

## Guest Note on the Impact of the COVID-19 Outbreak on EU Law

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Within the past months, we have all witnessed a rapidly evolving global public health emergency triggered by the COVID-19 pandemic whose massive scale has almost not left any sector of our life untouched, demanding for the introduction of a vast number of diversified measures all over the world. The EU realized the scope of the outbreak and activated various tools capable of alleviating the detrimental effects of the pandemic in the affected fields. Since March 2020, 95 legal acts have been adopted in order to address this exceptional exigency.<sup>1</sup> However, their effectiveness in terms of contributing to combatting the virus and its adverse repercussions remains to be evaluated at the lapse of the time.<sup>2</sup> While the focus of the undertaken measures understandably centers around obtaining short-term objectives by eradicating the shocks of the global health emergency,<sup>3</sup> the momentous implications of the COVID-19 outbreak on the European project and its constitutional foundations, that will define the direction of the future of the European integration, can to some extent be discerned already now.

While constituting a unique and uncommon state of emergency in contrast to the usually encountered ones, the current emergency, being the most serious challenge the Union has ever faced since its creation,<sup>4</sup> has not only shattered the foundations of healthcare systems in the EU. It has also highlighted the unsettled facets of the European project that have been problematic long before the emergence of the COVID-19 pandemic. This category of issues includes allocation of competences, questionable understanding of commonly shared EU democratic values, such as the rule of law and protection of fundamental rights, ambivalent perception of solidarity between the Member States and necessity of clarification of the EU legal framework by means of thorough constitutional litigation. These aspects, remaining to be a golden thread running throughout the EU project, are to be accentuated in this editorial.

Firstly, the COVID-19 pandemic has accentuated the natural limitations of EU law in regard to emergency responses in the field of public health. Even though the TFEU envisages possibilities of EU actions in cases of natural and man-made disasters

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<sup>1</sup> As of the 30th of June 2020.

<sup>2</sup> Such as, effectiveness of digital tracing model, see Oreste Pollicino, 'Fighting Covid-19 and Protecting Privacy under EU Law. A Proposal Looking at the Roots of European Constitutionalism' (2020) Weekend Edition 17 EU Law Live <<https://eulawlive.com/weekend-edition/weekend-edition-no17/>> accessed 29 June 2020.

<sup>3</sup> So-called 'containment measures', see Anna Gelpern 'Financial Crisis Containment' (2009) 41 University of Connecticut Law Review 1051.

<sup>4</sup> Maja Brkan, René Repasi, Marco Lamandini, Adolfo Martín, Isabelle van Damme, Araceli Turmo, Ana Ramalho, Jorge Piernas, Maria Weimer, Anne-Lise Sibony 'COVID-19 – Making the best out of Europe' (2020) Weekend Edition 17 EU Law Live 2 <<https://eulawlive.com/weekend-edition/weekend-edition-no17/>> accessed 29 June 2020.

or exceptional occurrences beyond control of Member States,<sup>5</sup> the room for maneuver for the EU in the field of public health is reduced to complementing national policies,<sup>6</sup> whereas the actual health policy is vested in the Member States. As a consequence, Member States have adopted differentiating measures, tailored for their healthcare systems, demonstrating a vividly ‘individualistic’ approach that lacks unity.<sup>7</sup> Stuck between Scylla and Charybdis, EU actors could only facilitate the resolution of a public health emergency by means of adopting measures within the reach of their existing competences,<sup>8</sup> introducing soft law packages,<sup>9</sup> designed to enhance a more united and coherent approach that is supposed to be shared across the Union. In this respect, the exercise of emergency responses in the context of public health emergencies needs to become more coordinated for its current and potential future application as the globality of public health emergencies is not constrained to one or several Member States as it usually is in case of localized natural disasters or political emergencies, but embraces the whole Union and demands for the shared understanding of the course of actions to undertake.

Secondly, as known, emergencies in general verge on endangering the core values of democratic societies, such as the rule of law<sup>10</sup> and human rights.<sup>11</sup> In the context of the EU, Member States varied from pursuing a relaxed approach towards quarantine framework<sup>12</sup> to invoking ‘state of emergency’ regimes,<sup>13</sup> creating a mosaic application of different restrictive mechanisms that has resulted in impelled

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<sup>5</sup> For example, providing ‘flexibility’ for Member States for adoption of State Aid measures under Article 107(2)(b) and Article 107(3)(b) in light of Commission, ‘Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak’ (Communication) COM (2020) OJ C 91I and adoption of Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak [2020]OJ L 159 on the basis of Article 122 TFEU, entailing providing financial assistance to a distressed Member State.

<sup>6</sup> Articles 2(5), 6(a), 168 TFEU.

<sup>7</sup> Alessio Paces, Maria Weimer, ‘From Diversity to Coordination: A European Approach to COVID-19’ (2020) 11 European Journal of Risk Regulation 283, 284.

<sup>8</sup> ‘The Common EU response to COVID-19’ <[https://europa.eu/european-union/coronavirus-response\\_en](https://europa.eu/european-union/coronavirus-response_en)> accessed 29 June 2020.

<sup>9</sup> For instance, Commission, ‘Tourism and transport in 2020 and beyond’ COM (2020) 550 final; Commission, ‘Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls — COVID-19 2020/C 169/03’ COM (2020) OJ C 169; Commission, ‘EU Guidance for the progressive resumption of tourism services and for health protocols in hospitality establishments – COVID-19 2020/C 169/01’ COM (2020) OJ C 169; Commission, Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic OJ L 151.

<sup>10</sup> Clement Fatovic, ‘Emergencies and the Rule of Law’ (2019) Oxford Research Encyclopedia of Politics <<https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-93>> accessed 30 June 2020.

<sup>11</sup> Alan Greene, ‘The Ideal State of Emergency’ in Alan Greene (ed.) *Permanent States of Emergency and the Rule of Law: Constitutions in an Age of Crisis* (Hart, 2016) 20.

<sup>12</sup> Government Offices of Sweden, Prime Minister’s Office, ‘Strategy in Response to the COVID-19 Pandemic’ (6 April 2020) <<https://www.government.se/articles/2020/04/strategy-in-response-to-the-covid-19-pandemic/>> accessed 29 June 2020.

<sup>13</sup> European Parliament, ‘States of Emergency in Response to the Coronavirus Crisis: Situation in Certain Member States’ Briefing (4 May 2020); ‘States of Emergency in Response to the Coronavirus Crisis: Situation in Certain Member States II’ Briefing (13 May 2020); ‘States of Emergency in Response to the Coronavirus Crisis: Situation in Certain Member States III’ Briefing (17 June 2020).

limitation of fundamental rights in the Member States.<sup>14</sup> Some Member States even invoked a derogation clause under ECHR.<sup>15</sup> While it is expected that once the lockdown restrictions are lifted, limitations of fundamental rights enshrined in the Charter of Fundamental Rights will cease to operate, some of such restrictions might have irreversible consequences for the rule of law and protection of human rights. As for the rule of law, the enacted state of emergency in those Member States, that have already been experiencing backsliding of the rule of law,<sup>16</sup> has given a new, so unfortunately triggered by the pandemic, opportunity to jeopardize the adherence to the principle even more.<sup>17</sup> While in Hungary the state of emergency, originally unlimited in time and allowing the government to rule by decree bypassing the Parliament, ceased to operate last week, the opposition from NGOs has described its termination as nothing more than an ‘optical illusion’.<sup>18</sup> Poland, in the meantime, on the threshold of presidential elections, introduced controversial and legally questionable changes into the electoral code allowing to hold presidential elections by post, that was in its turn approved by the Sejm. Facing harsh resistance from the opposition, the presidential elections, allowing for both postal and traditional voting,<sup>19</sup> were postponed until the 28<sup>th</sup> of June 2020.<sup>20</sup> These deteriorations have already become a worrying topic discussed at plenary sessions of the European Parliament, where triggering a ‘nuclear option’ against Hungary and Poland is back on the radar.<sup>21</sup> However, effectiveness of recourse to Article 7 TEU remains doubtful, considering

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<sup>14</sup> European Union Agency for Fundamental Rights, ‘Coronavirus Pandemic in the EU - Fundamental Rights Implications - Bulletin 1’ Bulletin 1 (8 April 2020); ‘Coronavirus Pandemic in the EU – Fundamental Rights Implications: With A Focus on Contact-Tracing Apps’ Bulletin 2 (28 May 2020).

<sup>15</sup> Latvia, Estonia and Romania notified the Council of Europe of declarations of state of emergency and hence the following derogations from the ECHR under Article 15 of ECHR, see also Sean Molloy ‘Covid-19 and Derogations Before the European Court of Human Rights’ (VerfBlog, 10 April 2020) <<https://verfassungsblog.de/covid-19-and-derogations-before-the-european-court-of-human-rights/>> accessed 29 June 2020; as of the 22<sup>nd</sup> of June 2020 all the three Member States have withdrawn their derogations, Latvia (10<sup>th</sup> of June 2020), Estonia (18<sup>th</sup> of May 2020), Romania (15<sup>th</sup> of May 2020).

<sup>16</sup> Kim Lane Scheppele, Laurent Pech, ‘What is Rule of Law Backsliding?’ (VerfBlog, 2 March 2018) <<https://verfassungsblog.de/what-is-rule-of-law-backsliding/>> accessed 29 June 2020.

<sup>17</sup> European Parliament, ‘Hungary’s Emergency Measures: MEPs Ask EU to Impose Sanctions and Stop Payment’ Press Release (14 May 2020) <<https://www.europarl.europa.eu/news/en/press-room/20200512IPR78917/hungary-s-emergency-measures-meps-ask-eu-to-impose-sanctions-and-stop-payments>> accessed 29 June 2020; European Parliament resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences (2020/2616(RSP)) P9\_TA(2020)0054 para 46.

<sup>18</sup> ‘Coronavirus: Hungary Votes to End Viktor Orban Emergency Powers’ BBC News (16 June 2020) <<https://www.bbc.com/news/world-europe-53062177>> accessed 29 June 2020.

<sup>19</sup> ‘Polish Senate Passes Election Bill, Setting Stage for June Vote’ Reuters (Warsaw, 2 June 2020) <<https://www.reuters.com/article/us-poland-election-senate/polish-senate-passes-election-bill-setting-stage-for-june-vote-idUSKBN2383U3>> accessed 29 June 2020.

<sup>20</sup> Marcin Gocłowski ‘Poland Sets June 28 Date for Rescheduled Presidential Election’ Reuters (Warsaw, 3 June 2020) <<https://www.reuters.com/article/us-poland-election/poland-sets-june-28-date-for-rescheduled-presidential-election-idUSKBN23A1BY>> accessed 29 June 2020.

<sup>21</sup> European Parliament, ‘The Pandemic is No Excuse to Weaken Democracy and the Rule of Law, MEPs Say’ Press Release (23 April 2020) <<https://www.europarl.europa.eu/news/en/press-room/20200419IPR77412/the-pandemic-is-no-excuse-to-weaken-democracy-and-the-rule-of-law-meps-say>> accessed 29 June 2020.

the previous attempts to complete the process enshrined therein against the Member States at hand<sup>22</sup> and the current developments in these Member States.

As for fundamental rights, the right to privacy, guaranteed under Article 8 of the Charter of Fundamental Rights, might be one of the most endangered fundamental rights currently as its protection becomes more and more challenging in light of increased recourse to digitalized tools by both public and private actors during the COVID-19 outbreak. The continuous struggle between the alleged effectiveness of the measures, such as using digital contact tracing tools and sharing health data information with the third parties under the aegis of the principle of social responsibility, and personal integrity,<sup>23</sup> remains an unresolved issue. This conundrum has been accentuated by the EU actors, having reflected their positions through soft law mechanisms, prioritizing, among others, the principles of anonymization, data minimization, privacy by design, transparency and accountability.<sup>24</sup>

Thirdly, the COVID-19 pandemic has clearly illustrated the evolving nature of emergencies, capable of triggering unrest in other fields.<sup>25</sup> The world economy has swiftly reacted to the COVID-19 Crisis by entering into a deep economic recession,<sup>26</sup> whose negative effects can hardly be fully estimated now. The EU, envisioning a harsh economic downturn, lunged to keep the EU economy afloat, providing as much flexibility as possible to the affected parties. While the Commission activated the general escape clause of the Stability and Growth Pact,<sup>27</sup> the ECB has instantly come up with the Pandemic Emergency Purchase Programme (PEPP),<sup>28</sup> that has been founded on the legacy of the operable Asset Purchase Programme (APP). The scope of the EU Solidarity Fund was extended to include major public health emergencies,<sup>29</sup>

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<sup>22</sup> European Parliament, 'Rule of Law in Poland and Hungary Has Worsened' Press Release (16 January 2020) <<https://www.europarl.europa.eu/news/en/press-room/20200109IPR69907/rule-of-law-in-poland-and-hungary-has-worsened>> accessed 29 June 2020.

<sup>23</sup> Christina Etteldorf, 'Effectiveness versus Integrity – How COVID-19 is Affecting Privacy', (2020) Weekend Edition 17 EU Law Live 13-17 <<https://eulawlive.com/weekend-edition/weekend-edition-no17/>> accessed 29 June 2020.

<sup>24</sup> Commission Recommendation (EU) 2020/518 of 8 April 2020 on a common Union toolbox for the use of technology and data to combat and exit from the COVID-19 crisis, in particular concerning mobile applications and the use of anonymised mobility data OJ L 114; Commission, 'Guidance on Apps supporting the fight against COVID 19 pandemic in relation to data protection 2020/C 124 I/01' COM (2020) OJ C 124; European Parliament resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences (2020/2616(RSP)) P9\_TA(2020)0054; European Data Protection Board, Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak (21 April 2020).

<sup>25</sup> Alan Greene 'Questioning Executive Supremacy in an Economic State of Emergency' (2015) 35 Legal Studies (Journal of the Society of Legal Scholars) 594, 609.

<sup>26</sup> Gita Gopinath 'The Great Lockdown: Worst Economic Downturn Since the Great Depression' (IMF Blog, 14 April 2020) <<https://blogs.imf.org/2020/04/14/the-great-lockdown-worst-economic-downturn-since-the-great-depression/>> accessed 29 June 2020.

<sup>27</sup> Commission, 'On the activation of the general escape clause of the Stability and Growth Pact' COM (2020) 123 final.

<sup>28</sup> Decision (EU) 2020/440 of the European Central Bank of 24 March 2020 on a temporary pandemic emergency purchase programme [2020] OJ L 91.

<sup>29</sup> Regulation (EU) 2020/461 of the European Parliament and of the Council of 30 March 2020 amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States and to countries negotiating their accession to the Union that are seriously affected by a major public health emergency [2020] OJ L 99.

while new instruments, such as SURE,<sup>30</sup> the Coronavirus Response Investment Initiative (CRII)<sup>31</sup> and the Coronavirus Response Investment Initiative Plus (CRII+),<sup>32</sup> have been adopted. The Eurogroup in its turn has eventually agreed upon the use of the European Stability Mechanism (ESM) in the form ESM Pandemic Crisis Support.<sup>33</sup> However, adoption of these extraordinary tools, aimed at facilitating support to economy of the Member States, has showed hampered understanding of the solidarity shared by the members of the Eurozone. A great example in this respect is a process of agreeing on the requirements for the invocation of the ESM that demonstrated highly polar views of Creditor and Debtor Member States in regard to granting financial assistance. Economically strong Member States<sup>34</sup> indicated from the very beginning that the allocation of the ESM funds will only be possible upon compliance with the conditionality attached to the programme. Nevertheless, Member States in distress, that had already been suffering from the ‘underlying conditions’, insisted on granting financial aid without imposition of any conditionality due to the unforeseen nature of the current emergency.<sup>35</sup> At the end the Eurogroup suggested a route, that, on the one hand, provided a solution that resolved the tension between the confronting Member States, but, on the other hand, narrowed down the operational potential of the financial assistance of the ESM, questioning the practicability of the recourse to it by the Member States whose economy has been significantly hit by the COVID-19 pandemic. The seminal feature of the ESM Credit Line, Pandemic Crisis Support (PCS), consists in introducing the shift from conditionality to earmarking, that has also been embedded in the ‘SURE’.<sup>36</sup> Under the ‘PCS’ financial assistance is granted for the use for the predefined purposes, in the case of PCS ‘to support domestic financing of direct and indirect healthcare, cure and

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<sup>30</sup> Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak [2020] OJ L 159.

<sup>31</sup> Regulation (EU) 2020/460 of the European Parliament and of the Council of 30 March 2020 amending Regulations (EU) No 1301/2013, (EU) No 1303/2013 and (EU) No 508/2014 as regards specific measures to mobilise investments in the healthcare systems of Member States and in other sectors of their economies in response to the COVID-19 outbreak (Coronavirus Response Investment Initiative) [2020] OJ L 99.

<sup>32</sup> Regulation (EU) 2020/558 of the European Parliament and of the Council of 23 April 2020 amending Regulations (EU) No 1301/2013 and (EU) No 1303/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak [2020] OJ L 130.

<sup>33</sup> Eurogroup, ‘Report on the Comprehensive Economic Policy Response to the COVID-19 Pandemic’, Press Release (9 April 2020) <<https://www.consilium.europa.eu/en/press/press-releases/2020/04/09/report-on-the-comprehensive-economic-policy-response-to-the-covid-19-pandemic/>> accessed 30 June 2020.

<sup>34</sup> Jorge Valero ‘Netherlands, Austria Push for Tougher Conditions for Corona-Loans’ (Euractiv, 2 April 2020) <<https://www.euractiv.com/section/economy-jobs/news/netherlands-austria-push-for-tougher-conditions-for-corona-loans/>> accessed 29 June 2020.

<sup>35</sup> Anna Zemskova, ‘ESM in the context of the Coronavirus Crisis – a Much Needed Lifejacket or Another Lead Blanket?’ (European Law Blog, 7 April 2020) <<https://europeanlawblog.eu/2020/04/07/esm-in-the-context-of-the-coronavirus-crisis-a-much-needed-lifejacket-or-another-lead-blanket/>> accessed 29 June 2020.

<sup>36</sup> Rene Repasi ‘A Dwarf in Size, but a Giant in Shifting a Paradigm – The European Instrument For Temporary Support To Mitigate Unemployment Risks (SURE)’ 8-14 (2020) Weekend Edition 19 EU Law Live <<https://eulawlive.com/weekend-edition/weekend-edition-no19/>> accessed 29 June 2020.

prevention related costs due to the COVID-19 crisis'.<sup>37</sup> Recourse to earmarking approach both in the context of PCS and SURE presupposes that the economy of the applicants is technically functioning and has been stable before the occurred public health emergency. The financial aid is only to be provided for the area whose critical condition could not have been foreseen and has been directly caused by the pandemic. Such a construction excludes a possibility for the Member States to 'patch' other sectors of economy that might or might not have been in decay before the emergence of the Coronavirus Crisis. The formulated emergency tools reflect the ambivalent understanding of solidarity in the Union that encapsulates the willingness of the Member States to assist each other in times of distress, but not at the expense of blindness to the preexisting negative conditions in the Member States.<sup>38</sup> The operational potential of both mechanisms, PCS and SURE, corresponding to €240 billion<sup>39</sup> (leaving €170 billion of the available funds at the ESM unused)<sup>40</sup> and €100 billion<sup>41</sup> respectively, is not sufficient for tackling the adverse effects of the COVID-19 pandemic on economy, especially, once it has been in decay long before the pandemic. It is likely that Member States in distress would still have to apply for extra financial resources in the future, subjecting themselves to strict conditionality in return.

Lastly, the massive amount of the adopted measures, together with the highlighted puzzling elements of EU constitutional order indicate that even though the EU has come up with creative resolutions of the current multi-faceted crisis, the chosen schemes in the long run are to become subject to judicial scrutiny, especially due to their controversial effects and minimal level of shared vision among the Member States. However, while during the previous, Euro-Area crisis, emergency, the ECJ could apply light-touch judicial review in regards to crisis responses,<sup>42</sup> under the current circumstances the Court will be expected to thoroughly clarify its approach and solidly substantiate its line of argumentation, while addressing issues of high constitutional importance. The recent ruling of the German Federal Constitutional Court,<sup>43</sup> following *Weiss* judgement,<sup>44</sup> has not just demonstrated the strained judicial dialogue between the German Constitutional Court and the ECJ, but also the questionable compatibility of the broad margin of discretion of EU institutions with a limited standard of judicial review carried out by the ECJ. Although, the FCC explicitly

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<sup>37</sup> Eurogroup (n 33), para 16.

<sup>38</sup> Neergaard and Vries describe it as a potential 'demonstration of economic accountability of despite of prevailing times of despair and panic' in Ulla Neergaard & Sybe de Vries 'Whatever is Necessary... will be Done'. Solidarity in Europe and the COVID-19 Crisis', (2020) Weekend Edition 14 EU Law Live 27 <<https://eulawlive.com/weekend-edition/weekend-edition-no14/>> accessed 29 June 2020.

<sup>39</sup> Kalin Anev Janse 'Funding Health and Stability' (ESM Blog, 28 April 2020)

<<https://www.esm.europa.eu/blog/funding-health-and-stability>> accessed 29 June 2020.

<sup>40</sup> As of the 16<sup>th</sup> of March, 2020, the unused lending capacity of the ESM amounted to €410 billion, <<https://www.esm.europa.eu/content/what-esm's-lending-capacity>> accessed 30 June 2020.

<sup>41</sup> Eurogroup (n 33), para 17.

<sup>42</sup> Xavier Groussot, Anna Zemskova, 'The Rise of Procedural Rule of Law in the European Union - Historical and Normative Foundations' in Antonina Bakardjieva Engelbrekt et al. (eds.) *30 Years After the Fall of the Berlin Wall: Rule of Law in the European Union* (Forthcoming, Hart, 2021), Lund University Legal Research Paper 01/2020 1,16 <<https://ssrn.com/abstract=3604220>> accessed 29 June 2020.

<sup>43</sup> BVerfG, Judgment of the Second Senate of 5 May 2020, 2 BvR 859/15, ECLI:DE:BVerfG:2020:rs20200505.

<sup>44</sup> Case C-493/17 *Weiss and Others* [2018] EU:C:2018:1000.

stated that its findings do not apply to the PEPP,<sup>45</sup> taking into consideration the even more flexible nature of the PEPP in comparison with PSPP,<sup>46</sup> the future adjudication on the legality of the PEPP together with constitutional challenges of other EU measures is not that far off. Thus, the position of the ECJ will not only define the outcome of the disputes but will be seminal for outlining the dynamic constitutional framework of the EU.

Despite highlighting the challenging facets of the impact of the COVID-19 outbreak on EU law, I would like to conclude on a positive note. While facing an unprecedented emergency, the EU has, however, managed to produce an overarching response to the Coronavirus pandemic, even within its limited competence capacity.<sup>47</sup> Despite experienced difficulties in allocation of competences and ambivalent perception of EU common values, the formulated approach proves great operational potential and significance of the European project. The catastrophic pandemic could act a catalyzer for reloading the enhancement of the European integration, prompting Europe to emerge even stronger than before.<sup>48</sup>

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<sup>45</sup>BVergfG, 'ECB Decisions on the Public Sector Purchase Programme Exceed EU Competences', Press Release No. 32/2020 of 05 May 2020, <<https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2020/bvg20-032.html>> accessed 30 June 2020.

<sup>46</sup> Dimitrios Kyriazis, 'The PSPP Judgement of the German Constitutional Court: an Abrupt Pause to an Intricate Judicial Tango' (European Law Blog, 6 May 2020) <<https://europeanlawblog.eu/2020/05/06/the-pspp-judgment-of-the-german-constitutional-court-an-abrupt-pause-to-an-intricate-judicial-tango/>> accessed 29 June 2020.

<sup>47</sup>Alberto Alemanno, 'The European Response to COVID-19: From Regulatory Emulation to Regulatory Coordination?' (2020) 11 European Journal of Risk Regulation 307, 316.

<sup>48</sup> Presidents of the European Parliament, European Council and Commission, 'Europe Must Emerge Stronger from this Crisis', Message (9 May 2020), <<https://www.europarl.europa.eu/news/en/headlines/eu-affairs/20200507STO78618/europe-must-emerge-stronger-from-this-crisis>> accessed 30 June 2020.