

ppi 201502ZU4645

Esta publicación científica en formato digital es continuidad de la revista impresa
ISSN-Versión Impresa.0798-1406 / ISSN-Versión on line 2542-3185 Depósito legal pp
197402ZU34

CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia
Maracaibo, Venezuela



Vol.39 | N° 69

Julio
Diciembre
2021

Current Directions of Legal Ensuring National Security

DOI: <https://doi.org/10.46398/cuestpol.3969.23>

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Abstract

The article reveals the problematic issues for ensuring financial security in the context of globalization in global financial systems. The modern stage of development of state financial systems is characterized by difficulties in ensuring national financial security. Despite the urgency of this problem, the international community is focusing on ensuring economic security during the formation of universal and regional legal instruments, leaving out of sight issues of legal and practice-oriented guidance in financial security. The article examines the main directions of implementation of state policy aimed at improving the effectiveness of legal and national and international means to ensure financial security in the context of the globalization of growing threats to economic security. The focus is on the modernization of legal instruments to regulate public relations related to financial security. Particular attention was paid to the correlation of international legal bases, national legislation, and regional laws. It is concluded that the development of state financial policy that guarantees the security of the budgetary system is fundamental.

Keywords: international legal acts; financial security; legal policy; financial policy; financial systems.

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Directrices actuales para garantizar la seguridad nacional

Resumen

El artículo revela las cuestiones problemáticas para garantizar la seguridad financiera en el contexto de la globalización en los sistemas financieros mundiales. La etapa moderna de desarrollo de los sistemas financieros estatales se caracteriza por las dificultades para garantizar la seguridad financiera nacional. A pesar de la urgencia de este problema, la comunidad internacional se centra en garantizar la seguridad económica durante la formación de instrumentos jurídicos de carácter universal y regional, dejando fuera de la vista las cuestiones relativas a la orientación jurídica y orientada a la práctica en la esfera de la seguridad financiera. El artículo examina las principales direcciones de implementación de la política estatal destinada a mejorar la eficacia de los medios legales y nacionales e internacionales para garantizar la seguridad financiera en el contexto de la globalización de las crecientes amenazas a la seguridad económica. La atención se centra en la modernización de los instrumentos jurídicos para regular las relaciones públicas relacionadas con la seguridad financiera. Se prestó especial atención a la correlación de los fundamentos jurídicos internacionales, la legislación nacional y las leyes regionales. Se concluye que el desarrollo de la política financiera estatal que garantice la seguridad del sistema presupuestario es fundamental.

Palabras clave: actos jurídicos internacionales; seguridad financiera; política jurídica; política financiera; sistemas financieros.

Introduction

The relevance of the task to ensure financial security of states is predetermined by the current conditions for globalization in the world economy, formalization of state borders in the international system of capital movement. It is external threats and challenges that have a negative impact on national economies. The conditions for strengthening economic imbalance at present are formed by the preservation of financial and trade restrictions and unfavorable external economic conditions. The problems of low level in the legal culture and financial literacy among the population create the necessary basis for the implementation of fraudulent activities that undermine people's confidence in the public authorities predetermining the increase of social tension and anxiety in society. In this connection, the state of international, interstate and national financial security deserves attention and assessment, taking into account development trends of the

world economy in a polycentric world and constantly changing international life (Avdeev *et al.*, 2020).

Consideration for financial security from the perspective of international financial relations shows the interrelation and interaction among the following elements: 1) financial and external economic security of national economies; 2) financial security of large economic and legal unions and groups (Customs Union of Belarus, Kazakhstan and Russia, European Union); 3) financial security as counteraction to key modern threats, challenges and negative trends at the global world level. The assessment of global financial stability is done from the standpoint of stable performance in the international financial system, which ensures effective resource allocation, financial risk management and price flow for financial and real assets, and the maintenance of natural employment. This approach ensures that destabilization of real and financial markets are excluded. Insufficient level of international financial security causes formation of capital outflow, reduction of investment volumes and increase of distrust of population to the national financial system which forms conditions for stagnation of state economy (Afanasyeva, 2006).

The system of international financial security, having a complex structure, includes spheres of international financial relations. The main components of this system are the following types of international security: debt, currency, investment and monetary. International financial security also includes budget security of the participants, security of the international banking sector, stock market security and international insurance market security.

International financial security has a direct impact on the security in this area of each state in the world. Financial security of the country is recognized as an integral part of its economic security. Financial security is primarily the security of all sectors in the state economy.

Threats to international financial security are factors that hinder or pose a threat to the realization of international financial and economic interests. The main threats are considered to be: a) deterioration of the conditions for the development of the world economy; b) unfavorable consequences of making financial decisions without international coordination; c) aggression in the financial and economic sphere in one of the countries.

The key modern threats to international financial security are the following: the probable emergence of the global financial crisis; uncontrolled growth of sovereign debts; deepening of financial problems within the European Union; high volatility of financial markets; uncertainty regarding the state of some areas in the global financial system; dynamics of prices on stocks, metals and oil; problematic issues of credit contraction in the banking systems for some countries; deteriorating credit ratings of countries; lack

of liquidity in the dynamism of the modern world order is characterized by the polycentric character of developing financial relations in the context of globalization. A new stage of development in the world economy that determined the influence of world financial systems on the state of financial system for each state caused changes in their qualitative level. In this connection, the problem of negative reflection in the mentioned process, first of all, on financial systems of insufficiently economically developed countries is brought up to date. Accordingly, the issues of ensuring financial independence for the most vulnerable states, characterized by a low level of economic development and difficulties in entering the world market as a full-fledged partner, should be addressed.

However, it should be borne in mind that the emerging financial relations are proprietary and powerful. It is the financial system that determines the welfare and well-being of society, the level of confidence for the country's population in the actions of this system (Avdeev, 2013b). As a consequence, it becomes necessary and expedient to adequately protect the financial system and create favorable conditions for its functioning. Efficient functioning of financial markets and accumulation of financial resources within a budgetary system that would ensure functioning of the mechanism for social and economic policy should be taken into account.

It should be said that financial security has a special place in the system of economic security of the country. This is confirmed, in particular, by the high level of influence for economic phenomena and processes on the financial system and financial activities of the state. This impact gets the most vivid expression in conditions of formation for contradictions and crisis phenomena in economy. The fact is that every economic initiative and every economic project implemented by the state requires financing.

Large-scale economic crises have made it necessary to protect the financial security of countries. As a consequence, each state forms its own normative-legal base of financial security. As a rule, new or updated strategic directions of ensuring national security, an integral element of which is recognized as an independent type - financial security, are subject to implementation.

1. Financial security in the system of national security

Financial security is characterized by the state of the state's financial system, characterized by a high level of stability, integrity, competitiveness, development which guarantees an obligatory basis for the implementation of socio-economic policies to ensure national security. Financial security is expressed in the prevention of: a) the direction of financial flows outside the country; b) conflicts and confrontations between state bodies regarding

the allocation of resources in the country's budget system; c) minimizing the impact of global crises. Financial security guarantees the stability of economic and financial parameters (Ivanov *et al.*, 2016). The prevention, suppression and prevention of crimes in the financial sphere is of no small importance.

Understanding financial security implies understanding the financial system interacting with this type of security. The financial system should be considered in the context of: 1) a set of target funds; 2) related to their functioning public relations; 3) structures providing the implementation of state financial relations. Consequently, it seems logical to conclude that the understanding of financial security cannot be limited to the activities of special services and law enforcement agencies. On this basis, it is worth noting that financial security is an integral qualitative characteristic of the state financial system, reflecting its ability to maintain the necessary conditions for the life of society, the population, etc.

Financial security from the point of view for state authorities is the ability to perform assigned duties and functions including the prevention of financial crimes and offenses. The prevention and prevention of money laundering and other property obtained by criminal means deserves close attention in this connection.

It should be noted the special role of financial security in the implementation in the state financial policy corresponding to the national interests. Financial security contributes to the formation of the necessary and sufficient amount of funds to be distributed in the performance of tasks and functions that ensure the goals set by the state. On this basis, it should be concluded that financial security is an integral part of economic security, based on the competitiveness, independence and efficiency of the financial system (Levina *et al.*, 2017). The criteria for the state in the financial system indicators are the availability of the necessary resources, the balance of the finances of private and public entities. Among modern threats to financial security, threats of internal and external nature deserve close attention. Internal threats are: a) insufficiently effective economic and financial policy; b) incorrect determination of strategies and tactics for ensuring economic and financial security; c) miscalculations of governing bodies; d) abuse of power in the management of the country's financial system. External threats are recognized as: 1) global growth on a global scale of the modern financial system; 2) inclusion in the world economy of developing states; 3) the rapid increase in the mass of capital.

Modern problems of national financial security have a negative impact on state economic growth and ongoing transformations in the economy, negatively affecting the further development of foreign economic and trade activities, acting as an obstacle to the modernization and development of insurance, financial and budgetary spheres.

Domestic financial security is complemented by the financial security of enterprises, revealing the conditions for the effective use of financial resources to prevent the threat and stabilize their functioning. Financial security implies the state of the firm which provides protection from the adverse effects of competitors. In this regard, the following segments of the financial security system should be distinguished - fiscal, credit-banking and monetary-currency.

2. Mechanism of legal support for financial security

The mechanism for implementing the financial security of states is complex and multifaceted. The purpose of financial security is the ability of financial institutions to create mechanisms for the protection and implementation of public funds, the formation of the necessary and sufficient economic potential and financial conditions to preserve the integrity and unity of the national financial system including under negative internal and external influences.

The key task in ensuring financial security is to control the distributed state financial flows, understood as the movement of objects with state property rights or elements of state property, including the sources of their formation, estimated in value terms. A prerequisite for ensuring financial security is the formation of a single information system that controls various stages of the budget process, provides the detection and prediction of external and internal threats and risks. Given the suggested informational basis, a set of measures to protect the state financial sphere, ensuring effective legal regulation of financial flows, is subject to development (Levina *et al.*, 2017). The required level of control involves the implementation for the principle of information disclosure, providing for strict reporting on the use of public financial resources. It is the proper control and accounting in the regulation for financial flows that predetermines the basis of financial security.

Updating the content in modern conditions of financial flows determines the development in the formation of a new economic situation associated with the renewal to regulate the function of global cash flows. The complexity of control is characterized by financial transnational transactions. In this regard, the problem of turning a financial organization into a link in the implementation of criminal activities becomes urgent. As a consequence, it is logical to propose the internationalization for the activities of law enforcement agencies in different countries as a measure to counteract the globalization of financial crimes. An exchange of received information about forthcoming and committed crimes between financial security and financial intelligence units looks promising (Goldfrank, 2000). The main direction of law-enforcement activity should be: 1) unification in the system

of standards for the bank's customer survey, primarily in the direction to identify individuals; 2) archiving of identified customer data and completed banking transactions; 3) focus on large transactions which cause suspicion; 4) informing financial security units about suspicious banking operations performed.

International legal support of financial security of the states is based on the normative legal acts, which generally provide economic security. Economic and social rights are guaranteed by the international community in the framework of international normative legal acts, ratified by the states. Among international documents of universal character, the following deserve attention: the Convention on Employment Policy in 1964, the Declaration on Social Progress and Development in 1969, the Declaration on the Rights of Mentally Retarded Persons in 1971, the Universal Declaration on the Eradication of Hunger and Malnutrition in 1974, the Charter of Economic Rights and Duties of States in 1974, the Declaration on the New International Economic Order in 1974, Program of Action on the Establishment of a New International Economic Order, 1975 Declaration on the Use of Scientific and Technological Progress for Peace and the Benefit of Mankind, 1975 Declaration on the Rights of Persons with Disabilities, 1979 UN General Assembly Resolution "Consolidation and Progressive Development of the Principles and Rules of International Law Relating to the Legal Aspects of the New International Economic Order", UNCTAD Resolution on "Non-coercive Economic Measures" 1983, UN General Assembly Resolution on "Economic Measures as a means of political and economic coercion against developing countries" 1983, UN General Assembly Resolution on "Confidence Building Measures in International Economic Relations" 1984, UN General Assembly Resolution on "International Economic Security" 1985, UN General Assembly Resolution on "International Economic Security" 1987, Convention on the Promotion of Employment and Protection against Unemployment 1988, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990.

The national economies of states are an integral part of the modern world economy. Ensuring the economic security of countries is recognized as a complex and multilevel problem. Achievement of the goal to ensure economic security implies a complex solution of tasks for economic and legal nature using the means of international law and national legislation.

Despite the international community's resolution to a number of complex issues regarding economic security and other types of security that are part of its content, the complexity in international legal guarantees of the financial security for states remains. The problem is that the international legal provision of financial security for the status represents obvious difficulties caused by the lack of the necessary provision for the

budgetary sovereignty for countries. In the modern period, there is no effective mechanism to prevent the adverse effects for updated forms of international financial activity.

Interconnection and interaction of the world community indicate a certain degree of dependence in the global financial system on the stability in the state financial systems. Currently, the key direction of the transformation in the global financial system is recognized as financial stabilization, which determines the balance of all sources for financial development without exception (Avdeev and Avdeeva, 2014). Each state, seeking to deepen international cooperation, should take into account both positive changes in the national financial system and negative consequences caused by new challenges and threats.

The BRICS countries, seeking to enhance interconnectivity, cooperation and coordination in their activities, pay special attention to financial security issues, with a focus on countering terrorism and money laundering. One of the goals for BRICS is to promote development, prosperity and security in an interconnected and cooperating multipolar world. Projects in the field of information exchange on ensuring information and financial security should be implemented. Attention should be given to modernizing the international mechanism for the recovery and confiscation of criminal assets.

International legal support of financial security presupposes the formation of an appropriate legal and regulatory framework. In this connection, the establishment of the International Financial Stability Forum on the basis of the Financial Stability Forum on 02.04.2009 deserves a positive assessment. The International Financial Stability Board that adopted a number of documents important for financial and legal regulation should be commended. Noteworthy among these documents are Program Measures of Regulating Systemically Important Financial Institutions. Within the framework of these measures, the financial-credit institutions are to be defined as financial companies, the bankruptcy of which leads to a decline in economic activity and the financial system.

To prevent the negative consequences of bankruptcy, it is advisable to directly finance financial and monetary organizations, which negatively affects public finances. On this basis, the following recommendations of the Council on the Regulation of Credit and Monetary Institutions are actualized: 1) establishing requirements for planning rehabilitation in the event of bankruptcy and preliminary assessment for the probability of bankruptcy in this organization; 2) establishing conditions on the increased capital of these organizations; 3) introducing and ensuring a more thorough supervision of organizations; 4) giving regulators the necessary and sufficient powers and resources to streamline the liquidation of credit institutions.

However, the regulation of interstate financial relations provides for a somewhat different status of the Financial Stability Board. The proposed format of discussing complex issues and making decisions excludes the possibility of developing and implementing general recommendations in the area of financial security (Kartashkin and Lukasheva, 2002). Without the status of an international intergovernmental organization, the Council does not allow each state to influence its decisions by exercising control over its activities.

Crisis phenomena in the economy, sanctions from various states cause the following list of threats to financial security: a) high level of dependence on a number of countries; b) inability of the state financial system to respond timely and adequately to emerging risks and threats. The observed negative trends in the financial sphere complicate the implementation of necessary economic domestic transformations, precluding stable growth of the economy, affecting the economic activity of the country in a negative way.

Establishment and functioning of banks in advanced economies envisage a developed and effective supervising system which guarantees stability of their activities for a relatively long period of time. Of special importance in this case is a regular control over financial activities of banks.

Policies to assure national security and socio-economic development are conducive to realization of strategic national priorities and effective protection of national interests. In modern conditions a sustainable basis for further building of economic, political and spiritual potentials is to be created increasing the role of countries in the emerging polycentric world.

Each state should be aimed at demonstrating its ability to ensure independence, sovereignty, state and territorial integrity, the rights protection of compatriots abroad. The increasing role of countries in solving complex international problems, ensuring strategic stability and the rule of international law in inter-state relations, resolving military conflicts deserves attention. The domestic economy should demonstrate the ability to strengthen and preserve national potential under conditions of instability in the global economy and the application of restrictive economic measures imposed by a number of countries. The implementation by a number of countries for independent domestic and foreign policy is often accompanied by opposition from the superpowers, members of various political and economic blocs and their allies, seeking to maintain their dominance in world affairs (Avdeev *et al.*, 2016). The result is a policy of containment which includes economic, political, informational and military pressure.

Regional and global instability is a negative consequence of the formation and development of a new polycentric model in the world order. The contradictions associated with the unevenness of the world development,

the struggle for resources, the deepening gap between the levels of welfare for states, control over the transport arteries and access to markets are exacerbated. The world's demographic situation is becoming more complex, food security and environmental problems are becoming more acute. The consequences of climate change are evident in the growing scarcity of fresh water. Epidemics and pandemics are spreading, in particular due to new, previously unknown viruses.

Increasing interstate competition largely encompasses models and values of societal development and technological, scientific and human potentials. The struggle for leadership in the development of Arctic and ocean resources deserves close attention. In this case, the whole range of financial, economic, political and informational tools is to be used including a high probability for using the potential of special services.

The increasing influence of political factors on economic processes, as well as the desire of some countries to use economic methods, tools of trade, financial, technological and investment policy to solve their own geopolitical tasks have a negative impact on the stability of the system in international economic relations (Avdeev, 2013a). Considering the structural imbalances in the financial system and world economy, increasing sovereign debts, volatility of the energy resources market, the risk of new large-scale financial and economic crises remains high. As a response to growing international instability, states become responsible for affairs in their own regions. Regional and subregional trade and other economic agreements serve as the most important safeguards against crises. Interest in the use of regional currencies is growing. To prevent threats to national security, countries focus on efforts to strengthen the internal unity of society, interethnic harmony and religious tolerance, ensure social stability, eliminate structural imbalances in the economy and its modernization, and improve national defense capabilities.

Protecting national interests requires a pragmatic, rational and open foreign policy that rules out economically unjustified and quite costly interstate confrontation. International relations must be based on the principles of international law, equal and reliable security of countries, mutual respect of peoples, preservation of the diversity for their cultures, traditions and interests. Each state should be interested in the development of equal and mutually beneficial trade and economic cooperation with foreign countries, acting as a responsible member of the multilateral trading system. The goal is to acquire a significant number of equal partners in different parts of the world (Sergevnin *et al.*, 2015). Among the national interests within the framework of the implemented social and legal policy the following directions deserve close attention, related to the improvement of the life quality, competitiveness of the national economy, consolidation of the status of countries, whose activities are aimed at maintaining mutually

beneficial partnership relations and strategic stability in a polycentric world. Improving the life quality of people provides for the development of human potential, satisfaction of spiritual, material and social needs, reducing the level of property and social inequality of the population primarily through the growth of their income.

Conclusions

The analysis of the international and national foundations for ensuring financial security indicates the feasibility of further scientific developments with an interdisciplinary nature, expanding and deepening the traditional methodology. The obtained scientific results seem to be consistently used in the formation for scientific foundations of financial security which should be placed in the basis of international, interstate and national legal regulation of financial relations. It is logical to use doctrinal inter-branch achievements for the legislative registration of the legal framework for ensuring financial security of each state, taking into account the inherent socio-economic, political and legal, cultural, religious and other characteristics.

The development and implementation of state financial policy that ensures the safe development of the budget system, banks, national currency, foreign investment and etc. is of fundamental importance. Scientifically substantiated proposals for the implementation of the state-legal financial policy to counter external and internal threats are of practical importance. In this regard, the activities of state and local authorities should be consolidated to achieve the established objectives, issues and tasks in the field of economic and financial security of the state. Attention should be paid to maintaining the real sector of the economy, maintaining the stability and stability of the macroeconomic situation, improving the quality of economic management, neutralizing the impact of global financial crises, and ensuring the stability of the financial system.

The efficiency of state asset management should be improved. Inefficient budget expenditures and related costs should be reduced. The activity of law enforcement bodies in the sphere of combating financial crime including corruption, embezzlement and misuse of public funds should be intensified.

Special attention should be paid to strengthening the financial system, ensuring its sovereignty, stability of the national currency, optimization of currency regulation and control, reducing inflation, development of the national financial market infrastructure, reducing bank rates, increasing the level of direct investment, access to credit, attracting domestic savings, deoffshorization of the economy, the return of national capital and reducing the volume of its export abroad. A balanced budget system and modernization of inter-budgetary intra-state relations are of no small importance. Among

the components of ensuring stability in the financial system, the following deserve close attention: normalization of settlement relations and financial flows, maintaining the proper level of budget deficit, stability of the national currency and banking system, reducing the balance of payments deficit, internal and external public debt, providing the necessary conditions for the intensification of investment activity, the degree of protection for the securities market and the interests of depositors.

Every state counts on financial independence and sovereignty taking into account international normative and legal acts. In order to solve this task, measures in the sphere of foreign and domestic policy, aimed at strengthening financial security, are being developed and implemented. To ensure financial security contribute: a) reduction of costs and inefficient budget expenditures, combating corruption, theft and misuse of public funds; b) increasing the efficiency of management with state-owned financial and other assets; c) ensuring sovereignty, strengthening the national currency and state financial system; d) optimization of control and currency regulation, reduction of inflation, development of financial regulation measures. Ensuring budgetary and monetary security of the EAEU member states requires a focus on the protection and security of national budgetary and monetary sovereignty, based on current trends of external aggression in the monetary and credit plan by the U.S. Federal Reserve System.

Acknowledgements

The article was prepared in the course of the Scientific school “Scientific support of the effectiveness of the implementation of modern criminal law policy (taking into account the criminological characteristics of the northern region)” of research of the federal state budgetary educational institution of higher education “Ugra State University” (Khanty-Mansiysk, Autonomous Okrug–Yugra).

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CUESTIONES POLÍTICAS

Vol.39 N° 69

*Esta revista fue editada en formato digital y publicada en julio de 2021, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

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