A Study On Central Banks And Social Responsibility: The Case Of The ESCB

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In my paper 'A Study On Central Banks And Social Responsibility: The Case Of The ESCB' ((2024) 10 *Journal of Financial Regulation* 65), I analyse whether central banks can and should have a social responsibility ('central banks' social responsibility' or 'CBSR') to play a role in social issues, and particularly regarding economic inequality. After documenting that CBSR is gaining momentum through the pull of influential actors including central banks themselves, policymakers, and the public opinion, I discuss two types of CBSR the European Central Bank ('ECB') could engage in. The moderate approach involves action based on the primary mandate, whereas use of the secondary mandate presents an 'enlarged' version of CBSR. I argue that while action based on the primary mandate is both legally possible and desirable, the 'powered' version of CBSR comes with significant legal hurdles and is most likely undesirable.

The legal background

Under Article 127 of the TFEU the ECB can engage in two types of CBSR. A lighter approach involves use of its primary mandate only. The alternative approach involves use of the secondary mandate to support, without prejudice to price stability, the general economic policies in the EU pursuing Article 3 TEU objectives: social issues would then be dealt with regardless of whether an action is strictly necessary to preserve price stability, thereby presenting an enlarged version of CBSR.

CBSR as part of the primary mandate

Action based on the primary mandate seems both legally possible and desirable. If the ECB could show that tackling a social issue is necessary to preserve the transmission mechanism of its monetary policy, then such issue could arguably be dealt with as an indirect way to advance its primary mandate. For example, excessive economic inequality might impair the transmission mechanism of the ECB's monetary policy by preventing aggregate consumption to reach the desired level. Indeed, in such scenarios, wealthy households would have low marginal propensity to consume ('MPC'), while the lower segments of the population would have a higher MPC but would arguably be unable to borrow to increase consumption due, for example, to lack of collateral. In these situations, the ECB could adopt a monetary policy measure to reduce excessive inequality: on this point, the CJEU explicitly recognizes that measures intended to preserve that transmission mechanism may be regarded as pertaining to the ECB primary objective (eg Gauweiler, Weiss).

CBSR as part of the secondary mandate

The secondary mandate could provide an additional justification for engaging in CBSR, insofar as doing so is without prejudice to price stability. Article 3 TEU includes a wide array of objectives, many of which have a clear social dimension. This begs a natural question: since the ECB cannot make autonomous economic policy decisions, can it act under its secondary mandate without opening the floodgates to policymaking? When some objectives are clearly prioritized by the EU political Institutions the case for basing monetary policy decisions on the secondary mandate is easier. This is, for example, the case of environmental protection, which the EU has clearly prioritized, including by setting specific targets and a taxonomy for sustainable activities. In the case of other social issues, however, the situation appears uncertain, as it is hard to find a very clear prioritization.

The issue is aggravated by another aspect. While the ECB may use its secondary mandate only insofar as this is without prejudice to price stability, less clear is how to know whether support to a general economic policy endangers price stability: the consequences of such support are arguably so diluted and far away in the future that their measurement could hardly be conducted with sufficient accuracy.

The desirability of CBSR

Regardless of any legal considerations, the enlarged version of CBSR is most likely undesirable. First, the use of the secondary mandate as an autonomous legal basis could make the scrutiny of the ECB's activities more challenging for the European Parliament and the public, especially in the realm of social issues, where quantitative assessments are necessarily fluid. In this scenario, striking a balance between independence and accountability would become complex: the ECB would remain largely independent, exempted from the traditional checks and balances of democratic processes and with ample powers and discretion, but with some grey zones where scrutiny might be dramatically more challenging. In turn, this might trigger pressures to review the independence regime of the ECB, similarly to what already happened amidst the waves of central banks' unconventional monetary policies, and this would be highly undesirable.

Second, it could negatively alter the public trust that the ECB enjoys: faced with a more complex mandate, the public might find it more difficult to understand what the ECB is doing and might perceive it as less likely to achieve its objectives.

Last, the recourse to an extreme version of CBSR might also unleash a 'liberalization' of the practice within the European System of Central Banks ('ESCB'). As my empirical analysis indicates, at least 11 of the 27 National Central Banks ('NCB') are mandated by their national laws or statutes to support, without prejudice to their ESCB tasks, the general economic policy of their national governments. This might lead to frictions within the ESCB: coordinated (but unharmonized) economic policies might result in uncoordinated actions—especially macroeconomic ones—as NCBs try to comply with their secondary mandates, and this might increase the frequency of orders by the ECB's Governing Council to cease the performance of such functions.

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The paper can be accessed here.

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