

Contents

Abbreviations.....	12
Preface	15
Introduction.....	17

I

The Two Domains of the EU Financial Law

1. Financial Regulations of the European Union Law	23
2. Internal Financial Law of the European Union	25
3. External Financial Law of the European Union	26

II ✓

Monetary Regulations and the European System of Central Banks

1. History and the Current State of the Economic and Monetary Union	28
1.1. The Origin and Phases in the Creation of the Economic and Monetary Union.....	28
1.2. Monetary Convergence Criteria and the Rules of Entry into the Euro Zone.....	31
1.3. The Consequences of Staying Outside of the Euro Zone by a Member State	33
1.4. The Growth and Stability Pact. Programs for Stability and Programs for Convergence	37
2. Euro as a Currency of the European Union.....	40
2.1. Legal Basis for the Introduction of Euro.....	40
2.2. The Functions of Euro and its Scope of Application.....	42
3. Notions of the Monetary Law Implementing the Principle of the Free Movement of Payments	43
3.1. The Electronic Payments.....	43

3.2. Cross-Border Payments	45
3.3. Distance Financial Services.....	45
3.4. Combating Money-Laundering.....	46
4. The European System of Central Banks.....	47
4.1. The Legal Basis of the Establishment and Organisation of ESCB	47
4.2. The Aims and Tasks of ESCB	48
4.3. The European Central Bank	49
4.3.1. The Legal Status of ECB.....	49
4.3.2. The ECB Bodies	51
4.3.3. The ECB Aims and Types of Powers	53
4.3.4. The ECB Legislative, Consultative and Advisory Powers	54
4.3.5. The ECB Monetary and Currency Powers	56
4.3.6. The ECB Competence Regarding Banking Supervision.....	59
4.4. The Legal Status of the National Central Banks before and After the Entry into the ESCB.....	60
5. Other Institutions	62
5.1. The European Investment Bank and the European Investment Fund	62
5.2. The Economic and Financial Committee	63
5.3. The European Banking Committee	64
5.4. The Committee of European Banking Supervisors.....	64
5.5. The Committee on Monetary, Financial and Balance of Payments Statistics Bibliography	65

III

Internal Finance of the European Union

1. Expenditure of the European Union	66
1.1. The Sources of Expenditure <i>vis-à-vis</i> the Changing Aims and Tasks of the European Union.....	66
1.2. Types of Expenditure	68
1.3. Legal Forms of Expenditure	71

1.4. The Structure of Expenditure	73
2. The Revenue of the European Union.....	76
2.1. Own Resources of the European Union.....	76
2.2. The Principle of Concentration of Revenue of the European Union in a Budget.....	76
2.3. The Catalogue and Structure of Budgetary Revenue of the European Union.....	77
2.4. The Problem of Own Resources <i>vis-à-vis</i> the Financial Autonomy of the European Union.....	87
3. Multi-Annual Financial Programming and Planning in the European Union	92
3.1. Experience and Practice (Agenda 2000, The Lisbon Strategy)	92
3.2. Legal Basis for a Long-Term Financial Planning (Financial Framework) ...	94
3.3. The Financial Framework for 2007–2013	103
4. The Protection of the Financial Interests of the European Union	103
Appendices.....	107
I – Annual Appropriations for 2007–2013.....	107
II – Financial Framework. Criteria and Methodology.....	107
III – The Ceilings on Co-financing	114
IV – Expenditure by Category.....	115

IV

The Budget of the European Union

1. Legal Basis	118
2. The Concept, the Scope and Legal Nature of the Budget of the European Union.....	119
3. The Budgetary Principles	121
3.1. The Catalogue of Principles	121
3.2. The Principle of General Application.....	122
3.3. The Principle of Universality.....	122

3.4. The Unity and the Budget Accuracy Principle	122
3.5. The Principle of Financial Autonomy	123
3.6. The Principle of Equilibrium	123
3.7. The Annuality and the Budgeting Before Spending Principle	124
3.8. The Principle of Specification	126
3.9. The Budgetary Discipline Principle (Stability Principle)	127
3.10. The Provisional Twelfths System	129
3.11. The Principle of Sound Financial Management	129
3.12. The Principle of Control of Budget Implementation and the Principle of Accountability for Budget Implementation	129
3.13. The Principle of Unit of Account	130
3.14. The Transparency Principle	130
4. Budgetary Procedure	131
4.1. Drafting a Budget	131
4.2. Final Approval of the General Budget by the European Parliament	134
4.3. Amending the Budget during the Financial Year	135
4.4. Budget Implementation	136
4.5. Budgetary Audit and the Role of the European Court of Auditors	138
4.6. Budgetary Reporting and Discharge	138

V

The Funds of the European Union

1. Classification of Funds	140
2. Structural Funds	141
2.1. The Aims of Structural Funds	141
2.2. The European Regional Development Fund	142
2.3. The European Social Fund	143
2.4. The European Agricultural Fund for Rural Development	143
3. The Cohesion Fund and other Non-Structural Funds	144

3.1. The Cohesion Fund	144
3.2. The European Investment Fund.....	145
3.3. The European Union Solidarity Fund.....	146
3.4. The European Globalisation Adjustment Fund	146
3.5. The European Development Fund	147
4. The Funds for Pre-Accession Programmes	150
5. Community Initiatives	152
6. Financial Instruments	153
6.1. Financial Instrument for Fisheries Guidance.....	153
6.2. European Instrument for Neighbourhood and Partnership Instrument	153
6.3. The Stability Instrument.....	154
6.4. The Instrument for Development Cooperation.....	154
6.5. The Civil Protection Financial Instrument	155
6.6. Other Financial Instruments	155
7. EEA Financial Instruments.....	155

VI

External Financial Law of the European Union

1. The Scope.....	157
2. The System of National and Regional Accounts of the EU (ESA'95).....	158
3. Harmonisation of Calculation of Gross National Product and Gross National Income	160
4. Budgetary (Fiscal) Criteria and Their Observance in by Member States	161
5. Counteracting the Excessive Budget Deficit and Public Debt by Member States Under TEC	163
5.1. The Notion of Excessive Budget Deficit	163
5.2. Examination and Determination of Excessive Budget Deficit	164
5.3. Legal Means of the European Union Against States with Excessive Budget Deficit	167

Tax Law of the European Union

1. The Notion of Control and Harmonisation of the National Taxation Systems Within the EU (A Historical Perspective)	169
2. Harmonisation of Indirect Taxation At Present.....	176
2.1. The Value Added Tax.....	176
2.2. The Excise Tax.....	178
2.3. The Capital Gains Tax	184
3. Harmonisation of Direct Taxation At Present	185
3.1. General Remarks	185
3.2. Taxation of Parent Companies and Subsidiaries	187
3.3. Arbitration Convention	188
3.4. Taxation Relating to Mergers, Division, Restructuring, Raise of Capital, Trade of Shares Between the Member States, Moving of a Company Seat or a European Cooperative Society Seat Between the Members States	188
3.5. The Interest Tax	189
3.6. Taxation of Related Companies on Interests and Licence Revenue	189
3.7. The New Strategy of the European Commission for Direct Taxation	190
4. Administrative Co-operation of the Member States in Taxation	191

The Law of the Single Financial Market of the European Union

1. The Single Financial Market and its Special Legal Regime. General notions ..	193
1.1. The Single Financial Market and its Elements. General Notions	193
1.2. The Scope and Legal Forms of the Single Financial Market.....	194
2. Credit Institution in the Single Financial Market.....	196
2.1. The Notion of Credit Institution and its Organisational Forms.....	196
2.2. Commencement and Performance of Services by a Credit Institution	200
2.3. Supervision of Credit Institutions.....	205

2.3.1. Rules for Supervising the Credit Institutions.....	205
2.3.2. EU Instruments of Prudential Surveillance over Credit Institutions.....	206
2.3.3. The System of Guaranties and Liability of the Financial Institutions to the Customers.....	209
3. Financial Institutions on the Single Financial Market.....	210
3.1. The Notion of Financial Institutions and their Organisational Forms	210
3.2. The Uniform Principles for the Establishment, Functioning and Supervision of Financial Institutions	212
3.2.1. Insurance Institutions.....	212
3.2.2. Institutions of Public Trade in Securities	220
3.2.3. Investment Funds (Firms).....	223
3.2.4. Pension Funds	224
3.2.5. Financial Conglomerates	225
3.3. Supervision of Financial Institutions (Consolidated, Supplementary, Complementary)	225
3.3.1. Consolidated and Supplementary Supervision	225
3.3.2. Complementary Supervision	227