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The option of last resort – Analysing the German preference shift on the European recovery fund in the COVID- 19 pandemic

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**The option of last resort – Analysing  
the German preference shift on the  
European recovery fund in the COVID-  
19 pandemic**

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Masterarbeit bei  
Prof. Dr. Berthold Rittberger  
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## List of abbreviations

Commission	European Commission
Council	Council of the European Union
ECB	European Central Bank
ECJ	European Court of Justice
EMU	Economic and Monetary Union
EP	European Parliament
ESF	Economic Stabilisation Fund
ESM	European Stability Mechanism
EU	European Union
FCC	Federal Constitutional Court
IMF	International Monetary Fund
MFF	Multiannual Financial Framework
NGEU	NextGenerationEU
PEPP	Pandemic Emergency Purchase Programme
PSPP	Public Sector Purchase Programme
SGP	Stability and Growth Pact
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

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# 1 Introduction

“I have always believed that Europe would be built through crises, and that it would be the sum of their solutions.”<sup>1</sup>

A “historic” instant in the trajectory of the European Union (EU), a “huge breakthrough” for integration, Europe’s “Hamiltonian moment” – these are only some examples of newspaper headlines heralding the NextGenerationEU (NGEU) recovery fund.<sup>2</sup> On July 21, 2020, the EU member states’ heads of government settled on the fund as an economic response measure to the ongoing COVID-19 pandemic. Indeed, the recovery fund marked a significant step towards deeper fiscal integration of the eurozone. Instead of following the austerity-based approach that had characterised the handling of the euro crisis, the EU member states decided to collectively borrow money on the financial markets for the first time. Furthermore, the fund amounts to a staggering €750 billion, of which €390 billion are offered in grants. Coupled with the EU’s Multiannual Financial Framework (MFF) 2021-2027, NGEU makes up “the largest stimulus package ever financed in Europe” (European Commission 2020).

The introduction of such an ambitious instrument would have remained unimaginable without the sudden reversal of Europe’s longstanding fiscal conservative Germany. To the surprise of European policymakers, on May 18, 2020, Germany’s Chancellor Angela Merkel and France’s President Emmanuel Macron called for a debt-financed and grants-based recovery fund that envisioned the European Commission (Commission) to raise €500 billion in the financial markets (The Federal Chancellor 2020). Remarkably, Germany was prepared to hand out the entire €500 billion as grants rather than loans. With Germany occupying the strongest financial position in the eurozone, it traditionally always preferred loans to grants. Only weeks before the announcement, the German government had sided with like-minded

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<sup>1</sup> Jean Monnet commenting on the impact of the *Action Committee for the United States of Europe* in settling crises of European integration (1978: 417).

<sup>2</sup> The exemplary headlines are taken from articles published in *El País* (de Miguel and Cué 2020), *The Financial Times* (Tett 2020) and *Barron’s* (Root 2020), respectively.

fiscally conservative member states called the “frugal four” (Fleming et al. 2020). Still in late April, Merkel publicly rejected the mutualisation of debt (The Federal Government 2020b). Thus, the German preference shifted radically in only a couple of weeks. Recalling Germany’s strong stance against joint European debt and financial transfers between member states during the euro crisis, Merkel’s sudden proposal is puzzling to say the least. Hence, the question arises of *what explains the German preference shift on the EU recovery fund during the corona crisis?*

This is both politically and theoretically relevant. Given the EU’s entrapment in “perpetual crisis” (Thompson 2018), policymakers are forced to consider the impact of crises on member state preferences for European integration. Analysing the preference of the EU’s most powerful member state, dubbed Europe’s “reluctant hegemon” (Paterson 2011), may hint at the direction that fiscal integration of the euro area might take in the future. Beyond politically accountable decision-makers, there is an increasing scholarly interest in EU integration through crises. Existing EU integration theories offer different accounts on the drivers behind member state preference formation. However, whether and to what extent these theories can be applied to preference formation during crisis remains to be seen. Thus, assessing predominant theoretical approaches and their explanatory power unveils which actors and goals drive the integration process in times of crisis.

Against this backdrop, the paper applies a two-step method combining insights from congruence analysis and process-tracing to rigorously test the assumptions on preference formation by the major EU integration theories (Beach and Pederson 2013: 14). However, it finds that no single approach is sufficient for comprehensively explaining the German preference shift on its own. Liberal intergovernmentalism and neofunctionalism mainly suffer from the fact that Germany’s support for shared European debt can hardly be considered rational: While economic interdependence among the member states gives Germany an incentive to help its neighbours in need, rational theories would expect a preference for minimal assistance tied to



strict conditions. Postfunctionalism, on the other hand, hypothesises the perceived loss of national identity and self-determination to lead to the stagnation of integration or even disintegration. Indeed, there are still considerable domestic challenges to fiscal integration in Germany. However, the government decided to integrate fiscal policy nevertheless, wherefore postfunctionalism also fails to explain the German support for the corona recovery fund. Finally, constructivism fails to account for the timing of the German preference shift. If Germany genuinely believed that showing European solidarity was the appropriate course of action, it remains puzzling why it only answered to the demands of the coalition advocating shared debt when the pandemic was already more than two months underway.

Instead, a multicausal approach is needed to understand Germany's sudden change of mind. An in-depth process-tracing analysis of the events from February to May 2020 reveals two turning points that normatively entrapped the German government. First, on the European level, community members engaged in rhetorical argumentation to change the framing of shared debt. They argued that particularly in times of a humanitarian crisis that was no one's fault, failing to offer financial assistance would be a betrayal against the ideational foundations of the European community ethos. Thereby, the European community rendered Germany's ordoliberal stance illegitimate and pressured the German government into adhering to the EU's constitutive value of solidarity. As a result, Germany became rhetorically entrapped, and its initial preference of sticking to the status quo – loans from the European Stability Mechanism (ESM) – was eliminated. Consequently, Germany's preference changed for the first time towards issuing more comprehensive rescue measures that, however, still precluded shared European debt.

A second turning point occurred on May 5, when the German Federal Constitutional Court (FCC) added normative pressure from below by ruling that the Public Sector Purchase Programme (PSPP) is overstepping the mandate of the European Central Bank (ECB). In line with postfunctionalist theory, German citizens demanded that European economic rescue

measures be democratically legitimised at the national level. With the success of their constitutional complaint, the PStP ruling constitutionally entrapped the German government. Threatening the long-term sustainability of European instruments that lack democratic accountability, the German government had to find a solution that adhered to the judgments of its judiciary branch. The corona recovery fund then became Germany's option of last resort that addressed both the European normative pressure and its Constitutional Court's demands. As such, the fund is comprehensive enough to show Germany's solidarity with the rest of Europe. At the same time, through its coupling with the EU's MFF, it had to be ratified by all national member state parliaments, thereby significantly increasing its democratic legitimacy. Taken together, the two turning points sufficiently explain the German preference shift: Germany did as much as needed to answer to the national demand for more democratic control and as little as possible to show European solidarity despite its ordoliberal ideology.

This synthetic approach to understand the German preference shift allows for a two-fold contribution. First, the prominent EU integration theories need to reconsider if and how their propositions on preference formation can be applied during crises. The central insight gained from the analysis is that there is no "winning theory" that can explain the entire process by itself. Instead, the paper elaborates on which conditions and mechanisms matter most for each stage and how they interrelate. Thereby, it contributes to overcoming the still widespread monocausal theorising of EU integration while not contending itself with the conclusion that all factors matter in some vague manner. As such, when examining the German preference shift, it appears that legitimacy concerns stand at the center of the decision-making process. At least during humanitarian crises, which unleash substantive normative pressure, and for countries like Germany, that are less affected and arguably worry comparatively little about a crisis' material consequences, legitimacy concerns are likely to substantively constrain the government's position.

Second, the empirical exploration suggests the often-overlooked role that national courts play in the integration process. The German case demonstrates how federal courts can become a tool for eurosceptic citizens to oppose EU law. Keeping in mind that the European Court of Justice (ECJ) had ruled in 2018 that the PSPP does not exceed the ECB's mandate, it is little surprising that the *ultra vires* verdict of the German FCC sparked a fresh debate on the primacy of EU law (Hall 2021). The paper sheds light on the circumstances under which national courts can effectively influence the European integration trajectory and, herein, also presents a promising avenue for future research.

This paper is structured as follows. The next chapter reconstructs prominent theoretical approaches on EU integration in order to formulate possible hypotheses on the conditions of state preference shifts during crises. Second, I introduce the research design and methodology. Subsequently, the theoretical approaches will be confronted with an empirical congruence analysis of the German preference shift. Fourth, process-tracing is used to reconstruct the underlying mechanisms that have resulted in the change of the German position and combine the insights into a multicausal approach. Finally, the conclusion summarises the findings and discusses the broader theoretical and empirical implications of the analysis.

## **2 Reconstructing theoretical approaches on preference shifts during crises**

Despite a long-lasting tradition characterised by tight fiscal policies, the German government called for an extensive debt-financed and grants-based EU recovery fund to respond to the corona crisis. In order to answer why Germany has changed its position, the body of literature on state preference formation in the EU can be consulted. Theories of European integration have developed assumptions on the conditions and mechanisms of preference formation that can be structured along two dimensions: First, the main actors who shape the state's positions and second, the goals that these actors pursue (Leuffen et al. 2013: 34). This chapter provides an overview of the most prominent EU theories' central insights on state preference formation and how these can be transferred to explain preference shifts in times of crisis. In doing so, it starts with the material models of liberal intergovernmentalism (2.1) and neofunctionalism (2.2), followed by the more ideational models of constructivism (2.3) and postfunctionalism (2.4).

### **2.1 The liberal intergovernmentalist approach: expected economic utility**

Liberal intergovernmentalism does not differentiate between integration in times of crisis and integration in times of non-crisis (Schimmelfennig 2018: 972). In either case, integration results from a three-step process in which the first stage is dedicated to explaining the formation of national preferences. Before states engage in interstate bargaining and design European institutions that reflect the need to establish credible intergovernmental commitments, each member state undergoes a process of national preference formation (Moravcsik 1998: 18). Thus, at its core, European integration remains the product of member states' national interests. As opposed to neofunctionalism or constructivism, liberal intergovernmentalism denies endogenous, transformative feedback of European integration on state preferences (Kleine and Pollack 2018: 1503).

Denying endogenous feedback, liberal intergovernmentalism holds that the state's preference results solely from domestic conflict and power struggle. The societal group that comes out on top determines the national interest. In line with liberal theories of international relations, domestic political institutions such as the government serve as a "transmission belt" by which those preferences are translated into state policy (Moravcsik 1997: 518). However, not all societal groups have the same potential to influence a state's position. Instead, their success depends on their degree of unity and organisation. According to Moravcsik, the "more intense, certain, and institutionally represented and organized" (1998: 36) these interest groups are, the more likely will they impact state preferences. If there is no discernible pressure from domestic groups, the ruling government enjoys more leeway and can shape the state preference according to its macro-economic position (*ibid.*: 3).

Thus, a state's preference is not fixed but issue-specific, meaning it will vary across issues and time (Schimmelfennig and Moravcsik 2009: 69). However, since European integration has focused on economic policies from its inception and there was little danger of internal warfare, state preferences regarding integration have reflected predominantly economic interests (*ibid.*: 70). Therefore, drawing on endogenous trade theory, liberal intergovernmentalism assumes that the state preference for integration depends on its effect on the state's economy (Leuffen et al. 2013: 44). As states behave boundedly rational, they make cost-benefit analyses that aim to maximise the gains of influential economic producers. EU integration thereby offers an opportunity to secure commercial advantages for national producer groups (Moravcsik 1998: 38).

Similarly, a state changes its preference depending on the interests of domestic economic groups. As such, the national position will shift when powerful domestic actors alter their assessment of integration's economic utility. If they perceive European integration to result in domestic economic gains, they will pressure the government towards deeper integration. Since the government serves as a transmission belt of domestic interests, it will recognise the national demand for European integration and adjust its state

policy accordingly. Thus, liberal intergovernmentalism assumes that a state's preference shift can be traced back to the domestic interests of powerful economic actors.

As liberal intergovernmentalism does not differentiate between integration in times of crisis and non-crisis, it also lacks an account that is specifically geared towards explaining preference shifts during crises. Just as in "normal" times, the national preference changes when powerful domestic actors alter their assessment of the economic utility of integration. Nevertheless, it should be noted that crises often pose great dangers to national economies and create significant losses for producers. Since the health of their national economy depends on the health of the eurozone in general, member states have to rely on each other, and the demand for policy coordination increases (Moravcsik 1993: 485). However, interdependence is usually asymmetrical, with some countries being more vulnerable than others. A state's position will mirror the crisis' impact on national producer groups and the state's capability to provide help unilaterally. If, on the one hand, the affectedness is strong and capabilities are weak, the economic gains from integration are high, and there will probably be stronger pressure from national producer groups. If, on the other hand, the affectedness is weak and capabilities are strong, the gains from integration are comparatively low, and producer groups will likely prefer minimal European assistance.

*Liberal intergovernmentalism, then, explains a state's preference shift during crises by variation in the economic utility that powerful domestic actors expect from integration.*

## **2.2 The neofunctionalist approach: critical junctures and economic necessity**

Like liberal intergovernmentalists, neofunctionalists see integration as the product of boundedly rational actors seeking to secure material gains by ceding some of their sovereignty to the EU. However, sharing some core assumptions with historical institutionalism, neofunctionalism rejects the liberal intergovernmentalist notion that states remain in control of the

integration process. Such functionalist accounts of EU integration are insufficient for several reasons (Pierson 1996: 131–148): First, once created, European institutions will become partially independent actors that use their authority for their own purposes, such as gaining more autonomy from member state control. Second, political actors have restricted time horizons due to fixed office terms and therefore tend to be less interested in the long-term consequences of their actions. Third, even if interested in long-term effects, there are likely some unintentional and unanticipated consequences resulting from initial institutional choices. Fourth, policy reversal becomes increasingly unattractive over time due to the generation of sunk costs and high institutional barriers to reform. In order to address these shortcomings, neofunctionalism suggests a self-reinforcing dynamic of EU integration. As initial integration steps are often deficient, they produce several types of spillover<sup>3</sup> that necessitate further integratory measures to achieve governmental goals (Haas 2004: 297).

As member states cannot constantly design or control the integration process, neofunctionalism further extends the list of relevant actors. While national governments still play the central role in deciding whether to go forward with integration, they are not the only influential actors. Instead, transnational interest groups, multinational corporations and non-governmental organisations are agents in their own right. These transnational and supranational actors are the key drivers of EU integration attempting to use “gaps” (Pierson 1996: 126) in the treaty settlements to shift sovereignty to the European level. By contrast, member state governments try to resist those top-down pressures. Seeking to keep the integration process under national control, federal governments tend to agree only on the lowest common denominator, resulting in the incomplete nature of European integration (Jones et al. 2016: 1015).

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<sup>3</sup> Different types of spillover include functional spillover, political spillover and institutional spillover. Functional spillover results from the integration of a particular policy sector, inciting governments to undertake further integration steps in adjacent policy sectors. Political spillover is triggered by domestic political actors increasingly turning to the supranational level to solve their problems. Finally, institutional spillover occurs when the EU’s supranational actors successfully support the formation of transnational solutions (Leuffen et al. 2013: 70).

As a result, crises become an inherent part of the integration process (Lefkofridi and Schmitter 2015: 10). They are the product of incomplete integration and, in turn, strengthen the integration process due to the triggering of path-dependence. Path dependence functions through the mechanism of increasing returns, which describes the process by which previous steps towards integration induce incentives for further integration (Pierson 1996: 145). If an actor is confronted with several alternatives, continuing a chosen path once initial steps are taken is more beneficial than switching to another. Therefore, governments tend to save implemented but inefficient policies rather than giving up on the policy altogether (Jones et al. 2016: 1013), which eventually leads to crisis.<sup>4</sup>

While path dependence accounts for the relative stability of member state preferences over time, preference shifts are explained through the concept of critical junctures. Critical junctures are characterised by “distal historical causation” (Capoccia 2016: 89), meaning that brief phases of unpredictability yield decisions that have a long-lasting impact. During these short phases of unpredictability, the structural influences on political action are significantly relaxed and political decision-makers face a broader than usual range of feasible options. Once again, their choice among these options triggers a self-reinforcing path-dependent process that constraints future policy alternatives (Capoccia and Kelemen 2007: 348). As often portrayed in a branching tree diagram, critical junctures are moments in which institutional trajectories diverge. Thereby, they enable political actors to “break free” from previous spillover processes and change their position.

According to the neofunctionalist paradigm, crises often constitute critical junctures. As crises have to be addressed urgently, political actors are able to make decisions that are different from day-to-day decisions (Verdun 2015: 231). Thereby, they constitute an opportunity structure for policymakers that enables them to rapidly change their preference. Furthermore, the decisions made during crises often affect future policy and institutional

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<sup>4</sup> It should be noted that the increasing returns have to be sufficiently high for path-dependence to function as expected. Unless necessary, member states remain reluctant to cede autonomy to the European level (Schimmelfennig 2018: 974).



pathways (Braun 2015: 420). As a result, crises often lead governments to change their position towards supporting deeper European integration. Even if a government normally prefers the continuity of the status quo, crises raise the economic costs of disintegration and stagnation to be so high that these options become ineligible. When system breakdown otherwise appears inevitable, member states are even supportive of a limited integration of core state powers (Genschel and Jachtenfuchs 2018: 189). Over time, the decisions taken during crises manifest themselves in a new path-dependency, and when the next crisis hits, disintegration is even less of an option than before.

*In sum, neofunctionalism explains a state's preference shift during crises by variation in the opportunity structure and economic necessity for integration.*

### **2.3 The constructivist approach: compatibility of ideas with integration**

As opposed to both liberal intergovernmentalism and neofunctionalism, constructivism assumes that the outcome of state interactions depends on ideational rather than material structures. As such, actors follow a “logic of appropriateness” (March and Olsen 2009, 478) which means that they make decisions based on their values, norms and identities instead of rational cost-benefit analyses. This is not to say that material goals are irrelevant. However, social construction determines whether and how actors proceed to achieve these goals. Like liberal intergovernmentalism, constructivism follows a three-step explanation of EU integration (Leuffen et al. 2013: 90): First, ideas shape the member state preference regarding integration. Second, the amount of ideational consensus among the actors decides whether integration is achievable. Third, once set up, international organisations become community-building agencies that constitute state identities and values. Overall, EU integration is a process of regional community-building that stems from and results in collective identification among elites and citizens (Börzel and Risse 2020: 23).

At the core, then, ideas form a state's preference and whether it does or does not support integration. All kinds of ideas – beliefs, values, norms, identities – can influence a state's preference. If a state holds pro-European ideas, it will more likely support European integration. However, equally important, other national ideas must be compatible with integration (Kuhn 2019: 1215). As states can share a plentitude of ideas, the predominant ones must not contradict integratory goals. While national ideas do not necessarily have to be replaced by a shared European vision, they must at least be compatible with the ideal of a European community. To give an example, a state might value the European project in general but at the same time strongly believe in ordoliberalism, preventing it from supporting fiscal integration.<sup>5</sup> Therefore, it is not enough to hold pro-European ideas. Furthermore, no other national ideas may outweigh them. Thus, a member state changes its integration preference whenever there is a change in the compatibility of its predominant ideas with integration.

Constructivism does not specify any particular actor as the most relevant in shaping a state's predominant ideas. As such, the federal government can be influenced by national, transnational and supranational agents, depending on the opportunities and constraints in the decision-making process of the specific case (Leuffen et al. 2013: 92). Those actors can gain leverage over the national preference by exercising power through, over or in ideas (Carstensen and Schmidt 2016): Power through ideas describes the capacity to persuade others to adopt one's view, power over ideas means the ability to resist alternative ideas, and power in ideas demonstrates the possibility of framing one's position according to ideas that enjoy normative authority. Generally, mainstream parties are more supportive of European integration (Hooghe and Marks 2009: 17). Thus, a state's preference for integration often depends on the extent to which mainstream parties can influence national ideas. Besides domestic actors, supranational institutions can effectively shape member state preferences. As such, they are community-building agencies that are able "to impose definitions of

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<sup>5</sup> In fact, this was argued to be the case for Germany during the euro crisis (Matthijs 2016: 378).

member characteristics and purposes upon the governments of member states” (McNeely 1995: 33), thereby constituting states’ ideas and interests.

According to constructivism, actors are more likely to change their ideas in times of crisis. As argued by Blyth (2011: 89), ideas are fundamental to explaining social behaviour when uncertainty prevails over risk. Usually, political actors can calculate the costs and benefits of taking certain actions. Creating a novel environment that actors are not acquainted with, crises represent episodes characterised by a very high uncertainty in which such a cost-benefit analysis is impossible. In such an insecure environment, political decision-makers are cognitively more motivated to analyse new information and learn new ideas (Checkel 2001: 562). Agents will be convinced more easily and learn through the communication that takes place between a persuader and persuadee. Consequently, persuasion is more successful during crises. This applies to all actors and works in all directions, whether it’s EU institutions trying to convince member states, member states trying to persuade their publics or citizens trying to influence their government’s position.

To conclude, *constructivism explains a state’s preference shift during crises by variation in the compatibility of the predominant ideas with integration.*

## **2.4 The postfunctionalist approach: domestic constraints**

Postfunctionalism shares the constructivist assumption that the social construction of ideas plays a fundamental role in the EU’s trajectory. Apart from that, postfunctionalism takes a somewhat different perspective on EU integration than the previously discussed models. As such, it is the only theory that considers integration to be self-undermining. In their seminal article, Hooghe and Marks (2009: 7) define the Treaty on European Union (TEU) as a critical turning point in EU history as it has led to a stark increase in public opinion about European issues. What has changed is the time of a permissive consensus, during which insulated elites negotiated policies. Instead, the post-Maastricht era features a constraining dissensus in which

political actors must cater to public demands to appear legitimate (*ibid.*: 5). A vast number of issues shifted from the “interest group arena” to the “mass arena” (*ibid.*: 9), thereby becoming politicised. As a result, political decision-makers face considerable national constraints when considering the transfer of state powers to the EU. When they try to surrender national autonomy, they encounter domestic resistance, which, in turn, results in the stagnation of integration or even disintegration.

Domestic resistance can originate from several different actors. First and foremost, citizens themselves can hamper the integration process. Since governments are democratically elected, they have to constantly monitor public opinion or face the possibility of losing their office (Hobolt and de Vries 2016: 423). Besides national elections, citizens also vote for the composition of the European Parliament (EP). Using European elections as “second-order” national elections (Reif and Schmitt 1980: 8), voters tend to punish mainstream parties, thereby benefiting the eurosceptic coalition. In some member states, citizens have also had the opportunity to affect the course of European integration in referendums. Whether citizens support integration mostly depends on their identity. If they perceive their national identity as exclusive of other territorial identities, they are more likely to reject the European project (Hooghe and Marks 2009: 12).

Second, national parties can interfere with European integration. Party systems indicate along which divisions voters align themselves, thereby exposing social cleavages (Lipset and Rokkan 1967). One such cleavage that is becoming increasingly important is the cultural conflict between *gal* (green, alternative, libertarian) and *tan* (traditionalism, authority, nationalism) parties. With *tan* parties rejecting European integration and *gal* parties mostly supporting it (Hooghe and Marks 2009: 17), European integration depends on which parties manage to gain control over the national decision-making process. Finally, domestic institutions can inhibit the transfer of state powers. As such, national parliaments and courts may act as influential veto players.

According to postfunctionalism, domestic actors strive for the preservation of their national identity and self-determination. They oppose

the European project because it undermines the domestic community by weakening national sovereignty, diffusing democratic self-rule and introducing foreign ideas (*ibid.*: 17). Material costs and benefits take a back seat behind the fear of losing the national identity to European integration. This fear goes beyond issue-specific preferences. Regardless of the policy area, the self-determination of their community is of utmost importance. Nevertheless, the transfer of core state powers such as fiscal policy tends to produce particularly politicised integration politics and, therefore, stronger domestic resistance than the transfer of non-core state powers because the former are constitutive of the national identity (Rittberger et al. 2014: 196).

Thus, according to postfunctionalism, a state will change its preference whenever there is a significant shift in the strength of national resistance. If domestic constraints are low, the government can go forward with integration more easily. If, on the other hand, domestic constraints are high, the ruling elite will be reluctant to transfer powers to the European level because they are held accountable by national actors. Therefore, policymakers have an incentive to address the public's fear of losing its national identity and self-determination.

In many ways, postfunctionalism is a direct response to recent EU crises. Liberal intergovernmentalism, neofunctionalism and constructivism all assume a mostly positive integration dynamic. Therefore, they often fail to explain disintegration or stagnation. Trying to address this shortcoming, crises become an integral part of postfunctionalist theory. As such, domestic resistance to European integration tends to be particularly strong during crises. By disclosing the EU's functional deficiencies, crises contribute to the politicisation of European issues and reinforce the cultural *tan* versus *gal* cleavage (Hutter and Kriesi 2019: 997). Furthermore, political elites depend on the permissive consensus, especially during crises, to legitimise their policies without jeopardising their authority (Kreuder-Sonnen 2018a: 962). Therefore, decision-makers resort to emergency politics to circumvent public opinion for treaty reform and proceed with integration against the hurdles of the constraining dissensus (Kreuder-Sonnen 2018b: 458). This, in turn, fuels

negative emotions such as EU-resentment and alienation from the decision-making procedure at the national level, leading to voter dissatisfaction and nationalist authoritarianism (*ibid.*: 459). Crises thereby contribute significantly to national communities feeling sidelined by European integration and consequently trying to resist it.

Finally, *postfunctionalism explains a state's preference shift during crises by variation in the domestic constraints against integration.*

Table 1 EU integration theories' main assumptions on state preference shifts during crises

	<i>Relevant actors</i>	<i>Objective</i>	<i>Logic</i>	<i>Implication of crisis</i>	<i>Reason for preference shift</i>
<i>Liberal intergovernmentalism</i>	Domestic interest groups	Maximising welfare	Material	Amplifying interdependence	Change in assessment of economic utility of integration
<i>Neofunctionalism</i>	Transnational interest groups and supranational organisations	Maximising welfare	Material	Formation of a critical juncture	Change in opportunity structure and economic necessity for integration
<i>Constructivism</i>	National, transnational and supranational actors	Building a regional community	Ideational	Heightened uncertainty	Change in compatibility of predominant ideas with integration
<i>Postfunctionalism</i>	Domestic voters, parties and institutions	Protecting national identity and self-determination	Ideational	Loss of national self-determination	Change in domestic resistance against integration

### **3 Research design and methodology**

To probe the integration theories' utility in explaining preference formation during crises, I will conduct a single case study of the German preference shift towards the corona recovery fund. The research design consists of a two-step approach including two methods: First, congruence analysis will be used to establish which explanations provide congruent expectations with basic observations regarding the case. The study finds that no theory can sufficiently explain the German preference shift by itself (see chapter 4). Therefore, an in-depth analysis of the German government's actual preference formation process is needed as a second step. As the German change of mind presents a deviant case, explaining-outcome process-tracing is best suited to uncover the underlying causal mechanisms. The purpose of this chapter is to introduce the methods of congruence analysis (3.1) and process-tracing (3.2) by outlining their aim, application and potential pitfalls.

#### **3.1 Congruence analysis: observing covariance**

The main goal of congruence analysis is to contribute to the scientific debate on the explanatory power of different theories. As such, congruence analysis helps determine covariance between a theory's expectations and the actual outcome. To do so, the researcher essentially carries out two steps. First, the independent variable that each explanatory approach would suggest needs to be identified. As shown in Table 1, each theory proposes a different reason for the German preference shift. Second, expectations about the outcome of the dependent variable - the German position towards fiscal integration during the corona crisis - have to be formulated. These expectations should follow from the theories' basic assumptions. If the outcome is not consistent with a theory's propositions, said theory can be discarded. Practically, this implies the necessity to identify observable implications for each theoretical model: Which observable implications have to be met in reality for the hypothesis to remain plausible? If the outcome differs from the observable implications, the hypothesis is falsified, and the theory generally



is weakened. In contrast, consistency between the predicted implications and real-life effects strengthens the confidence in the explanatory approach.

Nevertheless, the extent to which one can evaluate a hypothesis' explanatory power based on congruence analysis alone depends on the number of hypotheses that successfully predict the outcome. If the observable implications are consistent with only a single prediction, the respective hypothesis is strongly supported. However, suppose two or more theories correctly predict the outcome. In that case, congruence analysis only roughly hints at the impact of each independent variable on the outcome by examining the extent of the covariance. While this is still helpful for further investigation, it reveals one of the central limits of congruence analysis: the possible presence of equifinality. Equifinality describes multiple paths leading to the same result (Bennett and Checkel 2014: 19). Congruence analysis is, ultimately, unable to distinguish which of these several trajectories is causing the specific outcome.

Besides the potential problem of revealing too many covariant theories, congruence analysis can also result in too few approaches that correlate with the outcome. As such, a theory may capture some but not all aspects of the case at hand. If no theoretical approach fully accounts for the outcome, the case can be considered deviant (Lijphart 1971: 692). The German preference shift regarding the corona recovery fund constitutes such a deviant case (see chapter 4). Therefore, process-tracing is needed to identify the causes behind the German position change.

### **3.2 Process-tracing: establishing causation**

While most of the monocausal explanations seem to capture some aspect of state preference formation, none of them can explain why the German government proposed the corona recovery fund by itself. From the perspective of each EU integration theory, the German preference shift is a deviant case (see chapter 4). In order to solve this puzzle, the actual process through which the German government formed its position needs to be traced.

Therefore, process-tracing will be employed as the method to assess when and why Europe's financially most robust member state changed its position on collective debt. Process-tracing is particularly well-suited to analyse the unique German preference shift as it allows within-case inferences about the presence or absence of causal mechanisms in single case studies (Bennett and Checkel 2014: 4). Because process-tracing involves the close tracking of changes over time, it reveals the sequences and mechanisms that caused Germany to propose the corona recovery fund. Thus, process-tracing goes beyond correlations and allows for the establishment of causal claims. Furthermore, it enables the researcher to rule out the possibilities of reverse causation and spuriousness (Collier 2011: 824).

Although implicitly making claims about the plausibility of the prominent EU integration theories, the research design is, at its core, employing explaining-outcome process-tracing. Unlike its theory-centric counterpart, the aim of case-centric process-tracing is not to rigorously test or build theories. Instead, explaining-outcome process-tracing seeks to establish a minimally sufficient explanation of a particularly puzzling historical case (Beach and Pedersen 2013: 18). As the combination of mechanisms from several theoretical approaches is often necessary to account for the outcome, the term causal mechanism is used in a much broader sense in explaining-outcome process-tracing. Furthermore, the researcher often needs to include nonsystematic, case-specific parts in the causal mechanism, wherefore it is difficult to determine it *ex ante*.

Despite case-centric process-tracing sometimes resembling "historical scholarship" (*ibid.*: 19), it still has considerable theoretical ambitions. As such, while the aim might not be to prove that a particular theory is correct, explaining-outcome process-tracing still seeks to show which approaches have the largest utility in providing the best possible explanation for a given case (*ibid.*: 13). As will be shown in chapter 4, no EU integration theory can explain the German preference shift by itself. However, that doesn't mean that they are useless. Instead, parts of their argumentation can contribute to a multifactored and context-specific explanation. As a result, it remains

necessary to contrast the empirical developments against the observable implications that should be present to validate the different parts of the mechanism. The theories thereby function as heuristic instruments that analytically inform the research to enable the establishment of a minimally sufficient explanation (*ibid.*: 19).

As part of the analysis, the German preference regarding the economic rescue instrument was screened for turning points, that is, phases in which crucial changes in the government's position could be observed. Such turning points can indicate the factors responsible for the preference shift by pointing to the main actors and goals of influence. Then, one can consider whether a theory encompasses the elements that have generated the turning point or whether it is a case-specific mechanism. Most importantly, it is not enough to show that a given factor was important for causing the turning point. Additionally, one has to disconfirm all other factors. Bennett's typology of causation tests (2010: 210) usefully demonstrates the probative value of different kinds of evidence. Unless there is "doubly decisive" evidence, which offers the greatest probative value as it provides a criterion that is both necessary and sufficient for accepting an explanation, a combination of a "hoop" and a "smoking gun" test can be employed instead. First, passing a "smoking gun" test confirms an explanation by providing a sufficient but unnecessary criterion for accepting the causal inference. Then, other approaches have to fail a "hoop" test which provides a necessary but not sufficient criterion to establish causation, enabling the elimination of those theoretical explanations.<sup>6</sup>

As existing theories cannot account for the specificities of the case, a dialectic combination of deduction and induction (Peirce 1955: 151) is used to elucidate the German preference formation process using empirical evidence. In doing so, the paper employs several different sources. First, it analyses official German and European policy documents and public

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<sup>6</sup> In the present research design, the congruence analysis already provides a hoop test for each of the prominent EU integration theories (see chapter 4). As all theoretical approaches fail the test, the process-tracing analysis can focus on providing "smoking gun" evidence for the causal mechanism.

speeches by crucial German and European policymakers. The official documents and speeches were obtained from the websites of the relevant institutions. Second, it studies the accounts from German as well as international newspaper reports. Among the newspapers thoroughly examined are two German ones (*Die Welt* and *Spiegel Online*) and two international ones (*Financial Times* and *Politico*). Gathering information from different German and international newspapers, I examine a broad spectrum in both the level of reception and political orientation. To target the analysis, the key words “Germany”, “European Union”, “corona”, and “recovery fund” were used. Finally, the paper triangulates the evidence gained from official documents and newspaper articles with information gained in 18 semi-structured interviews held between April and June 2021. The interviewees were selected to represent a wide range of German and European institutions. As such, interviews were conducted with policymakers from the German Bundestag, German Federal Chancellery, German Finance Ministry, Commission, Council and EP, a judge from Germany’s FCC, a former judge from the ECJ, German business representatives and a representative of the German non-partisan movement *Bündnis Bürgerwille*. Furthermore, legal and economic experts were consulted when an expert view appeared necessary on a certain aspect. The interviewees were guaranteed confidentiality to obtain as much relevant information as possible.

Despite the careful data collection and selection, this kind of analysis suffers from several caveats. Most importantly, it is complicated to trace relative changes within a state’s position towards a given issue. Since one cannot look into peoples’ heads, it is almost impossible to provide reliable and accurate proof of a preference shift. Even if one found statements such as “factor X was the turning point that changed my position on the matter”, one can never know whether this factor was genuinely decisive, and the statement was not a tactical ploy. Data triangulation partially helps to counteract possible biases, but it cannot eliminate all doubts. Instead, the analysis is content with focusing on evidence that renders certain factors plausible to account for the turning points of the German preference.

Plausibility is ensured when all relevant aspects of the preference shift have adequately been accounted for while ensuring that the turning points are best represented by the given explanation instead of plausible alternative explanations. Without surprise, this required an iterative process of several updates to the model before it provided the best possible explanation, which will be presented in the following chapters.

## **4 Germany's support for the corona recovery fund: a deviant case**

This chapter summarises the results obtained from congruence analysis to get a better idea of the EU integration theories' explanatory record in accounting for the German preference shift. By establishing which expectations are more congruent with the outcome, congruence analysis helps to identify the promising theories for further examination. As I will show below, the German position change constitutes a puzzle to all EU integration theories. No approach is sufficient for comprehensively explaining the German preference shift on its own. The chapter proceeds by first evaluating the rational-choice approaches of liberal intergovernmentalism (4.1) and neofunctionalism (4.2), and then moves on to assessing the ideational approaches of constructivism (4.3) and postfunctionalism (4.4).

### **4.1 All about the money?**

Does the German preference shift reflect the desire of powerful domestic actors to minimise the economic losses incurred due to the corona crisis? To substantiate this argument, one needs to establish that the reason for the German government's position change resulted from a shift in powerful domestic actors' assessment of fiscal integration's economic utility. Since fiscal policy influences businesses very directly, liberal intergovernmentalism expects national interest groups to have a strong stance on shared European debt. Thus, if the liberal intergovernmentalist hypothesis is to hold, one would have to observe a large number of domestic producers, or a powerful coalition of them, to have pressured the government into agreeing to shared European debt. If, however, there is no sufficient pressure from domestic groups, liberal intergovernmentalism expects the macro-economic preferences of the ruling government coalition to determine state preferences (Moravcsik 1998: 3). In that case, one should find a clear majority of government officials advocating debt mutualisation.

However, the evidence shows that neither a powerful coalition of domestic interest groups nor a majority of government officials existed in favour

of a debt-financed and grants-based rescue instrument. First, there was no discernible pressure from national interest groups favouring debt mutualisation (Interviews 5, 9, 10, 14 and 15). German domestic producers demanded a vast range of actions from their government – including a reduction of short-time allowance (Petersen 2020), the reflection of climate protection goals in the rescue mechanisms (Stratmann et al. 2020), an end of the national lockdown (Bardt and Hüther 2020) – but the European mutualisation of debt was not among them. In fact, many powerful economic actors opposed shared European debt (Interview 9).

The domestic opposition is, in itself, not puzzling to liberal intergovernmentalism. Since the debt will be paid back through the EU budget, which is financed by a set formula that determines each member state's share, Germany will have to pay a substantially larger amount than most other eurozone countries. Furthermore, creditor countries like Germany contribute more than they get back. According to a model calculation by the *Ifo Institute for Economic Research*, Germany will pay around €66 billion more into the fund than it gets out (Dorn and Fuest 2021: 6). Rather, it is surprising to liberal intergovernmentalism that the domestic opposition to shared debt did not significantly impact the German government's choice to propose the corona recovery fund. As such, the government should serve as a transmission belt by which the preferences of the most powerful economic actors are translated into state policy. Thus, the government's support is puzzling to liberal intergovernmentalist theory.

Supposing that the domestic opposition to the fund was insufficient, liberal intergovernmentalism expects the ruling government to have favoured debt mutualisation. However, there was also no clear majority of government representatives who supported debt mutualisation. Quite the contrary: While a few government officials were advocating for a corona recovery fund, these were in the clear minority. Prominently, the Minister for European Affairs, Michael Roth, spoke out in support of corona bonds (Heyer et al. 2020). Nevertheless, his position was the exception. As such, Germany's Federal Government, including the Social Democrat's Finance Minister Olaf Scholz,

continuously highlighted its rejection of shared European debt (The Federal Government 2020b). According to a senior official from the German Federal Government, the decision to propose the corona recovery fund was made completely independent from economic interests (Interview 14). Therefore, the liberal intergovernmentalist hypothesis that Germany's preference shift resulted from a change in the powerful domestic actors' assessment of fiscal integration's economic utility is falsified.

To summarise, from the viewpoint of liberal intergovernmentalism, the German preference shift remains highly puzzling. As the German support for the recovery fund is not profitable from the perspective of a rational cost-benefit analysis, there was no domestic desire for shared European debt. If anything, economic interest groups opposed debt mutualisation due to the long-term repayment through the EU budget, towards which Germany is the main contributor. Germany's ruling government likewise opposed shared European debt. Thus, the liberal intergovernmentalist prediction is not congruent with the outcome.

## **4.2 A new path?**

Does the German preference shift result from the corona crisis presenting a critical juncture that allowed for path change and necessitated the integration of fiscal policy for achieving economic objectives? Such a hypothesis would be sustained if it could be established that the reason for the German position shift resulted from a change in the opportunity structure and economic necessity for integration. One would need to observe two things: First, the corona crisis should feature the core characteristics of critical junctures. According to Capoccia and Kelemen (2007: 348), critical junctures are short phases of unpredictability, during which the structural influences on political action are significantly relaxed. Therefore, political decision-makers face a broader than usual range of feasible options and their choice among these options triggers a new self-reinforcing policy path. Second, the German government should be reluctant to integrate more competencies than necessary. Only when system breakdown otherwise appears inevitable



should Germany support a limited integration of core state powers (Genschel and Jachtenfuchs 2018: 189). Thus, the economic impact of the corona crisis should have decreased the attractiveness of the current path of austerity to such a great extent that Germany was forced to switch onto a new path that included more integration.

This argument has something to it, given that there is some evidence that the corona crisis constituted a critical juncture regarding the German preference on fiscal integration. As such, the introduction of joint debt was already disputed during the euro crisis. Like the other fiscally frugal member states, Germany preferred the ECB to “keep integration afloat by disposing of the [member state’s] unresolved problems” (Genschel and Jachtenfuchs 2016: 54). However, not even two weeks before the Franco-German announcement, Germany’s FCC pronounced several constitutional complaints directed against the ECB’s PSPP. While the ruling first and foremost questioned the PSPP’s proportionality, it also raised many fundamental questions on the Economic and Monetary Union’s (EMU) legal and institutional ordering (Dermine 2020: 526). Since the member states have for years relied on the ECB to “do the heavy lifting in a crisis” (Mallet et al. 2020), the prospect that Germany may soon be constitutionally forbidden to participate in its programs made the preservation of the status quo unviable. Consequently, Germany was forced to consider alternative paths.

Nevertheless, the corona crisis lacks one crucial characteristic of critical junctures: its long-lasting effect. Indeed, the crisis may have prompted a new path dependence on the European level. Despite NGEU not being implemented through treaty reform, it sets a precedent for the later transnational handling of economic issues. However, the German preference did not undergo a path change. German officials with different backgrounds agreed that the endorsement of shared debt constitutes a singular exception for German policy (Interviews 3, 4, 5, 9, 10 and 14). When examining the design of the Franco-German proposal, it becomes apparent that it was explicitly crafted to avoid long-term lock-in effects. As such, the corona recovery fund is only a temporary instrument to battle the impact of the corona crisis. It

does not introduce regularly shared debt and thus is unlikely to create path dependencies.

Second, the German government should be reluctant to give up more fiscal autonomy than necessary to avoid system breakdown. In that respect, neofunctionalism suffers from the same shortcomings as liberal intergovernmentalism. Despite transnational interdependence, Germany belonged to the group of member states that were both less affected by the crisis and more capable of dealing with it. As such, there is ample evidence that Germany would have been well able to save its industry by itself. The German Economic Institute already predicted on April 23, 2020, that Germany could manage the record debt (Beznoska and Hentze 2020). Officials from the German Bundestag said that it didn't last long until it was clear that Germany would be able to save its own economy (Interview 6). When Merkel announced the German support for the corona recovery fund, she made clear that the money would be used "in a targeted manner" (Tidey 2020) to foremost support the sectors and states that were hardest hit by the pandemic. Possessing the advantage of an excellent credit rating (European Parliament 2020b), the German government can raise money in the markets to excellent conditions. Therefore, as confirmed by a German member of parliament: "I assume that we, as Germany, will not take out a single euro as a loan from the European level because we simply already have the best rating nationally. The fund is the European rescue measure for economically weaker states." (Interview 3, own translation)

However, instead of guarding its national competencies in fiscal policy, Germany did not only reluctantly support shared European debt but became its leading advocate. Furthermore, while the corona crisis generated an opportunity structure for the German government to rapidly shift its preference, the German support for the recovery fund has not created a new path dependence but remains a one-time exception. Thus, neofunctionalism cannot fully account for the German preference shift.

### 4.3 Saving Europe?

Does the German preference shift result from the strengthening of pro-European ideas? To substantiate this argument, one has to find that the German position change resulted from a shift in its predominant ideas and their compatibility with integration. Most notably, Germany's ordoliberal ideology has long stood in the way of supporting European fiscal integration (Matthijs 2016: 378). Thus, constructivism predicts that the German advocacy of the recovery fund resulted from a change in Germany's ordoliberalism. Therefore, the analysis should reveal that the German government was persuaded to change its ordoliberal ideology. One would need to observe national, transnational or supranational actors trying to convince the German government of changing its economic ideas. Furthermore, the attempted persuasion has to be successful. As such, German policymakers usually supporting ordoliberal ideas should have increasingly criticised ordoliberal instruments as the crisis unfolded and instead considered the recovery fund to simply be "the right thing to do". In that regard, one should find members of the German political elite justifying their decision by referring to the EU's constitutive values and norms. Economic goals, on the other hand, should take a back seat behind the needs of the European community.

Indeed, there have been plenty of persuasion attempts directed at the German government to change its economic ideas. Supranational institutions, in particular, encouraged adhering to the norm of European solidarity. During the Council's first video conference on March 10, all members expressed solidarity with those most affected by the pandemic (European Council 2020a). By mid-March, Commission President Ursula von der Leyen lobbied for massive investments into the European budget, stating that it was a solidarity-based instrument that had to be adjusted to the crisis. In a guest article in the German newspaper *Die Welt*, she wrote that "this solidarity is contagious – and it is the heart of our union" (von der Leyen 2020). ECB President Christine Lagarde also urged finance ministers to go further than the ESM proposal and embrace the idea of shared European debt (Dombey et al. 2020). By constantly staying in close contact with member state

governments and encouraging a European solution to tackle the pandemic's impact, the European institutions tried to convince the fiscally frugal member states to change their economic ideas in favour of adhering to the normative belief in European solidarity.

However, persuasion attempts are only successful if the persuadee is genuinely convinced of the persuader's arguments and changes its ideas accordingly. Against some constructivist accounts that have argued for a change in Germany's economic ideas (Matthijs 2020: 6), very little evidence points to the preference shift resulting from the German abandonment of their ordoliberal ideology. According to both insiders and observers, the preference for risk-reduction, refusal of joint liability and prevention of free-riding, all of which feature prominently in ordoliberal thinking, are still driving German economic ideas (Interviews 3, 7, 9 and 14). A senior official from the German Federal Government even stated that he didn't believe Germany should depart from the ordoliberal principle and that he saw "neither a reason nor a perspective for this to happen" (Interview 14, own translation). The German preference to rely on existing instruments such as the MFF and the ESM rather than introducing new tools further confirms the continuation of ordoliberal thinking. As such, Germany strongly objected to the plan of French Finance Minister Bruno Le Maire from April 1, 2020, which called for a fund to issue bonds with the joint and several guarantee of EU member states (Mallet 2020).

Nevertheless, there seems to be some traction to the constructivist argument. While Germany did not change its ordoliberal ideology, it appears to have considered the showing of solidarity as the appropriate course of action. In a government statement on April 23, Merkel emotionally declared that showing European solidarity, also in financial terms, was of utmost importance during the pandemic (The Federal Government 2020b). Given that the corona pandemic constitutes a humanitarian crisis, it seems plausible that the German government would consider European collaboration a duty. In contrast, during the euro crisis, Germany was driven by national, ordoliberal ideas stressing individual fiscal responsibility and

cautioning against shared debt (Blyth 2015: 57). Since the euro crisis escalated in southern member states partly due to their own deficiencies, it was much easier to blame the south and defend minimal assistance tied to strict conditions (Matthijs and McNamara 2015: 239). In the corona crisis, however, there was no member state to blame (Interview 10). With Italy being the first western country to be badly hit by the COVID-19 virus by March, other countries looked to the developments in dismay rather than in condemnation (Tagliapietra 2020). Therefore, the belief in European solidarity may have outweighed ordoliberal concerns during the corona crisis.

However, there remains one problem with this interpretation. If Germany's belief in European solidarity trumped its ordoliberal ideas, why did it only propose European debt mutualisation by mid-May? Arguably, the "emotional" peak of the pandemic occurred in March 2020 when pictures and videos of overcrowded hospitals, empty streets, and Italians locked in their homes vastly spread across Europe. On March 25, nine member states, including Italy and Spain, sent a letter to Council President Michel officially calling to introduce a "common debt instrument" (Governo Italiano 2020). However, these demands were quickly rejected one day later at a Council meeting. Resistance came especially from the German government, supported by the frugal four (Hornig et al. 2020). Still in late April, Merkel publicly rejected the mutualisation of debt (The Federal Government 2020b).

In sum, the German preference shift did not result from a change in Germany's ordoliberal ideas. Even if Germany's belief in European solidarity outweighed its ordoliberal concerns, it remains puzzling why it only answered to the demands of the coalition advocating shared debt when the pandemic was already more than two months underway. Therefore, constructivism cannot account for the German preference shift on its own.

#### **4.4 Germany first?**

Does the German preference shift reflect domestic actors' fear of losing their national identity and self-determination? For this hypothesis to hold, one would have to find evidence confirming that the German preference shift

resulted from a change in the domestic resistance towards fiscal integration. Accordingly, two conditions must be met: First, German voters, parties, or institutions should feel sidelined by previous steps towards fiscal integration. The domestic feeling of alienation can be observed by national actors taking steps to resist European integration, such as supporting eurosceptic parties, holding protests or filing constitutional complaints. Second, the German government should be sufficiently constrained by these sentiments to not surrender any more budgetary autonomy to the EU level. In that respect, one should observe the domestic pressure to be high enough to constrain the government in its decision-making.

As for the domestic fear of losing national identity and self-control, there has indeed developed a somewhat powerful coalition of voters who reject European integration chiefly concerning the fiscal pillar. Organised through the non-partisan movement *Bündnis Bürgerwille*, members argue that the transfer of sovereignty must always follow the principles of the German constitution. Regarding fiscal policy, they first and foremost take issue with the limited legal and democratic oversight of the ECB (Bündnis Bürgerwille 2021a). Thus, *Bündnis Bürgerwille* organises constitutional complaints on the ECB's purchase programs. On May 5, 2020, they had their first notable success when Germany's FCC sided with the claimants and ruled the ECB's PSPP unproportionate. Taking issue with the lack of democratic control by the German parliament and government, who supposedly failed to meet their responsibilities towards their citizens, the court's decision reflects the growing traction of nationalist sentiments seeking to protect German fiscal policy.

According to postfunctionalism, the domestic pressure should constrain the government to such an extent that it prefers disintegration or at least a stop to further integration (Hooghe and Marks 2009: 2). However, the opposite was the case. Instead of reacting to these national demands by sticking to the status quo or even trying to regain some fiscal control, the German government proceeded with the deepening of the European fiscal pillar. In fact, German political actors considered domestic fears of losing

national self-control to be less relevant than providing adequate aid, especially in times of crisis (Interview 3 and 5). A senior official from the German Federal Government even stated that he considered the relaxation of EU law in times of crisis to be “normal” (Interview 9, own translation).

The German government’s reaction to the domestic pressure is highly puzzling as postfunctionalism hypothesises the perceived loss of national identity and self-determination to lead to the stagnation of integration or even disintegration. While there is a somewhat powerful domestic coalition of citizens feeling alienated by European integration, it has not sufficiently constrained the German government. Therefore, the expectations of postfunctionalism are not congruent with the outcome, namely, deeper integration.

## **5 Explaining the German preference shift on the corona recovery fund: a multicausal approach**

In order to comprehensively understand why the German government changed its position towards European debt mutualisation during the corona crisis, a multicausal approach is needed. This chapter makes the main argument that the German preference shift was the result of two turning points that normatively entrapped the German government. First, on the European level, community members engaged in rhetorical argumentation to change the framing of shared debt. Rendering Germany's ordoliberal stance illegitimate, the European community pressured the German government into adhering to the EU's constitutive value of solidarity. As a result, Germany became rhetorically entrapped, and its initial preference of sticking to the status quo – loans from the ESM – was eliminated. Thus, Germany's preference changed for the first time towards issuing more comprehensive rescue measures that, however, still precluded shared European debt.

A second turning point occurred on May 5, when the German FCC added national normative pressure by ruling that the PSPP is overstepping the ECB's mandate. According to the judgment, the German government and parliament had not met their responsibility regarding European integration by not subjecting the ECB's PSPP to more democratic scrutiny. Threatening the long-term sustainability of European instruments that lack democratic accountability, the German government became constitutionally entrapped and had to find a solution that adhered to the judicial pressure for more democratic legitimacy. The corona recovery fund then became Germany's option of last resort. As it had to be ratified by member state parliaments due to its coupling with the EU's MFF, it does not lack democratic accountability.

To make this argument, this chapter first sketches the status quo of the European debate on shared debt until the pandemic's inception (5.1). Subsequently, it moves on to exploring the first turning point of German rhetorical entrapment (5.2). Then, it elaborates on the PSPP ruling as the second turning point creating constitutional entrapment that finally tipped the balance in favour of a debt-financed and grants-based recovery fund (5.3).



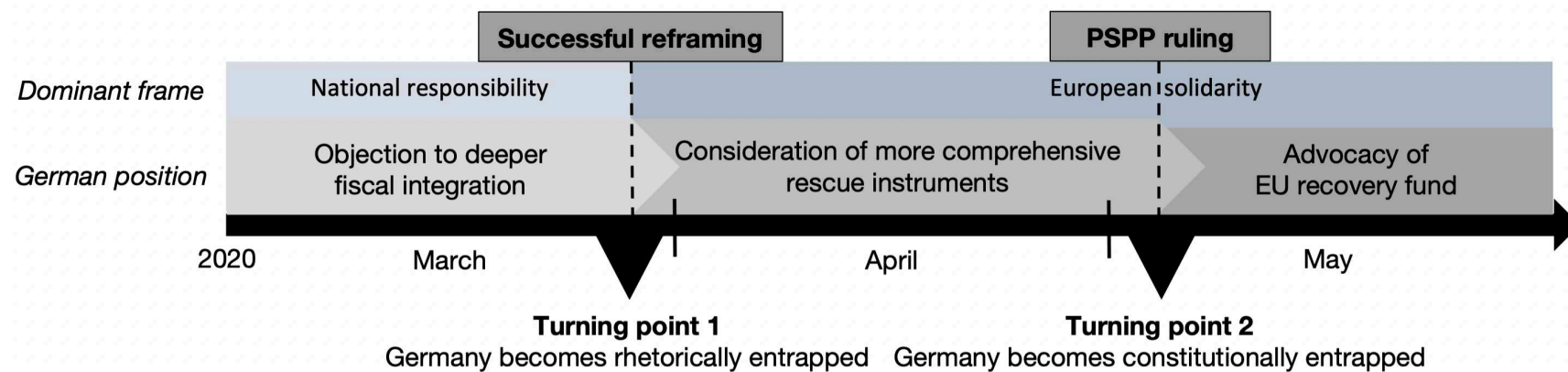


Figure 1 Timeline of events

## **5.1 The status quo: creditors versus debtors**

Before analysing the underlying mechanisms that have resulted in the German preference shift on the corona recovery fund, this section aims to place the debate on shared European debt into context. Furthermore, it draws on the historical contextualisation to outline the different member state positions regarding the EU's role in tackling the crisis' economic impact at the start of the pandemic. Such a contextualisation is important because neither of the turning points elaborated upon in the following sections can be understood without proper comprehension of the history of EU fiscal integration and Germany's position in this regard.

To begin with, the debate about shared European debt did not start with the corona crisis. Instead, it has long been argued that Europe's EMU is incomplete because the introduction of the euro centralised monetary policy only. Fiscal policy, on the other hand, is only weakly coordinated. Most importantly, there is no European instrument to conduct macroeconomic adjustment within the member states. The rules of the Stability and Growth Pact (SGP), as well as the no-bail-out clause of the Maastricht Treaty, tend to have the effect "of delaying effective responses, of favoring half-hearted and ineffective compromises, of legitimating 'orthodox' opposition, and of preventing a comprehensive reappraisal of the hypotheses governing the Maastricht regime" (Scharpf 2016: 38). Former ECB president Mario Draghi even called the missing fiscal union Europe's "Achilles Heel" (Draghi 2014). Despite the incremental integration that has taken place as a response to the euro crisis through, for example, the ESM, fiscal competencies remain mainly organised at the nation-state level.

While some member states are reluctant to give up national fiscal autonomy, others have pushed for the implementation of Eurobonds ever since the outbreak of the euro crisis. State preferences regarding fiscal integration have mainly been determined by the so-called "north/south divide" (Pérez 2019) between a small group of creditor countries and primarily southern debtor states with weak financial capabilities. As a result

of their comparatively weak financial capabilities, the latter tend to be more vulnerable to the impact of crises. Thus, whereas the southern states called for sovereign debt pooling, northern leaders insisted on sticking to austerity politics in the euro crisis. Above all, Germany, which traditionally belongs to the fiscally frugal camp, professed its strong opposition to debt mutualisation. It wasn't until May 2010, when Greece faced bankruptcy and contagion to other member states loomed over the eurozone, that Germany agreed on financial assistance. However, this assistance was minimal and tied to strict conditions. When defending her fiscally conservative stance after adopting the emergency funding facility agreed between the EU and the International Monetary Fund (IMF) in 2010, Merkel said that she was "protecting the money of the people of Germany" (Hall and Barber 2010). In response to a question asked by a member of the German Federal Parliament, she even persisted that "[a]s long as I live, there will be no Eurobonds" (Alexander 2012).

A decade later, the north-south divide still determined state preferences on EU monetary and fiscal policy. On February 21, 2020, negotiations on the MFF failed foremost because Northern countries, including Germany, called for a reduced EU budget (Brunsdén et al. 2020). The frugal four, a cooperation of fiscally conservative member states including Austria, Denmark, the Netherlands and Sweden, sought to defend the rebates they receive on their contributions and called for the EU budget to be capped at 1 per cent of the bloc's gross national income. Germany positioned itself alongside the frugal coalition and demanded a stable rebate for the entire seven-year period. The distance between the member state positions was so great that Mateusz Morawiecki, Poland's Prime Minister, described the discussions as "the most difficult negotiations in [the] history" (Khan et al. 2020) of the MFF. Despite Germany's alliance with the frugal four, Merkel tried to take a mediating stance with France's President Macron. An EU diplomat quoted in *Politico* said that it was "a typical Franco-German axis attempt to foster consensus around" (Bayer et al. 2020). However, their efforts were insufficient to close the gap between creditor and debtor states and the negotiations ended

without an agreement. According to a Council official, the participants “left the discussions with a really bad taste in the mouth” (Interview 16).

In early March, the coronavirus hit the EU in an unexpectedly harsh manner. The virus arrived in the south, and Italy quickly became Europe’s first hotspot. By March 9, nearly 10,000 Italian people had been infected, and more than 460 had died, making Italy the country with the highest number of confirmed COVID-19 deaths after China (DPA et al. 2020). To contain the virus, member states resorted to closing their borders. On March 11, Austria was the first to close its border with Italy. Other member states, including Germany, soon followed. Only four days after the start of the Austrian lockdown, the German government announced that it would introduce border controls and entry bans with Switzerland, Austria, France, Luxembourg and Denmark (DPA 2020a).

Since the EU internal market is deeply intertwined with cross-border supply chains and labour migration, economic slowdown soon became visible in all member states. However, not all member states were equally affected. The infection numbers were particularly high in southern EU countries. Furthermore, as opposed to northern member states, they lacked the financial capabilities to effectively combat the pandemic and relieve its economic impact. Overall, the dynamic was strikingly similar to the euro crisis (Interview 8), with northern member states being less affected and more capable of dealing with the crisis’ ramifications.

On economic questions, the creditor states once again stood firmly against the southern coalition. Remaining true to its line, Germany sided with the frugal four, just like during the MFF negotiations in February. While the southern member states quickly called for comprehensive rescue measures, northern allies instead advocated the use of ESM loans. As was the case in the euro crisis, they envisioned the ECB to become the main actor to combat the economic impact of the corona crisis. According to a German official quoted in the *Financial Times*, the prevalent notion was that “member states didn’t need to do any fiscal stuff because the ECB would always save the day” (Mallet et al. 2020). In fact, this is just what appeared to happen when

the ECB announced the launch of the Pandemic Emergency Purchase Programme (PEPP), a temporary asset purchase programme of private and public sector securities, to counter the risks that the pandemic posed to the eurozone on March 18. Compromising €750 billion at the time,<sup>7</sup> the Eurosystem capital key of the national central banks would serve as the benchmark allocation across jurisdictions for the purchases of PEPP public sector securities (European Central Bank 2020).

Thus, in March, member states adapted foremost national measures to counteract the economic damages. Germany, in particular, took extraordinary steps to rescue its national businesses. By mid-March, Finance Minister Scholz announced the development of a fund geared towards self-employed and small businesses with up to ten employees (Reiermann 2020). As the fund benefits from Germany's creditworthiness, it can borrow the money cheaply and pass it on at a correspondingly low price. To finance the fund and other social aid measures,<sup>8</sup> the German Bundestag passed a supplementary budget of €156 billion on March 25 (DPA and AFP 2020). Furthermore, it introduced the Economic Stabilisation Fund (ESF), totalling €600 billion targeted at economic actors whose demise would have significantly impacted the German labour market or Germany's attractiveness as a business location (Federal Ministry for Economic Affairs and Energy 2020). Finally, the Bundestag approved the suspension of the debt brake called the *Schwarze Null* by a clear majority. The parliament thereby enabled the Federal Government to take on new debt, marking the first time in seven years Germany would end the year with a budget deficit. Overall, Germany was well capable of cushioning the economic damage caused by the pandemic on its own (Interview 14).

Not requiring any European support itself, the German government sought to minimise the role of the EU in lending economic assistance. On

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<sup>7</sup> The PEPP was increased by €600 billion on June 4, 2020, and by €500 billion on December 10, 2020, for a new total of €1,850 billion.

<sup>8</sup> To name only a few examples, the social aid measures included the protection of tenants against dismissal, the relaxation of the unemployment rules and social assistance instrument "Hartz-IV" and compensation for parents who could no longer work without day-care for their children. In addition, Germany's hospitals and epidemic protection facilities received substantial financial support.

March 16, Scholz even dismissed loans from the ESM as unnecessary and “premature” (Greive and Hildebrand 2020, own translation). In her televised address to the nation on March 18, Merkel stressed that “[s]ince German unification, no, since the Second World War there has not been a challenge to our country where our joint action in solidarity is so crucial” (The Federal Government 2020a). Yet, when calling on showing solidarity, Merkel always referred to German national solidarity alone.

To the displeasure of the more affected southern European regions, initiatives for European rescue instruments for handling the deep recession fell accordingly short. On March 26, member state leaders held a five-and-a-half-hour video conference call that resulted in the failure to coalesce around a collective strategy (Fleming et al. 2020). Instead of narrowing down some preferred options, they only mandated the Eurogroup to report back in two weeks with proposals for a joint response (European Council 2020b). According to an official from the Commission, the failure to find an agreement resulted in an “ugly, ugly atmosphere where (...) bad things were said to each other” (Interview 13). Thus, by the end of March, the diverging interests had led to considerable drifts between the European member states with little prospect of being easily resolved.

## **5.2 Rhetorical entrapment: reframing the discourse on shared debt from sinners to saints**

The explanation of the German preference shift regarding the corona recovery fund must reconcile two seemingly contradictory observations (see chapter 4): On the one hand, the German support for such a fiscally comprehensive rescue instrument can hardly be considered rational from a cost-benefit perspective. On the other hand, Germany didn’t change its ordoliberal ideology, wherefore the preference shift cannot be attributed to constructivist accounts of EU integration either. I suggest that the first step necessary to enable the German preference shift was the successful reframing of the debate on shared European debt. The mechanism I propose is that of rhetorical entrapment, which describes the strategic use of norm-based arguments by community members shaming a member state into compli-

ance. This section proceeds by first illustrating the causal mechanism of rhetorical entrapment. Afterwards, it depicts how some member states acted rhetorically to reframe the issue of shared debt and how Germany, as a result, became rhetorically entrapped.

### *The causal mechanism of rhetorical entrapment*

The argument of rhetorical action relies on a strategic view of norms. As such, norms are neither the foundation of state action nor only constraining state preferences. Instead, they are “resources for human strategies in social interactions” and “used not followed” (Edgerton 1985: 12-14). Goffman has employed the metaphor of a stage, on which social life is the drama and social actors are performers, to illustrate the instrumental application of norms. As performers, “individuals are concerned not with the moral issue of realizing standards but with the amoral issue of engineering a convincing impression that these standards are being realized” (Goffman 1959: 251). Being only weakly socialised, performers don’t internalise their community’s constitutive values and norms but understand that adhering to those values is beneficial to them. Therefore, rhetorical action fits neither rational nor ideational accounts of EU integration. On the one hand, rhetorical action would not be necessary if a community’s members had internalised its values as hypothesised by constructivism. On the other hand, it would not be effective if actors didn’t care about appearing legitimate as hypothesised by rational integration theories (Schimmelfennig 2001: 65).

The causal mechanism of rhetorical entrapment consists of several steps. First, actors make a *rhetorical commitment*. As international organisations set a standard of legitimacy that defines the duties of their members, actors rhetorically commit themselves to the values and norms when they become a member. Therefore, rhetorical action rests on the assumption of a community environment. A community is defined by two core characteristics (Schimmelfennig 2003: 159): its ethos, which refers to the community’s constitutive values and norms, and its high interaction density, which describes the frequency of interaction between members. From all interna-

tional organisations in the world, the EU probably has the highest interaction density. Furthermore, its values and norms are not only explicitly stated in the TEU, but its institutions overtly express that the “EU values are common to the EU countries in a society in which inclusion, tolerance, justice, solidarity and non-discrimination prevail” and that these values “are an integral part of our European way of life” (European Commission 2021a). As a result, every member state of the EU has rhetorically committed itself to the EU’s constitutive values and norms when it joined the organisation.

Second, weakly socialised actors take advantage of the community’s constitutive values and norms to frame their interests accordingly. While the community ethos determines what is considered appropriate in the eyes of other members, it is important to note that actors don’t use those standards of appropriateness as a moral imperative. Rather, legitimacy becomes an “institutional resource and constraint” (Schimmelfennig 2001: 63) that actors employ instrumentally to achieve their goals. Thus, rhetorical actors follow a logic of consequences. Arguing becomes the primary mode of interaction in which actors are forced to justify their self-interest according to their community’s values and norms. Arguments are only as valid as they are considered legitimate. Such strategic use of norm-based arguments to achieve one’s goals is termed *rhetorical argumentation*.

One particularly efficient example of rhetorical argumentation is shaming other community members into compliance. As such, it often occurs that a state has made a rhetorical commitment but, in a specific situation, prefers to deviate from this commitment because it contradicts its political goals. When a community member chooses to pursue its self-interest despite the normative contradiction, others may accuse it of hypocrisy. Hypocrisy undermines both trust and credible commitments. Because credibility is one of the most essential resources in a community environment and depends on impartiality and consistency (Elster 1992), community members will usually avoid appearing hypocritical.

As a result, members become entrapped in the community’s values and norms. *Rhetorical entrapment* constitutes the third step of the causal



mechanism. Being only able to advocate “socially sustainable” (Krebs and Jackson 2007: 48) preferences, states cannot pursue their political goals without suffering legitimacy costs. Of course, the shamed actors have some options to avoid or reduce the costs of disregarding the community’s standards of appropriateness. For example, they may downplay or reinterpret the norms or introduce competing values. However, such strategic manipulation has its limits (Schimmelfennig 2001: 65). First, the more internally consistent and unambiguous the norms are, the more difficult is their rhetorical circumvention. Second, actors must be careful not to become uncredible. Third, they must not create the impression that they use the community’s values inconsistently. Therefore, actors can become entrapped by their own arguments even when they have only used the community ethos opportunistically.

Applied to the German preference shift regarding the EU recovery fund during the corona crisis, the causal mechanism of rhetorical entrapment can be divided into two crucial steps (see figure 2). First, when the pandemic hit Europe, member states became frustrated about the lack of European financial help despite solidarity constituting one of the EU’s constitutive values. Thus, they used rhetorical argumentation to reframe the debate on shared European debt and shame fiscally frugal member states into compliance. Having committed itself to the values of the EU by being a founding member, Germany became entrapped by the rhetorical argumentation. As such, it was torn between adhering to its ordoliberal position and wanting to appear credible. After the reinterpretation attempts of other shamed members such as the Netherlands failed, Germany chose the legitimate course of action by embracing the need for more financial European solidarity. However, it must be stressed that Germany’s rhetorical entrapment only constitutes the first turning point which was necessary, but not sufficient, to change Germany’s position on the corona recovery fund.

Finally, Schimmelfennig (2021: 144f.) has noted that the success of rhetorical entrapment depends on several scope conditions. Besides the existence and the density of the community ethos, the effects of rhetorical

action are issue- and norm-specific. As such, policy issues involving fundamental questions of community purpose and coherent norms are more likely to result in successful rhetorical action. The German case reveals three further facilitating conditions: First, states that enjoy a leadership role within a community will become entrapped more easily. As the leading states in a community have legitimised their power on the values of the community (Finnemore 2009: 61), the loss of respect will be huge if they disregard the norms they themselves have built. Therefore, Germany has to worry comparatively more about appearing hypocritical than other member states that do not possess a leadership role. Second, rhetorical argumentation will be more effective if it comes from powerful members of the community. As such, Germany would have arguably felt less ashamed if France had not been among the member states calling for more financial solidarity. Third, context matters. Community members were only successful in reframing the debate on shared debt within a European solidarity narrative because the crisis could not be blamed on any state within the community. In that regard, the type of crisis is relevant. Humanitarian crises are likely to strengthen the validity of rhetorical arguments, wherefore one can expect them to result in deeper integration.

In the following sections, I will show how members of the European community used rhetorical action to reframe the debate on debt mutualisation. They argued that the corona crisis was nobody's fault and combating its impact should not solely be a national responsibility. These arguments shamed member states into complying with the EU's constitutive value of solidarity. Thereby, they effectively silenced the opposition of fiscally frugal member states. In its leading role, Germany became rhetorically entrapped and had to support the introduction of more comprehensive rescue instruments to appear legitimate. Shared debt, however, remained a non-starter.

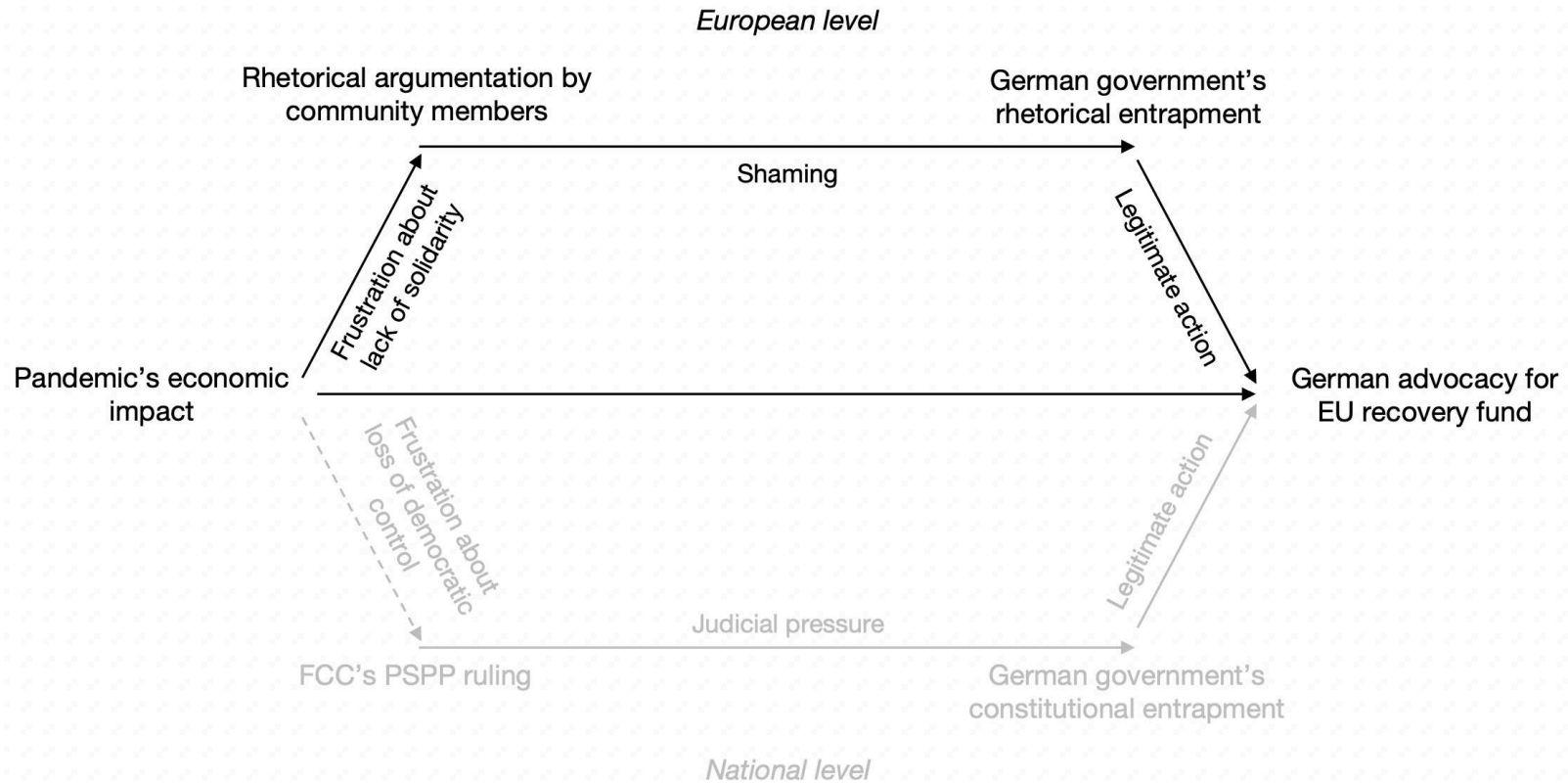


Figure 2 Chain of causation: rhetorical entrapment<sup>9</sup>

<sup>9</sup> The part of the causal mechanism depicting rhetorical entrapment is illustrated in black colour. The part of the causal mechanism accounting for the constitutional entrapment induced by the FCC's PSPP ruling is depicted in grey as it will only be introduced in chapter 5.3.

### *Rhetorical argumentation by community members*

Feeling frustrated about the lack of European solidarity, a vast number of community members counted on rhetorical argumentation to achieve their political goal of gaining more substantial financial assistance from the EU. They highlighted inconsistencies between the EU's constitutive value of solidarity, on the one hand, and Germany's behaviour towards member states in need, on the other hand. Thereby, they have made financial assistance an issue of credibility. According to their argument, showing financial solidarity was a duty of EU member states. Particularly in times of a humanitarian crisis that was no one's fault, failing to do so would be a betrayal against the ideational foundations of the European community ethos. A letter sent by nine eurozone governments to Council President Michel officially calling for the introduction of a "common debt instrument" (Governo Italiano 2020) was particularly crucial for changing the discourse on shared European debt from what I term a "national responsibility" to a "European solidarity" frame.

To begin with, it should be noted that the attempts of some member states to shame Germany into agreeing to fiscal integration are not a recent development. However, until March 2020, Germany's ordoliberal thinking and advocacy for austerity policies was a legitimate position. During the euro crisis, it may have been challenged several times, especially by the debtor member states (Rachman 2013). Still, Germany was always able to counter those challenges by blaming the debtors themselves (Interview 14). Matthijs and McNamara (2015) highlighted that a saints versus sinners dichotomy determined the overarching discourse. As the sinners could be blamed for their financial demise due to their own unsustainable budgets and previous economic mismanagement, it was easy for Germany to defend its preference for tight fiscal policy.

By contrast, the dynamic of the corona crisis was vastly different. According to a senior official from the German Finance Ministry, the central aspect in making a debt-financed and grants-based recovery fund politically viable was the general impression both among the political elite and the

population that the crisis was no one's fault: "Certainly, some countries were hit harder than others. When the first pictures came from northern Italy, they really left a mark. But it wasn't anyone's fault. That is a completely different reading than the one that very quickly prevailed in the euro crisis. [...] Back then, serious accusations came from both Germany and Greece in the form of: Who is actually to blame? And this question never came up in this pandemic." (Interview 10, own translation) International newspaper articles mostly took the same account, highlighting that the corona crisis constituted not a national, but a European problem in which the "two terrible enemies" were "panic and selfishness" (Massari 2020).

Member states quickly picked up on the blameless aspect of the pandemic and used rhetorical argumentation to reframe the question of shared European debt. One crucial instance of rhetorical argumentation occurred on March 25, when nine community members sent a letter to Council President Michel demanding proof of European solidarity. Among the signatories were the usual suspects: the fiscally weak southern states Greece, Italy, Spain and Portugal. However, they were joined by Belgium, France, Luxembourg, Slovenia and Ireland. As aptly described by Genschel and Jachtenfuchs (2021: 362), "the South had expanded North", increasing the coalition's political power.

To be sure, the letter itself doesn't constitute a critical inflexion point in which the alliances suddenly shifted in favour of shared debt. Rather, it presents the culmination of a development that has been underway ever since the euro crisis, namely the political contestation of austerity. Initiating the end of the pro-austerity framing was essential for paving the way towards a new, pro-burden sharing narrative. An official from the German Finance Ministry and an official from the Commission identified the letter as critical in reframing the debate on a joint European debt instrument (Interviews 10 and 13).

The letter starts by highlighting several times that the coronavirus pandemic came as an unprecedented and unparalleled shock. Thereby, it sets the corona crisis apart from the euro crisis, implicating that it cannot be

addressed by the same instruments as the fiscally frugal member states envisioned. Then, it links the blameless aspect of the corona crisis to the demand for a common debt instrument:

“The case for such a common instrument is strong, since we are all facing a symmetric external shock, *for which no country bears responsibility*, but whose negative consequences are endured by all. And we are collectively accountable for an effective and united European response. [...] By giving a clear message that we are facing this unique shock all together, we would strengthen the EU and the Economic and Monetary Union and, most importantly, we would provide the strongest message to our citizens about European determined cooperation and resolve to provide an effective and united response.” (Governo Italiano 2020, italics added)

On less than three pages, the letter twice contends that shared debt would constitute a symbol of financial solidarity, a self-ascribed value of the EU (European Commission 2021a). Consequently, shared debt ceased to be a fighting pit between debtor and creditor states and instead became a morally charged “weapon of the weak”. French Finance Minister Le Maire explicitly denounced the behaviour of the fiscally frugal member states by stating that whilst “we count the deaths of hundreds and thousands, you ministers are playing with words and adjectives. It shames finance ministers, and it shames Europe” (Lee 2020).

In the following weeks, the European solidarity frame became even stronger (Interview 7). Building upon the argument that there was no member state to blame for the economic impact of the corona crisis, European institutions started gathering behind the notion that European financial solidarity was the appropriate course of action. Whereas the first proposals on crisis response instruments mostly came from the ECB, just like during the euro crisis, there was an unprecedented outpouring of plans for common fiscal sharing in April (Genschel and Jachtenfuchs 2021: 360). Those plans were strikingly justified by referring to the EU’s value of solidarity.

As such, Commission President von der Leyen lobbied for massive investments into the European budget, stating that it was a solidarity-based instrument that had to be adjusted to the crisis' challenges. Speaking before the EP, she declared the EU to be the "world's beating heart of solidarity" (de la Baume 2020). By the beginning of April, the EU's Internal Market Commissioner Thierry Breton and European Economics Commissioner Paolo Gentiloni started working on a proposal to create a European taxpayer fund that could issue long-term bonds to recover from the pandemic (Interview 13). ECB President Lagarde also urged finance ministers to go further than the ESM proposal and embrace the idea of shared European debt as a sign of European solidarity (Dombey et al. 2020). In a briefing from April 2020, the EP took an overwhelmingly positive view on different proposals for joint debt instruments (European Parliament 2020a). According to a member of parliament, the EP was the first institution that supported shared debt even across party lines (Interview 11). Thereby, the European institutions helped the member states successfully solidify shared debt within the European solidarity frame and put enormous normative pressure on the frugal four and the German government to adhere to European values and norms.

#### *German rhetorical entrapment*

As a result of the rhetorical argumentation by other community members, Germany became rhetorically entrapped. Due to shared debt being linked to the European solidarity frame, Germany's long-lasting stance of promoting austerity policies suddenly became illegitimate. If Germany did not want to appear as a hypocrite acting against the EU's constitutive values and norms, it had to promote considerably more European financial assistance than it had envisioned in mid-March. While Germany didn't change its basic inclination towards ordoliberalism, the shaming technique forced the German government to embrace the European solidarity frame nevertheless if it did not want to suffer a considerable loss of credibility.

First and foremost, the evidence suggests that Germany did not let go of its ordoliberal ideology during the corona crisis. According to both insiders

and observers, the preference for risk-reduction, refusal of joint liability and prevention of free-riding, all of which feature prominently in ordoliberal thinking, are still driving German economic ideas (Interviews 3, 7, 9 and 14). A senior official from the German Federal Government even stated that he did not believe Germany should depart from the ordoliberal principle and that he saw “neither a reason nor a perspective for this to happen” (Interview 14, own translation). The German preference to rely on existing instruments such as the MFF and the ESM rather than introducing new tools further confirms the continuation of ordoliberal thinking.

Nevertheless, Germany – just like the frugal four – was shamed into conforming with European values. Nine interview respondents from different backgrounds, including the German Bundestag, Finance Ministry, Federal Government and the European Commission, Council and Parliament, confirmed that the need to show solidarity with southern member states crucially influenced the German position by pushing it into accepting the need for new and more comprehensive rescue instruments (Interviews 3, 5, 6, 7, 9, 10, 13, 14 and 16). Generally, there was the notion that the entire EU was at stake if there was not a sign of solidarity from the creditor states to the more affected southern Europe (Interview 13). An economic expert even assessed that although Germany does not benefit from the corona recovery fund economically, European solidarity constitutes one of those “values that are difficult to grasp even in billions of euros” (Interview 15, own translation).

With the national responsibility frame becoming inappropriate and the normative pressure growing stronger, Germany found itself entrapped by the rhetorical argumentation of other community members. Thus, it had little choice but to embrace the European solidarity frame itself. As such, Foreign Minister Heiko Maas and Finance Minister Scholz addressed the readers of five European newspapers from France, Italy, Spain, Portugal and Greece in a joint guest article assuring German solidarity: “We need a clear sign of European solidarity in the Corona pandemic. Germany is ready to do this.” (AFP 2020) Furthermore, Merkel herself started to refer much more frequently to the EU’s role in countering the crisis’ impact. In a meeting of the German



Bundestag on April 23, she declared that Germany should be willing to pay significantly higher contributions to the next European budget for a limited period “in a spirit of solidarity” (The Federal Government 2020b). Notably, she followed the argument of the letter to Michel in arguing that the corona crisis was nobody’s fault: “Europe is not Europe if it does not show solidarity when times are hard through no fault of anyone’s.” (*ibid.*) Whereas she didn’t mention the EU a single time in her televised address to the nation on March 18, the words “Europe” or “European” were now mentioned a total of 39 times.

To be sure, there have been attempts to counter this reframing and instead stick to the idea that fiscal policy is a national responsibility. At the forefront of the frugal four, Dutch Prime Minister Mark Rutte repeatedly warned that shared European debt would lead to free riding. Due to moral hazard, the Netherlands would not consider debt mutualisation (Asscher 2020). In their attempt to blame the southern member states for their own economic shortcomings just as had been done in the euro crisis, Dutch Finance Minister Wopke Hoekstra demanded the EU to investigate why some countries did not have the financial capabilities to overcome the economic impact of the pandemic despite the European economy having grown for several years (Hecking and Lüdke 2020). Furthermore, a Dutch epidemiologist even suggested that southern Europe’s emergency rooms were stuffed because so many older adults were admitted (*ibid.*).

However, the Dutch attempts to blame the south and frame the economic rescue as a national responsibility were quickly scandalised and shut down. As such, the Netherlands had to face overwhelming criticism from several directions for not showing European solidarity. Portugal’s Prime Minister António Costa called Hoekstra’s demand “disgusting”, the Italian newspaper *La Repubblica* accused the Netherlands of “cruelty”, and the Spanish newspaper *El País* spoke of a “betrayal of the European spirit” (*ibid.*, own translation). A group of Italian mayors, regional governors and an EP official even bought a page in the German newspaper *Frankfurter Allgemeine Zeitung* to criticise the Dutch lack of support. In the letter, they accuse the

Netherlands of acting unethically by not showing solidarity with the rest of Europe (DutchNews 2020). Most importantly, the rejection of the Dutch opinion went beyond nationalities and across party lines. Sophie in 't Veld, a D66 member of the EP, aptly described that “you [don't] need to be a northerner or southerner” (von der Burchard and Schaart 2020) to feel that the Dutch attitude was misplaced.

In contrast to the Netherlands, Germany possesses a leadership role within the EU, wherefore credibility is more important to Germany than to the Netherlands. More powerful states have to be careful not to be accused of hypocrisy as such an accusation undermines respect and deference both for the state itself and for the values on which it has legitimised its power (Finnemore 2009: 61). A senior official from the German Federal Government said that Germany gained considerable “political capital” (Interview 9, own translation) by showing its goodwill to its southern neighbours. Adopting foreign policies that are seen as “being legitimate or having moral authority” (Nye 2008: 95) helps Germany to gain soft power and status within the EU. Thus, especially after witnessing the harsh criticism directed against the Dutch position, it is only reasonable that Germany wanted to maintain the impression that it is living up to the European values by which it is being judged.<sup>10</sup>

For the community members' rhetorical argumentation to be successful, the evidence suggests that it was crucial for France to be among the signatories of the letter to Michel (Interviews 6, 10 and 13). Usually, Germany and France want to be on par even when disagreeing about a specific issue and tend to take a united stance on fundamental European policy questions. Consequently, France signing a claim letter without Germany was a “fierce sign of discord” (Interview 10, own translation). According to a Commission official, the German government was “surprised and upset” (Interview 13)

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<sup>10</sup> On a methodological note, since “silencing” is the main postulated effect of rhetorical argumentation, the absence of particular speech acts will often be its most crucial indicator (Schimmelfennig 2001: 66). Thus, there is only limited evidence for an effective silencing of the German government's ordoliberal position to be found in official documents and press releases. Rather, the fact that Germany didn't follow the Dutch example points towards the community members' rhetorical argumentation having been successful.

about the confrontative French approach. An article in the *Financial Times* even depicted the German Chancellery as being furious (Chazan et al. 2020). Beyond the letter, French President Macron criticised the German position on various occasions in public, saying that it would be a historic mistake to say that “the sinners must pay” as they did in the euro crisis (Mallet and Khalaf 2020). Thus, the French criticism of Germany suggests another facilitating factor for rhetorical argumentation to succeed: If a comparatively weak community member challenges a more powerful member, the criticism will likely impede the latter’s moral authority less than if the criticism comes from a member at eye level, as was the case with France.

In the weeks following the letter, Merkel tried to regain the upper hand and find a unified position with France. Consequently, the *Kanzleramt* engaged in bilateral dialogue with the *Élysée* more often. The first results became apparent on April 9 when the Council’s Eurogroup released a report on the comprehensive economic policy response to the pandemic (European Council 2020c). The euro area finance ministers agreed on an emergency eurozone rescue package worth €540 billion consisting of loans and guarantees for workers, companies, and health-related state expenditures. As stated by a senior official from the German Federal Government, the negotiations for the package were led by Germany and France (Interview 9). The close working relationship between Finance Ministers Scholz and Le Maire was particularly crucial in overcoming Dutch and Italian resistance to some aspects of the plan (Chazan et al. 2020).

Overall, the causal mechanism of rhetorical action accounts well for the normative pressure unleashed by the rhetorical argumentation of community members. Despite not changing its economic stance, Germany now found itself in a dilemma: On the one hand, it still believed in ordoliberalism and austerity politics. On the other, it had to conform with the European value of solidarity. As the letter to Michel terminated the debate on whether austerity politics were a legitimate crisis response, Germany’s ordoliberal position became illegitimate. Therefore, the letter significantly impacted the discourse on shared European debt by shifting the narrative from a “national

responsibility” to a “European solidarity” frame. According to a senior official from the German Finance Ministry, they were told to investigate different design options for shared debt by the end of March (Interview 10), hinting that successful rhetorical argumentation was necessary for making shared debt politically feasible.

Nevertheless, the European normative pressure was not sufficient for settling Germany’s position on shared debt. As such, the Franco-German relationship remained strained due to their different positions on a joint debt instrument (Chazan et al. 2020). Germany still preferred showing solidarity by installing new, more comprehensive rescue instruments such as the PEPP or the finance minister’s emergency package, which did not include shared European debt. Still in late April, Merkel publicly rejected debt mutualisation (The Federal Government 2020b). As aptly described by an EU diplomat quoted in the *Financial Times* in response to the first emergency eurozone rescue package: “After a somewhat slow start, the Franco-German engine worked at full speed during the last few days and did its magic [...]. But we should not pretend that the deeper debate over debt mutualisation is resolved.” (Chazan et al. 2020)

### **5.3 Constitutional entrapment: PSPP and the national demand for democratic control**

As highlighted in the previous section, Germany’s rhetorical entrapment was necessary to shame the government into subscribing to more comprehensive European rescue instruments. However, it was not sufficient to commit it to shared debt. To resolve the debate over debt mutualisation, a second turning point that occurred on May 5, 2020, was necessary: the FCC’s PSPP judgment. In short, the FCC ruled that both the ECB and the ECJ had acted beyond their mandates by not applying strong proportionality standards to the PSPP. Most importantly, the German government and parliament had failed to meet their responsibilities regarding European integration by not subjecting the ECB’s PSPP to more democratic scrutiny. The ruling constitutes the first time that the FCC has declared an EU institution’s legal act as lacking binding force for Germany. As national constitutional challenges to

the ECJ's rulings are rare, the causal mechanism evoked by the judgment is case-specific rather than theory-centric. Nevertheless, the literature on constitutional pluralism in the EU helps to define the causal mechanism, which I term "constitutional entrapment". Due to the EU's constitutional pluralism, the German government found itself entrapped by its domestic Constitutional Court's ruling, which conflicted with EU law. This section starts by deriving the causal mechanism from the broader debate on constitutional pluralism. Then, it depicts how the ruling exerted judicial pressure for a more democratically controlled European crisis response. Finally, it shows how the German government became constitutionally entrapped and chose to advocate a rescue instrument that would likely be considered more democratically legitimate in the eyes of its Constitutional Court.

#### *The causal mechanism of constitutional entrapment*

The ECJ has been considered an independent driver of European integration for quite some time. As such, its rulings have direct implications for policy-makers at both the European and member state level. The former German FCC Judge Dieter Grimm (2016) has coined the term "over-constitutionalisation" to describe the EU's unique constitutional structure. By interpreting the EU's treaties, the ECJ sets a precedent with its rulings, locking in certain policies while precluding others. The lock-in effect is particularly severe for political actors as they cannot overrule constitutionalised case law due to the unanimity rule for treaty changes (Blauberger and Schmidt 2017: 910). As a result, the ECJ's judgments present an opportunity structure for transnational actors to achieve their integration goals. Member states, on the other hand, are often constrained to deviate from their past policy choices and the ECJ's prior interpretation (*ibid.*: 915).

In the first decades after the ECJ's emergence, it still appeared that member state Constitutional Courts mostly approved the ECJ's legal doctrines nevertheless.<sup>11</sup> As such, all national Highest Courts have accepted

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<sup>11</sup> Lower national courts, in particular, welcomed the ECJ's rulings. As such, cooperation with the ECJ usually meant an expansion of national courts' powers (Weiler 1991: 2417). As

the supremacy of European law. Yet, the delegation of competencies to the EU has never been written into federal constitutional treaties (Grimm 2017: 25). Furthermore, Highest Courts can easily argue that EU supremacy does not apply in policy areas that have not been integrated (Stone Sweet 2000: 319). While there are only three cases of Constitutional Courts declaring European acts as nationally non-binding – Denmark, the Czech Republic, and recently Germany – most member states’ Highest Courts view themselves as the final authority to verify the constitutionality of European institutions’ decisions. In a thorough study, Lindner (2015) analysed nine national Constitutional Courts’ rulings, including Germany’s, and found the presence of constitutional control reservations in all cases.

The German FCC’s PSPP ruling entailed an incident of an *ultra vires* control reservation becoming a reality. When the PSPP judgment was released on May 5, 2020, the main criticism did not regard its practical implications for the ECB’s money-lending programmes. Rather, observers worried that the judgment would significantly damage the stability of the European legal order (Mayer 2020: 733f.). As such, the ruling violated EU law in two ways. First, as stated in Article 5(3) TEU, the German court should have conferred the case to the ECJ (EUR-Lex 2008). Second, it should have accepted the ECJ’s Weiss ruling of 2018 in which the latter had already decided that PSPP “does not exceed the ECB’s mandate and does not contravene the prohibition of monetary financing” (Court of Justice of the European Union 2018). Instead, the FCC’s PSPP ruling directly challenged the ECJ’s superiority by declaring its previous ruling on PSPP to be *ultra vires*, outside the scope of the ECJ’s powers. As stated by the judgment, the ECJ had supposedly failed to apply sufficiently strong proportionality standards to the ECB’s PSPP. According to one of the eight judges involved in the ruling, this challenge was necessary due to the ECJ’s arbitrary application of proportionality that supposedly was “a bad joke and no longer

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part of the preliminary reference procedure, national courts were given the competence to obtain an interpretation of case-relevant EU laws, whereby they could circumvent their national judicial hierarchy. However, as shown by Pavone and Kelemen (2019), this dynamic is self-eroding with domestic Highest Courts now reasserting control over national judicial hierarchies.

comprehensible” (Interview 4, own translation). In a press release, the ECJ took a firm stance in not commenting on a judgment of a national court but reminded that “[i]n order to ensure that EU law is applied uniformly, the Court of Justice alone – which was created for that purpose by the Member States – has jurisdiction to rule that an act of an EU institution is contrary to EU law” (Court of Justice of the European Union 2020).

It is not surprising that the FCC challenged European institutions in a case that concerns the distribution of fiscal competencies. As EU integration has moved into core areas of national sovereignty, the domestic impact of ECJ rulings has become much more apparent. Taking a postfunctionalist perspective, Blauburger and Martinsen (2020: 395) show that politicisation has not stopped at law courts. Instead, public opinion increasingly forms for or against EU policies in general and partly even for or against specific judicial interpretations. As the vertical integration of member state competencies is steadily increasing (Leuffen et al. 2013: 21), there has been a rising number of national attempts to constitutionally challenge EU law in recent years (Hall 2021). The German FCC’s PStP ruling suggests a similar dynamic: Citizens are more likely to file a constitutional complaint arguing an EU institution to have acted *ultra vires* when said institution has promoted the integration of core state powers through its actions.

Taking these insights together, the causal mechanism of German constitutional entrapment consists of two steps (see figure 3). As hypothesised by postfunctionalism, the first step is that citizens feel frustrated about losing democratic control due to European integration. When the euro crisis resulted in the partial transfer of core state powers in fiscal policy to the ECB, German citizens felt that their government had failed to protect their domestic community by diffusing democratic self-rule. Therefore, they filed several constitutional complaints directed at the ECB’s programmes, hoping that the FCC would decide in their favour and put judicial pressure on the German government to better protect its citizens’ rights.

When one of the constitutional complaints succeeded amid heated discussions on how much European financial solidarity would be sufficient

during the COVID-19 pandemic, the German government became constitutionally entrapped. As such, the ruling threatened the long-term sustainability of European instruments that lack democratic accountability. However, despite the need for more democratically controlled governance, the German government also wanted to show substantial European financial solidarity to its community members due to previous rhetorical entrapment (see chapter 5.2). The corona recovery fund presented the way out of the dilemma due to its coupling with the next MFF. As the latter has to be nationally ratified by all member states' parliaments, it can be considered significantly more democratic than other proposed instruments. Being democratically controlled, the German government acted legitimately according to its national constitution.

The following sections depict how the causal mechanism of constitutional entrapment played out in the German case of the FCC's PSPP judgment. To begin with, the ruling mainly entailed the demands of citizens that were frustrated with their loss of national self-determination and democratic control. Threatening the long-term sustainability of European instruments that lack democratic accountability, the German government had to find a solution that adhered to the judicial pressure for more democratic legitimacy. Thereby, the ruling rendered Germany's updated preference to issue more comprehensive rescue measures precluding debt mutualisation unfeasible due to their lack of democratic legitimacy. With the coupling of the fund to the next MFF, the German government found a solution that satisfied both the FCC's requirement of more democratic control and the community members' demand for more financial solidarity. Thus, the PSPP ruling would not have been sufficient to change the German position by itself. However, it was necessary to tip the balance in favour of shared debt.



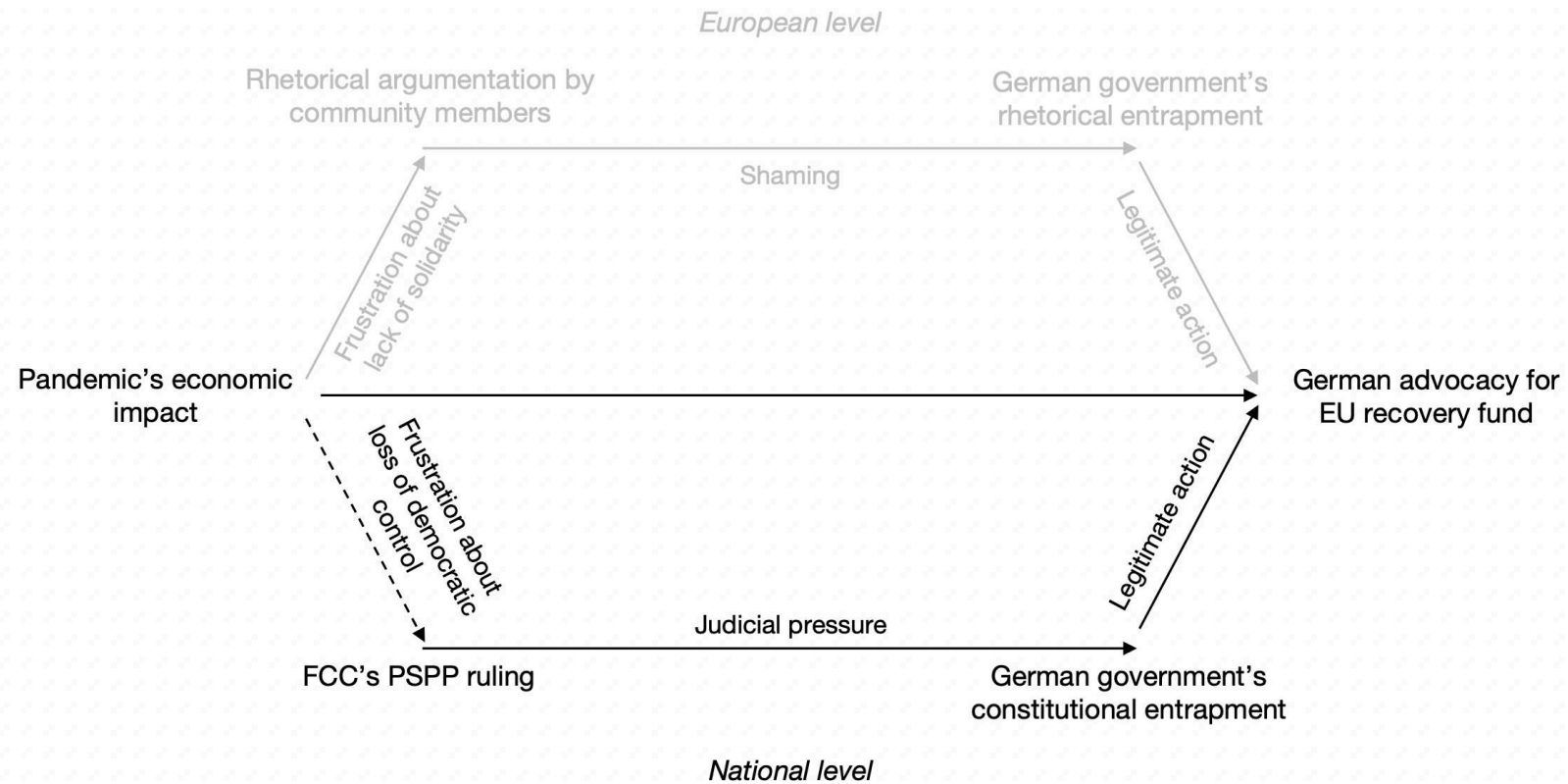


Figure 3 Chain of causation: constitutional entrapment<sup>12 13</sup>

<sup>12</sup> The part of the causal mechanism depicting constitutional entrapment is illustrated in black colour. The part of the causal mechanism accounting for the rhetorical entrapment induced by the community members' rhetorical argumentation is depicted in grey as it was already introduced in chapter 5.2.

<sup>13</sup> Note that the line pointing from the pandemic's economic impact to the FCC's PSPP ruling is dashed because the ruling was not a direct effect of the pandemic but a long-term consequence of domestic frustration about the transfer of national fiscal competencies to the European level.

## *PSPP and the judicial pressure for democratic control*

In many ways, the PSPP ruling can be seen as a byproduct of the “constraining dissensus” (Hooghe and Marks 2009) that has resulted in the politicisation and public contestation of European integration. Feeling frustrated by the loss of national self-determination, citizens turn to federal courts in an attempt to regain control over competencies that have been transferred to the EU level.<sup>14</sup> While it would be foolish to suggest that post-functionalism could have predicted the ruling, it does account for the underlying anti-European sentiments.

As such, there is plenty of evidence that the PSPP judgment was the result of a perceived loss of national democratic control. The ruling was prompted by four constitutional complaints filed by 1747 plaintiffs in 2015 and 2016. These plaintiffs were mainly organised around the networks of former CSU Deputy Party Leader Peter Gauweiler and former AfD politicians Bernd Lucke and Hans-Olaf Henkel, all of which are outspoken eurosceptics (Reuters et al. 2020). One of the plaintiffs confirmed that the main criticism on PSPP was that the German institutions failed to fulfil their responsibility of ensuring that European integration proceeds along democratically legitimised lines (Interview 2). Consequently, the PSPP’s substantive content was less criticised than the German institutions’ negligence of their duties (Interview 6). According to the plaintiffs, European institutions such as the ECB are overstepping their mandate by making decisions that are not democratically legitimised (Bündnis Bürgerwille 2020). The words “democracy” or “democratic” are mentioned 66 times in the constitutional complaint (Bündnis Bürgerwille 2015). While it may only be 1747 plaintiffs, a member of the German Bundestag said that the sentiment of frustration with the EU gained a considerable reach not to be taken lightly (Interview 6).<sup>15</sup>

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<sup>14</sup> Of course, the national frustration was not a direct effect of the pandemic but rather a consequence of long-term developments regarding the economic integration of the eurozone. Consequently, the timing of the PSPP ruling cannot be attributed to the political calculation of eurosceptic citizens. Rather, it is coincidental that the constitutional complaint succeeded right amid the eurozone’s next great economic recession.

<sup>15</sup> Besides the plaintiffs themselves, there is evidence that some judges from the German FCC held eurosceptic views themselves. The PSPP ruling was delivered by the FCC’s

Accordingly, the main argument of the PSPP ruling itself was that the ECB, as an institution, was not democratically legitimised for the tasks it carried out in the aftermath of the euro crisis. More specifically, the German government and parliament had failed to meet their responsibility regarding European integration by not preventing the ECB from adopting the PSPP without an appropriate proportionality assessment. In 2015, the ECB had launched the PSPP to combat the deflation from the euro crisis and ensure price stability (European Central Bank 2021). To achieve market neutrality, the PSPP involves the purchase of sovereign bonds issued by eurozone governments, national central banks and the ECB. In its ruling, the FCC criticised the PSPP's "democratic legitimisation" (The Federal Constitutional Court 2020a: 69) that "bears upon the citizens' right to vote and their right to democracy" (*ibid.*). Most importantly, it took issue with the lack of parliamentary control:

"Art. 38(1) first sentence, Art. 20(1) and (2) and Art. 79(3) GG protect, in particular, the budgetary powers of the German Bundestag (...) and its overall budgetary responsibility as indispensable elements of the constitutional principle of democracy (...). It is for the German Bundestag, as the organ directly accountable to the people, to take all essential decisions on revenue and expenditure; this prerogative forms part of the

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Second Senate in a 7 to 1 decision. The dissenting judge did not file a dissenting opinion and thus remains unknown though most observers believe that the dissent came from Judge König or Judge Langenfeld (Mayer 2020: 736). According to critics, both the President Judge Voßkuhle and the Judge Rapporteur Huber were, to a certain extent, driven by personal political orientation. In the view of a European law jurist: "The president of the senate and the rapporteur of the PSPP judgment were completely out there with their eurosceptic views. I don't think they're mainstream even in German constitutional law circles (...). They [the plaintiffs] were lucky to get the rapporteur that they got. Remember when the rapporteur joined the court, he was in the absolute minority issuing eurosceptic separate opinions. He was allowed to be the rapporteur for this important judgment. (...) . In a way, the judge rapporteur that I choose also determines what kind of decision I get in that constitutional case." (Interview 1) Likewise, a member of the German Bundestag said that the FCC suffers from a "latent eurosceptic majority" (Interview 5, own translation). A former judge of the ECJ agreed, stating that the German FCC seemed to have confused a proportionality assessment with an assessment of competencies (Interview 12). Almost immediately after issuing the ruling, the responsible judges turned to the media to explain it (DPA 2020b). This is a rather unusual reaction which points to the judges feeling the need to justify their decision. However, their justification in the media also reflected a eurosceptic perspective. As such, their statements were often "provocative according to the motto 'We are saving Germany from Europe'" (Interview 5, own translation).

core of Art. 20(1) and (2) GG, which is beyond the reach of constitutional amendment (...). It falls to the Bundestag to determine the overall financial burden imposed on citizens and to decide on essential expenditure of the state (...). Thus, a transfer of sovereign powers violates the principle of democracy at least in cases where the type and level of public spending are, to a significant extent, determined at the supranational level, depriving the Bundestag of its decision-making prerogative (...).”  
(*ibid.*: 50)

The ruling put substantial judicial pressure on the German government and thereby threatened the sustainability of its current preference – the implementation of more comprehensive European loaning instruments precluding shared debt – for three reasons. Most importantly, there was a fear among German policymakers that the FCC could issue a similar ruling on both the PEPP and the finance minister’s emergency eurozone rescue package (Interviews 5, 6, 10 and 12). Compared to the PEPP, the Eurogroup’s emergency rescue package is a little less susceptible to legal challenge as nationally elected representatives agreed upon it. By contrast, the PEPP is a temporary asset purchase programme of private and public sector securities that follows the same principle as the PSPP, keeping interest rates on public debt low (European Central Bank 2020). While the FCC’s official press release explicitly states in its introduction that the ruling does not concern any financial assistance measures taken by the EU or the ECB in the context of the pandemic (The Federal Constitutional Court 2020b), the parallels between PSPP and PEPP are unmistakable (Mayer 2020). As it was certain that the representatives of eurosceptic parties would again lead a lawsuit, a FCC ruling against PEPP, even though it would take several years,<sup>16</sup> was not unlikely. It has even been argued that the PSPP ruling might be a secret “message from Karlsruhe” (Viterbo 2020: 678), implying that PEPP is on the verge of monetary financing and would not be viable as a long-term solution. In an interview, one of the FCC’s judges said that it is “safe to say that the

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<sup>16</sup> A legal decision on PEPP would take several years because the *ultra vires* review would have to be conferred to the ECJ first if complainants against the PEPP were to rely on the PSPP judgment.

Federal Government and the Bundestag would generally do well to keep a closer eye on the European institutions and be accountable to the citizens of Germany for the competencies they have transferred.” (Interview 4, own translation). Therefore, Germany needed to show that even if the ECB’s instruments failed in the corona crisis, there would be an alternative, as confirmed by a senior official from the German Finance Ministry (Interview 10).

Second, if the situation escalated, the Commission could initiate an infringement procedure under Article 258 of the Treaty on the Functioning of the European Union (TFEU).<sup>17</sup> An infringement procedure becomes possible when a member state does not fulfil its obligation under the EU treaties. As the German FCC overstepped its mandate in not accepting the superiority of EU law, an infringement procedure became a genuine possibility. Shortly after the ruling, on May 9, Commission President von der Leyen announced that she would investigate whether such a procedure is possible (Steinvorth 2020). While infringement procedures start with intensive dialogue, the ECJ can impose financial penalties, including a lump sum and a daily payment if the member state does not rectify the situation. The FCC’s ruling could then have become “very expensive very quickly” (Interview 1) for the German government.

Third, the PSPP judgment had a positive feedback on the European frustration about a lack of solidarity, which could be used rhetorically by community members to strengthen their claim (see chapter 5.2). As such, it appeared that, amid the pandemic, the German Bundesbank might stop participating in the ECB’s PSPP. In the view of an official from the German parliament, the ruling was “a slap in Europe’s face” (Interview 5, own translation). With Germany occupying the strongest economy of all European member states and being the ECB’s largest member, it would be almost

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<sup>17</sup> On June 9, 2021, the Commission announced that it is indeed bringing an infringement procedure for the PSPP judgment against Germany. In a letter from the Commission, it criticised the FCC for its decision to deprive a judgment of the ECJ of its legal effect in Germany, breaching the principle of the primacy of EU law (Nguyen 2021). However, since the matter has already been politically resolved in 2020 through the ECB’s willingness to hand over several unpublished documents on the PSPP program to the German government, the case is likely to be settled without conferral to the ECJ.

impossible for the ECB to continue its bond-buying programs without German support (Kartnitschnig 2020). Therefore, European observers strongly criticised the ruling, inflaming anti-German sentiments (Interviews 1, 5, 11 and 13). A *Euronews* article described the FCC to have “gone nuclear” (Sarmiento and Utrilla 2020), and an official from the Commission called the PSPP ruling “a big shock” (Interview 13) for Europe. Besides exacerbating the perceived lack of European solidarity, Germany was also blamed for undermining the ECJ’s legitimacy and opening the door for countries like Poland and Hungary to ignore rulings when they disagree with them (Kartnitschnig 2020), leading to considerable image loss that the German government had to make up for.

Taken together, the fear of a similar judgment against PEPP, the possibility of an infringement procedure and Germany’s image loss resulted in enormous pressure on the German government to find an economic rescue instrument that was more democratically legitimised than the current proposals.

### *German constitutional entrapment*

What indications point to the German government becoming entrapped by the judicial pressure and the recovery fund becoming its “way out” of the dilemma? To begin with, according to several interviewees, the PSPP ruling was crucial for shaping the final German preference on the corona recovery fund (Interviews 1, 4, 5, 6, 10, 14 and 17). A couple of days after its release, Merkel herself called the ruling “hugely significant” (Arnold et al. 2020). Finding itself entrapped by the constitutional demand for more democratic control, the German government had to find a long-term solution to deal with the economic impact of the pandemic on the European level that was in line with the German constitution by being more democratically legitimate than the envisioned instruments. With the corona recovery fund that the German government presented on May 18, it found that solution.

When examining the institutional design of the proposed corona recovery fund – and, for that matter, of the later implemented NGEU – it

becomes clear that the FCC's demands have been met. On the one hand, there is a much greater level of democratic control under the corona recovery fund than under both PEPP and the finance minister's rescue package. A decisive factor for the democratic legitimacy of the fund is its implementation within the EU's MFF.<sup>18</sup> First, the MFF is being adopted by the EP. Second, each national parliament ratifies the MFF. According to an official from the German Bundestag, the national parliaments are regularly involved in monitoring the fund due to its link with the MFF (Interview 3). Respondents from both the German and European political elite agreed that democratic legitimacy is one of the fund's strong suits (Interviews 3, 4, 5, 7, 9, 10, 11, 12 and 13). Ironically, in a government statement on April 23, Merkel opposed shared debt precisely for the reason of national democratic ratification: "Calls for so-called corona bonds, which would communitarise debt, are not helpful (...), if only for the reason that every national parliament would have to agree to transfer some authority over the national budget to European level." (The Federal Government 2020b) As a result of the FCC's PSPP judgment, Merkel suddenly had an incentive to support parliamentary ratification despite the time-consuming process.

On the other hand, the German government was also careful not to integrate "too far". As frequently highlighted by German politicians – despite a contradictory international reception – the recovery fund does not endorse Eurobonds. To begin with, the borrowed money is to be paid back by 2058. The sharing of debt thereby constitutes a one-time exception. Furthermore, while there might be shared European debt, national budgets do not become liable. Instead of joint liability, the EU is using its own resources through its budget. A genuine mutualisation of debt would not have been possible under current German law. One of the FCC's judges stated that Eurobonds, as envisioned by Italian Prime Minister Giuseppe Conte, would require drafting a new German Constitution (Interview 4). However, being a temporary and limited instrument, the corona recovery fund did not suspend German or

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<sup>18</sup> In that regard, it was crucial that the February negotiations on the MFF had ended without compromise. Germany seized the opportunity that there had yet to be an agreement on the next MFF (Interview 18).

European law. Instead, it was a “trick” (Interview 7) that struck the right balance between integrating enough to be democratically legitimate and not integrating too much for fiscal policy to remain a national competence in the long term.

Being both democratically legitimate and limited in its design, the German government acted legitimately according to its national constitution. Consequently, the proposed recovery fund is much less likely to be judicially challenged than both recent rescue approaches and a genuine mutualisation of debt. As elaborated by a judge from the German FCC:

“The fact that the aid measures are now the responsibility of parliaments and politically anchored is, of course, also a consequence of the case law, which criticises a technocratic institution for making fundamental political and distributional decisions. There is a difference between 750 billion being made available by national parliaments and then 200 billion hitting us, and the ECB bringing about the same effects without asking anyone.” (Interview 4, own translation)

The corona recovery fund thus presented a solution to deal with the economic impact of the COVID-19 pandemic on the European level that would not likely be attacked either by the FCC or by the ECJ. By radically exposing the ECB’s limited competencies and the long-term unsustainability of economic rescue instruments that are not democratically legitimised, the PSPP cleared the path towards increased fiscal integration of the eurozone (Dermine 2020: 550). Paradoxically, this is hardly what the plaintiffs had hoped for.<sup>19</sup> Rather than ensuring democratic legitimation by disintegrating fiscal policies, the German government chose to promote democratic legitimation by integrating further.

To summarise, the process-tracing analysis of the German preference shows that the German government was normatively entrapped into presenting a solution that would conform with both the EU’s constitutive

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<sup>19</sup> In fact, *Bündnis Bürgerwille*, the same non-partisan movement that has organised the PSPP constitutional complaint, is currently lobbying for signatories for a constitutional complaint on NGEU (Bündnis Bürgerwille 2021b).



norm of solidarity and its national norm of democracy: the corona recovery fund (see figure 4). First, the rhetorical argumentation by community members prompted a change in the discourse on shared debt that rendered the German ordoliberal ideology illegitimate. Thereby, the European community pressured Germany into adhering to the EU's constitutive value of solidarity. The German government found itself rhetorically entrapped if it did not want to suffer credibility costs. As a result, Germany's initial preference of sticking to the status quo – loans from the ESM – was eliminated. By April, Germany preferred new rescue packages that showed more solidarity. However, joint European debt remained a non-starter.

Second, the German FCC's PSPP ruling led to the government becoming constitutionally entrapped. Above all, the judgment implied the need for a more democratically legitimised economic rescue instrument. As Germany's now preferred rescue measures lacked such national democratic legitimation, that option was eliminated as well. Shared debt, on the other hand, requires ratification by national parliaments. The corona recovery fund then became Germany's option of last resort that addressed both the European normative pressure and its Constitutional Court's demands. In this regard, the reframing of shared debt was necessary but not sufficient for changing the German preference on shared debt. Likewise, the PSPP ruling would hardly have amounted to deeper fiscal integration if shared debt had not been framed as a matter of European solidarity before. Taken together, the two turning points adequately explain the German preference shift: Germany did as much as needed to answer to the national demand for more democratic control and as little as possible to show European solidarity despite its ordoliberal ideology.

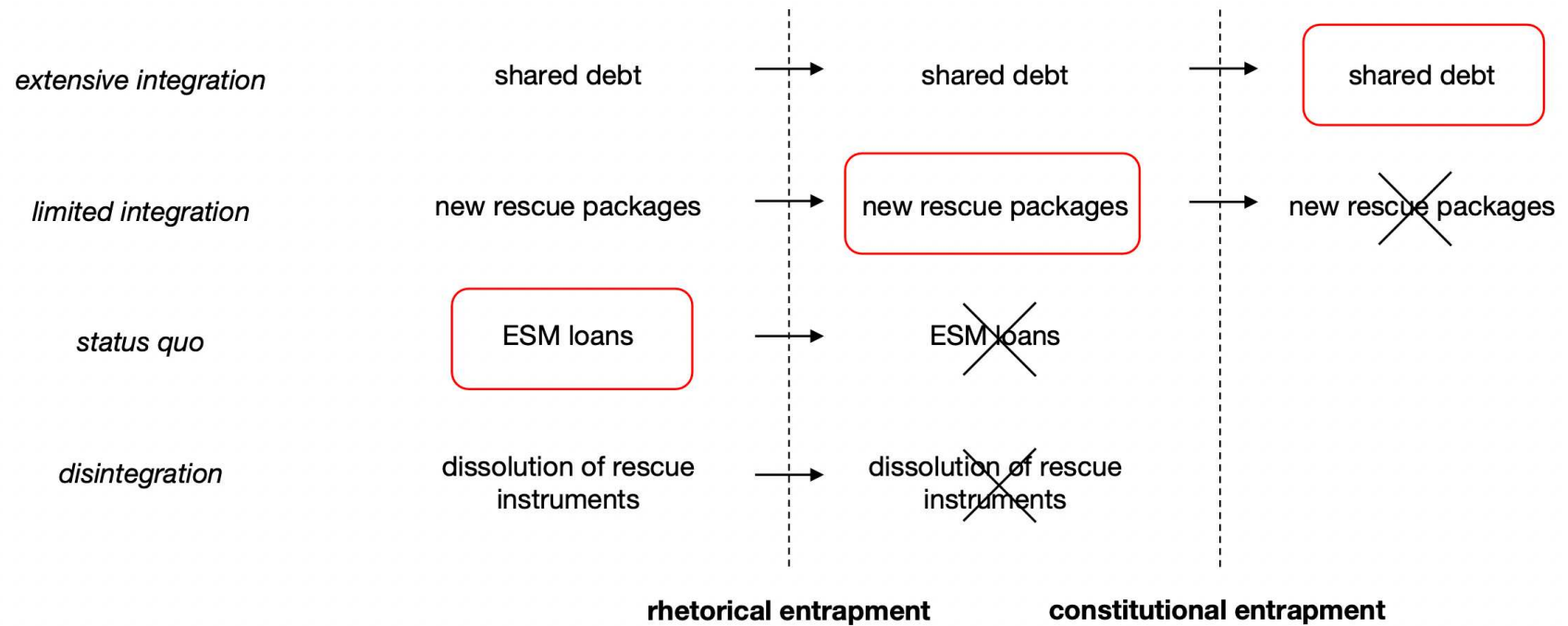


Figure 4 The German preference shift

Note: Red frame indicates Germany's current preference

## **6 Conclusion**

What explains the German preference shift on the EU recovery fund during the corona crisis? When Chancellor Merkel, together with France's President Macron, called for a debt-financed and grants-based recovery fund on May 18, 2020, it was a surprise to political scientists and policymakers alike. Remarkably, Germany was prepared to hand out an entire €500 billion as grants rather than loans, marking a radical preference shift from its position of only a couple of weeks before. In this final chapter, the results of the empirical analysis will be summarised, and their explanatory power assessed (6.1). Subsequently, I present the theoretical contributions and suggest pathways for further research (6.2). The last section elaborates on the findings' political consequences for the future of European fiscal integration (6.3).

### **6.1 Empirical findings and explanatory power**

To comprehensively account for the causes of the German preference shift, the paper applied a two-step method combining insights from congruence analysis and process-tracing. As highlighted by congruence analysis, no single approach is sufficient on its own for comprehensively explaining the German preference shift. Liberal intergovernmentalism and neofunctionalism mainly suffer from the fact that Germany's support for shared European debt can hardly be considered rational: While economic interdependence among the member states gives Germany an incentive to help its neighbours in need, rational theories would expect a preference for minimal assistance tied to strict conditions. Postfunctionalism, on the other hand, hypothesises the perceived loss of national identity and self-determination to lead to the stagnation of integration or even disintegration. Indeed, there continue to be considerable domestic challenges to fiscal integration in Germany. However, the government decided to integrate fiscal policy nevertheless, wherefore postfunctionalism also fails to explain the German support for the corona recovery fund. Finally, constructivism fails to account for the timing of the

German preference shift. If Germany genuinely believed that showing European solidarity was the appropriate course of action, it remains puzzling why it only answered to the demands of the more affected southern member states when the pandemic was already more than two months underway. Therefore, the German preference shift on the corona recovery fund constitutes a deviant case for prominent EU integration theories.

Thus, a multicausal approach was needed to capture the reasons for the German preference shift. An in-depth process-tracing analysis of the events from February to May 2020 reveals two turning points that normatively entrapped the German government. First, on the European level, community members engaged in rhetorical argumentation to change the framing of shared debt. It was argued that the corona crisis was no one's fault, wherefore failing to offer financial assistance would be a betrayal against the ideational foundations of the European community ethos. Thereby, the European community rendered Germany's ordoliberal stance illegitimate and pressured the German government into adhering to the EU's constitutive value of solidarity. As a result, Germany became rhetorically entrapped, and its initial preference of sticking to the status quo – loans from the ESM – was eliminated. Therefore, Germany's preference changed for the first time towards issuing more comprehensive rescue measures. Shared European debt, however, remained a non-starter.

A second turning point occurred on May 5, when Germany's FCC added normative pressure from below by ruling that the PSPP is overstepping the ECB's mandate. In line with postfunctionalist theory, a number of German citizens demanded that European economic rescue measures be democratically legitimised at the national level. Despite only making up 1747 signatures, the complaint succeeded through the PSPP ruling and constitutionally entrapped the German government. Threatening the long-term sustainability of European instruments that lack democratic accountability, the German government had to find a solution that adhered to the judicial pressure for more democratic legitimacy. The corona recovery fund then became Germany's option of last resort that addressed both the European

normative pressure and its Constitutional Court's demands. As such, the fund is comprehensive enough to show Germany's solidarity with the rest of Europe. At the same time, through its coupling with the EU's MFF, it had to be ratified by all national member state parliaments, thereby increasing its democratic legitimacy. Taken together, the two turning points sufficiently explain the German preference shift: Germany did as much as needed to answer to the national demand for more democratic control and as little as possible to show European solidarity despite its ordoliberal ideology.

Due to the close examination of the German case, the results provide a very high internal validity. In that regard, the combination of two methods was crucial for establishing causality: While congruence analysis allowed for the exclusion of alternative explanatory factors, process-tracing yielded detailed insights into the causal course of events that led to the German preference shift. Of course, the disadvantage of these methods is that one cannot adduce direct evidence for the psychological effects of normative arguments. Since one cannot look into peoples' heads, it is almost impossible to provide reliable and accurate proof of a preference shift. Therefore, there exists no decisive evidence that the desire to appear legitimate in front of both the European community members and the national electorate brought about the German government's decision to support the recovery fund. However, due to data triangulation, including a relatively large number of interviewees from different backgrounds who overarchingly agreed on the German government's legitimacy concerns, I am confident that the results yield a minimally sufficient explanation of the preference shift.

On the other hand, the external validity of the results is low. As part of the causal mechanism consists of a case-specific factor, the PStP ruling, applying the results to other cases is problematic. However, the goal of explaining-outcome process-tracing is mainly to account for a particularly puzzling case rather than making generalisations to a broader population (Beach and Pedersen 2013: 169). Furthermore, deviant cases often unveil shortcomings of existing approaches, thereby making valuable theoretical contributions, further elaborated upon in the following section.

## 6.2 Theoretical contributions and future research

While the German preference shift on the corona recovery fund is exceptional in many ways, it nevertheless compromises several interesting theoretical implications. First, the prominent EU integration theories need to reconsider if and how their propositions on preference formation can be applied during crises. The central insight gained from the analysis is that there is no “winning theory” that can explain the complexities of the entire decision-making process. Instead, the paper elaborates on which conditions and mechanisms matter most for each stage and how they interrelate. Thereby, it contributes to overcoming the still widespread monocausal theorising of EU integration while not contending itself with the conclusion that all factors matter in some vague manner.

The argument of rhetorical action is a particularly good example of how rational and ideational approaches can be fruitfully combined. Especially in a community environment that is as dense and well defined as the EU, the question shouldn't be *if* norms matter but *when* and *how* norms matter for explaining state behaviour. As already argued by Fearon and Wendt (2002: 52) almost two decades ago, the most exciting research is likely to ignore zero-sum interpretations and instead cross the boundary between rational and ideational accounts. While there has been considerable progress in recognising that the complexities of the social world often cannot be grasped by a single theoretical model, there is also still a lot of monocausal theorising that downplays the importance of alternative factors (Moravcsik 2018).

Thus, the argument of rhetorical action should be given more attention in future research. Under what conditions is rhetorical argumentation going to be effective in a community environment? Schimmelfennig (2021: 144f.) has already defined some scope conditions. Besides the existence and the density of the community ethos, the effects of rhetorical action are issue- and norm-specific. As such, policy issues involving fundamental questions of community purpose and coherent norms are more likely to result in successful rhetorical action.

This paper points to three further facilitating conditions. First, states that enjoy a leadership role within a community will become entrapped more easily. As the leading states in a community have legitimised their power on the values of the community (Finnemore 2009: 61), they lose their credibility if they disregard the norms they themselves have built. Therefore, Germany has to worry comparatively more about appearing hypocritical than other member states that do not possess a leadership role. Second, rhetorical argumentation will be more effective if it comes from powerful members of the community. As such, Germany would have arguably felt less ashamed if France had not been among the member states calling for more financial solidarity. Third, context matters. Community members were only successful in reframing the debate on shared debt within a European solidarity narrative because the crisis could not be blamed on any state within the community. In that regard, the type of crisis is relevant. Humanitarian crises are likely to strengthen the validity of rhetorical arguments, wherefore one can expect them to result in deeper integration. The comparison between the euro and corona crisis confirms this observation: During the euro crisis, it was legitimate to blame the financial difficulties of southern member states on their own shortcomings. By contrast, the corona crisis represents a humanitarian crisis that was no one's fault. Therefore, failing to show solidarity was considered a betrayal against the ideational foundations of the European community ethos and, therefore, illegitimate. Surprisingly, the refugee crisis also involved a humanitarian issue but did not lead to substantial integration. Thus, further research should investigate why solidarity claims remained unsuccessful during the refugee crisis, whereas they were essentially driving the outcome of the corona crisis.

Besides shedding light on the facilitating conditions of rhetorical action, the empirical exploration suggests investigating further into the often-overlooked role that national courts play in the integration process. Due to the EU's unique constitutional structure, the PSPP ruling will not remain the last time a member state's Highest Court challenged the ECJ's superiority. In fact, the PSPP judgment suggests the contrary: As it was facilitated by the

public contestation of European integration, the number of similar legal challenges is likely to increase with the politicisation of European policies. Therefore, it would be worthwhile to examine if and how the ECJ is constrained by domestic Highest Courts to promote further integration through law. In that regard, special attention should be paid to the integration of core state powers as the German case suggests that citizens are more likely to file a constitutional complaint arguing an EU institution to have acted *ultra vires* when said institution has promoted the integration of core state policies through its actions.

The German government's solution to the domestic pressure invoked by the PSPP judgment further reveals a gap in postfunctionalist theory: Rather than ensuring democratic legitimation by disintegrating fiscal policies as hypothesised, the German government promoted democratic legitimation by advocating further integration. This suggests that if the demand for more democratic self-determination nationally constrains governments, they can bypass said constraint by choosing a design that allows integration while requiring national ratification. Further research could investigate the conditions under which national constraints can be circumvented by designing a European instrument in a manner that meets the domestic electorate's concerns.

Finally, the findings revealed that national and European notions of legitimate action often clash. In the German case, the government was able to reconcile those opposing ideas through the corona recovery fund. However, such a reconciliation is not always possible. Because grand gestures of solidarity usually imply a loss of national democratic accountability, governments may find themselves caught in a normative trap (see figure 5). As such, the preference to protect national competencies will result in a perceived lack of European solidarity and normative pressure from community members. To not suffer credibility losses, governments will show solidarity by integrating competencies. Consequently, the integration of powers will lead to a perceived loss of national self-determination and increased national normative pressure, and the cycle starts anew.



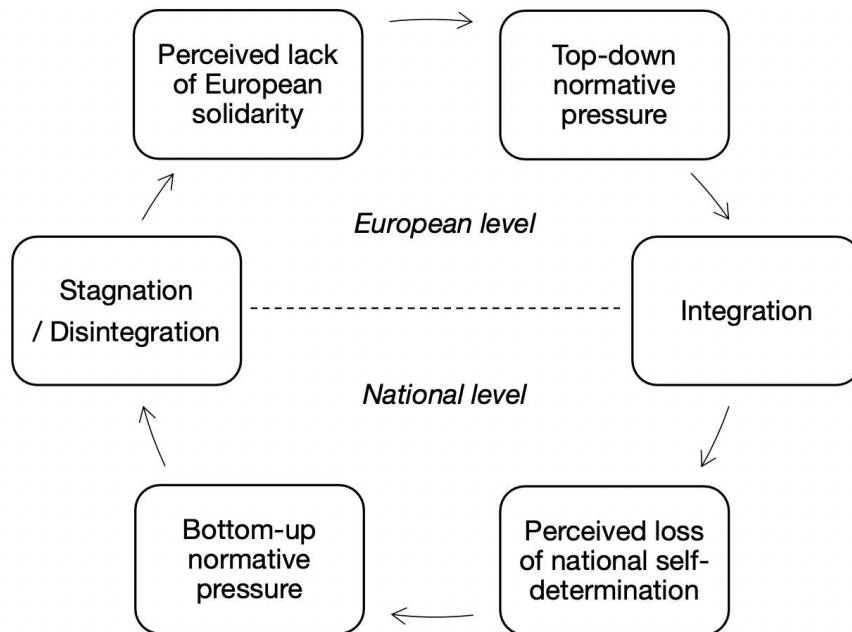


Figure 5 The normative trap

The trade-off between showing European solidarity and protecting national competencies is one that surely deserves more attention in future studies of EU integration. Thus, exploring the German support for the corona recovery fund has theoretically contributed to several potential new avenues for research.

### 6.3 Political implications and the future of EU fiscal integration

Besides the theoretical implications, the results also yield some interesting political consequences regarding the prospect of EU fiscal integration. On the one hand, there is good reason to believe that, with time, the EU's community ethos will become even stronger. Therefore, it seems likely that ideational arguments that refer to the EU's constitutive values and norms will be used more often with more success. European institutions will play a leading role in strengthening the community ethos. In June 2021, the Commission released a YouTube video celebrating the positive impact that NGEU (European Commission 2021b) will have on the EU, even though it remains to be seen whether the fund's economic goals will be achieved. Nevertheless, the short clip has generated more than 24 million views in only

one month.<sup>20</sup> When the next crisis hits, community members favouring fiscal integration will be able to refer to NGEU's outstanding accomplishments. Consequently, they will have an easier time shaming all those who want to pull back from such an encompassing symbol of European solidarity.

On the other hand, national constitutional constraints are not going to disappear. While it has been argued that with the departure of Judge Voßkuhle in July 2020 and the arrival of a new judge, Astrid Wallrabenstein, the German FCC will lose its eurosceptic majority (Mayer 2020: 736), fiscal policy nevertheless remains a core state power that is enshrined in many of the member state national constitutions. Furthermore, as defined in Article 125 of the TFEU, the EU was initially designed not to be liable for or assume the financial commitments of member states. Thus, implementing a genuine fiscal union would require substantial treaty revisions of both European and national constitutional treaties.

Finally, it is safe to say that the German ordoliberal position has not changed and is not likely going to in the years to come. Being a one-time exception that does not include national budgets becoming liable, the German advocacy of the recovery fund appears reasonable given the strong European and domestic normative pressure. Furthermore, considering that Germany only contributes to the fund's repayment in proportion to its budgetary contribution to the EU, the material costs are moderate in the face of significant legitimacy gains. Any instrument that would encompass the development of a European fiscal union would significantly raise Germany's material costs. Therefore, it is unlikely that the EU's most powerful state will push for the transfer of fiscal competencies to the European level anytime soon.

Regardless of whether member states will support the substantial integration of fiscal policies in the coming years, any further steps towards deepening the fiscal integration of the eurozone are likely to require a crisis outbreak. As shown by the results, member states remain reluctant to integrate core state powers unless truly necessary. Crises are essential for

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<sup>20</sup> The Commission's marketing efforts also point to the importance it ascribes to NGEU's image.

inducing the required necessity by revealing existing deficiencies that could threaten the long-term stability of existing integration schemes. In the words of one interview respondent, the corona pandemic was not “bad enough” (Interview 17, own translation) to bring about fiscal union. Ironically, it will probably take the outbreak of a new crisis to convince member states to further integrate fiscal policy, giving a sad overtone to Monnet’s (1978: 417) famous declaration that he had “always believed that Europe would be built through crises, and that it would be the sum of their solutions”.

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## Interviews

Interview 1 (2021), Jurist in European Law, via Zoom, 28 April.

Interview 2 (2021), Representative of *Bündnis Bürgerwille e.V.*, by e-mail, 13 May.

Interview 3 (2021), German Federal Parliament, official 1, via Zoom, 20 May.

Interview 4 (2021), German Federal Constitutional Court, judge, in person, 21 May.

Interview 5 (2021), German Federal Parliament, official 2, via Zoom, 25 May.

Interview 6 (2021), German Federal Parliament, official 3, via Zoom, 25 May.

Interview 7 (2021), European Parliament, official 1, via Zoom, 26 May.

Interview 8 (2021), Financier, via phone, 27 May.

Interview 9 (2021), German Federal Government, senior official 1, via phone, 28 May.

Interview 10 (2021), German Finance Ministry, senior official, via Zoom, 1 June.

Interview 11 (2021), European Parliament, official 2, via Zoom, 2 June.

Interview 12 (2021), European Court of Justice, former judge, via Zoom, 8 June.

Interview 13 (2021), European Commission, official 1, via WebEx, 14 June.

Interview 14 (2021), German Federal Government, senior official 2, via WebEx, 15 June.

Interview 15 (2021), Economic Expert, via Zoom, 16 June.

Interview 16 (2021), European Council, official, via Zoom, 17 June.

Interview 17 (2021), Economic Expert, via Zoom, 25 June.

Interview 18 (2021), European Commission, official 2, via WebEx, 28 June.