's legislation, or for the semi-annual definition of the priority areas of the FSB I's supervisory activities. What is more, the FSB I had to discuss the decision of the FSA to prohibit or restrict activities or services that threatened financial stability, and the FSB I could also initiate legislation.<sup>10</sup> However, as of 1 January 2011

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<sup>7</sup> This is also true for the ECB in the context of the Single Supervisory Mechanism, as it is the home country for Member States covered by the SSM and the host country for a Member State not covered by the SSM or a non-EU country, as the case may be.

<sup>8</sup> See the *Tripartite Agreement on the coordination of tasks to promote the stability of the financial system between the State Financial Supervisory Authority, the Magyar Nemzeti Bank and the Ministry of Finance*. Online: <https://bit.ly/4aZBgjr>

<sup>9</sup> See Act CXLVIII of 2009 on certain legislative amendments necessary to make the supervision of the financial intermediary system more effective.

<sup>10</sup> In its opinion, the European Central Bank welcomed and welcomed this development. It said: "Although the draft law provides that the FSC will 'assist' the FSA, which seems to indicate that the FSC will have a subordinate

the powers of the FSB I were again redefined by the Parliament and, by removing the powers of the FSC, it was transformed into a mere consultative body (hereinafter: FSB II), while reducing the influence of the MNB and the MNE.<sup>11</sup> This institutional “amortization” might be considered as a serious step backwards from the perspective of macro-prudential supervision, as FSB II in that form had become inadequate for macro-prudential authority tasks.

From 2012 the powers of the FSB II started to be reduced which coincided with the new MNB Act's<sup>12</sup> entry into force with which considerable emphasis was begun to be laid on macro-prudential policy as a peculiar tasks of the central bank. The culmination of this process is the integration of micro-prudential supervisory powers within the MNB's organization, as a result of which, from 1 October 2013 onwards, the MNB's responsibilities in Hungary have included not only monetary policy but also micro- and macro-prudential management. As such, the FSB (hereinafter: FSB III) was re-established within the MNB in a new form and with new responsibilities.

Within the strategic framework defined by the Monetary Council of the MNB, the Hungarian macro-prudential authority's regulatory powers related to the formulation and implementation of macro-prudential policy are exercised partly by the FSB III and partly by the Governor of the MNB personally. Under the MNB Act, the FSB III is a body of at least three, but no more than ten members, consisting of: *a)* the Governor of the MNB as Chairman; *b)* the Deputy Governors supervising the tasks defined in the MNB Act; and *c)* the managers appointed by the Governor of the MNB. Currently, the FSB III is composed of the Governor, three Deputy Governors and six other heads of the relevant areas (e.g. the Executive Director responsible for digitalization). The domestic practice is therefore adjust to those countries where the responsibility for macro-prudential policy implementation has been assigned to central banks.

The operational independence of the MNB and of the FSB III within, is ensured by organizational, professional and financial safeguards. For one, the MNB and the FSB III are themselves both established by law, their statuses and objectives are defined by law, and their macro-prudential powers can only be granted by law. The MNB makes its macro-prudential policy decisions independently, meaning that it is free from political interference, allowing it to focus on long-term economic stability. Secondly, the senior officials of the MNB (Governor, Deputy Governors) are appointed by the President of the Republic, for a term of office diverging from that of the government. Finally, the MNB has its own financial resources, which can be turned for its own operating cost

The MNB has at its disposal the macro-prudential tools necessary to meet certain intermediate objectives, partly under the CRR and partly through the devices provided for in the MNB Act. These implement CRD IV and sectoral legislation in order to safeguard the stability of the financial system at large. The MNB is rather active in the use of macro-prudential tools. The

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role in contributing to the fulfilment of the tasks of the FSA, the ECB trusts that the FSC will be a separate body to which the FSA will provide administrative and logistical support. The assignment to the MNB of specific tasks in the context of the establishment of the FSC is welcome, as it enhances the MNB's contribution to financial stability.” (ECB, 2010a, 4).

<sup>11</sup> The ECB has also expressed its dissatisfaction in a new opinion. In its view, limiting its powers will significantly weaken the impact of the PST II legislative proposals. In addition, it is concerned about the reduction of the supervisory powers of the Financial Stability Board without conferring these powers on another competent body or institution (ECB, 2010b, 6–7).

<sup>12</sup> See Act CXXXIX of 2013 on the National Bank of Hungary (hereinafter: MNB Act).

domestic macro-prudential inventory also includes instruments developed to address systemic risks which are not regulated by the EU, e.g.: the foreign exchange funding matching indicator (DMM) or the macro-prudential standard for managing risks stemming from the denomination mismatch of assets and liabilities, or the foreign exchange matching indicator (DEM).<sup>13</sup> Macro-prudential intervention tools are prescribed in a decree issued by the Governor of the MNB, in a custom decision or in a so-called decision with general scope of application.<sup>14</sup>

Regarding its accountability, FSB III regularly reports on its decisions to the Monetary Council, while the Governor of the MNB is audited by the Parliament. The latter is obliged to prepare semi-annual and annual reports, in addition to its extraordinary reporting and informing obligations. Also, the Commissioner for Fundamental Rights may investigate any fundamental rights violations in the operation of the macro-prudential authority, while the State Audit Office may audit its management. Finally, legal control over authority-type macro-prudential measures is ensured by the possibility of judicial review.

The objectives of macro-prudential management in Hungary are laid down in the *Statute of the MNB*, which states that the objective of its macro-prudential policy is to increase the shock-resilience of the financial intermediary system and to reduce the pro-cyclicality of the banking system. The MNB informs stakeholders and the public about systemic risks in its regular publications (Financial Stability Report, MNB Studies). The purpose of this information is to ensure that stakeholders are aware of the reasons for and objectives of macro-prudential decisions and thus to guide their decisions. However, it is important to note, that this information is not automatic, as there may be situations where providing details before intervention would only increase the risks. In such cases, the central bank will make the background analysis public after the risks have been eliminated.

The MNB cooperates with both domestic and international organizations in order to better achieve the objective of creating and maintaining stability in the financial system through the implementation of macro-prudential policy. The MNB cooperates most closely with the relevant ministries in the area of legislation, as the MNB can initiate legislation if it does not have the legislative authority itself in a particular area. In addition to the public authorities and public bodies, the MNB maintains close relations with domestic financial institutions and their organizations, as well as with the organizations operating the financial infrastructure. The Deputy Governor in charge of the financial stability area and experts represent the MNB in various formal committees and working groups of the ECB. The MNB also participates in the work of the ESRB and in the financial stability committees of certain international organizations (OECD, IMF etc.).

## 6 Conclusions

In general macro-prudential supervisory activities consist of and are mainly aimed at promoting the stability of the financial market itself and it is for this reason that the structure of the institutional framework is so important (Janovec, 2023, 145).

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<sup>13</sup> See MNB Regulation 25/2015 (30 July 2015) on the regulation of general denomination consistency between the assets and liabilities of credit institutions.

<sup>14</sup> On the problem of decisions of general application. See: Kálmán (2022).

This study has examined the main components of the institutional framework for macro-prudential policy at the level of the EU Member States. The phase of designation and establishment of authorities for macro-prudential management has been completed and all Member States now have an explicit macro-prudential authority. In the absence of an EU competence, the formal design of the organizational structure of macro-prudential authorities is a matter for the Member States, which, as the study has shown in details, can themselves be grouped according to divergent models. The prominent role of central banks is typically reflected in Member State's organizational arrangements, but there are also examples of models based on a limited, non-determining role for central banks.

However, the effective performance of macro-prudential policy and of public functions and tasks in general cannot be judged by examining the formal aspects of the policy, but by the institutional (legal) substance of the organizational framework. In this respect, an analysis of the legislation of the Member States on macro-prudential bodies shows that there has been a gradual and consciously coordinated consolidation of content in the EU, the primary driving force of which has been the ESRB, even in the absence of legally binding instruments. The process of standardizing the content of the institutional framework has been characterized by a range of legal solutions, particularly in terms of the organizational form of the macro-prudential management bodies, since the Member States' competence for organizing the administrative structure and the way that the characteristics of macro-prudential management differ from those of monetary policy.

In summary, the institutional framework of macro-prudential management can be described by different formal features, initially with coordinated, standardized substantive pillars, yet with distinct legal solutions.

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**Annex 1.**

Member State	Relevant legislation	Contact details of the relevant legislation	Bodies of macro-prudential management	Distribution of powers between macro-prudential bodies
Austria	Finanzmarktaufsicht behörden-Gesetz ( <i>Federal Act on the establishing and organization of the Financial Market Authority</i> ); Bankwesengesetz (Austrian Banking Act)	<a href="https://www.fma.gv.at/en/national/supervisory-laws/">https://www.fma.gv.at/en/national/supervisory-laws/</a>	Finanzmarktstabilitätsgremium ( <i>Financial Market Stability Board</i> ) Finanzmarktaufsicht sbehörde ( <i>Financial Market Authority</i> ) Oesterreichische Nationalbank ( <i>Austrian National Bank</i> )	<i>Financial Market Stability Board</i> : recommendation, warning; <i>Financial Market Authority</i> : macro-prudential tools; <i>Austrian National Bank</i> : monitoring of systemic risks, recommendation, warning, proposals to FMSB
Belgium	Wet van 22 februari 1998 tot vaststelling van het organiek statuut van de Nationale Bank van België ( <i>Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium</i> )	<a href="https://www.nbb.be/doc/ts/enterprise/juridisch/e/organic_act.pdf">https://www.nbb.be/doc/ts/enterprise/juridisch/e/organic_act.pdf</a>	Nationale Bank van België ( <i>National Bank of Belgium</i> )	–
Bulgaria	Закон за кредитните институции ( <i>Law on Credit Institutions</i> )	<a href="https://www.bnb.bg/bnbweb/groups/public/documents/bnb_law/laws_creditinstitutions_en.pdf">https://www.bnb.bg/bnbweb/groups/public/documents/bnb_law/laws_creditinstitutions_en.pdf</a>	Българската народна банка ( <i>Central Bank of the Republic of Bulgaria</i> )	–
Croatia	Zakon o kreditnim institucijama ( <i>Credit Institutions Act</i> ) Zakona o Vijeću za financijsku stabilnost ( <i>Act on the Financial Stability Council</i> )	<a href="https://www.hnb.hr/documents/20182/506024/e-zakon-o-kreditnim-institucijama_npt.pdf/2ddb8f5f-eeec8-b8b4-090f-d92304af0116">https://www.hnb.hr/documents/20182/506024/e-zakon-o-kreditnim-institucijama_npt.pdf/2ddb8f5f-eeec8-b8b4-090f-d92304af0116</a>	Hrvatska narodna banka ( <i>Croatian National Bank</i> ) Vijeće za financijsku stabilnost ( <i>Financial Stability Council</i> )	<i>Croatian National Bank</i> : macro-prudential tools; <i>Financial Stability Council</i> : monitoring of systemic risks, recommendation, warning
Cyprus	Οι περί της Κεντρικής Τράπεζας της Κύπρου Νόμοι του 2002 έως (Αρ. 3) ( <i>Central Bank of Cyprus Laws of 2002</i> )	<a href="https://www.centralbank.cy/images/media/pdf/The-Central-Bank-of-Cyprus-Law-2002-English-translation-and-consolidation%20.pdf">https://www.centralbank.cy/images/media/pdf/The-Central-Bank-of-Cyprus-Law-2002-English-translation-and-consolidation%20.pdf</a>	Κεντρικής Τράπεζας της Κύπρου ( <i>Central Bank of Cyprus</i> )	–
Czech Republic	e zákonem č. 6/1993 Sb. (Act No. 6/1993 Coll., on the Czech National Bank, as amended)	<a href="https://www.cnb.cz/miranda2/export/sites/www.cnb.cz/en/legislation/acts/download/act_on_cnb.pdf">https://www.cnb.cz/miranda2/export/sites/www.cnb.cz/en/legislation/acts/download/act_on_cnb.pdf</a>	Česká národní banka ( <i>Czech National Bank</i> )	–

Denmark	ændring af lov om finansiel virksomhed (Financial Business Act)	<a href="https://www.dfsa.dk/-/media/Lovgivning/Oversat-lovgivning/Acts/Financial-Business-Act.pdf">https://www.dfsa.dk/-/media/Lovgivning/Oversat-lovgivning/Acts/Financial-Business-Act.pdf</a>	Det Systemiske Risikoråd ( <i>Systemic Risk Council</i> ) Erhvervsministeren ( <i>Minister for Industry, Business and Financial Affairs</i> )	<i>Systemic Risk Council</i> : monitoring of systemic risks, recommendation, warning; <i>Minister</i> : macro-prudential tools
Estonia	Eesti Panga seaduse ( <i>Bank of Estonia Act</i> )	<a href="https://www.riigiteataja.ee/en/eli/513042015009/consolide">https://www.riigiteataja.ee/en/eli/513042015009/consolide</a>	Eesti Pank ( <i>Bank of Estonia</i> )	–
Finland	Laki Finanssivalvonnasta ( <i>Act on the Financial Supervisory Authority</i> )	<a href="https://www.finanssivalvonta.fi/globalassets/en/regulation/legislation/fival-eng_muutokseen-445_2023-asti.final.pdf">https://www.finanssivalvonta.fi/globalassets/en/regulation/legislation/fival-eng_muutokseen-445_2023-asti.final.pdf</a>	Finanssivalvonn ( <i>Financial Supervisory Authority</i> )	–
France	Code monétaire et financier ( <i>Monetary and Financial Code</i> )	<a href="https://www.legifrance.gouv.fr/affichCode.do;jsessionid=BD7FBB-D7D976F59C7B12583237F94FE7.tpdila12v_3?cidTexte=LEGITEX-T000006072026&amp;dateTexte=20150528">https://www.legifrance.gouv.fr/affichCode.do;jsessionid=BD7FBB-D7D976F59C7B12583237F94FE7.tpdila12v_3?cidTexte=LEGITEX-T000006072026&amp;dateTexte=20150528</a> (France version only)	Haut Conseil de stabilité financière ( <i>High Council for Financial Stability</i> )	–
Germany	Gesetz zur Überwachung der Finanzstabilität ( <i>Financial Stability Act</i> )	<a href="http://www.gesetze-im-internet.de/finstabg/BJNR236910012.html">http://www.gesetze-im-internet.de/finstabg/BJNR236910012.html</a> (German version only)	Deutsche Bundesbank ( <i>Bank of Germany</i> ); Ausschuss für Finanzstabilität ( <i>German Financial Stability Committee</i> ); Bundesanstalt für Finanzdienstleistung saufsicht ( <i>Financial Supervisory Authority</i> )	<i>Bank of Germany</i> : analysis, recommendation; <i>German Financial Stability Committee</i> : recommendation, warning; <i>Financial Supervisory Authority</i> : macro-prudential tools
Greece	Καταστατικό της Τράπεζας της Ελλάδος ( <i>Statute of the Bank of Greece</i> )	<a href="https://www.bankofgreece.gr/RelatedDocuments/BoG_Statute_Tenth_Edition.pdf">https://www.bankofgreece.gr/RelatedDocuments/BoG_Statute_Tenth_Edition.pdf</a>	Τράπεζα της Ελλάδος ( <i>Bank of Greece</i> )	–
Hungary	a Magyar Nemzeti Bankról szóló 2013. évi CXXXIX. törvény ( <i>Act on Hungarian Central Bank</i> )	<a href="https://www.mnb.hu/letoltes/mnb-torveny-2016-01-01-en.pdf">https://www.mnb.hu/letoltes/mnb-torveny-2016-01-01-en.pdf</a>	Magyar Nemzeti Bank ( <i>Hungarian Central Bank</i> )	–
Ireland	Central Bank Reform Act 2010	<a href="http://www.irishstatutebook.ie/eli/2010/act/23/enacted/en/print.html">http://www.irishstatutebook.ie/eli/2010/act/23/enacted/en/print.html</a>	Central Bank of Ireland	–

Italy	Testo Unico Bancario ( <i>Consolidated Law on Banking</i> )	<a href="https://www.bancaditalia.it/compiti/vigilanza/intermediari/Testo-Unico-Bancario.pdf">https://www.bancaditalia.it/compiti/vigilanza/intermediari/Testo-Unico-Bancario.pdf</a>	Banka d'Italia ( <i>Bank of Italy</i> )	–
Latvia	Likums Par Latvijas Banku ( <i>Law on the Bank of Latvia</i> )	<a href="https://likumi.lv/ta/en/en/id/326575">https://likumi.lv/ta/en/en/id/326575</a>	Latvijas Banka ( <i>Bank of Latvia</i> )	–
Lithuania	Lietuvos Respublikos Lietuvos banko įstatymas ( <i>the Republic of Lithuania Law on the Bank of Lithuania</i> )	<a href="https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/deec9240f0dc11ecbfe9c72e552dd5bd?jfwid=-ddwmerwu3">https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/deec9240f0dc11ecbfe9c72e552dd5bd?jfwid=-ddwmerwu3</a>	Lietuvos bankas ( <i>Bank of Lithuania</i> )	–
Luxembourg	Loi du 1er avril 2015 portant création d'un comité du risque systémique et modifiant la loi modifiée du 23 décembre 1998 relative au statut monétaire et à la Banque centrale du Luxembourg ( <i>The Law of 1 April 2015 establishing the Systemic Risk Board and amending the Law of 23 December 1998 concerning the monetary status and the Luxembourg Central Bank</i> ); Loi du 5 avril 1993 relative au secteur financier telle ( <i>Law of 5 April 1993 on the financial sector</i> )	<a href="https://www.cssf.lu/wp-content/uploads/L_010415_SRC.pdf">https://www.cssf.lu/wp-content/uploads/L_010415_SRC.pdf</a> ; <a href="https://www.cssf.lu/wp-content/uploads/L_050493_lfs.pdf">https://www.cssf.lu/wp-content/uploads/L_050493_lfs.pdf</a>	Comité du risque systémique ( <i>Systemic Risk Committee</i> ), and Banque Centrale du Luxembourg ( <i>Bank of Luxembourg</i> ), Commission de Surveillance du Secteur Financier ( <i>Financial Supervisory Authority</i> )	<i>Systemic Risk Committee</i> : analysis, recommendation, warning; <i>Bank of Luxembourg</i> : analysis, monitoring; <i>Financial Supervisory Authority</i> : macro-prudential tools
Malta	Att dwar ilBank Ċentrali ta' Malta ( <i>Central Bank of Malta Act</i> )	<a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=8713&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=8713&amp;l=1</a>	ilBank Ċentrali ta' Malta ( <i>Central Bank of Malta</i> )	–



Poland	w życie ustawa o nadzorze makroostrożnościowym nad systemem finansowym i zarządzaniu kryzysowym w systemie finansowym ( <i>Act on macroprudential supervision over the financial system and crisis management</i> )	<a href="https://nbp.pl/wp-content/uploads/2022/10/eng_act_on_macroprudential_supervision.pdf">https://nbp.pl/wp-content/uploads/2022/10/eng_act_on_macroprudential_supervision.pdf</a>	Komitet Stabilności Finansowej ( <i>Financial Stability Committee</i> ) (Minister of Finance)	<i>Financial Stability Committee</i> : analysis, monitoring, recommendation, warning, macro-prudential tools; <i>Minister</i> : special macro-prudential tools
Portugal	Lei Orgânica do Banco de Portugal ( <i>Organic Law of Banco de Portugal</i> )	<a href="https://www.bportugal.pt/sites/default/files/anexos/legislacoes/statute_banco_de_portugal.pdf">https://www.bportugal.pt/sites/default/files/anexos/legislacoes/statute_banco_de_portugal.pdf</a>	Banco de Portugal ( <i>Bank of Portugal</i> )	–
Romania	Legea nr. 12/2017 privind supravegherea macroprudențială a sistemului financiar național ( <i>Law No. 12/2017 on the macroprudential oversight of the national financial system</i> )	<a href="https://www.cnsmro.ro/en/despre/cadru-juridic/legea-122017/">https://www.cnsmro.ro/en/despre/cadru-juridic/legea-122017/</a>	Comitetul Național pentru Stabilitate Financiară ( <i>National Committee for Financial Stability</i> )	–
Slovakia	Zákon č. 483/2001 Z. z. o bankách a o zmene a doplnení niektorých zákonov v znení neskorších predpisov ( <i>Act No 483/2001 on banks</i> )	<a href="https://nbs.sk/en/legislation/laws-within-the-nbs-competence/">https://nbs.sk/en/legislation/laws-within-the-nbs-competence/</a>	Národná banka Slovenska ( <i>Bank of Slovakia</i> )	–
Slovenia	Zakon o bančništvu (Banking Act); Zakon o makrobonitetnem nadzoru finančnega sistema ( <i>Macro-prudential Supervision of the Financial System Act</i> )	<a href="https://www.bsi.si/financna-stabilnost/predpisi/seznam-predpisov/zakoni-direktive-in-uredbe">https://www.bsi.si/financna-stabilnost/predpisi/seznam-predpisov/zakoni-direktive-in-uredbe</a>	Odbor za finančno stabilnost ( <i>Financial Stability Board</i> ); Banka Slovenije (Bank of Slovenia)	<i>Financial Stability Board</i> : macro-prudential tools; Bank of Slovenia: analysis, monitoring, collecting information

Spain	Royal Decree 102/2019 of 1 March 2019 creating the Spanish macroprudential authority (AMCESFI), establishing its legal regime and implementing certain aspects relating to macroprudential tools.	<a href="http://www.bde.es/bde/en/areas/estabilidad/La_inestabilidad/">http://www.bde.es/bde/en/areas/estabilidad/La_inestabilidad/</a>	Autoridad Macroprudencial Consejo de Estabilidad Financiera (Macroprudential Authority Financial Stability Council); Banco de España (Bank of Spain); Dirección General de Seguros y Fondos de Pensiones (Director General of Insurance and Pension Funds); Comisión Nacional del Mercado de Valores (National Securities Market Commission)	<i>Macroprudential Authority Financial Stability Council:</i> analysis, recommendation, warning; <i>Bank of Spain and the supervisory authorities:</i> macro-prudential tools
Sweden	Lag (1991:936) med anledning av Finansinspektionens inrättande ( <i>Act on Financial Supervisory Agency</i> )	<a href="http://rkrattsbaser.gov.se/sfsr?bet=1991:936">http://rkrattsbaser.gov.se/sfsr?bet=1991:936</a> (Swedish version only)	Finansinspektionen ( <i>Financial Supervisory Authority</i> )	–
the Netherlands	Bankwet 1998 (Act on Banking)	<a href="https://www.dnb.nl/media/qv0fkfyw/bankwet-1998-versie-1-juli-2023-engels.pdf">https://www.dnb.nl/media/qv0fkfyw/bankwet-1998-versie-1-juli-2023-engels.pdf</a>	Financieel Stabieliteitscomité ( <i>Financial Stability Committee</i> ); De Nederlandsche Bank (Bank of the Netherlands)	<i>Financial Stability Committee:</i> analysis, recommendation, warning; <i>Bank of Netherlands:</i> macro-prudential tools