

# BUILDING SOCIAL SOLIDARITY THROUGH MUTUAL TRUST

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*Cases C-156/21 and C-152/21 established that the implementation of solidarity is based on mutual trust. This reference is of significant relevance given that trust is essential when risky decisions are made in troubled times. In this context, this article analyses whether mutual trust could be decisive to tackle unexpected challenges, such as the pandemic (or the war in Ukraine). With this goal in mind, the article dwells on the role of mutual trust in the EU. The article then examines the link between mutual trust and social solidarity in the program Next Generation EU. Finally, it inquires which kind of social solidarity might derive from mutual trust. The goal is to assess if mutual trust is a transformative principle that may trigger an impulse towards social solidarity within the EU.*

## 1 INTRODUCTION

Cases C-156/21 and C-152/21 established not only that solidarity is one of the fundamental principles of EU law, but also that the implementation of solidarity is based on mutual trust.<sup>1</sup> Such a statement could be simply framed as a reminder of the need to comply with the rule of law to access funds available to Member States under the COVID-19 recovery plan entitled ‘*Next Generation*’. In fact, scrutiny of the rule of law across the EU, as a pre-condition to cooperation based on trust, has gained terrain in the Area of Freedom, Security and Justice (AFSJ) since the Court’s ruling in *LM*.<sup>2</sup>

However, the reference to mutual trust may also be of significant relevance given the potential of such a principle and the latest developments in Europe. Trust has a pivotal role in politics as well as in economic and trade relations, shaping the behaviour and response of the main players. Trust is also essential when it comes to the bond between the people and their representatives. Thus, it is only natural that its relevance within the EU has grown. In fact, trust is extremely relevant when risky, bold decisions are made in troubled times.

In this context, this article discusses whether mutual trust could be decisive to tackle challenges such as the pandemic (or the war in Ukraine) becoming the basis for a growing social solidarity. A solidarity within the Member States, supported by the EU, aligned with common shared goals. With this goal in mind, the article will begin by dwelling on the actual relevance of mutual trust in the EU, by focusing on both the AFSJ and the pandemic. The article will then examine the link between mutual trust and social solidarity in the program Next Generation EU. It will then inquire which kind of social solidarity might derive from mutual trust by looking particularly into the Spanish National Recovery Plan (NRP). In this

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<sup>1</sup> Case C-156/21 *Hungary v Parliament and Council* EU:C:2022:97, para 129 and Case C-157/21 *Poland v Parliament and Council* EU:C:2022:98, para 147.

<sup>2</sup> Case C-216/18 PPU *Minister for Justice and Equality* EU:C:2018:586.

manner, the article will assess if mutual trust is a transformative principle that may trigger an impulse towards social solidarity within the EU.

## 2 MUTUAL TRUST: A TOOL TO TACKLE UNEXPECTED COMMON THREATS

The first explicit reference to mutual trust appeared in the context of judicial cooperation in civil matters,<sup>3</sup> but unsurprisingly mutual trust really blossomed in the framework of judicial cooperation in criminal matters. The criminal field raises highly sensitive issues in relation to both the national sovereignty or national identity,<sup>4</sup> and the mutual trust principle, which became the basis for the political (and even moral) foundations of mutual recognition. Based on mutual trust, Member States avoided harmonisation<sup>5</sup> and preserved broad decision-making powers in criminal matters, since it allowed criminal judicial cooperation with minimal changes in national legal systems.

Mutual trust enables cooperation among national authorities in sensitive issues. It allows Member States to apply shared conceptions on matters particularly incisive in fundamental rights, in which there is no agreement among them, and matters that feature symbolic links to the affective foundations of national identity.<sup>6</sup> In this context, it is not surprising that the CJEU stated that the principle of mutual trust between Member States is of fundamental importance in EU law.<sup>7</sup>

This salient role of mutual trust brought with it the need to dwell into the actual meaning of mutual trust. In this regard, the question has been raised whether we should talk about confidence instead of trust.<sup>8</sup> In line with the definition of Niklas Luhmann, confidence occurs when we rely on our expectations and do not consider alternatives, whereas trust is only possible in a situation where the potential damage may be greater than the advantage that is sought. Trust implies taking a risk, making a choice, whereas expectations involve not even considering the need of making such a choice.<sup>9</sup> Still, confidence and trust are intertwined and the decline in confidence eventually erodes trust.<sup>10</sup> The rule of law is a telling example of this link between confidence and trust also in the AFSJ. Member States assumed

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<sup>3</sup> François-Xavier Millet, 'The Protection of Fundamental Rights within the AFSJ: Through or Against Mutual Trust and Mutual Recognition?' in Sara Iglesias Sánchez and Maribel González Pascual (eds), *Fundamental Rights in the Area of Freedom, Security and Justice* (Cambridge University Press 2021) 60.

<sup>4</sup> It is worth recalling, for instance, the position of the Polish, Czech and German Constitutional Courts and the Supreme Court of Cyprus against the extraditions of nationals, as well as the judgments of the Constitutional Courts of Germany, the Czech Republic, and Romania on the Data Retention Directive.

<sup>5</sup> Theoretically mutual recognition maintains the differences within a system of mutual trust and cooperation, while harmonisation creates a homogeneous system with a common normative code. Although within harmonization, the unification of rules can be distinguished from their mere approximation. Massimo Fichera, 'The European Arrest Warrant and the Sovereign State; A Marriage of Convenience?' (2009) 15(1) *European Law Journal* 70, 74-75.

<sup>6</sup> Neil Walker, 'In search of the Area of Freedom, Security and Justice: A Constitutional Odyssey' in Neil Walker (ed), *Europe's Area of Freedom, Security and Justice* (Oxford University Press 2004) 18.

<sup>7</sup> Opinion 2/13 (*Accession of the European Union to the ECHR*) of 18 December 2014 EU:C:2014:2454.

<sup>8</sup> Iris Canor, 'My brother's keeper? Horizontal Solange: An ever-closer distrust among the peoples of Europe' (2013) 50(2) *Common Market Law Review* 383, 400.

<sup>9</sup> Niklas Luhmann, 'Familiarity, Confidence, Trust: Problems and Alternatives' in Diego Gambetta (ed), *Trust. Making and breaking cooperative relations* (Bodleian Library 2008) 97-98.

<sup>10</sup> *ibid* 99.

that the rule of law will be upheld throughout the EU;<sup>11</sup> its erosion, however, eventually impinged upon the confidence on key elements of the judicial system and, with it, triggered mistrust towards judicial cooperation.<sup>12</sup>

This relationship between confidence and trust can be found in the research of Ute Frevert, according to whom trust lies in the past, while confidence is looking at the future. Trust is based on expectations accepted and shared by a society, but it is also a feeling as trust is linked to our hopes and desires.<sup>13</sup> Hence trust requires confidence, being conditional, voluntary, and reciprocal.<sup>14</sup> It is based on our confidence in a system, a person, a process; however trust then goes beyond this, leading to take knowingly risky decisions. In fact, trust has a strong sentimental element to it since it conveys a shared sense of vulnerability and mutual dependency, promising fairness and empathy<sup>15</sup>. These are values that play a vital role since the second half of the twentieth century, accompanying processes of interaction among people beyond our family, neighbour, or city.

In this regard, it should be borne in mind that the EU has established formal institutions that offer reliable services and make predictable claims, allowing citizens to take risks, however protected by legal provisions. In a nutshell, common institutions have transformed strangers into fellows with shared common rules of conduct. Institutionalised principles enable extending trust beyond the closer circle of acquaintances. The common experiences, the shared framework, and the needs throughout the years, have engendered soil for trust. A trust that allows the EU to make new brave decisions even in matters in which an agreement was hard to imagine.

In fact, it is worth recalling that the main instrument of mutual trust in the AFSJ, the European Arrest Warrant, was born out of necessity after September 11,<sup>16</sup> when national governments felt that the threat of a terrorist attack required a common bold answer. The need to prevent and prosecute particularly heinous crimes beyond national borders was particularly strong in that very moment, leading to the Framework Decision on the European Arrest Warrant.<sup>17</sup> In a nutshell, Member States felt a mutual vulnerability that could only be dealt with by deepening the cooperation between their police and judicial systems. Still, since it was a particularly sensitive field, Member States relied on mutual trust.

This shared feeling of vulnerability was also evident during the pandemic. Initially, the pandemic hit particularly Italy and Spain, but it spread rapidly throughout the whole of the

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<sup>11</sup> Rule of law is essential in the building of mutual trust since the seminal case *Gözütok and Brüggge*, in which the CJEU clearly remarked that mutual trust implies ‘trust in the adequacy of one’s partners’ rule and also trust that these rules are correctly applied’, Joined Cases C-187/01 and C-358/01 *Gözütok and Brüggge* EU:C:2002:516, para 12.

<sup>12</sup> The initial approach of the EU legislator to mutual trust in criminal matters promoted an automatic recognition of judicial decisions based on ‘blind trust’. However, the shortcomings on Fundamental Rights’ protection and on the guarantees of the rule of law prompted an evolution of mutual trust in the AFSJ from blind trust to earned trust. Valsamis Mitsilegas, ‘Mutual Recognition and Fundamental Rights in EU Criminal Law’ in Sara Iglesias Sánchez and Maribel González Pascual (eds), *Fundamental Rights in the Area of Freedom, Security and Justice* (Cambridge University Press 2021) 270.

<sup>13</sup> Ute Frevert, *Vertrauensfragen. Eine Obsession der Moderne* (C. H. Beck, 2013) 16-17.

<sup>14</sup> Ute Frevert, *The Moral Economy of Trust: Modern Trajectories* (German Historical Institute London, 2013) 37.

<sup>15</sup> *ibid* 40.

<sup>16</sup> See Conclusions and plan of action of the extraordinary European Council meeting on 21 September 2001 <<https://www.consilium.europa.eu/media/20972/140en.pdf>> accessed 01 August 2023.

<sup>17</sup> 2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision [2002] OJ L190/1.

EU in subsequent waves. The response was to lock down countries, putting on hold national economies, a challenge that required brave common and coordinated policies. In fact, the pandemic has been characterised as a complex intergovernmental problem, requiring an unprecedented coordination among tiers of governments, while making the necessary collaboration particularly difficult to achieve.<sup>18</sup> This proved to be true not only at national level, the rise of enhanced coordination and harmonisation in several regional and federal states being a telling example,<sup>19</sup> but also at EU level.

The need to move beyond the traditional legal and economic mechanisms was blatant if the EU wanted to preserve its legitimacy within its borders and its political and economic position beyond them. Besides, there was a high degree of sympathy towards the ones that suffered most from the crisis. In this regard, given that intense emotional situations strengthen the bonds within a community<sup>20</sup> and that trust is fostered by a shared feeling of vulnerability, the pandemic became a powerful catalyst to reinvigorate trust among Member States.

If September 11 brought with it a rise in the cooperation in criminal matters, the pandemic paved the way for an unprecedented economic program: the Next Generation EU (NGEU).<sup>21</sup> Such a program was inconceivable before the pandemic, being not only a politically bold move but also a case of creative legal engineering.<sup>22</sup> It offers grants and loans to support reforms and investments in the Member States and will be funded through the issuance of EU debt. The strategy combines joint debt issuance and burden sharing; that is, debt mutualisation with certain caveats. Bluntly put: the NGEU is nothing short of a historic milestone.<sup>23</sup>

The NGEU does not yet represent a radical shift away from the economically oriented priorities of the EU. In fact, the NGEU is not only a response to overcome the economic downturn caused by the pandemic but, first and foremost, it is a mechanism to foster a structural transformation of the national economies. Still, the NGEU can become a turning point in social solidarity within the EU based on mutual trust. Mutual trust is not to be confused with blind trust,<sup>24</sup> as the CJEU has made clear in cases such as *N.S* and *Aranyosi and Căldăraru*, neither is it altruistic. In fact, as already stated, it is voluntary, conditional, and reciprocal. Traits that can be found in the NGEU.

There is a conditionality element attached to the NGEU, since the grants and loans awarded must serve to fund measures, reforms and investments contributing to the

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<sup>18</sup> Mireille Paquet and Robert Schertzer, 'COVID-19 as a complex intergovernmental problem' (2020) 53(2) *Canadian Journal of Political Science* 343.

<sup>19</sup> Cheryl Saunders, 'Grappling with the Pandemic: Rich insights into intergovernmental relations' in Nico Steytler (ed), *Comparative Federalism and COVID-19: Combating the Pandemic* (Routledge 2021) 391-392.

<sup>20</sup> Peter Hilpold, 'Understanding Solidarity within EU Law: An Analysis of the 'Islands of Solidarity' with regard to Monetary Union' (2015) 34 *Yearbook of European Law* 257, 264.

<sup>21</sup> On the components and intricacies of NGEU, see Bruno de Witte, 'The European Union's COVID-19 Recovery Plan: the legal engineering of an economic policy shift' (2021) 58(3) *Common Market Law Review* 635, and from a critical stance Martin Nettesheim, 'Next Generation EU. The transformation of the EU financial Constitution' (2021) *Heidelberger Beiträge zum Finanz- und Steuerrecht*, Bd 16.

<sup>22</sup> de Witte (n 21) 638.

<sup>23</sup> Alicia Hinarejos, 'Next Generation EU: On the agreement of a COVID-19 Recovery Package' (2020) 4 *European Law Review* 451, 452.

<sup>24</sup> Koen Lenaerts, 'La vie après l'avis: exploring the principle of mutual (yet not blind) trust' (2017) 54(3) *Common Market Law Review* 805, 840.

objectives established in the Recovery and Resilience Facility (RRF).<sup>25</sup> Objectives that were assessed and validated *ex ante* by the EU. Furthermore, the RRF, the centrepiece of the NGEU, is deeply embedded in the framework of the EU's economic governance. National authorities are requested to follow the guidance provided by the EU and implement the recommendations that are addressed under the European Semester. Besides, the disbursement of the funds might be suspended when a state does not comply with its obligations under the Stability and Growth Pact (SGP) and the macroeconomic procedure.<sup>26</sup> Thus, the logic of conditionality is still present,<sup>27</sup> but it differs deeply from the strict conditionality that inspired the Euro Crisis legislation.

During the Euro Crisis, the array of measures to tackle the crisis were, to a large extent, informed by the moral hazard that compensated for the lack of trust (even of confidence)<sup>28</sup> towards the Member States suffering most during the crisis. In other words, the strict conditionality attached to the financial assistance given under the Euro Crisis mechanisms mirrored the mistrust among Member States.<sup>29</sup> However, the pandemic was dealt with under a different paradigm. Not only did the pandemic eventually affect all the Member States, but it would have been morally unacceptable to shift the blame onto those Member States with a higher coronavirus death rate. Consequently, moral hazard was considered inapplicable.<sup>30</sup>

While the COVID-19 pandemic probably gave rise to a strong empathy towards the Member States where it was particularly virulent,<sup>31</sup> the EU was also ready for a new paradigm. When the pandemic hit, the Union was already engaged in a process of reflection about the EMU. The SGP and the EU's fiscal rulebook were under discussion and legislative proposals about new budgetary instruments were being discussed.<sup>32</sup> Hence, the pandemic proved a catalyst for a new paradigm.

In the decade prior to the pandemic, the EU had several severe crises, such as the sovereign crisis, the migration crisis, and the Brexit; but the COVID-19 pandemic rapidly topped them all. The health crisis was particularly risky for the EU, since it disrupted every

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<sup>25</sup> The Commission has established a framework for assessing the milestones and targets under the RRF Regulation, along with a methodology for the determination of payment suspension. The framework allows minimal deviations and foresees to give different weight to the specific unfulfilled targets. In this regard, the legislative reforms that address challenges identified in the Country Specific Recommendations (or other document related to the European Semester) bear particular significance since the amount to be suspended will be adjusted upward. Communication from the Commission to the European Parliament and the Council, 'Recovery and Resilience Facility: Two years on A unique instrument at the heart of the EU's green and digital transformation' COM (2023) 99 final.

<sup>26</sup> Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis [2020] OJ L 433I/23, Article 9.

<sup>27</sup> See Paul Dermine, 'The EU's response to COVID-19 crisis and the Trajectory of Fiscal Integration in Europe - Between Continuity and Change' (2020) 47(4) *Legal issues of economic Integration* 337.

<sup>28</sup> Hilpold (n 20) 280.

<sup>29</sup> Michael Ioannidis, 'Europe's new transformations. How the EU Economic Constitution changed during the Eurozone crisis' (2016) 53(5) *Common Market Law Review* 1237, 1247.

<sup>30</sup> Remarks by Mário Centeno following the Eurogroup videoconference of 24 March 2020 <<https://www.consilium.europa.eu/es/press/press-releases/2020/03/24/remarks-by-mario-centeno-following-the-eurogroup-meeting-of-24-march-2020/>> accessed 01 August 2023.

<sup>31</sup> Philipp Genschel and Markus Jachtenfuchs, 'Postfunctionalism reversed: solidarity and rebordering during the COVID-19 pandemic' (2021) 28(3) *Journal of European Public Policy* 350, 359.

<sup>32</sup> Dermine (n 27).

single policy and politics.<sup>33</sup> The EU had to face an unprecedented challenge and take risky innovative decisions, relying on the past while looking at the future.

### 3 MUTUAL TRUST AND SOCIAL SOLIDARITY IN THE NGEU

Solidarity is conditional and reciprocal and is fuelled by the bonds between subjects within a community.<sup>34</sup> Therefore, trust and solidarity share common traits. Still, solidarity in the EU legal order has different dimensions, being divided in solidarity between Member States, social (or domestic) solidarity, and solidarity towards third States.<sup>35</sup> In this context, it is my contention that the NGEU has fostered social solidarity at EU level due to a growing mutual trust, whereas the economic and financial assistance scheme of the Euro Crisis was an example of EU solidarity among Member States.

The measures adopted to tackle the Euro Crisis were informed by the solidarity among the Member States within the EU. The initiative's aids to Member States during the Euro Crisis, such as Greece, were granted as it was important for the preservation of the eurozone, which was deemed to be advantageous for all the Member States therein.<sup>36</sup> These measures were informed by the solidarity among Member States, with reciprocity being a salient trait of solidarity.

Reciprocity is also inherent to the NGEU. In fact, beyond the rhetoric, the NGEU does not imply a fiscal transfer between EU countries, a decisive factor to get support, particularly from the frugal four. These were granted rebates on their contributions and cuts in funding for certain policy areas to get them on board.<sup>37</sup> Furthermore, Article 122 TFEU was the legal basis of the main component of the NGEU,<sup>38</sup> ensuring that the solidarity clause receives a central role in the legal debate. Such a legal basis was particularly appealing for some of the proponents due to its temporary character.<sup>39</sup> In a nutshell, solidarity became the

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<sup>33</sup> Vivien A Schmidt, 'Theorizing institutional change and governance in European responses to the COVID-19 pandemic' (2020) 42(8) *Journal of European Integration* 1177, 1190.

<sup>34</sup> Hilpold (n 20) 264.

<sup>35</sup> Karl-Peter Sommermann, 'The dimensions of the principle of solidarity in the European Union' in Maribel González Pascual and Aida Torres Pérez, *Social Rights and the European Monetary Union* (Edward Elgar 2022). The threefold character of solidarity at EU level has been highlighted by several authors, even though there are different understandings of these three dimensions. Sangiovanni considers that there are national solidarity (within Member States), solidarity among Member States (Member-State solidarity), and solidarity between European residents and European citizens (transnational solidarity) - see Andrea Sangiovanni, 'Solidarity in the European Union' (2013) 33(2) *Oxford Journal of Legal Studies* 213, 221. Domurath, however, maintains that there is solidarity among Member States, between Member States and individuals and between generations - see Irina Domurath, 'The Three Dimensions of Solidarity in the EU Legal Order: Limits to the Judicial and Legal Approach' (2013) 35(4) *Journal of European integration* 459, 460-462. The entry into force of the EU Charter on Fundamental Rights, and the growing relevance of the European Pillar of Social Rights, listed as one of the general goals of the RRF, gives prominence to the term social solidarity since it is linked to the solidarity among citizens, and it is not necessarily limited to the national borders. On this, see Groussot and Karageorgiou in this Special Issue.

<sup>36</sup> Hilpold (n 20) 265.

<sup>37</sup> Ann-Christine Hartzén, Andrea Iossa, and Eleni Karageorgiou, 'Introduction to Law, Solidarity and the limits of Social Europe' in Ann-Christine Hartzén, Andrea Iossa, and Eleni Karageorgiou (eds), *Law Solidarity and the limits of Social Europe* (Edward Elgar 2022) 22.

<sup>38</sup> Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis [2020] OJ L 433I/23.

<sup>39</sup> Michael Ioannidis, 'Between responsibility and solidarity: COVID-19 and the future of the European Economic Order' (2020) 39 *MPIL Research Series*.

basis of the agreement because it would not create a permanent obligation.<sup>40</sup> Finally, the RRF is more about resilience than about recovery.<sup>41</sup> Hence, reciprocity and mutual advantage played a key role.

However, the measures adopted to tackle the pandemic crisis, and the subsequent economic crisis, are indeed substantially different to the ones applied during the sovereign crisis, also from the perspective of social rights, ie, social solidarity. In the COVID-19 crisis, Member States were concerned that a major weakening of some EU economies would have a domino effect and impact on others, which could eventually cause a return of the sovereign debt problems. Still, Member States accepted not to impose too many obligations on Member States in need of support. This required a relaxing of the reciprocity and the conditionality of the measures taken as well as trust in Member States' decisions.

Member States were given a wide margin of manoeuvre due to the vagueness of the NGEU's goals, drafting their own National Plan in accordance with their preferences.<sup>42</sup> Consequently, there are deep differences among the different National Plans, even regarding the main goals.<sup>43</sup>

Thus, the EU assumed quite a high risk of fragmentation, each Member State deciding which goals to achieve and how to achieve them. Besides, in the NGEU, there is greater commitment to social solidarity within the Member States.

The RRF explicitly establishes social and territorial cohesion as goals of the NGEU. Furthermore, the twin transition (green and digital) can also be easily connected to social objectives. The digital transformation embodies social policies, for instance, by seeking to prevent further exacerbation of the digital gap between territories or individuals. Similarly, the green transformation can be easily traced back to social rights through its goals of significant improvement of living conditions in impoverished territories, shortcomings of social rights standards within the Member States, and the rights of future generations.

In contrast, during the Euro Crisis, the conditionality attached to the financial and/or assistance mechanisms led to harsh austerity measures to the extent that national social policies were unable to mitigate the resulting dramatic rise in poverty, leading to social exclusion and inequality in countries, such as Greece or Spain. The systems of the Welfare

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<sup>40</sup> The temporary character of the NGEU was also crucial in the decision of the German Federal Constitutional Court regarding the Act Ratifying the EU Own Resources Decision ('EU Recovery Package'): 'it cannot be held that the Council manifestly exceeded the competence conferred in Art. 122(1) and (2) TFEU, provided that the EURI Regulation remains strictly tied to the historically exceptional case of "support[ing] the recovery in the aftermath of the COVID-19 crisis"[...] and "tackl[ing] the adverse economic consequences of the COVID-19 crisis.' Judgment of 6 December 2022, 2 BvR 547/21, 2 BvR 798/21.

<sup>41</sup> de Witte (n 21) 679.

<sup>42</sup> Even though 'The recovery and resilience plans shall be consistent with the relevant country-specific challenges and priorities identified in the context of the European Semester, as well as those identified in the most recent Council recommendation on the economic policy of the euro area for Member States whose currency is the euro'. Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility [2021] OJ L57/17 (Recovery and Resilience Facility Regulation), Article 17.3.

<sup>43</sup> According to the data provided by the EU share of the recovery and resilience plan's estimated contribution to each policy pillar clearly differs. See European Commission, 'Recovery and Resilience Scoreboard' <[https://ec.europa.eu/economy\\_finance/recovery-and-resilience-scoreboard/country\\_overview.html?lang=en](https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/country_overview.html?lang=en)> accessed 01 August 2023.

States were thus changed through the back door, causing substantial damage to the socio-economic fabric of several Member States.<sup>44</sup>

This does not mean, however, that the RRF implies a radical change regarding social rights protection. Tellingly, the main pillars of the RRF are the twin transition (green and digital transformation), sustainable and inclusive economic growth, social and territorial cohesion, children and health, economic, social, and institutional resilience.<sup>45</sup> A minimum of 57 per cent of the recovery and resilience plan's total allocation has been set for the twin transition, whereas no minimum percentage of the fund has been established for social policies. Moreover, the definition of social rights in the RRF is blurry, as they are also linked to a certain extent to economic or geopolitical targets.<sup>46</sup> In concise terms, social rights are not the primary objective of the RRF.

All in all, the NGEU grants more room for national social policies and even provides greater resources for them, if they align with the specific goals of the NGEU, a social solidarity shaped by the diversity of the EU and coherent with the growing concern of the EU for social rights.

Traditionally, social solidarity has been linked to the belonging to a community, as well as to the democratic principle. In fact, there is a symbolic link between solidarity and national identity.<sup>47</sup> Obviously, at EU level, social solidarity is less demanding than at national level, by virtue of the more mediated and less comprehensive nature of the goods provided at EU level.<sup>48</sup> However, the more the idea of a Europe of citizens has developed, the more the concept of solidarity has extended to solidarity among citizens as well, ie, to social solidarity.<sup>49</sup> In fact, Article 2 TEU, as introduced by the Lisbon Treaty, explicitly invokes a society in which, among other principles, solidarity prevails. It is quite telling that Chapter IV of the EU Charter enshrines social rights under the heading 'solidarity'. In a similar vein, the preamble of the EU Charter explicitly states that the EU is founded, *inter alia*, on solidarity. These legal provisions are a solid basis for social solidarity to become a normative principle of the EU, capable of creating obligations to be respected by the Member States.<sup>50</sup> A principle that could pave the way for a more nuanced interpretation of the balance between economic and social goals, strengthening thereby the protection of social rights within both the EU and the Member States.

This solidarity within the Member States is supported by the NGEU raising the enjoyment of social rights, in contrast to the measures adopted to tackle the Euro Crisis. Therefore, through the NGEU, the EU is playing a supporting role for social rights at

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<sup>44</sup> Maribel González Pascual, 'Social rights protection in the EU: Unlocking the social content of the EU Charter' in Maribel González Pascual and Aida Torres Pérez, *Social Rights and the European Monetary Union* (Edward Elgar 2022) 40.

<sup>45</sup> Sangiovanni (n 35) 223.

<sup>46</sup> Recovery and Resilience Facility Regulation (n 42), Article 3.

<sup>47</sup> It is quite significant that the aim of the pillar devoted to health, economic and social resilience is 'inter alia, increasing crisis preparedness and crisis response capacity': Recovery and Resilience Facility Regulation (n 42), Article 3.

<sup>48</sup> As there is such a link between criminal law and national identity. Sommermann, 2022 (n 35) 8.

<sup>49</sup> Sangiovanni (n 35) 223.

<sup>50</sup> Sommermann (n 35) 14.

<sup>51</sup> Xavier Groussot, Anna Zemskova, and Katarina Bungefeldt, 'Foundational principles and the rule of law in the EU; how to adjudicate in a Rule-of-Law crisis, and why solidarity is essential' (2022) 5(1) *Nordic Journal of European Law* 1, 15-16.



national level, which could form the basis for a European Social Union. This is a Union of national welfare states with different legacies and institutions but with a common purpose.<sup>51</sup> A European Social Union that would guide and support the functioning and modernisation of national welfare states based on some common standards and shared objectives, leaving to the Member States wide margins of autonomy in the choice of ways and means.<sup>52</sup> A common framework, a common understanding of the roots, and a path to follow in order to foster a variety of national social policies.

#### 4 SOCIAL SOLIDARITY IN LINE WITH THE EU: TOWARDS A COMPETITIVE SOLIDARITY

The EU's response to the pandemic, ie, the NGEU, gives due regard to the national social goals and interests. However, these must also be aligned with EU goals and interests. This implies that domestic solidarity must be compatible and coherent with the understanding of social solidarity at EU level. A social solidarity embedded in an economic integration process, striving to be more competitive at global level, particularly by fostering the digital transformation, while facing climate change and an increasing need for new sources of energy. In a nutshell, social solidarity may be enhanced if it is aligned with the EU's main goals.

This understanding of social solidarity in an EU framework, suffering from the pressure of an unprecedented competitiveness at international level has been characterised as 'competitive solidarity'.<sup>53</sup> Equality of citizens is pursued through the equalisation of endowments of resources amongst market participants, particularly by investing in the ability of individuals to adapt to a changing market. Social cohesion is sought through an understanding of equal opportunity, emphasising the development of skills and the facilitation of employment. Equity and efficiency are reconciled by social investment.

Such a social investment could boost employment, while at the same time lowering poverty with policy tools that include education, affordable and good-quality universities, accessible lifelong learning, active labour market programmes, individualised assistance, paid parental leave, encouragement of flexible work scheduling and public employment.<sup>54</sup> Complementarily, social investment also implies a minimum-income universal safety net, as social protection and economic stabilisation 'buffers' in ageing societies.<sup>55</sup>

This competitive solidarity, which emphasises social investment and efficiency of the public sector replacing the protective and redistributive solidarity, permeates the NGEU. In fact, even though Member States had a wide margin of manoeuvre when they drafted the

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<sup>51</sup> Frank Vandenbroucke, 'The Idea of a European Social Union: A Normative Introduction' in Frank Vandenbroucke, Catherine Barnard, and Geert De Baere (eds), *A European Social Union after the Crisis* (Cambridge University Press 2017) 5.

<sup>52</sup> Maurizio Ferrara, 'The European Social Union: A missing but necessary political good' in Frank Vandenbroucke, Catherine Barnard, and Geert De Baere (eds), *A European Social Union after the Crisis* (Cambridge University Press 2017) 51.

<sup>53</sup> Wolfgang Streeck, 'Competitive Solidarity: Rethinking the European Social Model' (1999) 99/8 MPiFG Working Paper.

<sup>54</sup> Lane Kenworthy, 'Enabling Social Policy' in Anton Hemerijck (ed), *The Uses of Social Investment* (Oxford University Press 2017) 89.

<sup>55</sup> Anton Hemerijck, 'Social Investment and Its Critics' in Anton Hemerijck (ed), *The Uses of Social Investment* (Oxford University Press 2017) 5.

National Recovery Plans, they necessarily had to pay particular attention to the recommendations addressed to them in the framework of the European Semester, which in turn had increasingly included social goals.<sup>56</sup>

This inclusion of social goals in the Country Specific Recommendations (CSR) involved a subordination of social objectives to the goals of financial stability and economic convergence,<sup>57</sup> the social indicators being in all cases strongly tied to the goal of fostering competitiveness within the market of the CSR.<sup>58</sup> In fact, it is debatable that the European Semester may become an avenue to protect social rights given the overriding role of financial stability.<sup>59</sup> Be it as it may, the CSRs have increasingly displayed a more nuanced approach regarding social rights, paying more attention to measures aiming at reducing poverty and inequality,<sup>60</sup> while particularly emphasising the need to improve employability by enhancing social investment. Therefore, when the National Recovery Plans foresaw the fulfilment of the CSR regarding social policies, they inevitably strengthened social investment.

Furthermore, the investments that could have been included in the National Recovery Plans had several requirements that implicitly disregarded social policies based mostly on protection and redistribution. Firstly, the investments must bring about a structural change. Secondly, expenses of recurrent nature may be financed only when the Member State concerned is able to demonstrate that it will produce long-term effects, that their financing will be sustainably ensured after the duration of the NRP, and that the negative effects on the government's balance are only temporary. Finally, investments for which the implementation could not be ensured within the timespan of the Facility had to be avoided.<sup>61</sup>

As a result, National Recovery Plans fostered social investment. Those measures include, for instance, reforms and investments to make active labour market policies more effective, to improve access to quality education and training digital education, including upskilling and reskilling for working-age adults.<sup>62</sup> Indeed, the Spanish National Recovery Plan<sup>63</sup> included several targets regarding the modernisation and link with the labour market

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<sup>56</sup> Adina Maricut and Uwe Puetter, 'Deciding on the European Semester: the European Council, the Council and the enduring asymmetry between economic and social policy issues' (2018) 25(2) *Journal of European Public Policy* 193, 194.

<sup>57</sup> Mark Dawson, 'New governance and the displacement of social Europe: The case of the European Semester' (2018) 14(1) *European Constitutional Law Review* 191, 207.

<sup>58</sup> Francesco Costamagna, 'National social spaces as adjustment variables in the EMU: A critical legal appraisal' (2018) 24(2-3) *European Law Journal* 163, 176.

<sup>59</sup> Klaus Tuori and Fernando Losada, 'The emergence of the new over-riding objective of financial stability' in Maribel González Pascual and Aida Torres Pérez, *Social Rights and the European Monetary Union* (Edward Elgar 2022) 69.

<sup>60</sup> Jonathan Zeitlin and Bart Vanhercke, 'Socializing the European Semester: EU social and economic policy co-ordination in crisis and beyond' (2018) 25(2) *Journal of European Policy* 149, 167.

<sup>61</sup> Commission Staff Working Document Guidance to Member States Recovery and Resilience Plans, SWD (2020) 205 final. It is quite telling that the examples of specific objectives that could underpin the components of the NRP regarding social policies provided by the guidance are mostly related to improving the employability of the general population along with the protection of vulnerable groups, such as, inter alia, upskilling and reskilling of the working age population, ensuring equality for all and inclusion of persons with disabilities, strengthening the link between education and training and the labour market or developing skills for green and digital transactions.

<sup>62</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank Annual Sustainable Growth Survey 2022, COM (2021) 740 final.

<sup>63</sup> Annex to the Proposal for a Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Spain {SWD(2021) 147 final}, COM (2021) 322 final.

of the vocational training and the whole education system (component 20), along with the modernisation and digitalisation of education, including a comprehensive reform of the university system (component 21). Furthermore, it also aims at the modernisation of labour market policies, the support and reskilling of workers in transition, and it encompasses training initiatives regarding the green and digital transition (component 23).

Additionally, the Spanish NRP includes a deep modernisation of the minimum vital income, which was put in place on May 2020 by the Royal Decree Law 20/2020,<sup>64</sup> its entry into force being one of the main milestones of the Spanish NRP (component 22). Hence, the NGEU has been an important catalyst to put forward a national minimum vital income scheme in Spain, in line with the growing relevance of a minimum income protection to tackle poverty in the EU.<sup>65</sup> Furthermore, the retirement system (Royal Decree Law 2/2023) and the labour market (Royal Decree Law 32/2021) have been amended to comply with the Spanish NRP.

Within the framework of the NGEU, the Spanish government has achieved a reform of the main components of the Welfare State and the approval of new social entitlements. Furthermore, the social investment has clearly gained terrain in Spain. These amendments should not be underestimated, because any reform in a welfare state is particularly intricate. Not without reason, the modern welfare states have been characterised as ‘elephants on the move’, as they are extremely difficult to divert from their course, even in case of a national emergency.<sup>66</sup> The NGEU enabled these changes, providing a unique opportunity for Member States to tackle an unexpected and severe crisis, allowing different proposals and reforms throughout Europe. Such flexibility is apt in light of European diversity and a diverse range of social policies.

Therefore, the NGEU has brought with it not only a modernisation of the social services in Spain via digitalisation, but also a different understanding of the main drivers of the Social State and the successful approval of reforms that have been repeatedly recommended by the EU.<sup>67</sup> In fact, during the Euro Crisis, Member States were encouraged to enact changes in their Welfare State in order to achieve modernisation thereof. Still, the

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<sup>64</sup> Before the approval of the Royal Decree Law 20/2020, there was a regional minimum vital income scheme. Still, there were significant differences between Member States. Furthermore, the coverage and adequacy of such a scheme had been questioned by the Commission. Recommendation for a Council Recommendation on the 2020 National Reform Programme of Spain and delivering a Council opinion on the 2020 Stability Programme of Spain Brussels, COM(2020) 509 final.

<sup>65</sup> Council Recommendation of 30 January 2023 on adequate minimum income ensuring active inclusion 2023/C 41/01 [2023] OJ C 41/1.

<sup>66</sup> Francis G Castles, ‘Black swans and elephants on the move: the impact of emergencies on the welfare state’ (2010) 20(2) *Journal of European Social Policy* 91, 98.

<sup>67</sup> Since the Commission initiated an excessive deficit procedure regarding Spain, in April 2009, it has repeatedly insisted on the need for far-reaching reforms of the labour market and the pension system. In fact, the retirement age was extended from 65 to 67 in 2011. Furthermore, key elements of the labour market, such as the collective bargain or the dismissal conditions, were extensively amended from 2011 to 2014. On these reforms, see José Ignacio Pérez Infante, ‘Las reformas laborales en la crisis económica: su impacto económico’ (2015) 87(1) *Ekonomiaz* 246. However, these were partial reforms that did not tackle the main challenges of the labour market: the high unemployment rates (particularly among young people), the high amount of temporary employment and the sustainability of the pension system in the long term. The latest reforms, however, are extremely ambitious, touching upon elements, such as the contribution period, entitlement to a full pension, the main kinds of employment contracts (and its costs) and instruments to increase the flexibility for companies. It is quite remarkable that the labour reform was agreed with trade unions and employers. The reform of the pension system, however, was supported by trade unions and not by employers.

general impression was that those recommendations were directed by economic tools rather than social ideals.<sup>68</sup> The NGEU insists on the same recommendations in many cases, such as providing funds, granting a wider margin of decision to Member States, and encapsulating those measures in social goals. A strategy which has proven to be much more successful.

## 5 MUTUAL TRUST AS A TRANSFORMATIVE PRINCIPLE

Principles provide the legal corpus for societies under permanent change, while keeping shared convictions and common interests. Principles mirror ideas, hopes, demands; but also new ideas, new hopes, new demands. This is particularly so if we consider them as transformative principles, which do not only imply a specific meaning or content but also a probable development.<sup>69</sup> Such an understanding is particularly necessary in the EU as it has proven to be flexible enough for creative interpretations.

Mutual trust, as a principle of fundamental relevance in the EU, might become a useful legal basis for a deepening of solidarity among citizens.<sup>70</sup> A trust based on a shared sense of vulnerability and mutual dependency. A limited, conditioned, and flexible trust, but trust, nonetheless, which gives a wider margin of manoeuvre to national social policies, while aiming at fulfilling solidarity as an EU goal.

The NGEU is a litmus test for the interrelation between trust and solidarity because it supports social solidarity, while fostering a reshaping of national social policies that must be reoriented towards social investment to be funded by the EU. This idea of solidarity, coupled with mutual trust, implies a specific understanding of the EU as a ‘way for member states to enhance their problem-solving capacities in an era of globalization, while indemnifying each other against the risks and losses implicit in integration.’<sup>71</sup> Solidarity requires common targets and interests, along with the feeling of belonging to the same community. A belonging that requires trust in the support of the community in case of an emergency. This belonging is not any longer limited to the boundaries of the nation State in the EU.<sup>72</sup> Besides, Member States currently rely on the EU to respond to dire needs of their citizens, such as tackling a pandemic or facing a war on European soil.

However, given the narrow competences of the EU in the field of social policy, any EU measure in this area must leave room for diversity. Flexibility is essential.<sup>73</sup> Besides, the balance between the market and the social side must be struck by a process, characterised as inclusive, representative, democratic and legitimate.<sup>74</sup> Flexibility and an inclusive and democratic process can only be achieved by giving due regard to both the common interests

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<sup>68</sup> Ulla Neergard, ‘When Poverty comes in at the Door, Love flies out the Window’ (2016) 7(2) *European Labour Law Journal* 168, 199.

<sup>69</sup> Armin von Bogdandy, *Strukturwandel des öffentlichen Recht* (Suhrkamp 2022) 152-153.

<sup>70</sup> Thus, mutual trust and solidarity are legally interdependent principles, which part of a network of principles that creates ‘an ever closer union among the peoples of Europe’. Opinion 2/13 (n 7) para 167. A strong bond between mutual trust and solidarity that the CJEU explicitly verbalizes in the budget conditionality cases. See Case C-156/21 *Hungary v Parliament and Council* (n 1) para 129 and Case C-157/21 *Poland v Parliament and Council* (n 1), para 147.

<sup>71</sup> Sangiovanni, 2013 (n 35) 241.

<sup>72</sup> Ingolf Pernice, ‘Solidarität in Europa’ in Christina Callies (ed), *Europäische Solidarität und nationale Identität* (Mohr Siebeck 2013) 28.

<sup>73</sup> Ane Aranguiz, *Combating poverty and social exclusion in European Union Law* (Routledge 2022) 168.

<sup>74</sup> Sacha Garben, ‘The Constitutional (Im)balance between the market and the social in the European Union’ (2017) (13) *European Constitutional Law Review* 23, 60.

of the EU and the Member States, and to national specific needs, expectations, and democratic decision-making processes. A reciprocal, conditional and voluntary mutual trust can pave the way to solve such a conundrum as mutual trust encourages Member States to work (and invest) in a coordinated way,<sup>75</sup> while giving them sufficient leeway to decide if, how, and when, to achieve common social goals.

Hence, mutual trust emerges as an apt principle to trigger social solidarity, in a similar way as it has been an enabler of cooperation in criminal matters. In both areas, Member States were supposed to achieve key goals themselves and close to their national identity (such as public security and social solidarity). However, as the integration process evolved, the national response became insufficient, even if not incompatible with the EU integration process. Furthermore, in both cases, the EU and the Member States had to take risky decisions when confronted with their shared and innate vulnerabilities. This required negotiations to accept basic common rules and, also, limits to it: confidence cannot be broken, goals and interests must be aligned, a wide national margin of manoeuvre must be kept, and moving forward implies a negotiation.

For such a move forward, the EU not only needs trust but has also provided it. A trust that has led to the nuanced conditionality of the NGEU; the EU trusts that Member States will implement the NRP as agreed, whereas Member States trust that the EU provides better alternatives to unexpected problems. A trust that is flexible and can have setbacks<sup>76</sup> but that opens new avenues for the construction of a society in Europe in which solidarity prevails (Article 2 TEU).

## 6 CONCLUDING REMARKS

Trust is based on our expectations but it also has a strong sentimental element, a feeling of mutual dependency and shared vulnerability. Unsurprisingly, trust has proven to be a powerful tool in the EU to face unexpected new challenges by fostering the cooperation among Member States, even in sensitive areas.

The pandemic created a strong bond of shared vulnerability and empathy among Member States, which paved the way for a creative and bold program, the NGEU. A historic economic program, which is simultaneously apt as an instrument to increase social solidarity within the EU based on mutual trust. Member States could draft their NRPs in accordance with their preferences and foster social goals, if they wanted, with the support of the EU.

Still, this social solidarity must be embedded in an economic program, the NGEU, whose main goal is to foster a structural transformation of national economies at an increasingly competitive international level. Therefore, social solidarity provided by the NGEU has to be reconciled with the competitive solidarity that permeates the EU.

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<sup>75</sup> Paul de Grauwe, 'The Crisis as a Paradigm Shift' in Anton Hemerijck, Ben Knapen, and Ellen van Doorne (eds), *Aftershocks. Economic Crisis and Institutional Choice* (Amsterdam University Press 2009) 88.

<sup>76</sup> In fact, currently the Commission is conducting an in-depth review of the actual fulfilment of three milestones of the NRP agreed by the Italian government. By now, the evaluation period has been extended and the payment of EUR 19 billion to Italy has been postponed. BUDG-ECON Committee meeting on 17 April 2023, 'Recovery and Resilience Dialogue with the European Commission' <[https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/741506/IPOL\\_IDA\(2023\)741506\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/741506/IPOL_IDA(2023)741506_EN.pdf)> accessed 01 August 2023.

Consequently, Member States have particularly displayed programs fostering social investment.

Spain is a telling example. Not only is social investment being fostered in Spain by far-reaching and long-awaited reforms of the main pillars of the Social State, such as the labour market and the retirement system, they have also been successfully amended within the framework of the NRP. This transformation has been achieved with the help of mutual trust, which has proven to be a transformative principle responding to new challenges.

The malleability of mutual trust is key as it leaves room for diversity of national Social States, reshaping them in accordance with the EU understanding of solidarity. Therefore, mutual trust and solidarity are greatly interlinked, and their common reading could be the solid basis for a stronger future of social solidarity within the EU.

## LIST OF REFERENCES

- Aranguiz A, *Combating poverty and social exclusion in European Union Law* (Routledge 2022)  
DOI: <https://doi.org/10.4324/9781003222125>
- Canor I, 'My brother's keeper? Horizontal Solange: An ever-closer distrust among the peoples of Europe' (2013) 50(2) *Common Market Law Review* 383  
DOI: <https://doi.org/10.54648/cola2013054>
- Castles FG, 'Black swans and elephants on the move: the impact of emergencies on the welfare state' (2010) 20(2) *Journal of European Social Policy* 91  
DOI: <https://doi.org/10.1177/0958928709358793>
- Costamagna F, 'National social spaces as adjustment variables in the EMU: A critical legal appraisal' (2018) 24(2-3) *European Law Journal* 163  
DOI: <https://doi.org/10.1111/eulj.12278>
- Dawson M, 'New governance and the displacement of social Europe: The case of the European Semester' (2018) 14(1) *European Constitutional Law Review* 191  
DOI: <https://doi.org/10.1017/s1574019618000081>
- de Grauwe P, 'The Crisis as a Paradigm Shift' in Hemerijck A, Knapen B, and van Doorne E (eds), *Aftershocks. Economic Crisis and Institutional Choice* (Amsterdam University Press 2009)
- de Witte B, 'The European Union's COVID-19 Recovery Plan: the legal engineering of an economic policy shift' (2021) 58(3) *Common Market Law Review* 635  
DOI: <https://doi.org/10.54648/cola2021046>
- Dermine P, 'The EU's response to COVID-19 crisis and the Trajectory of Fiscal Integration in Europe - Between Continuity and Change' (2020) 47(4) *Legal issues of economic Integration* 337  
DOI: <https://doi.org/10.54648/leic2020020>
- Domurath I, 'The Three Dimensions of Solidarity in the EU Legal Order: Limits to the Judicial and Legal Approach' (2013) 35(4) *Journal of European integration* 459  
DOI: <https://doi.org/10.1080/07036337.2012.704630>
- Ferrara M, 'The European Social Union: A missing but necessary political good' in Vandenbroucke F, Barnard C, and De Baere G (eds), *A European Social Union after the Crisis* (Cambridge University Press 2017)  
DOI: <https://doi.org/10.1017/9781108235174.003>
- Fichera M, 'The European Arrest Warrant and the Sovereign State; A Marriage of Convenience?' (2009) 15(1) *European Law Journal* 70  
DOI: <https://doi.org/10.1111/j.1468-0386.2008.00451.x>

Frevert U, *The Moral Economy of Trust: Modern Trajectories* (German Historical Institute London, 2013)

— —, *Vertrauensfragen. Eine Obsession der Moderne* (C. H. Beck, 2013)

DOI: <https://doi.org/10.17104/9783406656101>

Garben S, 'The Constitutional (Im)balance between the market and the social in the European Union' (2017) (13) *European Constitutional Law Review* 23

DOI: <https://doi.org/10.1017/s1574019616000407>

Genschel P and Jachtenfuchs M, 'Postfunctionalism reversed: solidarity and rebordering during the COVID-19 pandemic' (2021) 28(3) *Journal of European Public Policy* 350

DOI: <https://doi.org/10.1080/13501763.2021.1881588>

González Pascual M, 'Social rights protection in the EU: Unlocking the social content of the EU Charter' in González Pascual M and Torres Pérez A, *Social Rights and the European Monetary Union* (Edward Elgar 2022)

DOI: <https://doi.org/10.4337/9781839105258.00008>

Groussot X, Zemskova A, and Bungertfeldt K, 'Foundational principles and the rule of law in the EU; how to adjudicate in a Rule-of-Law crisis, and why solidarity is essential' (2022) 5(1) *Nordic Journal of European Law* 1

DOI: <https://doi.org/10.36969/njel.v5i1.24496>

Hartzén AC, Iossa A, and Karageorgiou E, 'Introduction to Law, Solidarity and the limits of Social Europe' in Hartzén AC, Iossa A, and Karageorgiou E (eds), *Law Solidarity and the limits of Social Europe* (Edward Elgar 2022)

DOI: <https://doi.org/10.4337/9781800885516.00007>

Hemerijck A, 'Social Investment and Its Critics' in Hemerijck A (ed), *The Uses of Social Investment* (Oxford University Press 2017)

DOI: <https://doi.org/10.1093/oso/9780198790488.003.0001>

Hilpold P, 'Understanding Solidarity within EU Law: An Analysis of the 'Islands of Solidarity' with regard to Monetary Union' (2015) 34 *Yearbook of European Law* 257

DOI: <https://doi.org/10.1093/yel/yev020>

Hinarejos A, 'Next Generation EU: On the agreement of a COVID-19 Recovery Package' (2020) 4 *European Law Review* 451

Ioannidis M, 'Between responsibility and solidarity: COVID-19 and the future of the European Economic Order' (2020) 39 *MPIL Research Series*

DOI: <https://doi.org/10.2139/ssrn.3725458>



Ioannidis M, 'Europe's new transformations. How the EU Economic Constitution changed during the Eurozone crisis' (2016) 53(5) *Common Market Law Review* 1237  
DOI: <https://doi.org/10.54648/cola2016115>

Kenworthy L, 'Enabling Social Policy' in Hemerijck A (ed), *The Uses of Social Investment* (Oxford University Press 2017)  
DOI: <https://doi.org/10.1093/oso/9780198790488.003.0007>

Lenaerts K, 'La vie après l'avis: exploring the principle of mutual (yet not blind) trust' (2017) 54(3) *Common Market Law Review* 805  
DOI: <https://doi.org/10.54648/cola2017061>

Luhmann N, 'Familiarity, Confidence, Trust: Problems and Alternatives' in Diego Gambetta (ed), *Trust. Making and breaking cooperative relations* (Bodleian Library 2008)

Maricut A and Puetter U, 'Deciding on the European Semester: the European Council, the Council and the enduring asymmetry between economic and social policy issues' (2018) 25(2) *Journal of European Public Policy* 193  
DOI: <https://doi.org/10.1080/13501763.2017.1363271>

Millet FX, 'The Protection of Fundamental Rights within the AFSJ: Through or Against Mutual Trust and Mutual Recognition?' in Iglesias Sánchez S and González Pascual M (eds), *Fundamental Rights in the Area of Freedom, Security and Justice* (Cambridge University Press 2021)  
DOI: <https://doi.org/10.1017/9781108769006.006>

Mitsilegas V, 'Mutual Recognition and Fundamental Rights in EU Criminal Law' in Iglesias Sánchez S and González Pascual M (eds), *Fundamental Rights in the Area of Freedom, Security and Justice* (Cambridge University Press 2021)  
DOI: <https://doi.org/10.1017/9781108769006.016>

Neergard U, 'When Poverty comes in at the Door, Love flies out the Window' (2016) 7(2) *European Labour Law Journal* 168  
DOI: <https://doi.org/10.1177/201395251600700202>

Nettesheim M, 'Next Generation EU. The transformation of the EU financial Constitution' (2021) *Heidelberger Beiträge zum Finanz- und Steuerrecht*, Bd 16  
DOI: <https://doi.org/10.11588/hfst.2021.16.84345>

Paquet M and Schertzer R, 'COVID-19 as a complex intergovernmental problem' (2020) 53(2) *Canadian Journal of Political Science* 343  
DOI: <https://doi.org/10.1017/s0008423920000281>

Pérez Infante JI, 'Las reformas laborales en la crisis económica: su impacto económico' (2015) 87(1) *Ekonomiaz* 246

Pernice I, 'Solidarität in Europa' in Christina Callies (ed), *Europäische Solidarität und nationale Identität* (Mohr Siebeck 2013)

Sangiovanni A, 'Solidarity in the European Union' (2013) 33(2) *Oxford Journal of Legal Studies* 213

DOI: <https://doi.org/10.1093/ojls/gqs033>

Saunders C, 'Grappling with the Pandemic: Rich insights into intergovernmental relations' in Steytler N (ed), *Comparative Federalism and COVID-19: Combating the Pandemic* (Routledge 2021)

DOI: <https://doi.org/10.4324/9781003166771-27>

Schmidt VA, 'Theorizing institutional change and governance in European responses to the COVID-19 pandemic' (2020) 42(8) *Journal of European Integration* 1177

DOI: <https://doi.org/10.1080/07036337.2020.1853121>

Sommermann KP, 'The dimensions of the principle of solidarity in the European Union' in González Pascual M and Torres Pérez A, *Social Rights and the European Monetary Union* (Edward Elgar 2022)

DOI: <https://doi.org/10.4337/9781839105258.00007>

Streeck W, 'Competitive Solidarity: Rethinking the European Social Model' (1999) 99/8 MPifG Working Paper

Tuori K and Losada F, 'The emergence of the new over-riding objective of financial stability' in González Pascual M and Torres Pérez A, *Social Rights and the European Monetary Union* (Edward Elgar 2022)

DOI: <https://doi.org/10.4337/9781839105258.00010>

Vandenbroucke F, 'The Idea of a European Social Union: A Normative Introduction' in Vandenbroucke F, Barnard C, and De Baere G (eds), *A European Social Union after the Crisis* (Cambridge University Press 2017)

DOI: <https://doi.org/10.1017/9781108235174.002>

von Bogdandy A, *Strukturwandel des öffentlichen Recht* (Suhrkamp 2022)

Walker N, 'In search of the Area of Freedom, Security and Justice: A Constitutional Odyssey' in Walker N (ed), *Europe's Area of Freedom, Security and Justice* (Oxford University Press 2004)

DOI: <https://doi.org/10.1093/acprof:oso/9780199274659.003.0001>

Zeitlin J and Vanhercke B, 'Socializing the European Semester: EU social and economic policy co-ordination in crisis and beyond' (2018) 25(2) *Journal of European Policy* 149

DOI: <https://doi.org/10.4324/9781351025621-2>