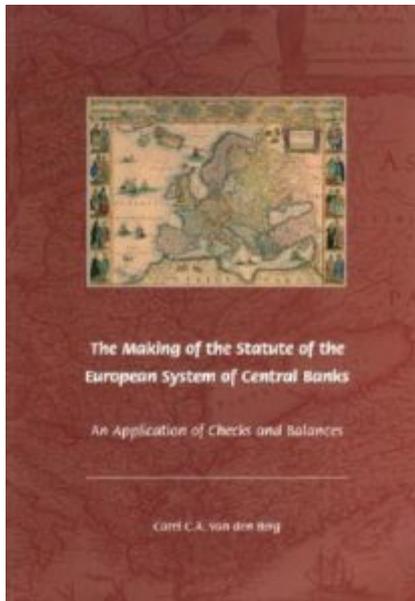


# The Making Of The Statute Of The European System Of Central Banks

## ~ Preface



This study explores the genesis of the most important parts of the Statute of the European System of Central Banks (ESCB). This genesis and a comparison with the national central bank laws at the time of the drafting of the ESCB Statute can contribute to a better interpretation of the ESCB Statute and therefore a better understanding of the functioning of the ESCB. This is a first study covering in full detail the genesis of the ESCB Statute.

The study also shows the significant influence which the governors of the central banks have had on the design and formulation of the statute by comparing the texts of the Delors Report (April 1989) up till the final outcome of the Intergovernmental Conference (IGC) in December 1991. The governors' text went almost unscathed through the IGC process, especially because the governors had appreciated from the beginning the importance of incorporating checks and balances in the draft ESCB Statute.

The governors knew the European central bank had to be both independent and accountable. This study shows independence and accountability are not opposites, but they are complementary to make for a balanced system of checks and balances. In this sense the study purports to contribute to the increasing amount of literature on central bank independence.

The governors were also careful in designing a balanced internal structure, i.e. they opted for a federal system within which neither the new European Central Bank nor the existing national central banks would be dominant.

To be more specific the study is, like Gaul, divided into three parts: the first covering the ESCB's external relations, the second covering the intra-system

relations between the ECB and the NCBs, and the third covering the internal relations within the Governing Council (i.e. between the Executive Board and the national central bank governors).

The study is based on publicly available documents. Some new material has been made available for research purposes, including the draft versions of the Delors Report. The study is basically an intertextual and chronological comparative analysis. Comparisons with the Federal Reserve System are also included, as the FRS is also a federally structured central bank system and because the Federal Reserve Act is full of checks and balances.

When I came back to the Nederlandsche Bank in 1989 after having lived a few years in the United States I found that important developments had taken place in Europe. For instance the Delors Report had been written and the Heads of State had decided to embark on a road which would possibly lead to Monetary Union. I was fortunate enough to get involved in the further process leading to the conclusion of the Treaty of Maastricht in December 1991. I was closely involved in preparing the discussions held in the Committee of Governors of the Central Banks of the Member States of the European Communities on the draft ESCB Statute.

In those days Wim Duisenberg was president of the Nederlandsche Bank and André Szász, board member for international affairs, was his Alternate. Subsequently I attended most of the Intergovernmental Conference meetings at the deputy level as a member of the Dutch delegation as well as most meetings of the EMU Working Group, which was a drafting working group reporting for the deputies.

This study would not have been possible without Dr André Szász, who made available for research purposes all draft versions of the articles of the Statute (and Treaty where relevant), starting from the draft versions of (and discussions leading up to) the Delors Report. Special thanks are due to him, and also to Jacques Delors for welcoming the purpose of this study.

A hindrance for the writer could have been his close involvement in the issue being studied. This hindrance was overcome by relying on the subsequent draft versions of the Delors Report and the articles of the ESCB Statute, which are 'neutral' documents, and by cross-checking possibly personally tainted experiences with other sources and publicly available material.

This book would never have been realized without the never-ending support of

Rodetta Noordwijk, who typed the several revisions, corrected the lay-out and gave me the idea that this large manuscript was manageable. I also relied much on the continuous and expedient assistance of persons working in the archives and library of the Nederlandsche Bank, of whom I want to mention especially Joop van Bakel. My indebtedness also extends to those colleagues of the national central banks (and some of them in the meantime of the European Central Bank) with whom I discussed parts of this work and who encouraged me.

Special mention deserves the support of my promotor, Age Bakker, discussions with whom in the period 2000-2003 helped improve the structure of the book, and the guidance of my co-promotor, Hans Visser, whose immense knowledge of economic literature was of large value to me.

Inexpressible gratitude goes to Nynke, my wife, and Mees, my son, who had to suffer, if not physical than at least mental absence during the last two years when work became intensive.

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#### *Preface to commercial edition*

This book is the commercial version of the dissertation defended and approved at the Free University of Amsterdam on 29 October 2004.

After the dissertation was distributed on a limited scale, it appeared there was wider interest for the book from practitioners (economists, economic historians and legal experts) and those in academic circles. Therefore, I decided to issue a commercial version. The difference between the dissertation and commercial version is limited to some minor revisions and corrections.

*November 2004*

#### *Preface to digital version edition*

The digital version of the book contains small corrections, some factual updates and some comments. Opinions remain those of the author. The additions have been marked in italics to make them recognizable. Renewed interest in the functioning of EMU and continued interest in other regions to move towards more economic and monetary integration lends great importance to the legislative history of the Statute of one of the most important central banks of the world.

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