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Implications for Finance of the Recent Developments in Ukraine

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As the topic is still a moving target, these comments can only be a snapshot, miles away from a final resumé, let alone any thorough economic or legal analysis. Further, this report shall be restricted to the financial area, whereas aspects regarding the law of nations, human rights and in particular political judgements have to be set aside.

Regarding the implications for finance of the Ukrainian case, three separate complexes have to be distinguished:

- **the indebtedness of Ukraine and possible solutions;**
- **sanctions affecting the financial area, in particular against the Russian Federation;**
- **second-round effects, depending in particular on the degree of interconnectedness of global finance with Ukraine and Russia.**

Stichwörter: EBRD facilities, EIB facilities, EU association agreements, EU common and security policy, EU development assistance, EU joint actions, EU macro financial assistance, EU financial sanctions, global financial stability, IMF Articles of Agreement, IMF facilities, IMF stand-by agreement, second-round effects, Ukrainian indebtedness, US loan guarantees, US sanctions.
JEL-Classification: E 66, F 34, F 51, H 12.

1. Ukraine's indebtedness and possible solutions

Like most countries in the Hemisphere of the late USSR, Ukraine's immediate post-Soviet era economy was massively unproductive. Stabilisation in the early 2000s ended up as a bubble (2006/2007) with annual credit growth of over 70% and high inflation which damaged Ukraine's export competitiveness. Then the country was hit hard by the global crisis with financial drought and capital flight.

Ukraine is currently the worst performer of the Eastern European countries and the former USSR, far behind the Russian Federation, Poland or even Belarus – although, admittedly, the shadow economy estimated at 40–50% of Ukraine's GDP is doing better [1]. According to recent reviews by the IMF, Ukraine's GDP is expected to contract by 6.5% in 2014 [2]. In early 2014, the current account deficit was USD 25 bn with only USD 12 bn foreign exchange reserves, mainly caused by a structural trade deficit in gas. It is estimated that Ukraine will need USD 35 bn to survive the next 2 years. The swap market rates indicate a 50% default risk within the next 5 years.

Nevertheless, in terms of size and interconnectedness [3] the impact of a Ukrainian default on the global financial stability should be manageable:

- Ukraine's public debt has been financed mainly by its domestic state-owned banks.
- A great deal of foreign investment in Ukraine's financial sector has been channelled through local subsidiaries where losses could be capped by write-offs. Further, several Western banks have sold their Ukrainian subsidiaries in the past 2 years.
- Ukrainian assets are concentrated in certain Austrian banks (Raiffeisen USD 6.2 bn, Bank Austria/Unicredito USD 3.1 bn) and Russian institutions (Sber and VTB USD 7.5 bn; Russian banks in total USD 28 bn), in contrast to US institutions (Citi estimated below USD 1 bn). Nevertheless, insolvencies of banks outside Ukraine are unlikely. The share of Ukrainian assets in Russia's Sber-Bank, e.g., is estimated at below 1% of the balance sheet.

In general, Ukraine could be considered as a classical case of potential sovereign insolvency of a low-income country – under the assumption that escalating second-round effects driven by political clashes between the Western Hemisphere and Russia can be avoided. In respect of the Ukrainian crisis, an IMF speaker recently stated that " ... The economic effects have been local. They haven't been systemic. In the case of Ukraine, it's clear that it has had a major impact on Ukraine obviously, and as discussed, it is having an effect on Russia. The effect on Russia itself is having an effect on countries that depend directly on Russia...but so far, it hasn't had a major impact, say on central or western Europe." [4]

Photo: privat

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As, in general, neither contractual nor treaty-based international sovereign debt resolution concepts are in place, the Ukrainian case is being handled using traditional instruments:

- the IMF loan instruments for balance-of-payments problems [5];
- support by international organisations, in particular development banks;
- bilateral support;
- coordinated support by the EU and EU institutions, combined with IMF instruments and IMF conditionality.

[1] For an overview, see The Economist, 5th March 2014, Why is Ukraine's economy in such a mess? (http://www.economist.com/node/21598355).
[2] IMF, first review under the new Stand-By Arrangement, press release 14/351.
[3] For a snapshot, see e.g. Reuters, 3rd March 2014, Banks caught in storm as Ukraine tensions rise (http://www.reuters.com/assets/print?aid=USBREA221UC20140303).
[4] IMF Press Briefing 24.7.2014.
[5] For an overview, see the IMF Factsheets, published under the links http://www.imf.org/external/np/exr/facts/howlend.htm resp. http://www.imf.org/external/np/exr/facts/poor.htm.

Actually, the combination of EU support with IMF instruments for a non-EU country in this dimension is new. The value added by the EU is the possibility of support for the general recovery of the economy, for investment and infrastructure building, whereas the IMF, due to its Articles of Agreement, is restricted to balance of payments resolution.

1.1. IMF support

The IMF can draw on a refined framework of streamlined instruments [6], all of them governed by strict conditionality and surveillance based on Art. IV of its Articles of Agreement: "Under the Articles of Agreement, the Fund makes its general resources 'temporarily available to [members] under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.' Fund financing is thus premised on the member having a BOP need and implementing policies that, with Fund support, will help resolve its BOP problems." [7] In particular, the following facilities should be mentioned:

> Stand-By Arrangements (SBA) for short-term balance of payments problems- typically 12–24 months and repayable within 3¼–5 years of disbursement;
>
> Extended Fund Facility (EFF) for medium- and longer term balance of payments problems, with tenors up to 10 years.

In respect of IMF facilities, Ukraine is an ancient client – having started with a USD 2.2 bn Extended Credit Facility in 1998 and a USD 15 bn Standby Agreement which was committed in 2010 and frozen in 2011, because Ukraine did not meet the conditionality requirements [8]. In March 2014, a staff level agreement was reached for a new USD 14–18 stand-by agreement, subject to approval by the IMF Management and Executive Board [9]. The final outcome approved on 30th April 2014 is a 2 years' USD 17.01 bn stand-by arrangement, 3.19 bn of which were disbursed at approval [10]. The arrangement is subject to strict conditionality under a Ukrainian reform programme: "... the authorities have developed a bold economic program to macroeconomic and financial stability and address long-standing imbalances and structural weaknesses to lay a firm foundation for high and sustainable growth. The program focuses on (i) maintaining a flexible exchange rate to restore competitiveness; (ii) stabilizing the financial system; (iii) gradually reducing the unaffordable fiscal deficit; (iv) eliminating losses in the energy sector, while enhancing social safety nets; and (v) decisively breaking with problematic past governance pratices." [11]

Interestingly, the existing regular USD 1 bn credit line of Ukraine to its general IMF account could be extended to its new USD 1.6 bn quota, once the re-structuring of the IMF system has been finally ratified by all Member States.

1.2. EU support

On the part of the EU, an indicative assistance package of 11.175bn EUR has been published [12], comprising the following components:

> EUR 1.61 bn Macro financial assistance (loans), i.e. balance of payments support, linked to the IMF package and funded through EU borrowings on capital markets. These funds are on-lent with similar financial terms to Ukraine.
>
> Up to EUR 3 bn EIB facilities;
>
> EUR 1.565 bn Overall development assistance (grants) funded by various EU programmes, e.g. the Neighbourhood Investment Facility and Annual Action Programmes;
>
> EUR 486.5m in grants from previous programming periods;
>
> EUR 5 bn EBRD facilities; however, as the EBRD is not an EU institution, this part will be discussed under 1.3 below [13].

The general basis of related programmes in the EU Lisbon Treaty framework is the section on Common and Security Policy of the Treaty on European Union (TEU), as, as the case may be, specified by the Treaty on the Functioning of the EU (TFEU). Whereas the strategic aims and interests of the Common Foreign and Security Policy (CFSP) are determined by unequivocal resolution of the European Council of the Member States (TEU, Art. 26) – which, however, is not legally binding in itself under the law of nations – implementation is provided for by resolutions of the Council on Foreign Policy and related actions under the TFEU. In the case of Ukraine, the overarching legal instrument is an Association Agreement between Ukraine and the EU based on Art. 217 TFEU, a treaty under international public law. Related commitments have been signed on 21st March 2014, subject to ratification by the EU Parliament and the Member States as stipulated by Art. 218 TFEU [14]. Provisional application is provided for by Art. 486 of the Agreement. Under the Agreement, which has been signed by the Ukrainian president on 27th June 2014, Ukraine will be committed to economic, judicial and financial reforms, whereas the EU will grant political and financial support, access to EIB funds and preferential access to the EU markets. As stipulated by the Agreement (Title VI),

> "Cooperation in the field of management of public finances shall aim at ensuring the development of budget policy and sound systems of public international control and external audit, on the basis of international standards, and which are compatible with the fundamental principles of accountability, transparency, economy, efficiency and effectiveness." (Art. 346).
>
> "The priority areas of the EU financial assistance agreed by the Parties shall be laid down in relevant indicative programmes reflecting agreed policy priorities. The indicative amounts of assistance established in these indicative programmes shall take into account Ukraine's needs, sector capacities and progress with reforms." (Art. 455).
>
> "In order to make the best use of the resources available, the Parties shall endeavour to have EU assistance implemented in close cooperation and coordination with other donor countries, donor organisations and international financial institutions, and in line with international principles of aid effectiveness." (Art. 456).

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[6] For the general outline see IMF, Review of Fund Facilities – Analytical Basis for Fund Lending and Reform Options, Approved by Sean Hagan, Reza Moghadem, Jonathan D. Ostry, Christopher Towe (www.imf.org/external/np/pp/eng/2009/02069A.pdf) and the subsequent paper GRA Lending Toolkits and Conditionality: Reform Proposals (www.imf.org/external/np/pp/eng/2009/031309A.pdf)

[7] IMF, Review of Fund Facilities, p.6.

[8] IMF, Ukraine and the IMF, Press Releases (http://www.imf.org/external/country/UKR/index.htm?pn=0)

[9] IMF Press Release No. 14/131, 27th March 2014 (http://www.imf.org/external/np/sec/pr/2014/pr14131.htm)

[10] IMF press release 14/189, 30.4.2014.

[11] IMF press release 14/189, 30.4.2014.

[12] European Commission Memos 14-159 (5.3.2014) and14–279 (13.5.2014) – latest developments EU Press Releases database (http:/europa.eu/rapid/press-release_MEMO-14-279_en.htm).

[13] Summary: http://europa.eu/newsroom/files/pdf/ukraine_eu.pdf.

[14] EU OJ L161/3, 29th May 2014.

"The fundamental legal, administrative and technical basis of financial assistance shall be established within the framework of relevant agreements between the Parties." (Art. 457).

"The Association Council shall be informed of the progress and implementation of financial assistance, and its impact upon pursuing the objectives of this Agreement. To that end, the relevant bodies of the Parties shall provide appropriate monitoring and evaluation information on a mutual and permanent basis." (Art. 458).

These requirements will be specified by Annexes to the Agreement, in particular Annexes XLIII and XLIV ("Financial Cooperation"). In essence, this means that the EU support can and will be contractually tied to IMF conditionality.

As far as the EIB is concerned, Art. 308 and 309 of the TFEU have to be observed, as well as the Statute of the European Investment Bank which is an integral part of the EU Treaties [15]. Basically, the EIB is restricted to the territories of the EU (the Single Market). "However, by decision of the Board of Governors, acting by a qualified majority [16] on a proposal from the Board of Directors, the Bank may grant financing for investment to be carried out, in whole or in part, outside the territories of Member States." (Art. 16 para. 1 of the EIB Statute). The EIB may provide investment finance, exceptionally equity participations (Art. 309 TFEU and Art. 16 and 18 No. 2 of the Statute), i.e. balance of payment support is not included. Further, according to Art. 14 of the Statute, the "Bank shall cooperate with all international organisations active in fields similar to its own". This is an explicit anchor for conditionality linked to IMF programmes.

In addition, direct EU support might be based on the TFEU chapter on Development Cooperation (Art. 208–211) and on specific agreements aiming to establish an area of prosperity and good neighbourliness with neighbouring countries under Art. 8 TEU. The lists of Developing Countries of the OECD Development Assistance Committee (DAC), the IMF [17], the World Bank Group and the UN are not binding in the context of the EU Treaties. The EU has traditionally defined the Eastern European Countries as Countries in Transition to Market Economies rather than as Developing Countries. Nevertheless the EU grants proposed for Ukraine bear the headline „overall development assistance". Further, the proposed Association Agreement should be able to provide a comprehensive basis in this regard.

1.3. EBRD finance

The EBRD is an international development bank, established with the aim to assist its Recipient Member Countries (Art. 2 of the Agreement Establishing the EBRD). As Ukraine is a Recipient Country under Annex A, part C of the Agreement, the EBRD may provide investment finance and equity stakes with a focus on the private sector, state-owned enterprises earmarked for privatisation and infrastructure investments needed for the development of the private sector (Art. 2 No. 1 and Art. 8 of the Agreement), subject to the decision making rules defined by the Agreement (ultimately the Board of Governors appointed by the Member Countries). Balance of payment support is not included.

There is wide scope for conditionality in compliance with the IMF, the EU and the EIB:

According to Art. 2 No. 2 of the Agreement, the Bank shall work in close cooperation with the IMF, to "ensure compatibility with their activities ... as well as to ensure that recipient member countries were pursuing sound economic programmes." [18]

Art. 2 para. 2 of the Agreement provides for cooperation of the EBRD "with all its members" – "Delegates had especially in mind the important role of the European Economic Community and the European Investment Bank." [19]

According to Art. 20 § 1viii of the Agreement, the Bank has power to "conclude agreements of cooperation with any public or private entity or entities."

1.4. US Loan Guarantees

The USA have issued a 1 bn USD loan guarantee program to support Ukraine under Sec.4 – Provision of Costs of Loan Guarantees for Ukraine – of the "Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014" [20].

2. Sanctions affecting the financial area, in particular against the Russian Federation and related second-round effects

As obviously UN sanctions in respect of the Crimea crisis and Eastern Ukraine would not be supported by a majority, this is a field of autonomous national actions. However, a thorough legal analysis including court rules would exceed the scope of these comments. As far as sanctions are concerned, this report shall be focussed on EU actions.

EU sanctions can be based on the section on Common Foreign and Security Policy (chapter 2) of the Lisbon Treaty framework. They must be in compliance with common strategies, adopted by the Council acting unanimously (Art. 22 para. 1 and 31 para. 1 TEU). The Council Decisions related to Ukraine refer „in particular" to Art. 29 TEU stating that „The Council shall adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the Union positions." The Council may adopt joint actions by qualified majority, following specified procedures (TEU Art. 31 para. 2). However, any member of the Council (i.e., in practice, any Member Country) declaring "vital and stated reasons of national policy" has a right of veto (TEU Art. 31 para. 2, 2nd sentence). Without being implemented by the EU or by a Member State, Council decisions do not have any force of law. As far as restrictive measures (sanctions) are concerned, implementation can be based on Art. 215 TFEU as soon as a formal Council decision is in place. Acting by a qualified majority, the Council may adopt measures providing for the interruption or reduction of economic and financial relations with a third country, or may adopt restrictive measures against natural or legal persons and groups or non-State entities. In the case of Ukraine, the following procedure is applied:

The Council adopts a Decision "concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty

[15] Art. 51 TEU; Protocol No. 5 annexed to the TEU and the TFEU.

[16] According to Art. 8 of the Statute 18 of 28 votes and 68% of the subscribed capital of the EIB.

[17] According tot he IMF World Economic Outlook Report 2014, p. 198, Ukraine is classified as an Emerging Market and Developing Economy, but neither a Heavily Indebted Poor Country nor a Low-Income Developing Country.

[18] Explanatory notes re. the negotiations on the Agreement Establishing the EBRD, ad Art. 2 para. 2 note 5 (www.ebrd.com/pages/research/publications/institutional/basicdocs.shtml)

[19] Explanatory notes (FN 12), ad Art. 2 para. 2 note 6.

[20] 113th Congress H.R.4152.ENR

and independence of Ukraine." referring „in particular" to Art. 29 TEU.

On this basis, a Council Regulation is issued using Art. 215 TFEU, established with direct force of law in all Member States.

Council Decisions [21] and Regulations [22] issued during the first phase of the EU sanctions against the Russian Federation from 5th March until end of July are addressed to natural or legal persons, entities or bodies associated with them listed in an annex. Normally, a notice for the attention of the persons and entities concerned is published in the EU Official Journal, section C [23], in addition to the Council Decisions and Regulations which can be retrieved in part L.

In the financial area, Art. 2 of the basic Regulation 269/2014 stipulates that:

"1. All funds and economic resources belonging to, owned, held or controlled by any natural persons or natural or legal persons, entities or bodies associated with them as listed in Annex I shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural persons or natural or legal persons, entities or bodies associated with them listed in Annex I."

Practitioners should be aware that the terms "controlled", as well as "directly or indirectly" could be interpreted in different ways, as they are not defined by the basic Regulations 208/2014 and 269/2014.

Further, there are restrictions on goods originating in Crimea or Sevastopol [24]; in the financial area, Art. 2 of the related Regulation stipulates that:

"It shall be prohibited

(a) to import into the European Union goods originating in Crimea or Sevastopol;

(b) to provide, directly or indirectly, financing or financial assistance as well as insurance and reinsurance related to the import of the goods referred to in point (a)."

With the second phase coming into force from 1st August, 2014, the EU sanctions against the Russian Federation have been (and might further be) significantly extended.

The additional general regulation is based on a new Council Decision [25] and a new Council Regulation [26]. As far as certain goods are concerned, the following restrictions are applied in the financial area:

"It shall be prohibited [...]

(b) to provide, directly or indirectly, financing or financial assistance related to the goods and technology listed in the Common Military List, including in particular grants, loans and export credit insurance or guarantee, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any natural or legal person, entity or body in Russia or for use in Russia; [...]

(d) to provide, directly or indirectly, financing or financial assistance related to the dual-use goods and technology [27], including in particular grants, loans and export credit insurance or guarantee, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any natural or legal person, entity or body in Russia or for use in Russia, if the items are or may be intended, in their entirety or in part, for military use or for a military end-user." [28]

Basically, the execution of agreements concluded before 1 August 2014 is not affected.

As far as certain financial institutions are concerned, the following transactions are concerned:

"It shall be prohibited to directly or indirectly purchase, sell, provide brokering or assistance in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 90 days, issued after 1 August 2014 by:

(a) a major credit institution or other major institution having an explicit mandate to promote competitiveness of the Russian economy, its diversification and encouragement of investment, established in Russia with over 50% public ownership or control as of 1 August 2014, as listed in Annex III; or

(b) a legal person, entity or body established outside the Union whose proprietary rights are owned for more than 50% by an entity listed in Annex III; or

(c) a legal person, entity or body acting on behalf or at the discretion of an entity referred to in point (b) of this paragraph or listed in Annex III." [29]

"The provision of the following shall be subject to an authorisation from the competent authority concerned:

(b) financing or financial assistance related to technologies referred to in Annex II [30], including in particular grants, loans and export credit insurance or guarantee, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any natural or legal person, entity or body in Russia or, if such assistance concerns technologies for use in Russia, to any person, entity or body in any other country." [31]

The sanctions affecting transactions related to Crimea and Sevastopol have been significantly extended as well, in particular regarding infrastructure-related transactions [32].

Information on the competent authorities responsible for exemptions is available at websites published in annexes of the related Council Regulations.

As far as the general structure of the EU sanctions regulation is concerned, the following principles of the individual Council Regulations apply.

Scope of application:

within the territory of the Union;

on board of any aircraft or any vessel under the jurisdiction of a Member State;

to any person inside or outside the territory of the Union which is a national of a Member State;

to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State;

to any legal person, entity or body in respect of any business done in whole or in part within the Union.

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[21] Council Decision 2014/475/CFSP, EU OJ 2014 L 214/28; first related Decision 2014/28.

[22] Council Regulation 783/2014, EU OJ 2014 L 214/2; first related Regulation 208/2014.

[23] See Notice of 31.07.2014, EU OJ 2014/C249/02.

[24] Council Decision 2014/386/CSFP, EU OJ L 183/70 resp. Council Regulation (EU) 692/2014, EU OJ L 183/9.

[25] 2014/512/CFSP, EU OJ 2014 L 229/13.

[26] (EU) 833/2014.

[27] Such items are listed in Annex 1 to Regulation (EC) 428/2009 setting up a Community regime for the control of exports, transfer, broking and transit of dual-use items.

[28] Council Regulation (EU) 833/2014, Art. 4.

[29] Council Regulation (EU) 833/2014, Art. 5.

[30] In particular certain technologies suited to the oil industry.

[31] Council Regulation (EU) 833/2014, Art. 4.

[32] Council Regulation (EU) 825/2014, EU OJ 2014, L 226/2.

Implementation:

Member States shall lay down the rules on penalties applicable to infringements;

Claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under the Regulations, are not enforceable [33].

Circumvention:

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions, including by acting as a substitute for the entities concerned [34].

Unintended infringements:

Actions shall not give rise to liability, if a person did not know, and had no reasonable cause to suspect, that an action would infringe the measures set out in a regulation [35]. However, it is assumed that related contracts would not be enforceable, although this particular aspect has not been regulated explicitly.

Execution of payment orders by financial institutions:

One might put into question whether the prohibition of "financial assistance" or "circumvention" in respect of prohibited transactions includes the mere execution of payment orders given by clients to financial institutions. As this aspect has not been regulated explicitly – in contrast to the Iran-related sanctions –, the execution of such payments by banks is permitted if it is not integral part of bank services prohibited otherwise or made from an account which has been frozen in implementation of the sanctions.

As an EU Regulation is established with direct force of law, there was no need for any legislative implementation by the Member States – related notices such as the UK HM Treasury Financial Sanctions Notices [36] are of a merely declaratory nature. From time to time, as the case may be, these EU sanctions are being adapted and/or extended [37].

The US Ukraine-related sanctions are based on the "Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014" [38], Sec. 8 – Sanctions on Persons Responsible for Violence or Undermining the Peace, Security, Stability, Sovereignty, or Territorial Integrity of Ukraine –, and Sec.9 – Sanctions on Persons in the Russian Federation Complicit in or Responsible for Significant Corruption –. Related sanctions have been implemented by presidential Executive Orders: Blocking Property of certainPersons (EO 13660, 03/06/14); Blocking Property of Additional Persons contributing to the situation in Ukraine (EO 13661, 03/17/14, extended 03/20/14). In the financial area, certain sanctions are specified by the US Department of the Treasury Executive Order 13662, Directives 1 and 2, comprising prohibitions e.g. in respect of debt or equity instruments.

Basically, US sanctions are executed by the Office of Foreign Assets Control which also updates lists of Specially Designated Nationals (SDNs) and Blocked Persons, which can be retrieved on the US Department of the Treasury-website [39].

The sanctions against the Russian Federation have so far been restricted. Nevertheless, in case of escalating retaliation actions, they might trigger second-round processes between the Western Hemisphere and Russia. Will such second round effects endanger global financial stability?

Although the legal and economic possibilities of Russian retaliation might be limited, due to bilateral investment protection treaties and economic interests, size and interconnectedness of the Russian Federation are significantly higher than in the case of Ukraine. Further, the downturn of the Russian economy might be accelerated. So far, the forecasts of the Russian GDP growth have been reduced to 0–0,5%. By yearend 2013, Russian total foreign debt amounted to USD 732 bn. Nevertheless, although EU bank lending to Russia amounted to approx. USD 184 bn (as opposed to only USD 37 bn by US banks), the related average share of bank assets is below 1%. Certain individual banks might feel the pinch more strongly, but the global financial stability will not be threatened immediately, although the latest sanctions against Russia will severely affect their funding capabilities in the international capital markets.

3. Conclusions

At the moment, the impact of the recent developments in Ukraine on the global financial stability seems manageable.

From a legal point of view, the most significant implications are the joint roles of the IMF and the EU in supporting a non-EU low-income country, with the IMF focusing on balance of payments resolution and the EU supporting the general recovery of the economy. Interestingly, the rule-of-law-related governance of EU financial aid is strongly supported by its links to well-established IMF Programmes.

The rule of law is an important issue in respect of sovereign indebtedness and financial aid. International organisations, supranational bodies and development banks have to be accountable in respect of the monies entrusted to them by the public – i.e. ultimately by taxpayers. This has been demonstrated by many critical comments – e.g. by *Douglas Casey*, classmate of *Bill Clinton* at Georgetown University: "Foreign aid might be defined as a transfer of money from poor people in rich countries to rich people in poor countries." The international community needs strong guidelines governed by the rule of law.

[33] See, e.g., Council Regulation (EU) 833/2014, Art. 11.
[34] See, e.g., Council Regulation (EU) 833/2014, Art. 12.
[35] See, e.g., Council Regulation (EU) 833/2014, Art. 10.
[36] HM Treasury notice 06.03.14. https://www.gov.uk/government/uploads/system/uploads/attachement_data/file/287392/Notice_Ukraine_060314.pdf
[37] Latest versions end of July 2014: Council Decision 2014/499/CFSP (EU OJ L 221/15) resp. Council Regulation (EU) 811/2014, EU OJ L 221/11.
[38] See FN 20.
[39] http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140716.aspx.