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THE SIGNIFICANCE OF THE 5 MAY 2020 JUDGMENT OF THE CONSTITUTIONAL COURT OF THE FEDERAL REPUBLIC OF GERMANY (WEISS II) FOR THE PROCESS OF INTEGRATION OF THE EUROPEAN UNION FINANCIAL MARKET

Abstract

Since the financial crisis of 2007/2008, we have been dealing - at the level of the European Union - with a special "dialogue" between the European and German courts. The subject of this "dialogue" is the decisions of the European Central Bank on the program for the purchase of public sector assets on secondary markets. The ECB's activity, as well as the involvement of the national central banks of the Eurosystem in the implementation of these decisions, has been met with dissatisfaction by German politicians, culminating in the title judgment of the Constitutional Court of the Federal Republic of Germany. In the paper, the author analyzed the judgments, particularly from the perspective of the process of integration of the European Union financial market and the importance of the judgments for this process taking into account the key principles of EU law: proportionality and supremacy of EU law.

Keywords: European Central Bank, PSPP, Weiss.

JEL Classification: E58, K8

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1. Introduction

Since the financial crisis of 2007/2008, we have been dealing – at the European Union (EU) level - with a special "dialogue" of the tribunals. The subject of this "dialogue" is the decisions of the European Central Bank (ECB) on the program for the purchase of public sector assets on secondary markets. The ECB's activity, as well as the involvement of the national central banks of the Eurosystem in the implementation of these decisions, has been met with dissatisfaction by German politicians, culminating in the title judgment of the Constitutional Court of the Federal Republic of Germany (FTK). A special judgment, as the Karlsruhe judges challenged the verdict of the Court of Justice of the European Union (CJEU) on 11 December 2018 (Case C-493/17 *Weiss*). Indicating in general - the FTK argued that in light of Articles 119 and 127 et seq. of the TFEU, as well as Articles 17 et seq. of the Statute of the ECB and the ESCB, the decision of the ECB's Governing Council - despite the CJEU's ruling to the contrary - must be qualified as an *ultra vires* act (an action beyond formal competence), as it exceeds EU competence. The German judges' approach is surprising, since according to the Court's well-established case law, a judgment issued by the CJEU in reference to a preliminary ruling is binding on a national court when deciding a dispute pending before it. In order to ensure the uniform application of Union law, only the Court of Justice, appointed for this purpose by the Member States, has jurisdiction to declare the incompatibility of an act of a Union institution with Union law [Press Release No 58/20, CJEU].

In the paper, the author analyzed the judgments, particularly from the perspective of the process of integration of the European Union (EU) financial market and the importance of the judgments for this process taking into account the key principles of EU law: proportionality and supremacy of EU law.

The article used a dogmatic-legal research method, analyzed case law and domestic and foreign literature on the subject. This allowed us to formulate a research hypothesis, in light of which, **taking into account the FTK judgment, we can expect the future increased scrutiny of decisions issued by the ECB affecting the EU financial market.**

2. Integration of the EU Financial Market Through Regulation and Case Law of the Court of Justice of the European Union

Beginning in the first decade of the 21st century, when the decision was made to implement the Lisbon Strategy, in which the so-called Financial Services Action Plan [Commission of the European Communities, 11.05.1999 COM (l999)] was included, the financial market became

a subject of special interest to the European legislator. Since then, its regulatory activity has been noticeable and has been gradually increasing, which is manifested in the coverage by regulation of successive spheres of the functioning of the European financial market, which is one of the most important (if not the most important) part of the EU internal market, as defined in Article 26 of the TFEU [Nieborak 2016:94]. The European Union established the internal market by Article 3 of the Treaty of European Union (TEU) [The Treaty of the European Union: Art 3]. According to the provisions of Article 26(2) of the TFEU, this market comprises an area without internal borders in which the free movement of goods, persons, services and capital is ensured [The Treaty on the Functioning of the European Union: Art 26(2)]. Thus, the abolition of internal borders is a *sine qua non* for the establishment of the internal market [Jurkowska-Zeidler 2016: 76].

The basis of EU financial market law is provided, among other things, by the provisions of the TFEU cited above. They lie especially in the regulations on the free movement of capital and payments (Articles 63-66), as well as in the provisions devoted to monetary policy (Articles 127-133) and the European Central Bank (Articles 282-284). Legal regulation related to the organization and supervision of the functioning of the Union's internal financial market was based previously mainly on EU secondary law, especially directives indicating how member states are to regulate the legal regime of the financial market under national law [Kosikowski 2016:26]. However, for the past dozen years or so, the legal regulation of the financial market has been undergoing a shift from the principle of minimum harmonization to the principle of maximum harmonization. Directives with a very broad and detailed scope of harmonization at the national level are accompanied by regulations, which are directly applicable in the eurozone member states, but are definitely institutional and functional rather than substantive in nature [Jurkowska-Zeidler 2016: 77]. What is important is that the regulations and directives are addressed to all EU member states, regardless of whether they belong to the eurozone or remain outside it. European courts and tribunals are very sensitive to the effects of failure to fully implement EU directives in the financial market. And where EU law leaves it up to national law to set its own regulations, that's where numerous problems emerge in practice (e.g., the effects of the so-called “shadow banking system”) [Kosikowski 2016: 30-31].

The objectives of the transition from the principle of minimum harmonization to the principle of maximum harmonization of EU financial market law are to unify the rules for the operation of financial institutions and to strive to ensure their stability. Market stability, or the variously understood security of financial institutions and their customers, has grown to become the primary objective of the post-crisis changes, which - after appropriate analyses - also

introduced many new solutions in the institutional sphere, and above all a new "architecture" of public supervision of the financial market. Accordingly, it is possible to point to the directions of far-reaching changes in the state of EU financial market law in the way it is created and applied, as well as the "depth" of regulation from the EU level, in addition, work has intensified to regulate in a time-appropriate manner the problems that have long been waiting for it. These processes have significantly strengthened the stature and importance not only of EU single financial market law itself but also the importance of national legislation in the area left to them [Fojcik-Mastalska 2016: 20]. The EU's concept of creating a single financial market law as uniformly as possible, based on the same concept, also goes deeper, into strictly sectoral regulations, and is expressed in a similar pattern of regulating the creation and operation of financial institutions that provide specific, typical financial services. In the modern single financial market, the sectors of credit (banking), investment, payment and insurance services are distinguished, with financial institutions typical of these sectors as service providers. However, as a result of the trend toward universalization of service offerings in the financial market, the boundaries between sectors are not sharp [Fojcik-Mastalska 2016: 22].

The special legal regime of the financial market and its separate nature from other market segments means that it is subject to special organization and supervision by the state. Legal regulations related to the state's influence on the organization and functioning of the financial market aimed at ensuring its security constitute the essence of financial market law. In the sphere of the functioning of the financial market, the regulatory intervention of the state was and is the greatest. This is because leaving the regulation of this market to the market mechanism alone is not an optimal solution: it can disrupt the functioning of the state's financial system, and certainly does not provide the funds deposited or invested there with adequate protection [Jurkowska-Zeidler 2010: 251].

Thus, the content and scope of EU financial market law consist of both regulations common to the entire financial market (financial services market), aimed at creating its proper legal framework, including a set of interacting institutions aimed at ensuring the stability of the system (*safety net*), as well as regulations on individual types of financial services and requirements for institutions providing these services. It could be considered that the coherence of the totality of these regulations is mainly due to the EU's concept of legal order (legal framework) adopted for the entire single financial market, and therefore primarily common regulations, in the sense of regulations shaping the legal order for the entire financial market - for all sectors of the market [Fojcik-Mastalska 2016: 22].

Together with the regulations of primary and secondary law, the jurisprudence of the CJEU plays a special role in the process of financial market integration. This jurisprudential mandate of the CJEU stems from Article 267 of the TFEU in light of which the CJEU has jurisdiction to give preliminary rulings on the interpretation of the treaties and on the validity and interpretation of acts adopted by the institutions, bodies, organs or organizational units of the Union.

Over the years of its functioning, the CJEU has taken up many cases - especially from the area of free movement of capital and payments [Case law guide of the European Court of Justice on articles 63 et seq. TFEU - Free movement of capital 2015]. Nowadays, more and more often the subject of analysis of the Luxembourg court is the activity of the ECB in the implementation of monetary policy, as well as supervisory policy within the framework of the functioning of the European Banking Union (EBU) (e.g. the cases of *Landeskreditbank*, *Berlusconi*, *Crédit Agricole*) [Annunziata 2019: 29]. The jurisprudence of the CJEU confirms that stability and security of the financial market have become the most important objectives, which fundamentally affects the nature and importance of the norms created in this area (e.g., the *Pringle*, *Gauweiler*, *Weiss* cases) [CJEU C-370/12, CJEU C-62/14]. Indeed, priority is given to protecting the public good over the syndrome of protectionism of national financial markets. This signifies a new paradigm for the creation of regulations at the European level for the functioning of the single financial market and the financial institutions operating within it in the broadest sense [Jurkowska-Zeidler 2016: 74].

Moreover, the ruling of the CJEU in the *United Kingdom* case already allows for statements about the formation of a dynamic interpretation of financial market law specific to the financial market as well, which attempts to reconcile the principles important in the process of interpreting sectoral regulations: the EU financial stability and subsidiarity, the realization of the idea of the internal market and the harmonization of financial market law [CJEU C-270/12, Fedorowicz 2016: 123]. In the context of the above, it seems that the consistent jurisprudence of the CJEU is important from the perspective of financial market integration and its importance will grow.

3. Background to the Judgment of the Constitutional Court of the Federal Republic of Germany of 5 May 2020 (*Weiss II*)

The FTK's title judgment takes its cue from the ECB's activity in connection with the financial turmoil that began in 2007/2008. As a result of the ECB's involvement in restoring financial stability, a group of German politicians filed a series of constitutional complaints in the mode

of examining the constitutionality - the competence of state authorities - addressed to the FTK against German laws stabilizing the eurozone. The FTK, in an order of 17 December 2013, set aside for separate examination allegations concerning the compatibility with EU law of the ECB Council document of 6 September 2012 on technical features of outright monetary transactions (OMT) [Press release ECB, *Technical features of Outright Monetary Transactions* 2012]. On the other hand, by order dated 14 January 2014, the FTK decided to suspend the proceedings in this case and submitted questions to the CJEU for a preliminary examination of the legality of the ECB's actions. Following this request, the CJEU, in its judgment in the *Gauweiler* case, ruled that the ECB's actions were consistent with EU law [Knepka 2017: 46-63].

In the following years, the ECB's involvement in the functioning of the EU financial market increased, which "resulted" in the filing of several more constitutional complaints with the FTK against the ECB's 2015 decision on the secondary markets public sector asset purchase program (PSPP) [Decision (EU) 2015/774 of the European Central Bank 2015]. Indicating in a nutshell, that document concerned the authorization - for national central banks (in proportions reflecting their respective shares in the capital key[1]) and the EU central bank itself - to be able to make outright purchases of eligible marketable debt securities from eligible counterparties in the secondary markets [Decision (EU) 2015/774 of the European Central Bank 2015: Art. 1].

As a consequence of the ECB's issued and implemented act, the CJEU again received a preliminary ruling request from the FTK in 2017 [Request for a preliminary ruling from the Bundesverfassungsgericht (Germany) lodged on 15 August 2017 — Heinrich Weiss and Others]. The FTK again asked the court to answer a number of preliminary questions, which in their content included doubts about the compatibility of the ECB document with the TFEU's provisions on economic and monetary policy and the provisions contained in the protocol on the Statute of the European System of Central Banks and the European Central Bank (ESCB and ECB)[2]. In addition, the complainants pointed to a violation of the division of powers between the EU and the member states provided for in the TFEU. The issues in dispute mainly concerned the provisions on the implementation of monetary policy by the ECB and the prohibition of deficit coverage by the central banks of EU member states.

[1] The distribution of purchases between jurisdictions is based on the ECB's capital subscription key as referred to in Article 29 of the ESCB and ECB Statute.
[2] Chapter IV Monetary functions and operations of the ESCB, Articles 17-24 of Protocol No 4 on the Statute of the European System of Central Banks and of the European Central Bank, Official Journal of the EU, 07.06. 2016, C202/238.

Undoubtedly, the background of the title judgment is the earlier CJEU judgment in the *Gauweiler* case, which fits into the context of the following considerations. First, the request for a preliminary ruling was referred again to the CJEU by the FTK in a procedure that seeks to establish that the ECB act is clearly *ultra vires* and contrary to German constitutional identity. Second, both the act under consideration in the *Weiss* case and the one under consideration in the case *Gauweiler* are related to the ECB's "unconventional" programs[3], which, in the FTK's view, do not fall within the scope of monetary policy and violate the prohibition on lending set forth in Article 123 of the TFEU [Opinion of Advocate General Wathelet delivered on 4 October 2018: Point 3].

It should be pointed out that the judgment in the *Gauweiler* case concerned an ECB press release reporting on a decision approving a program for the purchase of government bonds issued by eurozone member states, which was not implemented at the time - nor, to date, ever after. On the other hand, the program for the purchase of public sector assets in secondary markets, the PSPP, which is under consideration in the *Weiss* case, has been formally adopted and also implemented [Opinion of Advocate General Wathelet delivered on 4 October 2018: Point 4]. The *Gauweiler* case resulted in a ruling that strengthened the EU financial market integration process, with both the CJEU and FTK ruling in favour of the ECB. The case also marked an important procedural turning point, as the FTK "referred" to the CJEU's preliminary ruling for the first time in its history in order to reduce the risk of inconsistencies in the interpretation of the treaties and to maintain an open and productive "dialogue" between the two courts.

In the initial phase of the proceedings before the CJEU in the *Weiss* case, the doubts of the German constitutional court were confronted by Advocate General Melchior Wathelet, who, in his opinion of 4 October 2018, proposed that the CJEU should answer the preliminary questions submitted by the FTK as follows: the examination of Decision 2015/774 on the program for the purchase of public sector assets on secondary markets did not reveal anything that could undermine its validity [Opinion of Advocate General Wathelet delivered on 4 October 2018: Point 154]. Consequently, after reviewing the position of the Advocate General, the Luxembourg judges on 11 December 2018 announced the *Weiss* judgment, in which they shared the position of Advocate Wathelet [CJEU C-493/17].

Crucial to the subject of the study is the FTK judgment of 5 May 2020, which is, as it were, a response to the position of the CJEU in the *Weiss* case above - in the literature, the FTK

[3] A programme of this kind is usually considered to be 'Quantitative Easing' (QE) because of the increase in the central bank's money supply, to which the purchase of a significant number of bonds leads.

judgment is referred to as *Weiss II* [BVerfG, Judgment of the Second Senate of 5 May 2020 – 2 BvR 859/15]. In its final decision, the FTK - unlike in the *Gauweiler* case - disagreed with the CJEU judgment and challenged it both on its merits and in terms of its validity and enforceability.

4. Integration or Disintegration of the European Union Financial Market? Considerations on the Background of the Judgment of the Constitutional Court of the Federal Republic of Germany of 5 May 2020 (*Weiss II*)

European integration has been a long and sometimes certainly difficult one - especially in the area of financial market law. The CJEU plays an important role throughout its process, establishing the EU legal order and unlocking the integration process through the interpretation of EU law. Even now, CJEU rulings often provoke heated discussion, such is the case of the title judgment, but the conflicts so far have not ultimately confirmed the saying indicating that "*where there's smoke, there's fire*" [Oreškoviê 2020: 275]. In the *Weiss* case, the CJEU found the ECB's program to be lawful, but the FTK disagreed and held that the CJEU's judgment was not binding in Germany, and that the program in question was unlawful and required further action by the ECB to bring it into compliance with German law. It should be recalled that the CJEU already many years ago - in the *Costa* case - established the doctrine of the supremacy of EU law, according to which, in the event of a conflict between EU law, on the one hand, and national law, on the other, in the area of EU competence, European law takes precedence [CJEU C-6/64].

In its judgment, the FTK appears to seek to maintain its position as the final arbiter in constitutional matters, while disregarding the role of the CJEU as the highest judicial body in the EU and in the process of financial market integration. By granting itself, in particular, but also indirectly to other constitutional courts of the member states the power to conduct *ultra vires* review in areas that undoubtedly fall within the EU's competence, the FTK fails to recognize that only the CJEU can declare invalid acts of EU law that violate the principle of proportionality [Śledzińska-Simon 2022: 2] a particularly important principle in relation to EU financial market law.

It should be pointed out that the FTK judgment contributes to destabilizing the judicial dialogue, which is based on the idea of avoiding escalation. It also increases challenges to the principle of the primacy of European law in member states. In doctrinal terms, the FTK judgment is based on a critique of the CJEU's understanding of the principle of proportionality [Knepka 2015:303-318]. Well, in the judgment under review, the principle of proportionality plays an essential role in assessing whether sufficient safeguards have been

provided by implementing the ECB's program - for example, a difficult economic situation justifies fewer safeguards - but in conducting its monetary policy, the ECB should take into account the principle of proportionality [Andersson 2018].

The FTK ruling raises a number of fundamental questions as to the state of judicial dialogue in the EU and the institutional position of the CJEU, the authority of European law and the sustainability of the above principles [Dermine 2020: 526]. *Weiss II* may also have an impact on the Economic and Monetary Union and its legal and institutional order. It cannot be denied that the impact of this judgment - on the future integration of the financial market in Europe - will be felt for years to come [Dermine 2020: 526]. The FTK, by challenging some of the most deeply rooted principles of EU law, sets a dangerous precedent for the long-term stability and effectiveness of the EU legal and political system [Dermine 2020: 550-551]. The FTK's ruling could become a milestone in the history of the EMU and its laws. Besides, the German court's decision is a direct blow to the integrity of Union law [Baquero Cruz 2022: 2].

Weiss II ends with an unusual if not highly controversial, solution. It orders the ECB to adopt a new decision within three months [Annunziata 2021:140-141]. The problem, however, is that the FTK has no authority to order the ECB to take a "new decision," and the ECB is not obliged to comply with the FTK's request; in fact, the ECB is not subject to the jurisdiction of any courts other than the CJEU. Moreover, the above would be tantamount to accepting some form of direct control of the ECB by national judges, as opposed to the independence granted to the EU central bank by Article 130 of the TFEU [Annunziata 2021: 141]. The main manifestation of this functional independence is the ECB's exclusive authority to formulate and implement monetary policy. For this purpose, the ECB has been equipped with appropriate decision-making and operational powers [Gliniecka 2010: 159]. The ECB formulates monetary policy in countries that have entered the third stage of EMU. It also determines the instruments for its implementation. Its powers relate to shaping the level of liquidity in countries that have entered the third stage of EMU [Gliniecka 2010: 180]. The central bank has the ability to influence the value of money through legally permissible ways (methods, instruments of monetary policy) and using existing experience in this area. This makes central banks a peculiar link in the system of public finance - as currency has a great impact on the real sphere of the economy and its performance - and it is not without justification that they are often referred to as "monetary power" [Fojcik-Mastalska 2010: 99].

The *Weiss II* case is also acute when it comes to the line delineating the respective competencies of the Union and its member states. The EU derives its competence and powers by delegation from its member states, according to the treaties, their *de facto*

constitution [Weiler, Sarmiento 2020: 2-3]. By creating a community for an indefinite period of time, with its own institutions, its own personality, its own legal capacity and ability to represent itself on the international stage, and in particular the real power derived from the limitation of sovereignty or the transfer of state powers to the Union, the member states have limited their sovereign rights and thus created a body of law that binds both their citizens and themselves [Barrett 2020: 2]. The *Weiss II* case has made it clear that a new mechanism for resolving conflicts of competence in the EU may be necessary. So far, the most promising proposal is that of *Weiler and Sarmiento*, who advocate the creation of a Grand Mixed Chamber of the EU Court of Justice [Weiler, Sarmiento 2020: 2-3].

At this point, it should be pointed out that following the outbreak of the coronavirus crisis, the ECB adopted a temporary Pandemic Emergency Purchase Program (PEPP) as part of its "quantitative easing" policy [Decision (EU) (UE) 2020/440 of the European Central Bank 2020]. It appears that this new asset purchase program has already been selected as the next target of the constitutional complaint.

5. Conclusion

The *Weiss II* verdict is undoubtedly surprising. The surprise is mainly due to the fact that the FTK ruled differently in two similar cases (*Gauweiler and Weiss*). In attempting to answer the question of the relevance of the *Weiss II* judgment to the integration or functioning of the EU financial market, it is necessary to point out several issues relevant to the above.

First - from the *Gauweiler* case to *Weiss II*, we have seen the development of standards for judicial review of ECB decisions, both in the field of monetary policy and banking supervision [Annunziata 2021: 123]. However, it seems that, both with regard to matters of accountability and judicial review of actions, nowadays, due to the expansion of the ECB's competence, there may be more frequent problems than in the past in sorting out a given ECB activity [Fedorowicz 2016: 135]. Looking at the growing body of case law, one can find similarities that seem to indicate that general standards for judicial review of ECB decisions are developing and consolidating. Of course, the application of these standards follows a different logic, as different levels of scrutiny must be adopted if one considers, on the one hand, monetary policy decisions (where the ECB's absolute independence must be preserved) and, on the other hand, decisions on banking supervision and/or compulsory resolution. One might therefore think that this experience might even result in a more transparent and meticulous legal justification of monetary policy measures adopted by the ECB in the future [Anagnostaras 2021: 827].

Second, *Weiss II* represents a break point in the long-standing dialogue between the FTK and the CJEU. It should be pointed out that if every constitutional court or supreme court in each member state were to follow the German example, it could spell the end of the EU as an integrated legal space of justice and the rule of law, and damage the EU's single financial market [Weiler, Sarmiento 2020: 1]. The FTK's decision seeks to undermine the basic principles on which EU law is based, creating a breeding ground for dangerous imitators whose activity could have a lasting impact on the EU legal system, especially in the area of the financial market.

Third - there are new challenges facing the ECB in implementing monetary policy. The ECB's mandate does not provide clear guidance on many of the recent challenges facing the central bank, even more so, the *Gauweiler* and *Weiss* cases made the ECB's mandate unclear and vague [Andersson: 2018], which may generate more disputes in the future on the legal doubts of the ECB's activity.

References

Andersson, Ch.: Whatever it takes ECB's Mandate of Purchasing Government Bonds on Secondary Markets, LAGF03 Essay in Legal Science, 2018.

Annunziata, F.: Cannons over the EU legal order: The decision of the BVerfG (5 May 2020) in the Weiss case, Maastricht Journal of European and Comparative Law, Vol. 28(1), 2021.

Annunziata, F.: Fostering Centralization of EU Banking Supervision Through Case-Law. The European Court of Justice and the Role of the European Central Cank, Bocconi Legal Studies Research Paper Series, April 2019.

Anagnostaras, G.: Activating Ultra Vires Review: The German Federal Constitutional Court Decides Weiss, European Papers, No. 1, Vol. 6, 2021.

Case law guide of the European Court of Justice on articles 63 et seq. TFEU - Free movement of capital - 2015 (europa.eu),
Available at:
https://finance.ec.europa.eu/system/files/2018-11/160223-guide-case-law-free-movement-capital_en.pdf, accessed: 16th September, 2023.

Von Bogdandy, A.: German legal hegemony?, Max Planck Institute for Comparative Public Law and International Law Research Paper Series No. 43, 2020.

Baquero Cruz, J.: Karlsruhe and its Discontents, LAW Working Paper, No. 10, 2022.

Barrett, G.: Reflections on the Revolution in Karlsruhe: the Bundesverfassungsgericht Ruling in Weiss, UCD Working Papers in Law, Criminology & Socio-Legal Studies Research Paper No. 18, 2020

De Boer N., Van 't Klooster, J.: The ECB, the courts and the issue of democratic legitimacy after Weiss, Common Market Law Review, Volume 57, Issue 6, 2020.

Dermine, P.: The Ruling of the Bundesverfassungsgericht in PSPP – An Inquiry into its Repercussions on the Economic and Monetary Union Bundesverfassungsgericht 5 May 2020, 2 BvR 859/15 and others, PSPP, EuConst 16, 2020.

Fedorowicz, M.: Rola i zadania teorii prawa rynku finansowego UE [The role and tasks of the theory of EU financial market law], Bezpieczny Bank [Safe Bank], nr 1 [62], 2016.

Fedorowicz, M.: Nowe zadania i funkcje Europejskiego Banku Centralnego w zapewnianiu stabilności finansowej w świetle regulacji Europejskiej Unii Bankowej [New tasks and functions of the European Central Bank in ensuring financial stability in the light of the European Banking Union regulations], Zeszyty Natolińskie [Natolin Journals] 62, 2016.

Oreškoviê L.: Clash of the Titans: The Impact of Weiss on the Future of Judicial Conflicts in the EU, Croatian Yearbook of European Law and Policy, 16, 2020.

Śledzińska-Simon A.: The end of the German Legal Culture? Authority v. Justification, German Legal Hegemony?, Max Planck Institute for Comparative Public Law and International Law Research Paper Series No. 43, 2020.

Weiler J.H.H., Sarmiento D.: The EU Judiciary After Weiss - Proposing a New Mixed Chamber of the Court of Justice, EU Law Live, 1 June 2020.

Legal Acts

Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (TFEU) [2016] OJ C202/1.

Court Rulings

CJEU ruling of 27th November 2012, C-370/12, Thomas Pringle v Governement of Ireland and Others, (ECLI:EU:C:2012:756).

CJEU ruling of 16th June 2015, C-62/14, Peter Gauweiler and Others v Deutscher Bundestag, (ECLI:EU:C:2015:400).

CJEU ruling of 11th December 2018, C-493/17, Proceedings brought by Heinrich Weiss and Others, Request for a preliminary ruling from the Bundesverfassungsgericht (ECLI:EU:C:2018:1000).

CJEU ruling of 22nd January 2014, C-270/12, United Kingdom of Great Britain and Northern Ireland v European Parliament and Council of the European Union, (ECLI:EU:C:2014:18).

CJEU ruling of 15th July 1964, C-6/64, Flaminio Costa v E.N.E.L, (ECLI:EU:C:1964:66).

CJEU ruling of 8th May 2019, C-450/17P, Landeskreditbank Baden-Württemberg - Förderbank v European Central Bank, (ECLI:EU:C:2019:372).

CJEU ruling of 19th December 2018, C-219/17, Silvio Berlusconi and Finanziaria d'investimento Fininvest SpA (Fininvest) v Banca d'Italia and Istituto per la Vigilanza Sulle Assicurazioni (IVASS), (ECLI:EU:C:2018:1023).
CJEU ruling of 9th September 2020, T-144/18, Crédit agricole SA and Others v European Central Bank, (ECLI:EU:T:2020:390).
Judgment of the Second Senate of 5 May 2020, BVerfG, 2 BvR 859/15-, (paras. 1-237).

Other Official Documents

Commission of the European Communities, Communication from the Commission Implementing the Framework for Financial Markets: Action Plan, Brussels, 11.05.1999 COM(l999) 232 final.
Decision (EU) 2015/774 of the European Central Bank of 4 March 2015 on a secondary markets public sector asset purchase programme (ECB/2015/10).
Request for a preliminary ruling from the Bundesverfassungsgericht (Germany) lodged on 15 August 2017 — Heinrich Weiss and Others (Case C-493/17).
Protocol No 4 on the statute of the European System of Central Banks and of the European Central Bank, Official Journal of the European Union, C 202.
Opinion of Advocate General Wathelet delivered on 4 October 2018. Proceedings brought by Heinrich Weiss and Others. Request for a preliminary ruling from the Bundesverfassungsgericht (Case C-493/17).
Press release following the judgment of the German Constitutional Court of 5 May 2020, Court of Justice of the European Union, Press Release No 58/20 Luxembourg, 8 May 2020.
Press release, Technical features of Outright Monetary Transactions, 6 September 2012.