

Dr. Vértessy László PhD jur. PhD oec., associate professor
National University of Public Service,
Faculty of Political Sciences and Public Administration
vertesy.laszlo@uni-nke.hu
Collega XI. évfolyam 2007/2. szám

The Place and Theory of Banking Law or Arising of a New Branch of Law: Law of Financial Industries

Prologue

Since the invention of money the financial life has always made jurisprudence to think about and regulate it. The standard rules for money, capital markets and transactions have been created throughout in the whole written history. Regulations have been known from the times b. c. up to this date. In this approximation we regard Banking Law as an ancient branch of law. Nevertheless a clear and accepted theory has not been developed till our days by the jurisprudence.

In order to discuss the problem in the title expressed the purposes of this publication shall be established. This essay tries to

- show the main possibilities of placing Banking Law in the entire law system,
- give a new point of view in preparing a universal theory of this law area, and finally
- make a proposal for a new and interesting solution: Law of Financial Industries.

The intention of this writing is in connection with the first difficulties arising at the beginning of my PhD studies. I had to face two difficulties:

1) Questions and attendances

On the first PhD lessons the professors indicated interest in the themes of research of the "new generation". In relation with Banking Law three of them: a law philosopher, an EU-law specialist and a public administration professional asked the following questions: "Are there any scientific theories of Banking Law, or Financial Law?" or said approvingly "It will be a hard work, because there is not any evolved dogmatic."

Later the interest was drawn: the problem with the theory has to be found in the "correct" place of Banking Law in the legal system. Since if you find its position you can utilize the existing results and approaches.

2) Getting sources

When you start a research you need sources, documents, publications etc. in relation with the theme, so your first task is to find them. There are a great variety of titles, solutions in all the sorts of legal systems and kinds of authors.

Then the literature and the theory of law get in touch with each other. So in this point of view Banking Law is a hard nut to crack either.

Therefore the essay will come along each branch of law relating and confutes the choices to reach the final conclusion: the acceptable reason for existence of Law of Financial Industries. The refutations are based on the characteristic further more on the leader Hungarian and especially on the English literature of the tested and chosen branch of law.

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