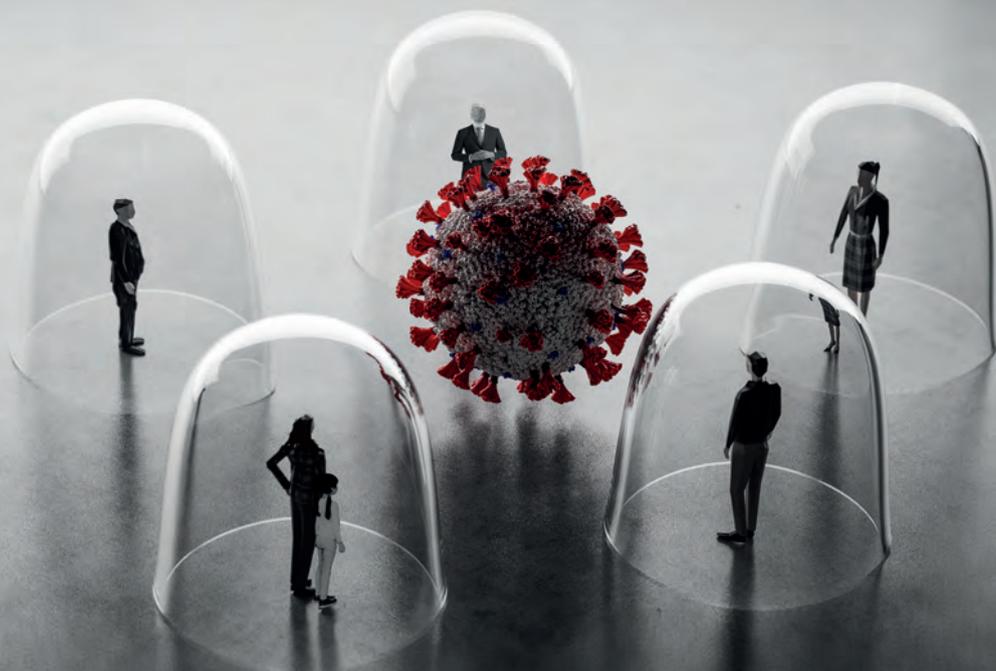


Anna Moskal · Aleksandra Sobarnia
Szymon Pazera · Zuzanna Kopania

THE EUROPEAN UNION IN LIGHT OF THE COVID-19 PANDEMIC —

A FAILURE OF EUROPEAN INTEGRATION OR
A CHANCE FOR CLOSER COOPERATION AMONG MEMBER STATES?



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AMONG MEMBER STATES?**



Cracow 2021

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Preface

In this publication we intend to make a noticeable contribution to the highly disputed and lively topic of European integration. Although the shape and future of the European Union have been debated since its formation, we strongly believe that they need to be revisited due to the severe challenges this unique organisation and its Member States have been facing following the outbreak the COVID-19. The rapid spread of the coronavirus around the world led to an unprecedented global emergency which severely affected many countries, including EU Member States. The COVID-19 pandemic put the ability of the European Union to react quickly and effectively to the test. In addition, it has also exposed the weak points of cooperation and solidarity of Member States, and the level of trust their citizens have in the EU during a time of horrendous crisis. A number of important lessons can be drawn from the initial reaction of the EU, Member States and their citizens, which encouraged us to reassess the degree of European integration and come up with the ideas for enhancing it for the future.

This publication discusses a diverse range of issues associated with European integration, ranging from a brief look at the origins of the EU, the evolution of the organisation over the last several decades, the changing visions of the future of Europe, the crises that the Member States faced in the past, and finally the impact of the COVID-19 pandemic on the current and future level of European integration. The principal goals of this book are to re-evaluate a scope of integration and cooperation of Member States, analyse the level of trust given to the European Union, as well as to provide practical recommendations which could improve the effectiveness of actions taken by the EU and its members states in times of crises. Additionally, this book aims to shed light on the Eurosceptic disinformation and fake news campaigns which have been directed against EU during the COVID-19 pandemic, and highlight emerging opportunities for the European Union in a globalized and digitalized world.

In order to provide readers with a valuable and intersectional analysis, a comprehensive interdisciplinary approach was undertaken. Thus, the chapters of this

book address the researched subjects from various perspectives, including historical, legal, sociological and political. We have high hopes that this publication not only makes a relevant academic contribution but also stimulates a scholarly discussion that lays the foundations for future debates on European integration. We strongly believe that the European integration should be viewed as a dynamic and evolving process due to the new developments and challenges of a fast-paced, globalised modern world. As European integration is an on-going process, with particular volatility envisioned due to post-COVID economic crises and the rapid growth of digital platforms, we expect and encourage further research on this topic.

We would like to acknowledge that this publication has been supported by a grant from the Priority Research Area Society of the Future under the Strategic Programme “Excellence Initiative – Research University” at the Jagiellonian University. The past few months of intensive research on this grant project have been challenging for us, but nonetheless extremely illuminating and satisfying. We submitted our book to the publisher on 1 July 2021. We learned to manage our first grant project, obtained first-hand experience in working as an academic team and consulted our hypotheses with several brilliant scholars. Moreover, working on this publication taught us how to view problems from various perspectives, perform a complex comparative analysis, and produce solid recommendations. Therefore, we would like to express our sincere gratitude to our Alma Mater for the opportunity to perform this research.

We would like to express our sincere appreciation to both our supervisors, Professor Piotr Bajor and Doctor Magdalena Lisińska, for their time spent on advising us on the grant project. The idea for the research focusing on European integration grew out of a seminar on international relations taught by Professor Piotr Bajor at the Jagiellonian University. Without his initial words of encouragement and valuable suggestions of improvement over the writing process we would not be able to complete this publication. Doctor Magdalena Lisińska guided us in our first grant project and we counted on her quick responses and invaluable help on numerous occasions. Thus, we are deeply grateful for all the support we received from both our supervisors.

Truth be told, it would be impossible to complete this publication without a strong support group. We would like to thank our family and friends, who made it possible for us to fully focus on this publication and were always eager to discuss all the problems we struggled with. Their brilliant comments and insightful questions helped us verify our hypotheses and look at them from different perspectives. With a glimpse of satisfaction, we also observed that the European project is a highly interesting topic for heated and lively discussions across all ages and nationalities.

Last but not the least, we would like to thank all the readers for deciding to purchase this book. We hope that you will truly enjoy reading it, and benefit from

the results of our research. In this publication we hope you will discover a passion for a united and integrated Europe, find a pleasure in familiarising yourself with the beginnings of a European dream, and to get emotional when following all the exciting twists and turns on the European Union's path to achieving it. We firmly believe that you will find this publication inspiring and thought-provoking.

Authors:

Anna Moskal

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Zuzanna Kopania

Cracow, 1 September 2021

*'Europe will not be made all at once, or according to a single plan.
It will be built through concrete achievements
which first create a de facto solidarity.'*

Robert Schuman

9 May 1950

List of Acronyms and Abbreviations

CAP	Common Agricultural Policy
CEN	European Committee for Standardization
CENELEC	European Committee for Electrotechnical Standardization
CERN	European Organization for Nuclear Research
CDC	Chinese Centre for Disease Control and Prevention
CJEU/the Court	Court of Justice of the European Union
Council	Council of the European Union
COVID-19	Coronavirus Disease 2019
EAEC	European Atomic Energy Community
EC	European Community
ECB	European Central Bank
ECDC	European Centre for Disease Prevention and Control
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECSC	European Coal and Steel Community
EDMO	European Digital Media Observatory
EEAS	European External Action Service
EEC	European Economic Community
EMA	European Medicines Agency
EMS	European Monetary System
EMU	European Monetary Union
ERM	Exchange Rate Mechanism

ESCB	European System of Central Banks
ESM	European Stability Mechanism
EU	European Union
IPCR	Integrated Political Crisis Response Mechanism
LN	League of Nations
OEEC	Organisation for European Economic Co-operation
SARS-CoV-2	Severe Acute Respiratory Syndrome Coronavirus 2
SEA	Single European Act
SIS	Schengen Information System
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
UN	United Nations
USA	United States of America
USSR	Union of Soviet Socialist Republics
V4	Visegrad Group
WHO	World Health Organisation

Timeline of the History of European Integration

- 1950** The Schuman Declaration was presented by French Foreign Minister Robert Schuman, who proposed the creation of a community, whose members would pool coal and steel production.
- 1951** The European Coal and Steel Community (ECSC) is established after the signing of the Treaty of Paris by original six Member States (Belgium, France, West Germany, Italy, Luxembourg and the Netherlands).
- 1955** The process of further European integration received a fresh impetus on the Conference of ECSC in Messina, where the Foreign Affairs ministers of the original six Member States agreed to extend European integration to the economy as a whole by encouraging free trade between Member States through the removal of tariffs and quotas.
- 1957** The two Treaties of Rome are signed, establishing the European Economic Community (EEC) and the European Atomic Energy Community (EAEC).
- 1960** The European Free Trade Association (EFTA), which enables free trade beyond the formal structures of the EEC, was formed by Austria, Britain, Denmark, Norway, Portugal, Sweden and Switzerland at the Stockholm Convention.
- 1962** A Common Agricultural Policy (CAP) was introduced.
- 1963** French President Charles De Gaulle's vetoed British membership of the EEC.
Signature of Ankara Agreement which initiated a three-step process toward creating a Customs Union to help secure Turkey's full membership in the EEC.
- 1965** Signature of the Merger Treaty which established common executive bodies for all three communities.

- 1967** The Merger Treaty came into force, and since that date the name European Community (EC) was used.
- 1968** Customs duties on industrial goods are abolished, and a Common External Tariff is introduced.
- 1969** At the Hague Summit, the EEC's political leaders decided to step up European integration.
- 1970** In Luxembourg, a treaty is signed allowing the European Communities to be increasingly financed from 'own resources' and giving greater powers to the European Parliament.
- 1972** The European Exchange Rate Mechanism (ERM) began to operate which allows only marginal movement of exchange rates between the individual currencies of the Member States.
- 1973** First enlargement of the European Community by the accession of Denmark, Ireland and Great Britain.
- 1974** Establishment of the European Council.
- 1979** The first direct elections to the European Parliament.
- 1981** Accession of Greece, bringing the number of Member States to 10.
- 1985** Signature of the Schengen Agreement which foresaw the abolition of internal border controls by 1995, the unification of asylum and visa policies and the establishment of the Schengen Information System (SIS).
- 1986** Accession of Spain and Portugal.
- 1986** Signature of the Single European Act (SEA) which aimed to establish a common internal market by the end of 1992.
- 1987** Start of the Erasmus programme, set up to help young Europeans study abroad, in other European countries.
- 1989** The fall of the Iron Curtain in Eastern Europe.
- 1990** The unification of East and West Germany brought East Germany into the EC.
- 1992** Signature of the Treaty on the European Union (TUE) in Maastricht, in Netherlands. This Treaty introduced the term "European Union," the three-pillar structure, the citizenship of the Union and the requirement to create the Economic and Monetary Union by the end of 1999. Originally it intended to include a declaration of an intention to move towards federal union; however, the United Kingdom's insistence turned this declaration down.
- 1993** The Copenhagen Criteria were introduced to set the conditions that must be met by any country seeking membership of the EU.
The Single Market was created.
- 1995** Accession of Finland, Austria and Sweden, bringing the number of Member States to 15. Norway decided to stay out, as a result of a referendum in which most people voted against joining the EU.

-
- 1997** Signature of the Treaty of Amsterdam which revised the Treaty on the European Union.
- 1998** The European Central Bank (ECB) is established in Frankfurt, in Germany. Together with the national central banks of the 15 Member States, it forms the European System of Central Banks (ESCB) responsible for setting monetary policy for the Eurozone and managing euro countries' foreign reserves.
- 1999** The creation of the euro currency in virtual, cashless form.
- 2000** Introduction of the Lisbon Strategy for the next decade.
- 2001** Signature the Treaty of Nice which introduced the institutional reform necessary for the planned EU's expansion in 2004.
- 2002–2003** A summit on the future development of the EU was held and resulted in the draft treaty establishing a constitution for Europe.
- 2004** The big enlargement of the EU by accession of 10 countries: the Czech Republic, Estonia, Cyprus, Lithuania, Latvia, Hungary, Malta, Poland, Slovenia, and Slovakia.
- 2004** Signature of the Treaty on the Constitution for Europe.
- 2005** The rejection of the Constitutional Treaty in referendums in France and in the Netherlands. Consequently, this project was abandoned.
- 2007** Accession of Bulgaria and Romania.
Signature of the Lisbon Treaty which implemented some of the propositions predicted in the Treaty on the Constitution for Europe, and abolished three pillars of the EU.
- 2009** The Lisbon Treaty entered into force.
- 2010** Adoption of Europe 2020 which is a 10-year strategy for smart, sustainable and inclusive growth.
- 2011** Three new European financial supervisory authorities began to operate, including the European Banking Authority, the European Insurance and Occupational Pensions Authority, and the European Securities and Markets Authority.
- 2012** European Citizens' Initiative was introduced. European citizens gained the possibility to put forward proposals for the EU legal acts.
The European Stability Mechanism (ESM) entered into force with a view to ensure financial stability in the euro area.
The European Union was awarded the Nobel Peace Prize 2012.
- 2013** Accession of Croatia, bringing the number of Member States to 28.
- 2016** The Brexit referendum was held in the United Kingdom, resulting in the UK's decision to leave the EU.
- 2017** The United Kingdom invoked Article 50 of the TEU. Negotiations between UK and the EU officially started. In response to Brexit, the European Commission published "White Paper on the Future of

Europe,” in which it presented five possible scenarios for the future of European integration.

2020 The United Kingdom officially left EU after signing the Brexit withdrawal agreement.

In January, the first cases of COVID-19 in Europe brought uncoordinated and unprecedented shutting down of borders between Member States. The EU Civil Protection Mechanism was activated, and a few months later the Recovery plan for Europe was presented and a web platform “Re-open EU” was launched. During summer, the European Commission, on behalf of Member States, signed several contracts with pharmaceutical companies to ensure access to vaccines.

In October, the European Parliament published “Four EU scenarios for governance in a post COVID-19 world.”

2021 In January, the Member States, with the support of the European Commission, adopted guidelines on proof of vaccination for medical purposes. The European Commission introduced the principles of reciprocity and proportionality as new criteria to be considered for authorising exports under the transparency and authorisation mechanism for COVID-19 vaccine exports.

In April, the European Commission took steps to ensure that borrowing under the temporary recovery instrument NextGeneration-EU will be financed on the most advantageous terms for Member States and their citizens. The European Parliament agreed on EU COVID-19 certificate (instead of Digital Green Certificate, as proposed by the Commission).

ANNA MOSKAL

Introduction

This publication discusses a diverse range of issues associated with European integration, ranging from a brief look at the origins of the EU, the evolution of the organisation over the last several decades, the changing visions of the future of Europe, the crises that Member States faced in the past, and finally the impact of the COVID-19 pandemic on the current and future level of European integration. A scope of integration and cooperation of Member States is re-evaluated, and the level of European citizens' trust given to the EU and Member States during a deadly pandemic is analysed. In order to provide reader with an in-depth and comprehensive research on the European integration, this study is presented through historic, political, and legal lens.

The conducted research is published in the form of a monograph, which consists of an introduction, four main chapters, and a conclusion. All these sections are presented in a summary manner below. Although the chapters and sub-chapters can be read separately, the authors firmly recommend reading them in the presented order.

This publication opens with a short introduction which constitutes a theoretical framework for this monograph. It provides a brief look into the structure of this monograph and explains the delimitations of the study. Furthermore, the main objectives of the study and the relevance of the topic are explored. Generally, in Introduction the reader can examine the theoretical underpinnings of the research.

The first chapter, entitled "European Integration – Historical Development," opens with a history of the origins of the EU, which can be traced back to the early postwar era. This historical background helps the reader to fully understand the nature of this *sui generis* international organisation which is based on dignity, human rights, freedom, democracy, equality, and the rule of law.¹ The chapter shines

¹ European Parliament, *Values and Objectives*, at <<https://europarlamenti.info/en/values-and-objectives/values/>>, 20 June 2021.

light on the history of European Communities and the EU enlargement strategy. Subsequently, the authors review the idea for Eurozone which currently consists of 19 Member States that have adopted the euro as their currency.² Two groundbreaking acts by the EU in the twenty first century, the unratified Treaty establishing a Constitution for Europe of 2004,³ and the Lisbon Treaty of 2007⁴ are thoroughly examined and discussed through the lens of the European integration.

The second chapter is devoted to visions of further integration presented prior to the outbreak of the COVID-19. In this chapter, the authors brush up on the decision of United Kingdom to withdraw from the EU, which had an enormous impact on the public image of the EU at the time. Brexit immediately deprived the EU of one of its oldest and most influential Member States. However, contrary to the most pessimistic opinions of that time, this unprecedented withdrawal did not shatter the whole European project and the EU survived. In fact, a few months after the results of the Brexit referendum had been published, the European Commission presented five possible scenarios in its White Paper on the future of Europe in March 2017,⁵ and the President of European Commission at the time, Jean-Claude Juncker, added his sixth alternative scenario⁶ soon afterwards. These six scenarios are contrasted with “Four EU scenarios for governance in a post COVID-19 world”⁷ published by the European Parliament in October 2020.

The third chapter, titled “The outbreak of the COVID-19 in Europe,” presents the origins of the pathogen SARS-CoV-2 and spreading of the disease in Europe. The economic, political, and social impact of the coronavirus pandemic on the Member States and European citizens’ lives is comprehensively discussed. That chapter also deals with EU competencies in public health from legal, historical and practical perspectives. Further, the initial inconsistent reactions of Member States and the EU to these unprecedented events are described, as are the on-going disinformation campaigns aimed at the EU. The EU’s response to these cyberattacks has been presented and its effectiveness evaluated. Finally, the authors

² European Union, *What is the Euro Area?*, at <https://ec.europa.eu/info/business-economy-euro/euro-area/what-euro-area_en>, 20 June 2021.

³ *Treaty establishing a Constitution for Europe as Signed in Rome on 29 October 2004 and Published in the Official Journal of the European Union on 16 December 2004 (C series, No 310)*, unratified, at <https://europa.eu/european-union/sites/default/files/docs/body/treaty_establishing_a_constitution_for_europe_en.pdf>, 20 June 2021.

⁴ *Treaty of Lisbon Amending the Treaty on European Union and the Treaty establishing the European Community, Signed at Lisbon, 13 December 2007, OJ C 306, 17.12.2007*, in force, at <<http://data.europa.eu/eli/treaty/lis/sign>>, 20 June 2021.

⁵ European Commission, *White Paper on the Future of Europe. Reflections and Scenarios for the EU27 by 2025*, Brussels 2017, at <https://ec.europa.eu/commission/publications/white-paper-future-europe_en>, 20 June 2021.

⁶ J.-C. Juncker, *State of the Union Address 2017*, announced on 13 September 2017 in Brussels, at <http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm>, 20 June 2021.

⁷ M. Damen, *Four EU Scenarios for governance in a Post COVID-19 World. Lessons from Natural Resources Management*, a study conducted by Policy Department for External Relations for European Parliament, PE 639.317, October 2020.

comment on the distribution of the vaccines between the Member States from the solidarity standpoint as well as examine the voices raised by some groups which remain sceptical towards the validity of the coronavirus pandemic, the credibility of the vaccines and the competence of the EU in handling the ongoing crisis.

In the fourth chapter entitled “Critical perspective on the reactions to the COVID-19 pandemic in the European Union,” the authors present their own evaluation of the action taken by both the Member States and the EU in order to prevent the spread of the virus in the first year of the COVID-19 pandemic. The actions and communications of the institutions during that time in Europe are analysed from the perspective of solidarity and integrity in the union, and through the examination of the EU citizens’ trust in the EU and in the national governments in a time of ongoing COVID-19 crisis and potential future crises, as well as the image of the EU that European citizens hold. The authors present their recommendations for the Member States and the European institutions to handle crises in the future in the manner which would be the most beneficial for securing the European integration.

The book’s final chapter brings together the conclusions reached in previous chapters and summarizes the major arguments made by the authors on the issue of the past, present and future state of European integration. Furthermore, the authors provide final remarks on the impact of the COVID-19 pandemic on the future of the EU.

The following delimitations were set for this research. Firstly, this research is geopolitically restricted to the EU and its Member States. Although reactions of some other international organisations (such as World Health Organisation) or countries (such as China and the United Kingdom) to the COVID-19 pandemic are undoubtedly interesting and were deliberately mentioned in a few parts of this book, they do not constitute a main subject of focus in this research study. They simply provide reader with a background information on the global reaction to the spread of the virus.

Secondly, the period covered in this study is from 31 December 2019, when a pathogen SARS-CoV-2 was first reported in Wuhan in China to 29 April 2021, when the European Parliament agreed on the EU’s COVID-19 certificates to reaffirm the right of free movement in Europe during the pandemic. Another crucial date from the European perspective is 24 January 2020 when the first European case of the COVID-19 was confirmed in France. Generally, the research covers the first 15 months of the COVID-19 pandemic in Europe, which resulted in almost 2 million deaths worldwide and caused severe implications for health, economic and social policies within and beyond Europe.

Thirdly, the examined actions of the Member States were selected deliberately and they do not cover all actions taken to prevent the spread of the coronavirus in European countries. The authors picked up the most immense and impactful events from the perspective of the European integrity, solidarity, and adaptability to crises. Furthermore, chosen cyber-attacks and disinformation campaigns are

presented with a view to illustrate and examine effectiveness of the EU in fighting disinformation. However, the reader should acknowledge that the presented examples are not exhaustive.

The European Union (hereinafter: EU) is a unique and powerful international organization, an economic and political union of 27 Member States. The idea of European integration emerged in the aftermath of the Second World War, when European countries sought peace, prosperity and social development through cooperation in economic, social, and political areas. Initially a purely economic union between six countries (Belgium, Germany, France, Italy, Luxembourg, and the Netherlands), it has quickly developed and expanded into more areas, including transport, environment, agriculture, fisheries, public health, energy, consumer protection, justice, and fundamental rights. Over decades, the number of Member States grew and the cooperation between them tightened. Nowadays, operating as a single market which currently consists of 27 countries, the EU is a major global policy actor and the third largest global trading power (after China and the United States of America), with its 15.4-percent contribution to the world's GDP.⁸

During the three decades of its existence, the EU experienced numerous crises. The last two decades have presented several novel and complicated challenges, such as the financial crisis of 2007–2009, the annexation of Crimea by the Russian Federation in 2014 and the ensuing hybrid war in Ukraine, the migration crisis which reached its peak in 2015, discussions on the nature of European integration, and the most recent withdrawal of one of the EU's biggest and most influential Member States, the United Kingdom (hereinafter: UK), which took place on 31 January 2020. Furthermore, in the last decade, negative opinions on the EU and its actions have been increasingly present in the media. The EU was accused of weakening the national sovereignty of Member States, and criticized for its bureaucratic structure and its so-called incompetency and democratic deficit, to name a few. Although the EU confronted these accusations and took actions to rebuild itself and gain a more positive image, it is still reported to be on the verge of crisis, frequently without any substantial grounds or further explanation.⁹

In fact, this Eurosceptic narrative emerged as the major frame for media discourse on the European integration of Great Britain, and ultimately it secured the Leave victory in the Brexit referendum, which was conducted on 23 June 2016.¹⁰

⁸ In 2019, the share of the European Union in the global gross domestic product based on purchasing-power-parity amounted to an estimated 15.4 percent. *The EU GDP Amounted to 13.94 trillion euros in 2019*, at <<https://www.statista.com/statistics/253512/share-of-the-eu-in-the-inflation-adjusted-global-gross-domestic-product/>>, 20 June 2021.

⁹ P. Brokowski, "Unia Europejska: kryzys opowieści, kryzysowa opowieść," *Sprawy Międzynarodowe*, vol. 71, no. 2 (2018), p. 86.

¹⁰ Ch. Dick, Ch. Gifford, "The Brexit Referendum: How Eurosceptic Populism Transformed UK Politics," in: K. Tournier-Sol, M. Gayte (eds.), *The Faces of Contemporary Populism in Western Europe and the US*, Cham 2021, pp. 23–41.

The unfavourable result of the Brexit referendum has undoubtedly been a significant blow to the EU and many feared that it might indicate the end of the European project. However, European institutions reacted quickly by introducing their visions for the future of Europe and proposing new policies and agendas. As the European Commission President, Ursula von der Leyen, concluded in her post-Brexit announcement: *It was a long and winding road. But we have got a good deal to show for it. It is fair and balanced [deal]. And it is the right and responsible thing to do for both sides. [...] to all Europeans I say: It is time to leave Brexit behind. Our future is made in Europe.*¹¹

Although the EU navigated fairly well through the trials of the recent decades and even managed to survive the loss of an influential Member State, 31 December 2019 marked a new, and perhaps greatest, challenge of all time. On this infamous day, a pathogen SARS-CoV-2 was first reported in Wuhan in China, and soon spread all over the globe. Just a month later, on 24 January 2020, the first European case was confirmed in France. The COVID-19 pandemic created an unprecedented global emergency with severe socio-economic implications for the EU and limitations on the free movement between Member States' borders. Similarly to the rest of the world, the EU has been confronted with an unprecedented number of obstacles, challenges and potential risks caused by the spread of the virus. This made 2020 a real test for the strength of the integrity and solidarity of the Member States, as well as the effectiveness of the EU in handling crises in challenging times.

The COVID-19 pandemic made it painfully clear that the virus knows no borders, and that the Member States were not prepared to prevent the spread of deadly disease in a coordinated manner. In fact, the first reactions of the Member States were chaotic and inconsistent. Numerous European countries decided to shut their borders, prohibited mass gatherings and imposed severe lockdowns. These measures obviously limited the freedom of movement of European citizens – a core of the European single market. What is worse, the initial uncoordinated reactions of the Member States in the first months of the pandemic made many people question the solidarity of the Member States and the strength of European integrity. The EU had to deal with unprecedented and severe challenges in an area in which it has limited, supportive competences.¹² Despite these difficulties, the EU's ability to react quickly and effectively in a time of crisis was put under severe criticism.

¹¹ Remarks by President Ursula von der Leyen at the press conference on the outcome of the EU-UK negotiations, 24 December 2020, at <https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_2534>, 20 June 2021.

¹² Under Article 168 of the TFEU, public health is a competence shared between the European Union and the Member States. The EU's action should complement national policies, while respecting the responsibilities of the Member States in the definition of their health policy and the organisation and delivery of health services and medical care. The EU supports, coordinates or supplements the Member States' actions in the protection and improvement of human health, so its role in health policy is therefore complementary to national policies.

The COVID-19 pandemic exposed the weak points of cooperation and solidarity among the Member States and deficiencies in the EU's effectiveness in handling crises and coordinating action. These insufficiencies were highlighted in Eurosceptic online propaganda and fake news on the alleged EU's incompetence in the first months of the COVID-19 pandemic. In fact, the EU also became the subject of aggressive cyber-attacks and massive disinformation campaigns in the spring of 2020. Those attacks aimed to decrease the belief in the strength of European integration, undermine the trust of European citizens, and weaken the position of the EU in global politics. During a horrendous crisis, the level of trust that European citizens have in the EU and national governments could be easily manipulated. The Russian Federation and Eurosceptic movements took this chance and launched massive disinformation campaigns. This constituted a major challenge which needed to be firmly addressed by EU institutions, Member States, and social networks in order to prevent a spread of mistrust and fear. The COVID-19 crisis highlights existing social problems and inequalities, and it is rightly described as a moment of political suspension and increased social confrontation.¹³ Social and political tensions in European countries, combined with generally growing anxiety and uncertainty caused by the COVID-19 pandemic, contributed to increased distrust of authority in both national and European scope as well as to a rapid spread of disinformation slogans and fake news on the EU. During the first months of the COVID-19 pandemic, the Member States and the EU learnt important and valuable lessons. In order to rebuild European citizens' trust, strengthen the European integration, and come up with new strategies to handle potential future crises in a more harmonious and unified manner, the EU has to build upon these lessons.

All the aforementioned problems are highly relevant in the current turbulent times, and hence, they are examined thoroughly in this publication from historical, legal, political and social perspectives. A comprehensive and in-depth analysis provides the reader with a valuable insight into the past, present and future shape of European integration. In order to evaluate the current state of European integration, the actions taken by both the EU and its Member States are thoroughly analysed. With a view to make a fair assessment of the EU's performance in the first 15 months of the COVID-19 pandemic, the authors examine whether the EU supported its Member States in a coordinated and organized way, whether it made use of already existing crisis management tools, and whether it managed to react in a way which maintained the positive image of the organization and the European citizens' trust. The actions of the Member States are examined through the lens of the EU's most important values, solidarity and unity. Subsequently, the common approaches and actions taken by both the EU institutions and Member States are presented. They include the financial recovery plan, vaccine rollout

¹³ P. Gerbaudo, "The Pandemic Crowd: Protest in the Time of COVID-19," *Journal of International Affairs*, vol. 73, no. 2 (2020), p. 1, at <<https://www.jstor.org/stable/26939966>>, 20 June 2021.

between the Member States and the digital certificates for the vaccinated European citizens.

There are no doubts that European integration is an issue which has frequently generated multiple debates in both media and academic discourse. Although numerous books and scientific articles focus on the EU's capacity to handle crises,¹⁴ the authors of this publication did not find any recently released academic papers which focused on the strength of the European integration in light of the COVID-19 pandemic. This monograph aims to provide a valuable, fresh perspective to an already highly disputed and lively subject. It illuminates the overall challenges and developments in the functioning of the EU in a time of unprecedented pandemic.

The ultimate purpose of this study is to draw lessons from the COVID-19 crises and provide valuable recommendations to EU institutions on handling similar health crises and fighting online disinformation in the future. By doing so, the authors wish to contribute to the building of strategies which would enable the EU to adapt to various obstacles and challenges in an effective manner based on European unity and solidarity. The authors hope that implementing their proposal will contribute to strengthening European integration and increasing the adaptability of the EU in a post-COVID world.

¹⁴ See, for example, D. Dinan, *Ever Closer Union: An Introduction to European Integration*, Basingstoke 2010; P. Van Ham, *European Integration and the Postmodern Condition: Governance, Democracy, Identity*, London 2013; D. Ioannou, P. Leblond, A. Niemann (eds.), *European Integration in Times of Crisis. Theoretical Perspectives*, London 2017; S. Mangiameli (ed.), *The Consequences of the Crisis on European Integration and on the Member States. The European Governance between Lisbon and Fiscal Compact*, Cham 2017; A. Grimm (ed.), *The Crisis of the European Union. Challenges, Analyses, Solutions*, London–New York 2018.

ALEKSANDRA SOBARNIA

I. The Historical Development of European Integration

1. Early Post-War Period

According to the Oxford Dictionary, “*integration*” is defined as *the act or process of combining two or more things so that they work together*.¹⁵ European integration is a broad and somewhat ambiguous notion alluding to the cooperation between European countries. In the academic and political discourses, this term is used in reference to the integration of the Member States of the European Union. Even though European integration has been also deepening on non-EU forums such as the Council of Europe, there are no doubts that it is the EU that constitutes the main core of European integration. In fact, the EU is frequently praised for building an unprecedented level of integration between states, unspotted between any other countries in the world. Even though it started as a purely economic project between six states, it quickly developed to an intense and far-reaching cooperation in multiple areas. This was achieved thanks to EU’s successful enlargement strategy, inclusive, balanced policies, as well as common values which include human dignity, freedom, equality, and democracy. Examining the initial motifs of the European cooperation and its complex history is necessary to fully understand the nature of European integration and to identify its main achievements and current challenges.

The origin of the concept of European continental unity dates back to medieval times;¹⁶ however, a real breakthrough in building cooperation between the European countries was reached in the middle of XX century. Indubitably, one of

¹⁵ “Integration,” Oxford Dictionary, at <<https://www.oxfordlearnersdictionaries.com/definition/academic/integration?q=integration>>, 20 June 2021.

¹⁶ J.D. Wright (ed.), *International Encyclopaedia of the Social & Behavioural Sciences*, 2nd ed., London 2015, pp. 570–576.

the most meaningful and thought-provoking events in XX century was the First World War, also known as the Great War. It demonstrated that an expectation that states will keep their political declarations of maintaining peace in compliance with a set of moral ethical values cannot be taken as granted. Constant fear of a new war, especially as devastating as the previous Great War, pushed European heads of state to take actions to prevent such a catastrophe in the future. This intention led to the idea of establishing an intergovernmental organisation which would solidify countries' solidarity and help maintain world peace.

The first world intergovernmental organisation which was created to prevent another global conflict like the Great War and promote international cooperation was the League of Nations (hereinafter: LN). It was founded on 10 January 1920 at the end of the Paris Peace Conference which inaugurated the international settlement after the First World War.¹⁷ The LN was headquartered in Geneva in Switzerland, and it was specifically established to prevent wars through collective security and disarmament and settling international disputes through negotiation and arbitration.¹⁸ Hence, the LN could be described as a forum for handling international disputes before states might want to decide to resolve them through military actions. However, the LN did not live up to these expectations and failed miserably in its primary purpose to prevent any potential war. The organisation suffered from severe internal conflicts which eventually led to its demise. Although the LN was created to represent all countries, some of them have never even joined the organization. Often, the exclusion of USSR and Germany from the decision making process was particularly noticeable and was frequently questioned.¹⁹ Moreover, the LN was mainly preoccupied with the European continent, and tended to dismiss conflicts on other continents. For instance, the LN did not effectively react to Japan's invasion of Chinese Manchuria in 1931. The lack of effective intervention from the LN showed that the organisation is too self-centred to prevent any future war.²⁰ In fact, the lack of any LN's interventions in several disputes, namely the Italian invasion of Abyssinia in October 1935, the Spanish Civil War (1936–1939), and the Second Sino-Japanese War (1937–1945), eventually led up to the Second World War.²¹

The Second World War began on 1 September 1939 and ended on 2 September 1945. The European countries had never before experienced such horrifying and distressful events that shook their entire existence.²² In the aftermath of six

¹⁷ R.B. Henig, *Makers of the Modern World. The Peace Conferences of 1919–1923 and Their Aftermath*, London 2010, pp. 20–34.

¹⁸ P. Clavin, *Securing the World Economy: The Reinvention of the League of Nations, 1920–1946*, Oxford 2013, pp. 12–16.

¹⁹ N. MacQueen, *The United Nations, Peace Operations and the Cold War*, 2nd ed., London 2012, p. 6.

²⁰ *Ibid.*, pp. 1–7.

²¹ *Ibid.*, pp. 6–7.

²² L. Kühnhardt, *European Union-The Second Founding: The Changing Rationale of European Integration*, Baden-Baden 2008, pp. 368–371.

years of the most tragic war experiences, European leaders were very determined to develop new forms of solidarity which this time would effectively prevent further bloodshed and introduce a new political order guaranteeing the security of nations and the safety of its citizens. This noble cause was particularly important in Europe divided into two parts: the closed, communistic East and united, democratic West.²³ Ironically, both world wars occurred to be a driving force of European integration. European countries have always been divided by their different cultures, languages and histories which made continental unity difficult to maintain for a longer time. To make it worse, national interests of European states were frequently conflicted and incoherent. It was not until the end of the Second World War and a looming threat of communism that they have finally achieved a reliable and clear resolution that they have to act in unity and with determination in order to maintain independence and peace.²⁴

The Cold War (which had a character of nuclear arms race, but also of political and economic transformations) between the United States of America (hereinafter: the USA) and the Union of Soviet Socialist Republics (hereinafter: the USSR, Soviet Union), created a bipolar division of the world.²⁵ The European continent was a main area for these two competing global actors to establish their worldwide dominance. The beginning of the Cold War in 1947 defined the history of European solidarity.²⁶ In the same year, the Truman Doctrine was introduced in the USA, providing for financial aid to all the countries that needed it. Henry Truman, the author of this doctrine and the President of the USA believed that the only way to *contain* communism from spreading was to help financially every country that required it.²⁷ It was also a clear answer to the growing influence of the Soviet Union in the world.²⁸ The US feared that European countries, devastated by war and struggling with economic crisis, were more prone to become victims of communism. Therefore, the USA transferred over 13 billion dollars in economic recovery programs to Western European countries as part of the Marshall Plan. It is worth highlighting that the fund was available to every European country, including the USSR, although neither the Soviet Union nor other communistic countries took advantage of it. In 1948, the Organisation for European Economic

²³ M. Greta, J. Kowalski, E. Tomczak-Woźniak, *Doktryny Zjednoczeniowe Ojców Europy drogą do pogłębionej integracji (smart specialisation). Wielkie nazwiska – wielkie marki. Watykan o zjednoczonej Europie*, Łódź 2016, p. 11, at <<http://hdl.handle.net/11652/1474>>, 20 June 2021.

²⁴ D. Dinan, *Europe Recast: A History of European Union*, Boulder 2014, pp. 24–30.

²⁵ W.A. Pelz, *A People's History of Modern Europe*, London 2016, pp. 171–174.

²⁶ *Ibid.*, pp. 171–172.

²⁷ *Transcript of Truman Doctrine, 1947*, at <<https://www.ourdocuments.gov/doc.php?flash=false&doc=81&page=transcript>>, 20 June 2021.

²⁸ D. Reynolds, “Probing the Cold War Narrative since 1945: The Case of Western Europe,” in: K.H. Jarasch, C.F. Ostermann, A. Etges (eds.), *The Cold War Historiography, Memory, Representation*, Berlin 2017, pp. 67–71.

Cooperation (hereinafter: OEEC) was created in order to, among other things, control the allocation of funds under the Marshall Plan.²⁹

The future of the European unity was discussed during the Congress of Europe (also known as the Hague Congress) which was held in Hague from 7 to 11 May 1948. Almost 800 representatives from European countries were debating which course European solidarity should take – confederalism or federalism.³⁰ The Congress resulted in establishing the Council of Europe in 1949. It is a prominent international organisation which still exists today, and consists of 47 member states. The organisation aims to promote human rights, democracy and rule of law in Europe.³¹ In 1950, the Council of Europe drafted the European Convention for the Protection of Human Rights and Fundamental Freedoms (popularly known as the European Convention on Human Rights, ECHR). The convention entered into force on 3 September 1953. All member states of the Council of Europe are party to the Convention and all new members are expected to ratify it. The ECHR, which is one of the most significant international treaties regarding human rights protection, constitutes to be the foundation of the European unity.³²

2. The European Communities

Just like functionalists had envisioned, the European solidarity in the 1950s took a form of economic cooperation between the countries. Perhaps the most prominent figure in the history of the European integration was Robert Schuman, a brilliant French statesman and lawyer, who is commonly known as the “architect of the European integration project”.³³ He held a position of the French Prime Minister from 1947 to 1948, Foreign Minister from 1948 to 1952, and Minister of Justice from 1955 to 56.³⁴ He is best known for his famous plan for European supranational cooperation which he presented in the so-called the Schuman Declaration on 9 May 1950. However, it shall be noted that this idea was originally conceived by the French political and economic adviser Jean Monnet.³⁵ The Schuman Declaration gave a political impulse and prompted creation of the European Communities.

²⁹ L. Guzzetti, *A Brief History of European Union Research Policy*, Brussels 1995, pp. 1–2.

³⁰ Congress of Europe, *Political Resolution of the Hague Congress (7–10 May 1948)*, London–Paris 1948, pp. 5–7, at <https://www.cvce.eu/en/obj/political_resolution_of_the_hague_congress_7_10_may_1948-en-15869906-97dd-4c54-ad85-a19f2115728b.html>, 20 June 2021.

³¹ Council of Europe, *The Council of Europe and the European Union: different roles, shared values*, at <<https://www.coe.int/en/web/portal/european-union>>, 20 June 2021.

³² N. Bamforth, “European Union Law, the European Convention, and Human Rights,” in: *International Practice Section*, 2010, pp. 38–41, at <https://www.vsb.org/docs/valawyerjournal/vl0210_EU-law.pdf>, 20 June 2021.

³³ R. Domingo, “Robert Schuman: Architect of the European Union,” in: O. Descamps, R. Domingo (eds.), *Great Christian Jurists in French History*, Cambridge 2018, p. 15.

³⁴ *Ibid.*, pp. 6–8.

³⁵ K. de Souza Silva, “Pedagogy of Peace: The Contribution of Jean Monnet to the Construction of the European Union,” *Jean Monnet/Robert Schuman Paper Series*, vol. 9, no. 5 (2009), p. 3.

The first step of the European integrity was the establishment of the European Coal and Steel Community (hereinafter: ECSC), resulting from signing the Treaty of Paris by the “Inner Six”³⁶ Member States on 18 April 1951. The Treaty of Paris established a common market for coal and steel for the Inner Six not only to increase production, but also to enable France and West Germany to use them in military manufacturing. This prevented both countries from waging a war on one another. In order to understand this potential conflict, a brief look at the history of Ruhr Valley and the Saarland is necessary.

The Ruhr Valley and the Saarland are territories that were a principal cause for numerous conflicts between Germany and France over centuries. Both regions are extremely rich in coal and iron, and hence, were the main steel production centres in Europe. After the Second World War, both regions were either separated from Germany or put under international protection. Neither of them was fully independent. Both Germans and French believed that they had a primary claim to these territories. During the post-war economic crisis in both countries, these regions could be vital in boosting economy in the devastated states. Schuman and Monnet noticed this potential conflict in time and proposed placing French and West German production of coal and steel under a single authority that would later be opened to other European countries.³⁷ Establishing the ECSC helped to relax strained relation between France and West Germany and successfully discourage them from military manufacturing. Although originally it seemed unfavourable for West Germany, the signing of the Treaty of Paris subsequently led to reconciliation and forming an alliance between the two countries. On 22 January 1963, France and West Germany signed the Élysée Treaty which ended decades of enmities between them.³⁸

The Treaty of Paris was created in order to achieve and maintain perpetual peace amongst the European countries. The idea was that by sharing one goal, states were more eager to contribute than to wage war on each other.³⁹ There were four institutions that supervised the ECSC. The High Authority consisted of nine independent members,⁴⁰ the Common Assembly composed of representatives, chosen by their national parliament,⁴¹ the Special Council consisted of ministers

³⁶ The term “Inner Six” (or original six) refers to all founding members, namely France, West Germany, Italy, Belgium, Luxembourg, and the Netherlands.

³⁷ B. Ma ster, *Teorie i koncepcje zjednoczeniowe Unii Europejskiej w założeniach programowych oraz w praktyce polskiej polityki integracyjnej*, Katowice 2014, pp. 88–93.

³⁸ Atlantic Council, *Text of the Élysée Treaty (Joint Declaration of Franco-German Friendship)*, at <<https://www.atlanticcouncil.org/blogs/natosource/text-of-the-elysee-treaty-joint-declaration-of-francogerman-friendship/>>, 20 June 2021.

³⁹ *Treaty Establishing European Coal And Steel Community and Annexes I–I-II*, Paris, 18 April 1951, p. 3, at <<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:11951K:EN:PDF>>, 20 June 2021.

⁴⁰ *Ibid.*, Article 9, p. 15.

⁴¹ *Ibid.*, Article 21, p. 31.

(one for each Member State) selected by their national governments,⁴² and finally the Court of Justice composed of seven judges, chosen by their national governments.⁴³ These four institutions would eventually shape a plan for today's European Parliament, European Commission, Council of the European Union, and Court of Justice of the European Union. ECSC was the first successful attempt in European cooperation in post-war Europe, in the 20th century. The structure of the organisation became a blueprint for further European solidarity process.⁴⁴ The Treaty of Paris expired on 23 July 2002,⁴⁵ exactly fifty years after it first came into force.

The process of further European integration received a fresh impetus on the Conference of ECSC in Messina in 1955. During the Conference, the foreign affairs ministers of the original six Member States agreed to extend European integration to economy as a whole by encouraging free trade between the Member States through the removal of tariffs and quotas. The next key date in the history of European integration was the signing of the two Treaties of Rome on 25 March 1957. The first one, the Treaty establishing the European Economic Community (hereinafter: EEC), meant to further solidify economic cooperation between the Six. The other one, the Treaty establishing the European Atomic Energy Community (hereinafter: EAEC), aimed to focus solely on general development in the scope of energy, new technologies etc.⁴⁶

The EEC was structured differently than ECSC, with the newly established the European Commission, which held power similar to the one of the High Authority of ECSC. This time, however, the European Commission held a legislative power, whereas the Council of EEC played an executive role.⁴⁷ Both the Council and the European Commission were competing for power. To balance tense relations between them, another organ was created – the European Parliamentary Assembly.⁴⁸ It consisted of 142 delegates from all Member States.⁴⁹ They played a supportive and controlling role in overseeing the decision-making process.⁵⁰

To this day, EAEC has enjoyed a full independence from the EU, in spite of being institutionally connected with it.⁵¹ The organisation had a strict timeframe

⁴² Ibid., Article 27, p. 38.

⁴³ Ibid., Article 32, p. 45.

⁴⁴ Ibid., pp. 19–20.

⁴⁵ B. Rittberger, I. Glockner, *The European Coal and Steel Community (ECSC) and European Defence Community (EDC) Treaties*, Mannheim 2012, p. 19.

⁴⁶ L. Guzzetti, *A Brief History...*, Brussels 1995, pp. 6–7.

⁴⁷ T. Sieniow, "Geneza i rozwój procesów integracyjnych w Europie po II wojnie światowej," in: E. Krzysztofik et al., *Prawo instytucjonalne Unii Europejskiej w zarysie*, Lublin 2012, pp. 31–32.

⁴⁸ E. Stein, "The European Parliamentary Assembly: Techniques of Emerging 'Political Control'," *International Organization*, vol. 13, no. 2 (1959), p. 233, at <www.jstor.org/stable/2704391>, 20 June 2021.

⁴⁹ L. Kühnhardt, *European Union...*, p. 129.

⁵⁰ Ibid., pp. 127–130.

⁵¹ T. Sieniow, "Geneza i rozwój...", p. 32.

of 12 to 15 years to establish a full customs union.⁵² The idea was to bring about a complete economic cooperation between the Member States.⁵³ In reality, it took few more decades.⁵⁴ This task was primarily achieved by the first President of the European Commission, Walter Hallstein. His first years in office were devoted to establishing a Common Agricultural Policy, which caused heated discussions between the Member States. The matter of controversies revolved around national supremacy and the common good.⁵⁵ After heated disputes, the Common Agricultural Policy was finally implemented in 1962. It constituted the first common European policy.

France fell into an economic crisis in 1958 and needed a strong leader. This person was Charles de Gaulle, who became President of France in 1958 and replaced the previous pro-European President René Coty. This change of leaders led to a disruption in the European solidarity process, because de Gaulle strongly opposed any supranational influence over his country.⁵⁶ When in 1961 Great Britain decided to join the EEC, it was met with a strong French disapproval. In the following year, the US President J.F. Kennedy began strengthening relations between his country and the European Community. At the same time, Kennedy offered Polaris missiles to the UK, who accepted them. France already had a strained relationship with the USA due to de Gaulle's belief that the US, among other things, is trying to take control over the European continent. The US also offered the missiles to the French, but they declined in fear that the Americans wanted to control them. It is also important to note that France at the time pursued its own nuclear project, which the US did not approve of. As a result of the British decision to accept the American offer, the French concluded that they no longer shared a common foreign policy.⁵⁷ Consequently, in 1963, de Gaulle officially vetoed Great Britain's admission to the EEC.

Growing animosities between France and the European Community led to the "empty chair" crisis in 1965. The dispute started with Hallstein's proposal of a new way of financing the CAP, which would involve the Member States' "greater participation of own resources (France was the main beneficiary), granting broader budgetary competence to the European Parliament, including the possibility to introduce majority votes during sessions of the Council of Ministers."⁵⁸ In effect, France refused to take its seat in the Council of Ministers which enabled any further work in the EEC. In January 1966, through so-called Luxembourg

⁵² L. Kühnhardt, *European Union...*, p. 130.

⁵³ T. Sieniow, "Geneza i rozwój...", p. 31.

⁵⁴ *Ibid.*, pp. 34–35.

⁵⁵ L. Kühnhardt, *European Union...*, pp. 130–31.

⁵⁶ M. Greta, J. Kowalski, E. Tomczak-Woźniak, *Doktryny Zjednoczeniowe...*, pp. 34–35.

⁵⁷ F.M. Bindi, I. Angelescu, *The Foreign Policy of the European Union – Assessing Europe's Role in the World*, 2nd ed., Washington 2012, pp. 17–18.

⁵⁸ E. Lesiewicz, "The Crisis and its Effect on Disparities in the European Union," *Annales Universitas Mariae Curie-Skłodowska*, vol. 22, no. 1 (2015), pp. 93–95, at <<https://core.ac.uk/download/pdf/235268897.pdf>>, 20 June 2021.

compromise, the conflict was resolved by a special resolution that allowed “a right of veto to any Member State that sees its vital interests at stake”.⁵⁹ Until 15 June 1969, when a new President of France was elected, de Gaulle maintained a steady course of removing France from a further participation in the European Communities.⁶⁰

On 8 April 1965, the Member States signed the Treaty of Brussels, also known as the Merger Treaty. In order to save money, all executive organs of the ECSC, EEC and EAEC were merged. The Commission of the European Communities replaced the High Authority of the ECSC, the Commission of the EEC and EAEC. The Council of the European Communities replaced the Special Council of Ministers of the ECSC, the Council of the EEC and EAEC. The Merger Treaty came into force in 1967, and since that date the term European Community (EC) was used.⁶¹ Just one year later, the customs duties on industrial goods were abolished, and the Common External Tariff was introduced.

Another turning point in the process of European integration took place at the Hague Summit on 1 and 2 December 1969. After de Gaulle resigned from his position of the President of France, his successor Georges Pompidou decided to take another step in European cooperation.⁶² It is also worth mentioning that Pompidou “summarized the objectives of the conference in the so-called triptych: completion, deepening and enlargement of the integration process”.⁶³ The main subject discussed during the Hague Summit was the European Monetary Union (hereinafter: EMU). Pompidou, along with German Chancellor Willy Brandt, saw the implementation of the EMU as a vital step in further development of the Common Market.⁶⁴ Since not every Member State was eager to implement EMU right away, the Inner Six came to a compromise known as the Werner Report.⁶⁵ In his famous report, the Prime Minister of Luxembourg Pierre Werner proposed three stages that would lead to the establishment of a monetary union in the span of the following decade.⁶⁶ With the outbreak of the international financial crisis in early 1971, the European Communities had to change their course. In 1972, the European Exchange Rate Mechanism (hereinafter: ERM) began to operate. Although it allowed only marginal movement of exchange rates between individual

⁵⁹ W. Lehmann, C. Salm, *Walter Hallstein: First President of the Commission and visionary of European integration*, Luxembourg 2019, pp. 6–8.

⁶⁰ F.M. Bindi, I. Angelescu, *The Foreign Policy...*, pp. 18–20.

⁶¹ *Ibid.*, p. 39.

⁶² D. Preda (ed.), *The History of the European Monetary Union Comparing Strategies amidst Prospects for Integration and National Resistance*, Brussels 2016, p. 77.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*, pp. 77–78.

⁶⁶ Council and Commission of the European Communities, *Report to the Council and the Commission on the realisation by stages of Economic and Monetary Union in the Community (Werner Report) (definitive text)*, Luxembourg 1970, at <Aei.pitt.edu/1002/1/monetary_werner_final.pdf>, 20 June 2021.

currencies of the Member States, the first step in the unification of currencies was taken. Soon after, on 1 January 1973, the European Community underwent its first enlargement when the United Kingdom, Ireland and Denmark officially became new Member States.⁶⁷ With subsequent enlargements in 1981 (Greece) and in 1986 (Spain and Portugal), the common economic sectors in the European Community grew and developed. This caused a critical need for an internal reform that would improve the EC functioning. In February 1986, the Single European Act (hereinafter: SEA) was introduced. It came into effect in the following year. The SEA specified foreign and economic policies as well as the role of European Council, the European Commission and the Parliament. It also foresaw the abolition of internal border controls by 1995, the unification of asylum and visa policies, and the establishment of the Schengen Information System (SIS).

The Maastricht Treaty, also known as Treaty on European Union, was signed by the 12 Member States on 7 February 1992. The Treaty consisted of three pillars, the European Community, the Common Foreign and Security Policy overseen by the Council of Ministers of Foreign Affairs.⁶⁸ Justice and Home Affairs constituted the last pillar, which was of a strictly intergovernmental nature.⁶⁹ However, the Treaty did not create any new institutions. Instead, it regulated the work of the ones already existing.⁷⁰ With Maastricht Treaty, the project of EMU re-emerged, and was to be implemented by 1 January 1999.⁷¹ One of the most important provisions of the Treaty of Maastricht was the introduction of the EU citizenship. Not only did it allow citizens of the Member States to freely travel and become residents anywhere in the EU, but it also helped integrate EU's citizens.⁷² After the Treaty of Maastricht, there were no doubts that the EU aspired to becoming a strong political union.⁷³

3. Eurozone

The idea of establishing a European Monetary Union was brought up several times since the mid-18th century. The Latin Monetary Union of 1865 is the first best-known monetary union in Europe, considered "Europe's first broad common currency arrangement."⁷⁴ It was originally adopted by France, Belgium, Italy and Switzerland, soon joined by other countries. The Union's main goal was to

⁶⁷ F.M. Bindi, I. Angelescu, *The Foreign Policy...*, pp. 19–21.

⁶⁸ L. Guzzetti, *A Brief History...*, p. 150.

⁶⁹ Ibid.

⁷⁰ T. Sieniow, "Geneza i rozwój...", p. 49.

⁷¹ L. Guzzetti, *A Brief History...*, p. 150.

⁷² T. Sieniow, "Geneza i rozwój...", p. 48.

⁷³ F. M. Bindi, I. Angelescu, *The Foreign Policy...*, pp. 187–190.

⁷⁴ K. Bae, W. Bailey, *The Latin Monetary Union: Some Evidence on Europe's Failed Common Currency*, Seoul–Ithaca, NY 2003, p. 7, at <<https://courses.cit.cornell.edu/wbb1/papers/Bae%20Bailey%20LMU-2003.0707.pdf>>, 20 June 2021.

introduce one standard for gold and silver coins, unifying them into a single currency for all member states.⁷⁵ However, the Union turned out to be a failure and was disbanded in 1927. The main reason for its failure was the outbreak of the Great War.⁷⁶ However, the idea of a monetary union remained, and was brought up again after the creation of the European Communities.

The 1960s can be described as the period of rapid economic development of the EC. In December 1969, during a European summit in Hague, the Member States decided to create a monetary union. This idea was proposed by Prime Minister of Luxembourg Pierre Werner. However, this ambitious plan was slowed down by the outbreak of the financial crisis in 1971.⁷⁷ In order to maintain a properly functioning monetary system, the “snake in the tunnel” system was introduced during the Paris summit in 1972. It was an attempt to limit fluctuations between different European currencies by pegging all Member States’ currencies together. However, when the Bretton Woods system collapsed in 1973, the new system failed to survive.⁷⁸ The Bretton Woods system was an international monetary system created in 1944. It linked the dollar to gold at a fixed price and established a gold-dollar standard system, based on fixed exchange rates.⁷⁹ The “snake in the tunnel” proved unreliable and unsustainable in 1973 when the US dollar floated without limitations. A few more years passed before the Member States returned to the idea of a monetary union. On 5 December 1978 in Brussels, the European Monetary System (hereinafter: EMS) was created based on France and West Germany’s initiative. In the following year, the EMS was implemented by eight Member States including the countries of Benelux, Ireland, France, West Germany, Denmark, and Italy. The EMS was hoped to bring a desperately needed stabilisation in the European Community. The European Currency Unit and the Exchange Rate Mechanism are the most important elements of the EMS. The former has never been an actual currency unit, but rather a financial legal system that facilitated exchanges in international trade.⁸⁰ The latter was a mechanism of a mutual stabilisation of all currencies used in the Member States.

On 14 June 1985, the Schengen Agreement was signed, initially only by five European countries, namely France, Germany, Belgium, Luxembourg, and the Netherlands. It provided for a gradual abolishment of the internal borders between countries and an extended control of the external borders. Almost a decade had passed before the idea started to be implemented.⁸¹ In 1989, the then-President of the European Commission, Jacques Delors, introduced a program that would

⁷⁵ Ibid., pp. 4–7.

⁷⁶ Ibid., p. 7.

⁷⁷ T. Sieniow, “Geneza i rozwój...,” p. 35.

⁷⁸ J. Monar et al., *Butterworths Expert Guide to the European Union*, London 1996, pp. 149–150.

⁷⁹ D. Preda (ed.), *The History...*, pp. 75, 166–168.

⁸⁰ Ibid., pp. 93–99.

⁸¹ L. Kühnhardt, *European Union...*, p. 159.

further develop economic cooperation between the Member States. It involved a specific strategy for a monetary union, which involved adoption of a single currency, the completion of the Single Market and Exchange Rate Mechanism.⁸² His strategy was approved by the states. As a consequence, an initiative to create one European Currency Unit and the European Central Bank was added to the Treaty of Maastricht.⁸³ The EMS fell into a crisis in 1992, as a result of the end of the Cold War and the reunification of Germany. Failure to foresee long-term effects of changes in exchange rates not only slowed down the process of further development of the monetary union, but almost completely halted it.

The next stage of the development of the monetary union began on 1 January 1994 when the European Monetary Institute was created. On 17 January 1997, the European Council adopted the Stability and Growth Pact in order to stabilize the level of national fiscal discipline. In December 1995, the new name of the EU currency was introduced – euro (EUR). On 3 May 1998, the Council of Europe selected twelve countries that fulfilled criteria enabling them to adopt euro to do so.⁸⁴ On 1 July 1998, the European Central Bank (hereinafter: ECB) and the European System of Central Banks (hereinafter: ESCB) replaced the European Monetary Institute. The European Central Bank is a supra-national institution with its own legal personality.⁸⁵ The main task of the Bank is to maintain an overall financial stability in the EU, by supervising banks all over the Member States, issuing euro banknotes, managing inflation and networking system of payments.⁸⁶ The ESCB is an authority associating the European Central Bank and all national banks from all EU Member States.⁸⁷ It was created to “carry out the monetary policy adopted by the Governing Council of the ECB, conduct foreign exchange operations, hold and manage the official reserves of the euro area countries and promote the smooth operation of payment systems”.⁸⁸ On 1 January 1999, the euro began to be implemented in the selected states. However, three years of transitional period were implemented to ease the process.⁸⁹ In 1999, a new currency was firstly introduced in a non-physical form, including a virtual one. It was not until January 2002 when coins and banknotes of Euro were implemented in the Eurozone states.

⁸² Committee for the Study of Economic and Monetary Union, Jacques Delors (Chairman), *Report on economic and Monetary Union in the European Community*, Madrid 1989, pp. 6–7, at <https://aei.pitt.edu/1007/1/monetary_delors.pdf>, 20 June 2021.

⁸³ T. Sieniow, “Geneza i rozwój...,” pp. 34–35.

⁸⁴ J. Trichet, *The European Central Bank, the Eurosystem, the System of Central Banks*, Frankfurt am Main 2008, p. 6.

⁸⁵ *Ibid.*, p. 12.

⁸⁶ European Central Bank, *About the Organisation*, at <<https://www.ecb.europa.eu/ecb/html/index.en.html>>, 20 June 2021.

⁸⁷ J. Trichet, *The European Central Bank...*, p. 12.

⁸⁸ *Ibid.*, p. 13.

⁸⁹ T. Sieniow, “Geneza i rozwój...,” p. 35.

It is important to note that joining the Eurozone is obligatory under the Maastricht Treaty⁹⁰ and all of Monetary European System the EU accession treaties concluded after 1992.⁹¹ However, the treaties leave states a certain amount of flexibility. The timeframe for joining the Eurozone is not stated, so it is entirely up to a country to choose it in accordance with its needs and abilities. It is obligatory to fulfil convergence criteria before joining the Eurozone.⁹² These five main criteria were designed to ensure that every new Eurozone member has a strong economy which will not be affected negatively by adopting euro as a new currency.⁹³ Failure to fulfil these criteria might lead to serious financial problems. In fact, it was the reason why Greece's accession to Eurozone was considered as highly controversial.⁹⁴ Greece had a budget deficit which proved to be fatal during the financial crisis of 2007–2010. The level of the deficit is one of the convergence criteria, and during the crisis Greece (along with other countries like Spain) lowered its deficit in order to stimulate its economic growth.⁹⁵ However, this did not improve the financial situation. Moreover, these states fell into even deeper crisis.

Before 2007, the Eurozone worked quite effectively, and seemed to be a success. Unfortunately, some states such as Greece and Spain misused systems designed to keep their economies intact during the currency transition period. The financial crisis of 2007–2010 happened in the first years of the Eurozone's existence. The beginning of the European debt crisis is dated back to late 2009 and it was marked by Greece's unexpected revelation that the country lied about its government deficit.⁹⁶ Even though Greeks were not solely responsible for this crisis, their statement proved to be a point of no return. Millions of Europeans saw them as a symbol of the crisis and blamed them for it. The inability of the countries affected by the financial crisis of 2007–2010 to pay back their debts led not only to worsening their international relations, but it also shook the entire existence of the Eurozone. Some Member States even debated whether or not to leave it or expel other countries which were, in their opinion, responsible for the crisis.

At the beginning of 2010, the EU took decisive steps to aid Member States in a time of economic crisis in form of a financial bailout. Three organisations that

⁹⁰ Treaty of Maastricht, art. 133.

⁹¹ T. Sieniow, "Geneza i rozwój...", p. 35.

⁹² Ibid.

⁹³ A. Lipińska, *The Maastricht Convergence Criteria and Optimal Monetary Policy for the EMU Accession Countries – exercise for Poland*, Frankfurt am Main 2008, p. 3, at <https://www.nbp.pl/badania/seminaria_bise/LipinskaO.pdf>, 20 June 2021.

⁹⁴ M. Dabrowski, *The Economic and Monetary Union: Its Past, Present and Future*, Policy Department for Economic, Scientific and Quality of Life Policies (ed.), Luxembourg 2019, pp. 12–13, at <https://www.europarl.europa.eu/cmsdata/159703/CASE_final%20publication.pdf>, 20 June 2021.

⁹⁵ T. Sieniow, "Geneza i rozwój...", p. 35.

⁹⁶ J. Frieden, S. Walter, "Understanding the Political Economy of the Eurozone Crisis," *The Annual Review of Political Science*, vol. 20, no. 1 (2017), pp. 5–7, at <https://dash.harvard.edu/bitstream/handle/1/33459439/friedenwalter_arps2017_forthcoming.pdf?sequence=1&isAllowed=y>, 20 June 2021.

coordinated this process were called the Troika and consisted of the European Commission, the European Central Bank and the International Monetary Fund. In late 2010, the European Financial Stability Facility, a temporary mechanism which was set to help affected countries financially, was replaced by the long-term European Stability Mechanism (ESM). Although it was launched later than originally planned – in 2013,⁹⁷ it turned out to be a huge success and Greece started to slowly getting out of debt. Generally, the southern European countries were the most affected by the crisis. The northern states maintained steady economy growth, and lent money to the southern countries. When the latter ones were unable to pay, their relations became tensed and estranged.⁹⁸ Their conflict became so grave that there were talks of removing indebted countries out of the Eurozone. Yet again the European cooperation was endangered.

France and Germany, which had particularly strong and stabilised economies, determined the outcome of the zone's future. Starting in 2010, these two countries proposed a series of measures to resolve the financial crisis, with the main view to transform the Eurozone into a fiscal union.⁹⁹ In 2012, the German Chancellor Angela Merkel presented a plan for rebuilding Eurozone's economy that involved austerity measures. It opted for a policy of reducing the budget deficit through a sharp cut in state's spending.¹⁰⁰ In contrast, the President of France François Hollande had a different plan based on Eurobonds. It was a medium or long-term bearer debt security in which the issuer undertakes to perform a specific performance.¹⁰¹ On 2 March 2012, all the Member States (with the exemption of the United Kingdom and the Czech Republic) signed the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, which is popularly known as the Fiscal Treaty.¹⁰²

Eurozone was subjected to a severe financial crisis in its first decade. Unfortunately, it cannot be stated that the European response has always been adequate. Most of the time the Member States argued and blamed one another, instead of working together on a successful plan. A clear division was noticeable between the debtor countries and the creditor ones. Greece, being one of the most affected

⁹⁷ T. Südhölder, *The Franco-German Relationship – the Engine of European Integration*, Münster 2014, p. 39, at <<https://essay.utwente.nl/65206/1/Master-Thesis-12%20PDF-Version.pdf>>, 20 June 2021.

⁹⁸ B. De Souza Guilherme, C. Ghymers, S. Griffith-Jones, A. Ribeiro Hoffmann (eds.), *Financial Crisis Management and Democracy Lessons from Europe and Latin America*, Cham 2021, pp. 111–113, at <<https://link.springer.com/book/10.1007%2F978-3-030-54895-7>>, 20 June 2021.

⁹⁹ A. Majocchi, D. Preda (eds.), "Fiscal Discipline and Growth within EMU," in: *The History of the European Monetary Union Comparing Strategies Amidst Prospects for Integration and National Resistance*, Brussels 2016, pp. 206–207.

¹⁰⁰ J. Frieden, S. Walter, "Understanding the Political Economy"..., pp. 5–7.

¹⁰¹ D. Preda (ed.), *The History...*, pp. 214–215.

¹⁰² European Council, *The draft of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union*, Brussels 2012, at <<https://archive.org/details/321471-draft-eu-fiscal-treaty/page/n9/mode/2up>>, 20 June 2021.

countries, was struggling economically until 2018. Feeling ostracised from the European community, Greece debated whether or not to leave the Eurozone (especially with a growing popularity of the “Grexit” slogan¹⁰³). The Eurozone debt crisis and the actions taken to address it changed the shape of European cooperation. It is undeniable that the crisis, along with the response of the EU and its Member States led to the rise in Euroscepticism.¹⁰⁴

4. Project of the European Constitutional Treaty

Since the end of the 1980s, the European Union has been continuously working towards becoming more of a political entity.¹⁰⁵ The process was long and turbulent, mostly due to several crises hindering further development of the EU. Furthermore, not all Member States were supportive of the idea of intensifying cooperation. The best examples are the United Kingdom and Ireland. The UK has always had peculiar relations with the EU. British people shared one main concern regarding the European Communities, which was their own sovereignty. Ireland, on the other hand, worried immensely that the EU would negatively impact their traditional values. As a religious nation, Irish people were particularly concerned about their laws on abortion and euthanasia.¹⁰⁶ Since the Treaty of Maastricht came into force, it has been a very lively topic whether extending the EU’s authority poses a risk to Member States’ sovereignty.

The Treaty of Nice, which was signed by the European leaders on 26 February 2001, started a new round of the debate on tightening European integration. The Treaty was quite controversial, and was described by many as a flawed compromise.¹⁰⁷ Most Member States were unwilling to compromise on the proposed reforms. The Treaty of Nice was not ground-breaking, but simply a minimum standard, needed for next enlargements of the EU.¹⁰⁸ In December 2001, the President of France Jacques Chirac and the Chancellor of Germany Gerhard Schröder released a joint statement on creating the constitution of the EU. During a summit in Leaken, the European Council and the representatives of Member States declared to create a project of the European convention. This declaration

¹⁰³ G. Mallard, *Gift Exchange. The Transnational History of a Political Idea*, Cambridge 2019, pp. 214–218.

¹⁰⁴ F. Serricchio, M. Tsakatika, L. Quagliap, “Euroscepticism and the Global Financial Crisis,” *Journal of Common Market Studies*, vol. 51, no. 1 (2013), pp. 51–62, at <<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1468-5965.2012.02299.x>>, 20 June 2021.

¹⁰⁵ G. Tsebelis, “The European Convention and the Rome and Brussels IGCs: a Veto Players Analysis,” in: T. König, S. Hug (eds.), *Policy-Making Processes and the European Constitution. A Comparative Study of Member States and Accession Countries*, London–New York 2006, pp. 9–10.

¹⁰⁶ W. Loth, *Building Europe. A History of European Unification*, Berlin–Boston 2015, p. 412.

¹⁰⁷ E. Best, “The Treaty of Nice: Not Beautiful but It’ll Do,” *Eipascopes*, no. 1 (2001), p. 7, at <<https://core.ac.uk/download/pdf/5074343.pdf>>, 20 June 2021.

¹⁰⁸ J. Barcz, *Od lizbońskiej do postlizbońskiej Unii Europejskiej. Główne kierunki reformy ustrojowej procesu integracji europejskiej*, Warszawa 2020, p. 46.

demonstrated a huge progress of European integration over the last fifty years.¹⁰⁹ Eventually, the Convention on the Future of the European Union,¹¹⁰ which is also known as the European Convention, was established by the European Council in December 2001 as a result of the Laeken Declaration.¹¹¹ Its main goals were to determine the EU's future and to produce a draft constitution for the EU.¹¹² The former President of France Valéry Giscard d'Estaing was selected as a Chairman of the European Convention. The European Convention designed a website where information on progress of the work on a constitutional project were regularly published.¹¹³ This solution was quite innovative at that time, given that Internet was still in its early stage. The fact that all European citizens could follow the news and to some point participate in the process, contributed to building a public support for this project. The work on the European Convention was extremely difficult, as it required multiple compromises and consensuses to agree on a single draft of a constitutional treaty. This was particularly challenging because the whole process was closely scrutinized by the Member States' governments which frequently hold different views and had conflicting goals.¹¹⁴

During a summit held in Brussels on 18 June 2004, a consensus was finally reached and the Treaty establishing the Constitution of Europe was signed by 25 Member States.¹¹⁵ The Treaty was ratified by 18 Member States, including Spain and Luxembourg who conducted referendum on this issue. The main controversy of the project was the use of the word "constitution." The Treaty was thought to replace the existing EU treaties and strengthen a legal role of the Charter of Fundamental Rights of the European Union.¹¹⁶ However, the treaty was rejected in referendums in France and the Netherlands in May and June 2005, respectively. Beside these two countries, the United Kingdom decided not to hold a referendum on this subject, because the government assumed that the British people would vote "no".¹¹⁷ This lack of support was especially surprising considering that

¹⁰⁹ *Laeken Declaration on the Future of the European Union*, Luxembourg 2001, at <https://www.cvce.eu/content/publication/2002/9/26/a76801d5-4bf0-4483-9000-e6df94b07a55/publishable_en.pdf>, 20 June 2021.

¹¹⁰ *Laeken Declaration and the Convention on the Future of Europe*, Laeken 2002, at <<https://commonslibrary.parliament.uk/research-briefings/rp02-14/>>, 20 June 2021.

¹¹¹ E.E. Toops, "Why is There No EU Constitution? An Analysis of Institutional Constitution-Making in the European Union," *CUREJ: College Undergraduate Research Electronic Journal*, 05 April 2010, pp. 8–9, at <<https://repository.upenn.edu/cgi/viewcontent.cgi?article=1145&context=curej>>, 20 June 2021.

¹¹² The European Convention, *Report from the Presidency of the Convention to the President of the European Council*, 18 July 2003, Brussels, at <european-convention.europa.eu/docs/Treaty/cv00851.en03.pdf>, 20 June 2021.

¹¹³ The European Convention, *Organisation*, at <<http://european-convention.europa.eu/EN/organisation/organisation2352.html?lang=EN>>, 20 June 2021.

¹¹⁴ W. Loth, *Building Europe...*, pp. 386–389.

¹¹⁵ T. König, A. Warntjen, S. Burkhart (eds.), "The European Convention: Consensus without Unity?" in: T. König, S. Hug (eds.), *Policy-Making Processes...*, pp. 24–25.

¹¹⁶ *Ibid.*, p. 52.

¹¹⁷ W. Loth, *Building Europe...*, p. 411.

it was demonstrated by the voters from France and Netherlands, which were, after all, among the original six founding members. To explain this phenomenon, a closer look on these referendums is needed.

France was the first country to reject the Treaty, after the unfavourable results of the French national referendum on the Treaty. On 29 May 2005, 55% of French voters responded “no,” with a turnout of 69%.¹¹⁸ There are several reasons of such an outcome of the referendum. Firstly, French voters were concerned about the potential accession of Turkey to the EU, and a possible Islamization of Europe.¹¹⁹ Secondly, there were serious concerns about France’s sovereignty. Since the French Revolution of 1789, the French have had a strong and uncompromised bond with their national sovereignty. The Constitution of France is its country’s embodiment and it holds a special place in the hearts of the French people. Thus, the idea of creating a “Constitution of Europe” was more than they could bear.¹²⁰ Even though France is a founding member of the EU, it has always had a turbulent relationship with the organisation. Throughout the years of the European Community’s history, France has always worked towards getting as much influence in the organisation as possible. During Charles de Gaulle’s term of office as the President of France, France was strongly against federalisation of the European Community. At that time, they would rather leave the European Community than risk their sovereignty. Although, generally, the French radical nationalistic perspective changed over the decades, some French citizens still shared that view. Undeniably, the role of France in forming the EU was crucial, but their participation in the European solidarity process was always limited to a certain extent.¹²¹ However, the outcome of the French referendum should not be taken as an argument for France being completely against the idea of strengthening the European cooperation. It is simply a validation of an already known fact that the French people would not risk their sovereignty for further integration.

In the Netherlands, the referendum came just three days after the French referendum. On 1 June 2005, the Dutch votes rejected the Treaty by a margin of 61% to 39%, on a turnout of 63.3%.¹²² It is remarkable that it was the first national referendum for over two hundred years in that country.¹²³ Although it was not legally

¹¹⁸ E.E. Toops, *Why is there...*, pp. 8–14.

¹¹⁹ M. Müftüleri Baç, “Turkey’s Accession to the European Union: Institutional and Security Challenges,” *Perceptions*, vol. 9, no. 3 (2004), pp. 36–38, at <https://www.researchgate.net/publication/265024625_Turkey's_Accession_to_the_European_Union_Institutional_and_Security_Challenges>, 20 June 2021.

¹²⁰ A. Albi, S. Bardutzky (eds.), *National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law – National Reports*, Hague 2019, pp. 1187–1189.

¹²¹ T. Schulz, T. König, S. Hug (eds.), “France: The President Takes All,” in: *Policy-Making Processes...*, pp. 93–94.

¹²² L.F.M. Besselink, “Report on the Netherlands. Double Dutch: the Referendum on the European Constitution (2006),” *European Public Law*, vol. 12, no. 3 (2006), p. 345.

¹²³ Netherlands Scientific Council for Government Policy, *Rediscovering Europe in the Netherlands*, Amsterdam 2007, pp. 105–106.

binding, the government decided to follow the citizens' will. There were several reasons which made a majority of Dutch citizens to vote against approval of the treaty. One of the most important being the replacing of their national currency with the euro.¹²⁴ The Dutch also feared that the EU introduced its reforms too quickly and this might be unfavourable to smaller countries, such as the Netherlands. This decision was also related to the general dissatisfaction with the EU's reforms.¹²⁵

As a consequence of the above-described referendums and following growing concerns in other Member States, a date of the Treaty's entry into force was postponed to 2007. This was rather an unwise decision because it made the public even more suspicious of the Treaty. Consequently, some countries, such as Poland and the Czech Republic, put off their referendums with a hope that their citizens would change their minds. Tensions grew particularly noticeably in those Member States which did not wholeheartedly accepted all the reforms introduced in the Treaty. Eventually, the constitutional project turned out to be a misplaced idea at that time. It is worth noting that if this idea was not presented in a time of recession and growing popularity of Euroscepticism movements, the outcome might have been different.

5. The Lisbon Treaty

After the failure of the constitutional project, the European Union was in disarray. With ten new Member States which joined the organisation in 2004, the EU desperately needed institutional reforms to ensure its proper working. Many countries struggled with a rise of unemployment, which was one of many severe consequence of the financial crisis. A solution for these tensions had to be created, but with a growing number of members, reaching a consensus was an extremely difficult and lengthy process at that time. Every country had its own vision, expectations and interests. To make it worse, they were frequently incoherent and conflicting.

During this challenging time for the EU, one country in particular led the way for the organisation. Germany with its charismatic Chancellor Angela Merkel took an active role in creating a substitution for the Treaty establishing the European Constitution. On 17 January 2007, Merkel made a formal announcement in which she called for reforming the organisation. On 26 January, during a special meeting held in Madrid, the "Friends of the Constitutional Treaty," as they dubbed themselves, proclaimed their resolve to adhere to the substance of the Treaty, thereby putting the opponents of the Treaty on the defensive.¹²⁶ These two events divided Member States into two camps, those that were in favour of

¹²⁴ Ibid., pp. 60–61.

¹²⁵ L.F.M. Besselink, *Report on the Netherlands...*, pp. 347–348.

¹²⁶ W. Loth, *Building Europe...*, pp. 407–408.

the Constitutional Treaty and those opposing it. The supporting group included mostly western countries, such as Germany, France and Luxembourg, whereas the latter group consisted of the Czech Republic, Ireland and Poland.¹²⁷ On 27 March 2007, Merkel announced the “Berlin Declaration”¹²⁸ which encouraged Member States to further deepen the cooperation between them and reminded them of their shared history and common goals. Rather unsurprisingly, it also led to heated discussions across Europe. Specifically, the lack of any mention of Christianity in the Declaration received huge backlash from the Christian community. Poland was, and as a matter of fact still is, strongly embodied with its religion and visibly demonstrated its dissatisfaction.¹²⁹ Beside Poland, the Czech Republic also loudly disregarded the Declaration due to political reason.

Due to the severe criticism, Merkel clearly needed a support of at least one other strong Member State, and her best chance was with France. A chance for reenacting the Franco-German alliance emerged in the person of Nicholas Sarkozy who at the time was a candidate for a president in the upcoming election. However, he was willing to back up Merkel’s plan when he became the President of France on 16 May 2007. Sarkozy saw the project as a way of making a name for himself, as a saviour of the EU. He visited many Member States in person to ensure that the Merkel’s plan had a necessary support.¹³⁰ In order to convince other Member States and the public opinion, the constitutional character of this proposal was minimalized. However, two countries remained particularly challenging to convince, namely the United Kingdom and Poland. The UK demanded, along with other things, that proposed changes in using veto during voting would not be harsh. Poland turned out to be the hardest to convince and just like the UK was opposed to some proposed reforms. Primarily, Poland’s issues referred to internal struggles in the government, between two political parties, Law and Justice (*Prawo i Sprawiedliwość*) and Civic Platform (*Platforma Obywatelska*).¹³¹ Due to the pressure of these two states, an additional Protocol (No. 30) on the application of the Charter of Fundamental Rights of the European Union was added.¹³²

On 4 June 2007, the so called Amato Group¹³³ proposed establishing a new Inter-Governmental Conference in order to write a new treaty which would rewrite

¹²⁷ Ibid.

¹²⁸ European Commission, *Declaration on the Occasion of the 50th Anniversary of the Signature of the Treaties of Rome*, Berlin 2007, at <https://europa.eu/50/docs/berlin_declaration_en.pdf>, 20 June 2021.

¹²⁹ W. Loth, *Building Europe...*, pp. 408–409.

¹³⁰ Ibid., p. 409.

¹³¹ K. Jasik, “Poland and the ratification of the Treaty of Lisbon,” *BRJ* 2/2009, p. 163, at <http://www.bonner-rechtsjournal.de/fileadmin/pdf/Artikel/2009_02/BRJ_160_2009_Jasik.pdf>, 20 June 2021.

¹³² Protocol (No 30) on the application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom, OJ C 115, 09.05.2008.

¹³³ The Amato Group is a popular term used for the Action Committee for European Democracy (ACED) which was a group of European leaders who were working on rewriting the Treaty

the Maastricht Treaty, amend the Treaty of Rome and give the Charter of Fundamental Rights of the European Union a legally binding status. During a meeting held in Brussels on 21 and 22 June 2007, a compromise was reached by all the Member States with the exception of Poland. Only after Merkel's announcement "that the mandate for the government conference could then be decided without Poland," Polish government conceded.¹³⁴ Even after this small victory, the whole process of convincing other Member States took another few months. Finally, on 13 December 2008, the Treaty of Lisbon was signed by all Member States.¹³⁵ It was largely based on the Treaty establishing a Constitution for Europe, whose parts were included, either entirely in their original form or just slightly changed. The main difference is that the Constitutional Treaty would have replaced all existing treaties of the EU, whereas the Lisbon Treaty reverted to the classical method of treaty reform, amending the existing treaties.¹³⁶ Specifically, the Treaty on European Union and the Treaty Establishing the European Community were amended, and the latter was renamed the Treaty on the Functioning of the European Union. Besides, all constitutional symbols, including flag, anthem and motto, were removed from the Lisbon Treaty. In summary, by removing the constitutional character, the Lisbon Treaty managed to embody most of the reforms agreed upon in the Constitutional Treaty.¹³⁷

The signing of the Lisbon Treaty was indubitably a huge victory for those Member States that wanted to strengthen European cooperation. The wide and far-reaching reforms introduced by the Lisbon Treaty were crucial for the EU's future. The institutional innovations included, in particular, a new permanent presidency of the European Council, the new High Representative of the Union for Foreign Affairs and Security Policy, as well as the establishment of the European External Action Service (hereinafter: EEAS). The EEAS was meant to fill the gap regarding relations between the EU and Member States that was left wide open after many enlargements. It had an enormous role in strengthening the cooperation, and proved to be a success in its first years of functioning. Not only did it help to improve relations between the EU and the Member States, but it also made a strong connection with other organisations such as the United Nations.¹³⁸ This

establishing a Constitution for Europe into a new treaty after the unfavorable results of the French and Dutch referendums. It consisted of 16 members from 14 Member States and was led by Giuliano Amato, a former Prime Minister of Italy who also played a role of the Vice-President of the original European Convention.

¹³⁴ W. Loth, *Building Europe...*, p. 409.

¹³⁵ *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, Official Journal of the European Union, Lisbon 2007, at <<https://eur-lex.europa.eu/legal-content/PL/ALL/?uri=celex:12007L/TXT>>, 20 June 2021.

¹³⁶ F. Laursen, "The Lisbon Treaty: A First Assessment," *L'Europe en Formation*, vol. 362, no. 4 (2011), p. 6, at <<https://www.cairn.info/revue-l-europe-en-formation-2011-4-page-45.htm>>, 20 June 2021.

¹³⁷ J. Barcz, *Od lizbońskiej...*, p. 73.

¹³⁸ *Ibid.*, pp. 64–65.

change was introduced to increase efficiency in decision-making. Furthermore, the Lisbon Treaty fundamentally changed EU legislation by introducing a new hierarchy of acts, new types of acts and new decision-making procedures.¹³⁹ For instance, the Lisbon Treaty also changed the voting system in the EU¹⁴⁰ by introducing qualified majority voting in the Council as a general rule.¹⁴¹ Additionally, the Charter of Fundamental Rights of the European Union gained the same legal value as the European Union treaties, which made the Charter legally binding.¹⁴² Moreover, for the first time in the EU's history, its Member States were given the explicit legal right to withdraw from the EU.¹⁴³

The process of ratification of the Treaty of Lisbon took two years. It was particularly difficult in Ireland, Poland, Germany and the Czech Republic.

Ireland was the only member state to hold a referendum on the Treaty. According to the Ireland's Supreme Court, it was required by the Irish Constitution. The Irish referendum was held on 9 June 2008, 53.4 % Irish citizens voted against the ratification, with a turnout of 53%.¹⁴⁴ The European Council held a special meeting for Ireland in the middle of June 2009 in order to go through every controversial part of the Treaty, and guaranteed that Ireland's laws and their sovereignty would not be affected by the ratification.¹⁴⁵ On 2 October 2009, a second Irish referendum was held, and this time a majority of citizens (67,1%) voted in favour of the ratification with a turnout of 59%.¹⁴⁶ Interestingly, Poland waited with their own ratification of the Treaty for the outcome of the second Irish referendum. On 10 October 2009, Poland ratified the Treaty of Lisbon. Germany struggled with issues concerning the ratification procedure in terms of national statutory laws. As a result, they were amended on 25 September 2009, and subsequently the Treaty of Lisbon was ratified in Germany. The Czech Republic struggled with some procedural issues, too. Specifically, with those concerning the implementing in the Czech Republic of the EU Charter of Fundamental Rights, which might have enabled submitting claims of the Sudeten Germans against the Czech Republic.¹⁴⁷ To make things even more difficult, the President of the Czech Republic at that time, Václav Klaus, was openly Eurosceptic. After months of

¹³⁹ J. Blom-Hansen, "Studying Power and Influence in the European Union: Exploiting the Complexity of Post Lisbon Legislation With EUR-Lex," *European Union Politics*, vol. 20, no. 4 (2019), p. 692, at <<https://journals.sagepub.com/doi/10.1177/1465116519851181>>, 20 June 2021.

¹⁴⁰ T. Sieniow, "Geneza i rozwój...", p. 57.

¹⁴¹ Article 16 (3) TEU: "The Council shall act by a qualified majority except where the Treaties provide otherwise."

¹⁴² Article 6(1) TEU: "The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties."

¹⁴³ See Article 50 TEU.

¹⁴⁴ W. Loth, *Building Europe...*, p. 412.

¹⁴⁵ J. Barcz, *Od lizbońskiej...*, pp. 70–72.

¹⁴⁶ W. Loth, *Building Europe...*, p. 413.

¹⁴⁷ J. Barcz, *Od lizbońskiej...*, p. 72.

Czech internal struggles, the Treaty was finally ratified on 13 November 2009.¹⁴⁸ The above-mentioned problems and delays of the ratification of the Treaty meant that the Lisbon Treaty would come into life later than it was originally planned. Eventually, the Lisbon Treaty entered into force on 1 December 2009.

The process of working on the Treaty, and then ratifying it, demonstrated a wide range of approaches of the Member States, from fully cooperative to openly Eurosceptic. Germany and France were the driving force behind enabling this project to enter into force. In contrast, Poland, the Czech Republic and the UK had a rather destabilizing role. The UK's approach was a sign the country would not hold a prominent role in the EU for much longer, but would rather remain on the sidelines.¹⁴⁹ This could be interpreted as a foreshadow of the UK's decision to leave the EU. Anyway, beside all the struggles and challenges, the Lisbon Treaty managed to introduce most of the reforms that the Treaty establishing a Constitution for Europe failed to. Hence, the Lisbon Treaty could be considered as the Constitutional Treaty's successor. However, after years of compromises and struggles to bring this project to life, the Lisbon Treaty became something more than just a mere replacement of the Constitutional Treaty. It became the most important document of the EU, one that completely revolutionised the organisation internally. It provided strong foundations for future reforms and for "building post-Lisbon European Union".¹⁵⁰

6. Summary

The historical development of the European integration is a highly interesting subject of an academic research. What started as purely economic collaboration evolved into political cooperation in various areas, including environment, taxes, agriculture, fisheries, consumer protection and many more. Although initially the European Communities focused on their common economy, after the Treaty of Maastricht they developed into the European Union based on strong and resistant alliance which survived numerous severe crises.¹⁵¹

EEC and EAEC, which constituted the European Communities, played a major role in the early European integration history. Not only did they started a real economic cooperation between several European countries but also prevented a highly possible war between France and West Germany.¹⁵² The unification of these three memorable organisation brought into the world the European Union and built solid foundations for today's EU.

¹⁴⁸ Ibid., pp. 72–73.

¹⁴⁹ W. Loth, *Building Europe...*, p. 411.

¹⁵⁰ J. Barcz, *Od lizbońskiej...*, p. 74.

¹⁵¹ L. Kühnhardt, *European Union...*, p. 187.

¹⁵² B. Master, *Teorie i koncepcje...*, pp. 91–96.

One of the most important aspects of the economic cooperation is Eurozone,¹⁵³ which managed to survive the financial crisis of 2007–2010. This crisis encouraged further reforms in the EU, including establishing the banking union.¹⁵⁴ With seven (eight if counting the original signatories) enlargements,¹⁵⁵ the EU created a truly integrated and coordinated constitutional project.¹⁵⁶ Numerous treaties, including, especially, the Treaty of Maastricht, the Treaty of Amsterdam, and the Treaty of Nice, enabled the organisation to work more effectively. Although the Treaty establishing a Constitution for Europe was not ratified, its most vital elements were included in the Treaty of Lisbon. In fact, the Lisbon Treaty is the most significant treaty signed by the Member States in the last two decades of the EU's history.¹⁵⁷ Not only did it reform numerous EU's institutions and bodies, but also enabled future enlargements and fundamentally changed EU legislation. Most importantly, it established the EU's legal personality which is fully recognisable under public international law.

The EU survived and thrived for the last seventy years, not only thanks to strengthening the integration of its Member States, but also by protecting them from any military harm. During the seven decades of its existence, the EU went through various peaks and valleys. Thanks to its adaptability, the EU continued to develop despite multiple severe crises and political challenges. The historical development of European integration demonstrates that it is a step-by-step progress which requires a lot of effort and compromise from the Member States. European integration within the EU can be viewed as an on-going and irreversible process.

¹⁵³ M. Dabrowski, *The Economic and Monetary Union...*, p. 12.

¹⁵⁴ *Ibid.*, pp. 14–15.

¹⁵⁵ European Parliament, *The Enlargement of the EU*, at <<https://www.europarl.europa.eu/factsheets/en/sheet/167/the-enlargement-of-the-union>>, 20 June 2021.

¹⁵⁶ T. Sieniow, "Geneza i rozwój...", pp. 54–55.

¹⁵⁷ W. Loth, *Building Europe...*, pp. 408–409.

ANNA MOSKAL

II. Visions of European Integration

1. Early Concepts of European Integration

The official founding fathers of the European Union whose immense contribution to the creation of the EU is admired to this day include Konrad Adenauer, Joseph Bech, Johan Beyen, Winston Churchill, Alcide de Gasperi, Walter Hallstein, Sicco Mansholt, Jean Monnet, Robert Schuman, Paul-Henri Spaak, and Altiero Spinali.¹⁵⁸ However, the most recognisable were the ones from the so called EU triumvirate (three of the largest founding countries of the EU), that is, Konrad Adenauer (Germany), Alcide de Gasperi (Italy), and the duo of Robert Schuman and Jean Monnet (France). These honourable men presented various ideas for strengthening European solidarity and integration.

Generally, three main concepts of European solidarity can be pointed out. The most popular one is functionalism. It was formed in the early stages of the European Communities. Its main advocates were Jean Monnet and Robert Schuman. They believed that economic integration was the key for a peaceful process of transferring some vital power from national to supranational bodies. The spill-over effect was meant to expand onto more important political sectors due to the positive effects of the development of the economic sector.

The originator of functionalism was David Mitrany. He is widely considered to be the father of functionalism and was the first one to propose the use of this term. In 1943 he wrote his most acclaimed academic book titled "A Working Peace System."¹⁵⁹ He strongly believed that in order to achieve peace, European countries have to cooperate on an important matter, as only then they have no reason to wage war on one another.¹⁶⁰ This important matter was, in the eyes of Mitrany,

¹⁵⁸ European Union, *EU Pioneers*, at <https://europa.eu/european-union/about-eu/history/eu-pioneers_en>, 20 June 2021.

¹⁵⁹ D. Mitrany, *A Working Peace System*, London 1943.

¹⁶⁰ A. Popoviciu, „David Mitrany and Functionalism. The Beginnings of Functionalism,” *Revista Romana de Geografie Politica*, no. 1 (2010), pp. 165–166.

anything that could have involved an international cooperation, e.g.: technology, trade, ecology etc. This was subsequently called by Mitrany “a working peace system”.¹⁶¹ However, it is difficult to describe functionalism as a solidarity concept due to its different approach to unity. It is much more of an ideology, a way for states to interact with one another. The end goal for other theories of integration is always well known and thought-out. As for functionalism, it is very much an open process.¹⁶² So why should we call it an integration concept when it does not fit the definition? The reason is that even though it is not technically a unity theory, it still has paved the way for other concepts to be born. It is also considered to have laid the foundation for the European Union. Jean Monnet and Robert Schuman were the first ones to take action, and with functionalism as their ideology/ theory, they decided to create an intergovernmental organisation. They both agreed with Mitrany that in order to achieve peace there has to be a cooperation in different sectors, primarily in the economy. After the Second World War the whole European continent was completely devastated, with millions of people dead, crippled and suffering from different kinds of ailments. Monnet and Schuman knew that without financial aid, the countries of Europe would either collapse, fall into internal conflicts or fall victim to communism.

Federalism, on the other hand, is strictly connected with the concept of some form of the “United States of Europe” and it was based on the model of governance in the United States of America. It was meant to minimize the role of independent countries at the expense of a transnational organisation. The most prominent figures that propagated the concept of federalism were: Konrad Adenauer, Walter Halstein, and Paul-Henri Spaak. Others that are not as widely recognised, but nonetheless worth mentioning are: Guy Verhofstadt, Viviane Reading, and Matteo Renzi.

Federalism derived from the Paneuropean Movement which started in 1923 with the publishing of the manifesto “Paneuropa” by Richard Count von Coudenhove-Kalergi.¹⁶³ It was the oldest European unification movement. It is important to note that the movement’s goal was to create a European union, but not by force and not by sacrificing its countries’ independence, traditions etc.¹⁶⁴ Due to the emergence of Nazism in Germany, and subsequently the outbreak of the Second World War, the movement’s actions were frozen in time and place. They returned with double force after the war. Beside Schuman and Monnet, the most important and known representatives of this movement were Konrad Adenauer,

¹⁶¹ S. Konopacki, „Funkcjonalistyczna teoria integracji politycznej Davida Mitrany’ego,” *Studia Europejskie*, no. 2 (1998), pp. 62–64.

¹⁶² Ü. Kurt, “Europe of Monnet, Schuman and Mitrany: A Historical Glance to the EU from the Functionalist Perspective,” *European Journal of Economic and Political Studies*, vol. 2, no. 2 (2009), pp. 47–50.

¹⁶³ R. Coudenhove-Kalergi, *Paneuropa*, Vienna 1923.

¹⁶⁴ R. Coudenhove-Kalergi, *Europe Must Unite* (1938), at <https://www.cvce.eu/en/obj/richard_coudenhove_kalergi_europe_must_unite_1938-en-87035567-586c-4a12-99e7-6857ee13f146.html>, 20 June 2021.

Paul-Henri Spaak and Walter Hallstein. Adenauer was determined, as the first Chancellor of the Federal Republic of Germany, to restore his country's lost glory. By a thorough denazification process, he meant to rebuild the country's image. Having witnessed the horrors of the world war, he believed that the only way not to let that happen again was to create a European union. He valued integration above everything else, even if his decisions met with dissatisfaction of his citizens. As to Walter Hallstein, he was the President of the Commission of the European Economic Community. His term of office was widely acclaimed and was called "The Hallstein period." Paul-Henri Spaak played an immense role in creating the Benelux in 1944, a customs union between Belgium, Netherlands and Luxembourg. In due course, this enabled the forming of the EU.

The third concept of European solidarity was confederalism based on a notion of the "Europe of Nations." This concept provides for countries to unite, however, not by forfeiting their rights to transnational organisation but rather by working together in solidarity. The intergovernmental organisation was, according to this concept, not to interfere within their internal interests, but to aid and protect them.¹⁶⁵ This vision of Europe is strictly connected with Charles de Gaulle who saw that the most beneficial situation for European countries in their being independent states without supranational authority.¹⁶⁶ Consequently, de Gaulle disagreed with Monnet about this particular issue. He strongly opposed any American influence that could result in the USA taking definite control over the European continent. That is why, with the formation of ECSC, he denounced it. His actions resulted in a French political movement called "Gaullism".¹⁶⁷ Throughout the 1950s and the 1960s he subsequently fought against creating a supranational organisation. De Gaulle was determined and by the end of the 1960s he almost took a decision for France to leave the European Communities altogether while persuading other countries to do the same.¹⁶⁸ On the other hand, he and Adenauer did manage to create strong and rather steady alliance between France and West Germany.

Winston Churchill is considered to be one of the founding fathers of the EU. In his famous speech delivered in Zurich in 1946, he called for creating the "United States of Europe".¹⁶⁹ There is no denying that he was actively working for European solidarity and wholeheartedly supported it. The issue that was brought up was his stance on different courses of the EU. Was he a confederalist or a federalist? It might seem an irrelevant question, but with today's Brexit crisis it is an issue that has been widely discussed in the UK. It is worth to mention that throughout his

¹⁶⁵ Ibid., pp. 32–34.

¹⁶⁶ D. Matusik, *Koncepcje federacji europejskiej, a europejskie procesy integracji*, Katowice 2009, pp. 36–39.

¹⁶⁷ "Gaullism," *Oxford Dictionary Lexico*, at <<https://www.lexico.com/en/definition/Gaullism>>, 20 June 2021.

¹⁶⁸ B. Master, *Teorie i koncepcje...*, pp. 105–108.

¹⁶⁹ D. Ramiro Troitiño, A. Chochia, "Winston Churchill and the European Union," *Baltic Journal of Law and Politics*, vol. 8, no. 1 (2015), pp. 60–65, at <https://www.researchgate.net/publication/282771987_Winston_Churchill_And_The_European_Union>, 20 June 2021.

career Churchill changed his political stance from liberal to conservative and, in fact, he did so several times. His main goal was to ensure survival of the British Empire. Every decision he made was not achieved by choosing one of the available unity theories, but by pragmatically analysing and adjusting them. Churchill supported some of the aspects of federalism, although his firm stance against surrendering national independence to supranational organisation makes him more of a confederalist.¹⁷⁰ He devoted his entire political career to fighting for the UK's superior role in European solidarity process. The unwillingness of other Member States to let that happen led to a few conflicts between them. Analysing the Great Britain's actions during the forming of the EU seems like a certain foreshadowing of today's Brexit crisis.

The process of the European integration in the early post-war period was demanding and vast. With the looming threat of communism and communist parties existing in every country, all nations became suspicious and concerned. With growing poverty, devastated Europe needed a change, a permanent one this time. After two world wars, Europeans were more than aware that another war would annihilate them. With a common and steady goal of permanent peace and cooperation, the process seemed to be going in a right direction. Learning from past mistakes, this time the countries were determined and took an active role in creating continental unity. However, they had to make a difficult choice between two main integration concepts. Federalism favoured a supranational organisation which would require countries to forfeit some of their autonomy. Confederalism, on the other hand, opted for intergovernmental authority that would assure a full independence of the countries. This dilemma caused a bit of a stir in Europe, especially with France's stance on confederalism. Nonetheless, the process of integration started and accelerated with the creation of the European Communities.

2. Debate on Multi-Speed Europe

Multi-speed, according to EurLex is a "term used to describe the idea of a method of differentiated integration whereby common objectives are pursued by a group of EU countries both able and willing to advance, implied that the others will follow later".¹⁷¹ This concept grew in popularity with every enlargement of the EU. All Member States are unique, with their own economy, culture and a way of living. Therefore, their level of cooperation would also be different. Hence, the concept of multi-speed Europe enables every Member State to evolve in the EU, in their own pace. Countries with the same level of advancement need to cooperate with each other, without the involvement of other Member States. Nonetheless, the remaining Member States would still need to reach the same level of

¹⁷⁰ Ibid., pp. 72–78.

¹⁷¹ R. Magdin, R. Georgescu, *Report: two- or multi-speed Europe: can it actually work?*, Bucharest 2016, p. 3.

cooperation, although it would be their prerogative as regards to choosing the time of implementing changes.¹⁷²

According to Fossum, differentiation is “a wider concept that includes, yet goes beyond, differentiated integration. In other words, it encompasses traditional understandings of differentiated integration as mainly consisting of the same integration only at different speeds”.¹⁷³ It is important to know the difference between the two definitions, because they are often incorrectly used as synonyms. The role of differentiation concerns enlargements of the EU, which result in two options: temporary exemptions and discrimination.¹⁷⁴ The first one regards delaying implementations of certain laws and procedures in joining the EU, because at the moment they would be too expensive and invasive to be introduced, thus granting a certain privilege to the new member. The enlargement of 1973 (Great Britain, Ireland and Denmark) had a character of temporary exemption.¹⁷⁵ Discrimination occurs when a joining Member State is not being granted certain privileges that normally come with accessing the EU. Enlargements of eastern European countries in 2004 and 2007 were predominantly of this nature.¹⁷⁶ Exemptions are usually given to countries that are richer, thus able to negotiate their status in the EU.¹⁷⁷ Different treatment of the joining Member States by the EU was later resulting in their different approach to any further integration process. The United Kingdom makes a perfect example.

Differentiated integration process refers to the cooperation of a small group of Member States, without the involvement of other members.¹⁷⁸ A procedure of enhanced cooperation exists within the framework of this process. Differentiated integration process include some main theoretical forms, including: core, concentric circles, variable geometry, *Europa à la carte* and multi-speed Europe.¹⁷⁹ The core revolves around the participation of one group of countries in all available kinds of cooperation, and by doing so they automatically define the “core” of Europe. Concentric circles apply to cooperation between the Member States through different entities, thus creating “circles” around the “core” of European

¹⁷² C. Closa, “Differentiated Integration and Flexibility in the EU under the Lisbon Treaty: Challenges for the Trio Presidency (ARI),” *Real Instituto Elcano ARI*, no. 77 (2010), p. 2, at <https://www.researchgate.net/publication/43601837_Differentiated_Integration_and_Flexibility_in_the_EU_under_the_Lisbon_Treaty_challenges_for_the_Trio_Presidency>, 20 June 2021.

¹⁷³ G. Martinico, “A Multi-Speed EU? An Institutional and Legal Assessment,” *Instituto Affari Internazionali Working Papers*, vol. 15, no. 48 (2015), p. 2, at <<https://www.iai.it/sites/default/files/iaiwp1548.pdf>>, 20 June 2021.

¹⁷⁴ A.K. Cianciara, “Differentiated Integration and the Future of Europe: Debate in Poland,” *Yearbook of Polish European Studies*, no. 17 (2014), p. 171, at <https://www.ce.uw.edu.pl/pliki/pw/17-2014_cianciara.pdf>, 20 June 2021.

¹⁷⁵ *Ibid.*

¹⁷⁶ *Ibid.*

¹⁷⁷ T. Winzen, F. Schimmelfennig, “Explaining Differentiation in European Union Treaties,” *European Union Politics*, vol 17, no. 4 (2016), pp. 616–618.

¹⁷⁸ C. Closa, “Differentiated Integration and Flexibility...,” p. 1.

¹⁷⁹ *Ibid.*, pp. 2–3.

cooperation. Variable geometry “is a descriptive model of the system in which, within a common integration scheme, different groups of states participate in different policies”.¹⁸⁰ *Europa à la carte* consists of a pool of different sectors of cooperation, from which every Member State can choose and use those matching their needs. *Europa à la carte* was favoured by the British Prime Minister John Major in 1994, as a way to weaken federalisation of the EU.¹⁸¹ As to concentric circles and variable geometry, they were advocated mostly by French politicians.¹⁸² Differentiated integration is definitely an innovative idea towards European integration. It revolves around considering specific needs of every Member State, which most (if not every) country appreciates. On the other hand, sceptics of this process believe it disrupts the original European process, started with the European Communities.¹⁸³ Despite this, differentiated integration process will most likely remain dominant, since every new enlargement of the EU is making it more and more difficult for the Member States to achieve unity in their decisions, concerning further cooperation in different sectors.¹⁸⁴

Apart from the concept of multi-speed Europe, there is a specific procedure, firstly initiated in the Treaty of Amsterdam, called enhanced cooperation.¹⁸⁵ Described in the Article 20 of Lisbon Treaty,¹⁸⁶ it involves at least nine Member States (at any given time) that choose one, or a few areas in which they will cooperate with each other.¹⁸⁷ Their work is still within the EU institutions, although without the involvement of other Member States. Authorisation to proceed with the enhanced cooperation is granted by the Council of the EU, on a motion from the European Commission and after obtaining the consent of the European Parliament.¹⁸⁸ It is important to note that enhanced cooperation is not tantamount to the concept of multi-speed Europe; it is a legitimate mechanism functioning within the framework of the EU.¹⁸⁹

The concept of multi-speed Europe originated at the time of the UK’s accession in 1973.¹⁹⁰ It was prominent in a speech delivered in 1974 by German Chancellor

¹⁸⁰ C. Closa, “Differentiated Integration and Flexibility...,” p. 2.

¹⁸¹ N. Groenendijk, *Enhanced Cooperation under the Lisbon Treaty*, Research Meeting on European & International Affairs 2011, Aalborg 2011, p. 7.

¹⁸² Ibid.

¹⁸³ C. Closa, “Differentiated Integration and Flexibility...,” pp. 5–6.

¹⁸⁴ Ibid., p. 6.

¹⁸⁵ *Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts*, Official Journal of the European Communities, Luxembourg 1997, p. 125, at <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A11997D%2FTXT>>:, 20 June 2021.

¹⁸⁶ *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, Official Journal of the European Union, Lisbon 2007, at <<http://data.europa.eu/eli/treaty/lis/sign>>, 20 June 2021.

¹⁸⁷ N. Groenendijk, *Enhanced Cooperation...*, p. 2.

¹⁸⁸ R. Magdin, R. Georgescu, *Report: Two- or Multi-Speed...*, p. 3.

¹⁸⁹ Ibid., p. 4.

¹⁹⁰ Ibid., p. 1.

Willy Brandt, and was further developed in the report by Belgian Prime Minister Leo Tindemans in 1976.¹⁹¹ Brandt believed that the Member States which have the same level of development and share the same plans for further cooperation should work together to achieve their goals. It stemmed from the fact that it was mutually beneficial and saved time instead of waiting for many years for other Member States to caught up with them.¹⁹² In the 1980s, Jacques Delors presented variable geometry, and challenged the notion that every Member State wants to cooperate in every sector and on the same levels of evolvement.¹⁹³ In 1994, the year of EU's crisis, German politicians Wolfgang Schauble and Karl Lamers suggested a theoretical scheme of "core Europe".¹⁹⁴ The idea of multi-speed Europe reappeared during the Eurozone crisis, in November 2011, when President Sarkozy of France mentioned it in the European Parliament.¹⁹⁵ Just a few months later, in June 2012, German Chancellor Merkel also mentioned the concept in an interview.¹⁹⁶ Despite this, some Member States (like Poland or the Czech Republic) were unconvinced and had a negative attitude towards multi-speed Europe. Mostly because they were reasonably concerned that as non-Eurozone countries, they would be pushed out of the "core" of Europe and not have as much influence in the organisation, as oppose to other Eurozone members.¹⁹⁷

The concept of multi-speed Europe has been actively supported by the so called EU's "big four," Spain, Italy, France and Germany, the Member States with biggest economies in the organisation.¹⁹⁸ All four countries are members of the Eurozone, and it is understandable that they want to cooperate with each other in order to achieve the best economic results. If they were to wait for other Member States which do not have equally strong economies, they would lose an opportunity of a quick development. Although it may not be viewed as fair for other, less privileged countries, it is indubitably the most beneficial option for the said Member States. What is more, the analysis of the Eurozone and Schengen area proves that the integration process inside them is working well.¹⁹⁹ Therefore, the countries that seem to have a negative approach to the multi-speed Europe are the same countries that, during their accession to the EU, were not given any exemptions, primarily the Visegrad Group (hereinafter: V4). It is an organisation composed of central European countries, including Poland, the Czech Republic, Slovakia and

¹⁹¹ A.K. Cianciara, "Differentiated Integration...", p. 169.

¹⁹² Ibid.

¹⁹³ Ibid., p. 170.

¹⁹⁴ Ibid.; R. Mueller, "Critical Analysis of Creative Metaphors in Political Speeches," in: G. Low, Z. Todd, A. Deignan, L. Cameron (eds.), *Researching and Applying Metaphor in the Real World*, Amsterdam 2010, p. 321.

¹⁹⁵ R. Magdin, R. Georgescu, *Report: Two- or Multi-Speed...*, p. 4.

¹⁹⁶ Ibid.

¹⁹⁷ T. Sieniow, "Geneza i rozwój...", p. 58.

¹⁹⁸ *EU's Big Four Back 'Multi-Speed' Europe*, EUobserver, 7 March 2017, at <<https://euobserver.com/news/137134>>, 20 June 2021.

¹⁹⁹ R. Magdin, R. Georgescu, *Report: Two- or Multi-speed...*, p. 6.

Hungary, which are cooperating in order to aid themselves in advancing their European integration process.²⁰⁰ However, Slovakia seems to be the only member that has a different approach towards the European unification, since it is also a member of the Eurozone. Other V4's members do not want to replace their national currency with the euro.²⁰¹ The Czech Republic's main concern towards multispeed Europe primarily regards the matter of joining the Eurozone which they are not willing to do.²⁰² When it comes to Hungary and Poland, both these countries currently have particularly tense and strained relations with the EU. The most controversial and disputed issue right now is Hungarian and Polish defiance of the rule of law. Fidesz, the Hungarian ruling political party with its leader Viktor Orbán who has been the Hungarian Prime Minister since 2010,²⁰³ voiced its negative attitude towards the "federalisation of the EU." Hungary also loudly contests some of EU's policies, especially those on accepting immigrants.²⁰⁴ Poland, with its ruling political party Law and Justice, has a similar approach towards EU's evolvement and expressed its negative attitude toward multi-speed Europe on numerous occasions.²⁰⁵ The main reason why multi-speed Europe seems to be so unpopular in the V4 stems from their fear that they will be marginalised in the EU, and therefore lose their role in the decision-making processes.²⁰⁶

The discussion on multi-speed Europe seems to be again related to the ongoing debate regarding the character of the EU, federalism vs. confederalism. More specifically, the main sources of disagreement come from the fear of some Member States that their sovereignty might be threatened by the federalisation of the EU. After the British withdrawal from the EU, the organisation should be more patient and provide the Member States with solid information on the consequences of intensifying integration. Especially, a clear message should be delivered to the Central and Eastern European Member States.

3. Brexit

Euroscepticism had its deep roots in the UK. Since the 1990s, it started winning a vast support from the British public.²⁰⁷ The formation of the United Kingdom

²⁰⁰ Visegrad Group, *About the Visegrad Group*, at <<https://www.visegradgroup.eu/about>>, 20 June 2021.

²⁰¹ EuroPolicy, *Visegrad Countries and Multispeed Europe: Perceptions, Positions, Strategies*, 2018, p. 10, at <<https://euractiv.sk/wp-content/uploads/sites/8/2018/12/EUROPOLICY-ANALYSIS-Visegrad-countries-and-multispeed-Europe1.pdf>>, 20 June 2021.

²⁰² *Ibid.*, p. 8.

²⁰³ He was also a Hungarian PM between 1998–2002.

²⁰⁴ EuroPolicy, *Visegrad countries...*, p. 10.

²⁰⁵ *Ibid.*, p. 9.

²⁰⁶ R. Magdin, R. Georgescu, *Report: Two- or Multi-Speed...*, p. 6.

²⁰⁷ A. Moskal, "The Impact of Brexit on the European Union's Future Development in the Context of European Integration," *Torun International Studies*, vol. 1, no. 11 (2018), p. 28.

Independence Party in 1993, whose main goal was to withdraw Great Britain from the EU, made it more evident.²⁰⁸ After the financial crisis of 2008, the Brexit movement enjoyed increasing recognition and grew in popularity. The promise made by David Cameron in 2013 and the victory of the Conservative Party in 2015 led to the Brexit referendum of 2016. With the process of Brexit being officially finalised in 2021, an important question remains on what the cooperation between the UK and the rest of Europe will be like in the future.

The history of Great Britain has been playing a crucial role in the country's position towards continental Europe. The UK has always been extremely protective towards its interests. Having the advantages of being situated on an island, Britain is quite effectively separated from the rest of the European continent. For the better part of its history, England was mainly preoccupied with conflicts involving its neighbours – Wales, Ireland and Scotland. After their union in 1801, they were determined to keep their borders protected more than ever.²⁰⁹ As a colonial empire, Britain was an important power in Europe. With this in mind, Britain has always kept a fair distance from the rest of the European countries. None of its alliances was long-lasting, and they were only forged for its own benefit.

Being one of the most powerful countries on the European continent since the medieval times resulted in a certain mindset of the British people. Since they have managed to remain an important state throughout the last millennium, they felt quite comfortable with their position on the continent. The most important thing for British citizens is their sovereignty, protected at all costs. It is also important to note that England managed to never lose its independence, and more or less avoid any big revolutions that might have jeopardised its existence.²¹⁰ In comparison to its biggest foe, France, whose revolution of 1789 changed the state completely, the UK remained fairly stable. It is quite astonishing that the country of that size and magnitude managed to survive almost unchanged for centuries. This is why its approach, especially to the European integration process, is not really that surprising.²¹¹ British people believe that their country's interests always come first. Although they have actively participated in cooperation with the EU, it was always due to their certainty that it was beneficial for them. The analysis of British history suggests that Brexit was a long time coming.²¹²

²⁰⁸ M. Kenny, I. McLean, A. Paun (eds.), *Governing England: English Identity and Institutions in a Changing United Kingdom*, Oxford 2018, pp. 169–177.

²⁰⁹ N. Davies, *Wyspy. Historia*, transl. by E. Tabakowska, Kraków 2012, pp. 608–617.

²¹⁰ *Ibid.*, pp. 775–776.

²¹¹ G. Mustafa, M. Hussain, M.A. Aslam, "Political and Economic Impacts of Brexit on European Union," *Liberal Arts and Social Sciences International Journal*, vol. 4, no. 2 (2020), p. 13, at <https://www.academia.edu/44202332/Political_and_Economic_Impacts_of_Brexit_on_European_Union>, 20 June 2021.

²¹² A. Glencross, "Cameron's European Legacy: How Brexit Demonstrates the Flawed Politics of Simple Solutions," in: B. Martill, U. Staiger (eds.), *Brexit and Beyond: Rethinking the Futures of Europe*, London 2018, pp. 7–8.

What seemed to be a major downfall of relations between the EU and the UK, happened in 2010, when David Cameron became the British Prime Minister. Since the beginning of his term in the office, he continuously took anti-EU decisions. This worsened relations with Germany, who thought that the UK was a threat to the integration of the organisation, especially during the crisis of the Eurozone.²¹³ In 2013, Cameron announced the possibility of a referendum concerning the UK's membership in the EU. He hoped that by threatening the EU with a possible withdrawal, he would be able to renegotiate UK's position in the EU. Cameron was in a really precarious situation. On one side, he had the Conservative Party which was promised vital changes in the EU's treaties. On the other side, he had the EU and some of its representatives that were not willing to give the UK any special treatment. However, even though the UK yet again demanded special treatment from the EU, the organisation was still quite understanding and tried its best to accommodate to British needs.²¹⁴ The main goal was to keep on working towards maintaining a steady course of further cooperation between the Member States. On 18–19 February 2016, the European Council reached an agreement,²¹⁵ according to which the UK would remain a part of the Common Market, but its national currency would be protected, as it would not be expected to join the Eurozone. Thus, the UK were to remain an important Member State having all the economic advantages but without furthering their European cooperation.²¹⁶ Cameron was confident that he satisfied the British public and fulfilled his promises. He announced that the referendum concerning UK's position in the EU will be held in accordance with his promise on 23 June 2016.

The outcome of the referendum was negative for the EU. With the general turnout of 72,3%, 51,89% of British citizens voted for Brexit.²¹⁷ The British public voted in this manner as a result of vast anti-EU campaigns in the UK. Their main argument was the financial aspect of remaining in the organisation. They falsely claimed that Great Britain paid European Union a weekly amount of 350 million pounds.²¹⁸ It was a fabricated lie which was later exposed. A lot of British people truly believed that the UK was not getting anything substantial from the EU, and it only financially supported other, smaller Member States. The EU's immigration policy was also a matter of controversy, since a vast number of immigrants came to the UK in the early 2000s.²¹⁹ The idea that Great Britain has a sudden problem

²¹³ B. Koszel et al., "Na drodze do Brexitu," *Biuletyn Instytutu Zachodniego*, no. 234 (2016), pp. 1–2, at <<https://docplayer.pl/39692245-Na-drozdze-do-brexitu-biuletyn-instytutu-zachodniego-bogdan-koszel.html>>, 20 June 2021.

²¹⁴ *Ibid.*, p. 3.

²¹⁵ *Ibid.*

²¹⁶ *Ibid.*, pp. 3–4.

²¹⁷ A. Moskal, "The Impact...", p. 29.

²¹⁸ J. Skrzydło, "Refleksje o Brexicie na tle secesji południowych stanów USA w latach 1860–1861," in: J. Barcik, M. Półtorak (eds.), *Unia Europejska w przededniu Brexitu*, Warszawa 2018, pp. 13–14.

²¹⁹ M. Kenny, I. McLean, A. Paun (eds.), *Governing England: English Identity...*, pp. 166–167.

with immigrants due to the EU is truly nonsensical. The UK, as a former colonial power had and still has a significant number of immigrants from all of their former colonies. And the fact that in the last few decades Great Britain did experience some major crises while being an active Member State, for many was seen as the EU's fault. The negative outcome wasn't just a British concern. Without Great Britain to counterbalance Germany and France in the EU, the Franco-German alliance might overtake the organisation. For other, smaller Member States, Brexit created a situation where their position in the EU became threatened.

Before the Treaty of Lisbon, leaving the EU was not legally possible. Neither the European Communities nor the European Union mentioned that possibility in their treaties. Even though leaving EU was potentially possible based on the general rules of international treaties, no state attempted to do it, so the issue remained a theoretical one. During the Lisbon Treaty reforms in the EU, a procedure for leaving it was created and introduced in article 50 of the Treaty of the European Union.²²⁰ It was simply part of the wide range of reforms in the organisation. According to article 50 of the TEU, each Member State has a right to leave the EU.²²¹ The first step is to notify the European Council, which initiates a process of negotiating an arrangement between the Member State and the EU. British announcement of leaving the EU was formally given by British PM Theresa May to the President of the European Council Donald Tusk on 20 March 2017.²²² Thus the process of Brexit was initiated. Under article 50 of the TEU, parties have a two-year time frame to negotiate the arrangement. If they fail to do so, after a certain time the EU's treaties stop applying to the leaving Member State. However, there is a possibility of that timeframe being extended by the European Council. In case of the UK, the country received three extensions.

After the resignation of David Cameron on 24 June 2016, the new British Prime Minister Theresa May was expected to withdraw the United Kingdom from the EU. At the time, a lot of faith was put in her ability to succeed. Unfortunately for her, she inherited a double edge sword from her predecessor. On one side, she had to fulfil the procedure of Brexit, but in order to do that she had to win the approval of both the government and the public. Meanwhile, negotiations on a withdrawal agreement with the EU were extremely complex and time-consuming. The British public grew restless, getting tired of being stuck in the procedure to leave the EU. In June 2019, after yet another deal was rejected, Theresa May resigned. Boris Johnson took over as British Prime Minister and promised to deliver Brexit, even without a withdrawal agreement. Soon Johnson became extremely unpopular, with the public negatively comparing him to the US President Donald Trump. However, in December 2019, the Conservative Party won parliamentary

²²⁰ *Consolidated versions of the Treaty on the European Union and the Treaty on the functioning of the European Union*, Official Journal of the European Union, Lisbon 2012, at <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:C2012/326/01>>, 20 June 2021.

²²¹ A.M. Guerra Martins, "The Impact of Brexit on the EU Constitutional Nature and on the EU Founding Treaties," *European Review of Public Law*, vol. 31, no. 1 (2019), pp. 115–117.

²²² *Ibid.*

elections. Finally, on 23 January 2020, the withdrawal agreement was reached. On 31 January 2020, the United Kingdom finally left the EU. The eleven-month transition period ended on 31 December 2020.

The Brexit decision was based on a rhetoric that British people should take back control of their borders, democracy and laws.²²³ However, the hopes that Brexit would somehow elevate UK's status in Europe become soon diminished. Leaving the EU turned out to be detrimental to British citizens. The transitional period barely ended, and soon afterwards the British realised that their lives were to become much harder, from the discontinued use some of the streaming sites to a new drop in economy. More than 60% of British firms experienced severe problems and hardship caused by Brexit.²²⁴ The EU also experienced an image crisis due to Brexit, although thankfully the quick reaction of the organisation and the support of the remaining Member States, the trust of the EU citizens in the organisation only grew.²²⁵ Long-term effects of Brexit are still unknown, although one thing which is certain is that the United Kingdom will not be fully satisfied with all the consequences.

4. White Paper on the Future of Europe

The decision of the United Kingdom to withdraw from the EU had an enormous impact on shaping the on-going discussion on the state and future of the integration of Europe.²²⁶ Rather unsurprisingly, with the initiation of the procedure of the UK's withdrawal from the EU, which is set out in article 50 TEU,²²⁷ a necessary

²²³ Ibid., pp. 117–120.

²²⁴ A. Woodcock, *Brexit Causes Difficulties for More than 60 per cent of UK Firms – Report*, The Independent, 6 May 2021, at <<https://www.independent.co.uk/news/uk/politics/brexit-trade-lse-report-problems-b1842645.html>>, 20 July 2021.

²²⁵ J. Barcz, *Od lizbońskiej...*, p. 193.

²²⁶ A. Moskal, "The Impact...", p. 30.

²²⁷ Article 50 TEU:

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

and valuable debate on Europe's future dominated a substantial part of the EU's 2017 agenda. The debate was conducted in the EU primarily by three EU bodies: the European Commission, which published its White Paper on the Future of Europe²²⁸ (hereinafter: White Paper), the Council, which contributed the most to the Rome Declaration,²²⁹ and the European Parliament, which shared its thoughts on the issue in three reports.²³⁰ The primary of these aforementioned documents was indubitably the most important one in the context of shaping European future, as it initiated a new phase with a wide set of possibilities for how the European Union could evolve in the nearest future. As a result, an unprecedented, wide-ranging debate across Europe was organised in order to engage citizens and to hear their expectations, concerns and ideas.²³¹ Thousands of EU citizens' dialogues took place in various European cities and an online consultation on the future of Europe was launched by the European Commission.²³²

The publication of the White Paper was initially announced by the President of European Commission at the time, Jean-Claude Juncker, in his State of the Union Address delivered before the Members of European Parliament in Strasbourg on 14 September 2016.²³³ Several months later, on 1 March 2017, the European Commission published its White Paper on the Future of Europe leading up to the celebration of the sixtieth anniversary of the Treaty of Rome on 25 March 2017. Not only did the anniversary mark up a highly symbolic moment in the history of the European integration but it also provided a great opportunity for raising a fruitful discussion on the EU's future and predictions on its further development. Presenting the ambitious visions of that time, and reflecting on them from an almost five-year perspective, with the COVID-19 pandemic taking over

A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

²²⁸ European Commission, *White Paper...*

²²⁹ Council of the European Union, *The Rome Declaration: Declaration of the Leaders of 27 Member States and of the European Council, the European Parliament and the European Commission*, Press Statements and Remarks, 149/17, 25 March 2017, at <<https://www.consilium.europa.eu/en/press/press-releases/2017/03/25/rome-declaration/pdf>>, 20 June 2021.

²³⁰ See, e.g., Subchapter 2 "Brexit: Challenges and Steps to Take," in: European Parliament, *The Role and Powers of the European Parliament in the Brexit Process*, 2017, at <https://www.europarl.europa.eu/RegData/etudes/IDAN/2017/602054/IPOL_IDA%282017%29602054_EN.pdf>, 20 June 2021.

²³¹ See, e.g., Subchapter 2 "Brexit: Challenges and Steps to Take," in: European Parliament, *The Role and Powers of the European Parliament in the Brexit Process*, 2017, at <https://www.europarl.europa.eu/RegData/etudes/IDAN/2017/602054/IPOL_IDA%282017%29602054_EN.pdf>, 20 June 2021.

²³² *Ibid.*

²³³ J.-C. Juncker, *State of the Union Address 2016: Towards a Better Europe – a Europe that Protects, Empowers and Defends*, Strasbourg 2016, at <<https://europa.rs/state-of-the-union-address-2016-towards-a-better-europe-a-europe-that-protects-empowers-and-defends/?lang=en>>, 20 June 2021.

Europe in the background, is an opportunity we simply could not resist in our monography.

In its 32-page document, the European Commission highlighted the crucial drivers of change over the next decade. Instead of formulating one unified vision of the future of European integration, the Commission provided five different potential scenarios of the EU by 2025 depending on how its Member States and citizens responded.²³⁴ The Commission aimed to address the highly ambitious question of what future we want for ourselves, our children and our Union.²³⁵ In order to provide a valuable and well-thought-out answer to this question, the Commission determined the most important factors of Europe's future to be, *inter alia*, the inevitable decline of European population growth, the ageing of the European population, economic transformations, globalization, terrorism, unemployment, generational inequality, development of technology and increased automatization, digitalization, crisis of democracy, lack of trust in the existing social models. Interestingly, and quite disappointingly, an expansion of the EU was not discussed in any of the scenarios.

What is vitally important in order to fully understand White Paper is embracing the fact that the five scenarios are deliberately presented as vague thought-provoking illustrations rather than detailed and ready-to-implement prescriptions. The reason is simple: the document aimed to stir a heated and open debate on Europe's future. As the European Commission noted in the Introduction, deciding on the approach to take will not be just a simplistic binary choice between more engaged or less engaged Europe, but a well-thought-out choice made from the range of various possibilities, from limiting current cooperation, to keeping a *status quo*, to developing and broadening European integration.²³⁶ The scenarios were presented in the following order: *Carrying on*, *Nothing but the single market*, *Those who want more do more*, *Doing less more efficiently*, and *Doing much more together*.

The key to fully understand White Paper is not in analysing each scenario as a separate exclusive prediction, but in treating them all as intellectual tools which help to reflect on benefits and drawbacks of various possibilities, as well as their inevitable consequences.²³⁷ Furthermore, the European Commission clearly highlighted that the five scenarios are not mutually exclusive, and they can combine and complement one another.²³⁸ The scenarios are rather short and give a vague idea about what the Europe's future may look like in 2025 if certain choices are

²³⁴ European Commission, *White Paper...*, p. 7.

²³⁵ *Ibid.*, p. 7.

²³⁶ *Ibid.*, p. 15.

²³⁷ A. Cuyvers, *Five Scenarios for Europe – Understanding the EU Commission's White Paper on the Future of Europe*, Verfassungsblog on Matters Constitutional, posted on 10 April 2017, at <<https://verfassungsblog.de/five-scenarios-for-europe-understanding-the-eu-commissions-white-paper-on-the-future-of-europe/>>, 20 June 2021.

²³⁸ European Commission, *White Paper...*, p. 15.

made. The European Commission did not show any preferences for any of the scenario or their elements, and simply left it up to the Member States and their citizens to decide which features they would like to opt for in the process of shaping EU's future.

However, in the foreword to White Paper, Juncker announced that he would present his own personal scenario on the future of Europe in his forthcoming State of the Union speech in September 2017.²³⁹ This scenario was planned to be published after a broad debate across Europe in the months after the publication of White Paper. The debate included the European Parliament, national Parliaments, local and regional authorities, and European society. Eventually, on 13 September 2017, Juncker proposed his own, alternative, ambitious vision of the EU's future development in his State of the Union Address 2017 delivered in Brussels.²⁴⁰ His additional, sixth scenario could be titled as *The Union of Freedom, Equality and Democracy*. Let us first have a glimpse at each of the six visions of the future of the European Union from 2017.

The first scenario, *Carrying on*, assumes a withdrawal of outdated legislation; intensification of activity in the single market (especially by improving the energy, transport and digital infrastructure); deepening defence cooperation in terms of research, industry and joint procurement; as well as strengthening cooperation in the management of external borders.²⁴¹ According to the European Commission, the weakest point of this scenario is the lengthy process of decision-making, which requires unanimity. This might be problematic to achieve due to different approaches of the Member States and potential conflicts of their interests, goals and needs. This vision could turn out to be detrimental to the unity of the EU. On the other hand, the benefits are seen in concrete results, which are believed to be based on a shared sense of purpose. This first scenario can be summarized as maintaining the *status quo*.

The second scenario, *Nothing but the single market*, is depicted as a huge step backward to the times when the European community was based solely on economic grounds. Unless a consensus is reached between the Member States, it predicts no cooperation in new areas. Moreover, a noticeable regress of cooperation in areas such as migration, security, defence, taxes, environment policies, and humanitarian aid could be expected in this scenario. It would essentially make the single market the main *raison d'être* of the EU27,²⁴² and the non-economic areas would remain in the individual management of the Member States. In case of a willingness to take joint measures, the interested countries would have to reach a bilateral agreement on case-by-case basis. Although the decision-making would be much simpler as it would be limited to economic areas, the *Nothing but*

²³⁹ Ibid., p. 3.

²⁴⁰ J.-C. Juncker, *State of the Union Address 2017*, announced on 13 September 2017 in Brussels, at <http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm>, 20 June 2021.

²⁴¹ European Commission, *White Paper...*, p. 16.

²⁴² Ibid., p. 18.

the single market scenario is undoubtedly the least favourable vision of European integration, and, even with Brexit happening in the background, it was evaluated as quite unrealistic and bizarre.²⁴³

The inspiration for the third scenario, *Those who want more do more*, has its origins in the discussion of a multi-speed Europe. Cooperation would be deepened but only in the areas selected by those Member States that are interested in taking common measures.²⁴⁴ Such areas could include defence, internal security, common research, joint procurement, enhanced military, and social matters. A predicted strengthened industrial cooperation is believed to result in a number of advances in technologies, products, and services.²⁴⁵ The scenario opts for a model of open and flexible cooperation, which means that any interested Member States could join the cooperating groups at any time. According to the European Commission, the Member States in the Eurozone, and possibly a few others, would introduce harmonised tax rules and would fight tax evasion together.²⁴⁶ However, there are also some evident drawbacks in this scenario. These include the fact that the process of decision-making would lose on its transparency and accountability, solidarity between the Member States would be selective, and a significant gap in rights and standard of living between EU citizens would occur. Even though the Commission assures that *the unity of the EU at 27 is preserved while further cooperation is made possible for those who want*,²⁴⁷ one could ask a question whether it would be still a unified organisation or rather a cluster of collaborating groups. Although the third scenario could be relatively easy to introduce if all the Member States agree on it, the vision of *Europe à la carte* does not seem to be in line with such EU's values and objectives as solidarity, equality, and universality of citizens' rights.

The fourth scenario, *Doing less more efficiently*, assumes that Member States would set up a minimum standard and prioritise only a limited number of areas which would be strengthened and intensively developed. Cooperation on border management, asylum and counterterrorism policies would be systematic, and the European Defence Union would be created.²⁴⁸ Thanks to a narrow focus in select areas, the EU could reach full effectiveness and innovation in them, and possibly take global leadership in those areas. The question is, however, whether the 27 Member States with different goals, needs and priorities in international policy would agree on developing the same areas in a reasonable time frame. What is worse, the areas which generate the most heated discussions are frequently the

²⁴³ M. Frassoni, *Jean-Claude Juncker's White Paper on the Future of Europe: Five Scenarios Not to Make a Choice*, European Greens, at <<https://europeangreens.eu/news/jean-claude-juncker%E2%80%99s-white-paper-future-europe-five-scenarios-not-make-choice>>, 20 June 2021.

²⁴⁴ European Commission, *White Paper...*, p. 20.

²⁴⁵ *Ibid.*

²⁴⁶ *Ibid.*

²⁴⁷ *Ibid.*

²⁴⁸ *Ibid.*, p. 23.

most sensitive ones from the citizens' perspective. For instance, they include, but are not limited to, state aid, regional development, public health, and social policies. These are vitally important areas especially for people who were not born privileged and who need societal support to develop and improve their living situation. Additionally, in the era of rapid globalisation and wide digitalisation, more and more areas are being connected to one another. In fact, international policies and strategies frequently form an interdependent system and need to be addressed together in a comprehensive manner in order to handle them effectively. If Member States somehow manage to overcome these substantial challenges, the EU would be more coherent and effective. This would also mean a significant improvement in selected industries and policies, including strengthening citizens' rights.

The last, fifth scenario presented by the European Commission in White Paper has been titled *Doing much more together*, and as the name suggests it is the most ambitious and optimistic vision from all presented. In order to successfully and quickly handle challenges that we currently face, the Member States need to share their resources and capabilities, as well as fully participate in the decision-making process across the board.²⁴⁹ Consequently, EU citizens would get more rights, a cooperation in defence and security areas would be prioritised, the single market would be completed in the fields of energy, digital technologies and services, and the Eurozone would increase by several members. The EU could present a unified approach on behalf of the Member States on all foreign policy issues and European Defence Union would be created.²⁵⁰ What is more, the EU would lead in global environmental policies and strengthen its role as the world's largest humanitarian and development aid donor.²⁵¹ Besides the obvious practical difficulties in fulfilling this ambitious vision, some Eurosceptic voices may express their concern of excessive interference by the EU in matters traditionally belonging to the national sovereignty of individual Member States.

The sixth scenario, delivered by the President of the European Commission Jean-Claude Juncker before Members of the European Parliament in Strasbourg on 13 September 2017, was preceded by numerous debates and discussion on White Paper. In less than a year, more than 300 citizens' dialogues have been organised by the European Commission across the EU.²⁵² It is worth mentioning that under the mandate of President Juncker, the Commission successfully attempted to make the decision-making process more transparent and closer to EU citizens. This open approach is mirrored in Juncker's vision, which calls for "a more united, stronger and more democratic Europe" and which prioritises

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² European Commission, *Online consultation on the Future of Europe Interim report*, December 2018, p. 5, at <https://ec.europa.eu/info/sites/info/files/online-consultation-interim-report-111218_en_0.pdf>, 20 June 2021.

strengthening the democracy and the respect for the rule of law within the EU.²⁵³ From Juncker's perspective, unity is far more preferable than multi-speed growth. Regardless of Brexit, Juncker believed that the wind is back in Europe's sails. His roadmap was supported by concrete proposals on the subjects such as trade, industry, fight against climate change, migration, investment screening and cybersecurity. Juncker's proposal included a widening of the Eurozone and Schengen zone, transnational lists in European elections, a fully-fledged European Defence Union by 2025, introducing new European Social Standards Union and implementing Industrial Policy Strategy which has just been proposed by the Commission. Moreover, Juncker also suggested a wide range of major institutional changes, including merging the positions of Presidents of the European Commission and European Council, introducing the European Minister of Economy and Finance, and establishing the European Cybersecurity Agency. In his view, introducing these changes would encourage Member States to work closer together and make the EU more unified, stronger, and transparent.

The five scenarios presented the European Commission in the White Paper and the additional sixth scenario delivered by its President raised heated debate and fundamental discussions on the future of Europe. Although they were generally well received by the EU institutions, Member States and European community, a few significant voices of criticism were raised. Even though the European Committee of the Regions agreed that the European Commission rightfully identified the key priority areas in the White Paper, the institution expressed its regrets that the Commission did not present territorial implications of the scenarios, and did not take into account the multi-level governance structure of the EU.²⁵⁴ The Economic, Social and Environmental Council noted that it was unwise of the Commission to avoid detailed discussion in the presented scenarios and that "the social and environmental dimensions of the EU are not sufficiently prominent, alongside the economic pillar of sustainable development, as central features in all of the scenarios presented."²⁵⁵ The CEEP, the European Centre of Employers and Enterprises providing Public Services and Services of general interest, remarked that the EU is not only "Brussels" and that EU citizens are the ones who should decide on the future of the EU.²⁵⁶ Further, the CEEP expressed its belief that the future of the EU could be based only on a combination of three

²⁵³ J.-C. Juncker, *State...*

²⁵⁴ European Committee of the Regions, *Resolution of the European Committee of the Regions on the European Commission White Paper on the Future of Europe — Reflections and Scenarios for the EU27 by 2025*, 11–12 May 2017, (2017/C 306/01), p. 2, at <<https://op.europa.eu/en/publication-detail/-/publication/34c8cd19-99d8-11e7-b92d-01aa75ed71a1/language-en>>, 20 June 2021.

²⁵⁵ Economic, Social and Environmental Council, *Resolution on the White Paper on the Future of Europe Presented by the European Commission*, presented by the Office in June 2017, p. 5, at <Resolution | European Economic and Social Committee (europa.eu)>, 20 June 2021.

²⁵⁶ Economic, Social and Environmental Council, *Resolution on the White Paper on the Future of Europe Presented by the European Commission*, presented by the Office in June 2017, p. 5, at <Resolution | European Economic and Social Committee (europa.eu)>, 20 June 2021.

of the scenarios – *Carrying on*, *Doing less more efficiently* and *Doing much more together*, and excluded the remaining two brought up by the Commission (*Nothing but the single market*, *Doing less more efficiently*). Interestingly, looking from the almost five-year perspective, the CEEP was not wrong to exclude scenarios 2 and 4 from its predictions of the EU nearest future. Indeed, during the last few years, the EU has not restricted its areas of cooperation, and the integration of the Member States has been slowly developing in new areas such as cybersecurity, digital economy, space law and gender equality. With a glimpse of satisfaction and a huge dose of warmth towards the European project, the Editor of the monograph also notes that her prediction that “after Brexit, the mix of the first (*Carrying on*) and third (*Those who want more do more*) scenario seems to be the most plausible and achievable given the present Member States’ attitude towards the European Union”²⁵⁷ seems to be correct. Hopefully, learning from the solidarity lesson which we are receiving through the COVID-19 pandemic and considering a rapid growth of digitalisation and globalisation, the EU will eventually move from *Carrying on* and *Those who want more do more* to *Doing much more together*.

Revisiting the six scenarios on the future of the European Union presented in 2017 turns out to be a refreshing and stimulating exercise. There are no doubts that the White Paper played an important role in boosting European morale after the Brexit referendum and depicted a useful roadmap of possibilities for the EU’s development by 2025. Not only did the EU not collapse after the withdrawal of one of the most significant Member States, but it developed a wide variety of effective and successful policies and programs in numerous fields including employment, migration, security, tax, social and environment. Even though many proposals from the White Paper have been already rejected, and surely some more will be rejected in the next few years, the key priority areas were rightly identified by the European Commission, discussed in detail by numerous institutions, and eventually some of them were addressed by the EU legislator. Although the White Paper did not provide a detailed and unified solution to the EU’s problems and challenges, it did much more – it started a lively debate on the future of Europe and pushed forward the European project through the hard times of Brexit. Consequently, the EU became stronger and handled the withdrawal of one of its most powerful members well. It also contributed to building resilience in time of crisis which is indubitably needed and well appreciated in a time of the COVID-19 pandemic.

²⁵⁷ A. Moskal, “The Impact...,” p. 34.

5. Four EU Scenarios for Governance in a Post COVID-19 World

So far, the European institutions have not released any official publications which would present their visions of European integration in the post-COVID era. However, in October 2020, the European Parliament published an interesting study on global trends in external policies titled “Four EU scenarios for governance in a post COVID-19 world. Lessons from natural resources management.”²⁵⁸ Beside obvious information on the EU’s governmental policy, valuable conclusions can be drawn from this document about the potential future shape of the EU integration. Contrary to the previously analysed scenarios presented by the European Commission in its White Paper, the four scenarios proposed by the European Parliament contain rather specific and detailed policy prescriptions instead of being just vague visions. These scenarios are based on two dichotomies: the choice between interests and values and the choice between international markets and international governments. The latter goes back to an old and fundamental dilemma whether the Member States should pursue their wish to be strategically independent while at the same time being dependent on products, services and resources from other countries to meet their economic needs.²⁵⁹ Another striking difference between these four scenarios introduced by the European Parliament and visions of future presented by the European Commission is that this time the EU legislator clearly opted for one most favourable scenario (“Strategic Autonomy”) and declared it as the most beneficial for the EU in a post-COVID world.

There are no doubts that pandemics and epidemics have been a catalyst in human history for millennia and an impulse to redesign national strategies and common policies.²⁶⁰ The COVID-19 pandemic is no exception. The first months of the coronavirus pandemic in Europe unfolded an initial period of intergovernmental and nationalistic responses around the Europe, which pushed the Member States to prioritise national interests over common values. This started to change when the EU institutions took more decisive actions to support the Member States in their fight against the coronavirus. Specifically, the recovery funds, vaccination rollout and the EU digital certificates significantly contributed to bringing the Member States closer together. However, it does not change the fact that the COVID-19 pandemic will leave the Member States with an urgent need to address their national health crisis, possible economic recession caused by lockdowns and strict restrictions, and a necessity to reevaluate their own geopolitical position on international scale. Moreover, multiple discussions have been

²⁵⁸ M. Damen, *Four EU Scenarios for Governance in a Post COVID-19 World. Lessons from Natural Resources Management*, a study conducted by Policy Department for External Relations for European Parliament, PE 639.317, October 2020.

²⁵⁹ *Ibid.*, p. 2.

²⁶⁰ C. Hadjimichalis, “An Uncertain Future for the Post-Brexit, Post-COVID-19 European Union,” *European Urban and Regional Studies*, vol. 28, no. 1 (2021), p. 12.

initiated on the issues concerning natural environment and sustainable growth. The slowdown in business caused by the pandemic gave impulse to think about the human impact on environment and adopting the post-COVID-19 economy policies to be more consistent with the Sustainable Development Goals adopted by the United Nations and the European Union's Green Deal.²⁶¹ Additionally, the COVID-19 pandemic has also brought back ethical policy dilemma on how to balance interests and ethical values.²⁶² This issue is particularly important in the EU as the global leader in promoting human rights and balancing ethical values with effective economy policies.

In order to lead the Member States in the discussion on the governance in a post COVID-19 world, the European Parliament offers a series of insights into the global trends in external policies. The four presented scenarios aim to develop forward-looking and strategic analyses which can be used as alternative ways of shaping EU future.²⁶³ With a view to provide a structural visualisation for the discussion, the scenarios are located on two axes which respond to two fundamental dilemmas: the balance between market and state and the balance between interests and ethical values.



Figure 1. Four scenarios for action and their shadow-extremes presented on p. 42 of "Four EU scenarios for governance in a post COVID-19 world. Lessons from natural resources management."

²⁶¹ M. Damen, *Four EU scenarios...*, p. 7.

²⁶² *Ibid.*

²⁶³ *Ibid.*, p. 2.

The first analysed scenario titled *Competitive Capitalism* is located in the bottom left quadrant of the graph and reflects the modern market-based economy's tendency to move all natural resources into interest driven markets.²⁶⁴ People exploit natural resources for their own advantage and sell them on regulated market either in fair and sustainable manner or with focus only on their own financial profit regardless of the damage to the natural environment. When markets operate in a moderate and fair manner they can be defined as competitive capitalism. However, when markets struggle with unfair practices, environmental damages or social injustice, "predator capitalism" can occur. The *Competitive Capitalism* scenario for the EU should be based primarily on the European Single Market with the acknowledgement that the Member States cannot provide many base and raw materials in sufficient quantities, and thus they need to import them from non-EU countries. Therefore, an open rules-based world economy, based on international trade regulations, remains highly important for the EU in the post-COVID-19 world.²⁶⁵ This requires a unified approach from all the Member States, which need to agree on their common and united position on international scale.

The second scenario titled *Strategic Autonomy* covers the bottom right quadrant, and in contrast to the previous one, it is based on international governments rather than international markets. It assumes an active role of governments in regulating the exploitation of natural resources necessary to fulfil basic human needs. In this vision, the distribution of water and land, the management of forests, food and energy security and production levels are governed by national states.²⁶⁶ The darker side of this graph is described as "imperialism," what expresses a more aggressive expansion of states which compete with each other in access to natural resources and protect their own economy. To avoid it, the EU should strengthen the dialogue between the Member States and combat disinformation from other countries. This scenario also requires intensifying defence cooperation and minimizing dependency on non-EU suppliers.²⁶⁷ The European Parliament noted that "strategic autonomy involves sensitive questions about spending, the development of strategic capabilities, inclusion of EU members that are not NATO members and, last but not least, leadership in and relations with NATO"²⁶⁸

Third scenario titled *Cooperative Governance* is also located closer to international government but in contrast to the two above-mentioned scenarios it priorities values over interests. This model recognises that natural resources are unevenly distributed around the world and countries can benefit from sharing and exchanging their commodities. This cooperative approach is characteristic for many international organisations, including the EU. The downsides can occur

²⁶⁴ Ibid., p. 42.

²⁶⁵ Ibid., p. 45.

²⁶⁶ Ibid., p. 43.

²⁶⁷ Ibid., p. 46.

²⁶⁸ Ibid.

when international organisations demand excessive financial reforms from states, people sacrifice their lives for multilateral security alliances which are not directly related to their home countries, and networks of cooperating secret services spy on their own citizens.²⁶⁹ These disruptions are named “oppressive surveillance” and represented in the darker section. The COVID-19 pandemic has put the EU’s internal cohesion into question and highlighted the existing differences between the Member States, especially in the first few months of the coronavirus’ spreading in Europe. However, the COVID-19 crisis also enabled the EU institutions to acquire additional competences and encouraged the Member States to reconsider further Europeanisation of new fields including public health. In this scenario, the EU shall fight public suspicions towards globalisation by aiming for maximum transparency and accountability, promote global governance through multilateral organisations, and avoid overregulation or measures that can be perceived as “oppressive surveillance”.²⁷⁰ This, however, requires approval and support from all the Member States and a mandate from European citizens.

The last, top left scenario, *Ethical capitalism*, assumes that private actors make attempts to counterbalance market failures by focussing on ethical behaviour of producers and consumers, even without initial government support.²⁷¹ The impact of such private value-oriented actions on market behaviour depends on the number of consumers taking them. When ethical impulses are abused by interest driven markets, “corporate delusion” can occur.²⁷² For instance, it can take form of greenwashing actions which can undermine public trust in noble initiatives. This scenario obligates the EU to support noble initiatives, possibly by integrating them in the early stages of policy-making or international negotiations which can broaden the scope of available opportunities and to increase the Member States’ acceptance of common European policies.²⁷³ However, this might be extremely difficult to achieve given that there is a visible disagreement between the Member States in whether some proposed initiatives are sustainable and worth supporting considering their national interests. Moreover, disinformation campaigns and fake news create another challenge for winning support of the Member States and their citizens.

All four scenarios have their advantages and disadvantages. When policy-makers remain in the central area of balanced actions, the benefits generally outweigh drawbacks. However, when they take more extreme approach, the unfavourable “shadow-scenarios” prevail. Therefore, policy makers should seek to choose a right mix of tools for each occasion, balancing market forces and governance, ethical values and interests.²⁷⁴ Given that national interests of the Mem-

²⁶⁹ Ibid., p. 43.

²⁷⁰ Ibid., p. 46.

²⁷¹ Ibid., p. 43.

²⁷² Ibid.

²⁷³ Ibid., p. 47.

²⁷⁴ Ibid., p. 49.

ber States differ, it will be challenging to decide on balanced joint action on the European level.

Theoretically, all four scenarios can be used to determine potential courses of action in the post COVID-19 era, both internally and in external policies of the EU. However, it is important to emphasize that in a difficult time of crisis the EU needs to remind its Member States of their shared values and common goals, and enhances its own resilience by reshoring parts of its economic activity and strengthening political cooperation between the Member States. Hence, the European Parliament points out to the *Strategic Autonomy* scenario as the “only logical for the EU to move towards in an unstable post COVID-19 world without clear leadership.” It implies that the EU and its Member States will be more willing to agree on sustainable solutions and investing in common foreign policy and defence.²⁷⁵ Not only will it empower the EU’s strategic thinking and capacity of the organisation on the international level, but also strengthen the European integration thanks to increasing transparency and accountability in order to avoid the creation of surveillance networks.²⁷⁶ The authors fully agree with the European Parliament’s final conclusions that “[n]evertheless, the EU should also keep in mind that strategic autonomy is only one possible scenario” and that “[u]sing the full palette of the four scenarios may not sound exciting, but fits EU traditions”.²⁷⁷ Although it is extremely important to remain connected to world markets and actively participate in the multilateral order in a time of crisis, the EU should not let out of its sight the common values and the key EU objectives which contribute to strengthening the cooperation between the Member States and tightening European integration.

6. Summary

Throughout its existence, the European Union has been going through a series of acute crises, which resulted in reconsidering the scope of the European integration, the willingness of the Member States to cooperate and the future shape of the EU. Although many argue that these crises have posed an existential threat to the future of the united Europe, the credibility of the European project has not been severely damaged. Contrary, the EU managed to ultimately respond effectively to the crises and adapt to turbulent times and expectations of its Member States. Throughout the years, the Member States and the European institutions have presented and argued for various and sometimes contradictory visions of European integration. The visions of the European integration have been changing and evolving intensively over last seven decades, and it is simply impossible to cover them all thoroughly in the publication of this size. Thus, the authors brushed up

²⁷⁵ Ibid., p. 51.

²⁷⁶ Ibid.

²⁷⁷ Ibid.

on the most popular ones. Specially, in this chapter, the authors shared a glimpse into never-ending debates between federalists and confederalists, heated discussions of multi-speed Europe, controversies over concepts of the core, concentric circles, variable geometry and *Europa à la carte*. Further, the origins, process and impact of Brexit were analysed to provide a theoretical background for the European Commission's post-Brexit scenarios for the future of Europe. They were later contrasted with recent European Parliament's four scenarios for governance in a post COVID-19 world.

In a turbulent time of crisis caused by the COVID-19 pandemic, it is extremely important to provide alternative roadmaps for both internal and external policies of the EU. The European Parliament's publication not only presented various visions for potential courses of action in the post COVID-19 era, but also reminded the Member States of their shared values and common objectives. This should give an impulse to strengthening political cooperation between the Member States and tightening European integration.

SZYMON PAZERA

III. The Outbreak of the COVID-19 in Europe

1. COVID-19

According to the European Centre for Disease Prevention and Control (herein-after: ECDC), the first public information on a suspicious disease in the People's Republic of China was published on 31 December 2019.²⁷⁸ On that day, the Wuhan Municipal Health Commission in Wuhan City, Hubei province, China, reported a cluster of pneumonia cases (including seven severe cases). It was linked to Wuhan's Huanan Seafood Wholesale Market, a wholesale fish and live animal market.²⁷⁹ In the People's Republic of China this information caused a public panic and outrage. The citizens feared that the government was hiding from them another virus similar to SARS, which caused 2002–2003 epidemic. In the middle of January 2020, Jinping Xi, General Secretary of the Chinese Communist Party and China's political leader, suddenly disappeared from the public eye and vanished from Chinese media outlets. By the end of January, the object of blame in Chinese media shifted. Top officials and media outlets started questioning why Wuhan failed to inform the public sooner and considered possible repercussions for local governments.²⁸⁰

The earliest date of onset of symptoms was 1 December 2019. The patients' symptoms included fever, malaise, dry cough and dyspnoea. Due to the symptomatology of these patients, they were initially diagnosed with pneumonia.²⁸¹

²⁷⁸ European Centre for Disease Prevention and Control, *Timeline of ECDC's Response to COVID-19*, at <<https://www.ecdc.europa.eu/en/covid-19/timeline-ecdc-response>>, 20 June 2021.

²⁷⁹ Wuhan City Health Committee (WCHC), *Wuhan Municipal Health and Health Commission's briefing on the current pneumonia epidemic situation in our city*, at <https://epaper.hubeidaily.net/pc/content/202001/01/content_15040.html>, 20 June 2021.

²⁸⁰ *China Covid-19: How State Media and Censorship Took on Coronavirus*, BBC, 29 December 2020, at <<https://www.bbc.co.uk/news/world-asia-china-55355401>>, 20 June 2021.

²⁸¹ Y.-C. Liu, R.-L. Kuo, S.-R. Shih, "COVID-19: The First Documented Coronavirus Pandemic in History," *Biomedical Journal*, vol. 43, no. 4 (2020), p. 328.

It is assumed that the Chinese Centre for Disease Control and Prevention (hereinafter: CDC) quickly realized that it was a new type of coronavirus and the first viral sequence of the pathogen has been deposited into GenBank and made public on 26 December 2019,²⁸² Initially, the linkage between the first patients and their recent visits to the Wuhan's Huanan Seafood Wholesale Market suggested a zoonotic origin of the virus. The fact that bats are hosts to coronaviruses that are phylogenetically close to SARS-CoV-2 made it even more plausible.²⁸³ According to Yen-Chin Liu's, Rei-Lin Kuo's and Shin-Ru Shih's study, the spike glycoprotein of SARS-CoV-2 binds to angiotensin-converting enzyme 2 in humans and Chinese horseshoe bats and civets for cell entry.²⁸⁴ In fact, they believed that Chinese horseshoe bats are the natural host of the virus while the intermediate host (the one who transferred coronavirus from the natural host to humans) may be pangolin. They stated that human coronavirus strains usually cause mild upper respiratory-track infections (such as a common cold) but SARS-CoV-2 (much like SARS-CoV which caused an epidemic in China in 2002–2003 and MERS-CoV responsible for the outbreak in Middle East in 2012) can cause severe acute respiratory syndrome and result in life-threatening disease.²⁸⁵

On 9 January 2020, the CDC reported that a new type of coronavirus was detected and caused 15 cases of pneumonia.²⁸⁶ Whole-genome sequencing revealed that the causative agent behind what was first diagnosed as pneumonia was a novel coronavirus.²⁸⁷ It was described as SARS-CoV-2 which stands for severe acute respiratory syndrome coronavirus 2. It was officially named by the International Committee on Taxonomy of Viruses based on a phylogenetic analysis.²⁸⁸ COVID-19 is a disease caused by the SARS-CoV-2 virus.²⁸⁹ Surprisingly quickly, on 9 January, the ECDC issued a publication titled "Threat Assessment Brief: Pneumonia cases possibly associated with a novel coronavirus in Wuhan, China," which stated that there were no cases detected outside of the People's Republic of China and the virus' likelihood of introduction to the European Union is "considered to be low but cannot be excluded."²⁹⁰ On 17 January, the ECDC published another report titled "Rapid Risk Assessment: Cluster of pneumonia cases

²⁸² C. Wang et al., "COVID-19 in Early 2021: Current Status and Looking Forward," *Signal Transduction and Targeted Therapy*, vol. 6, 2020, p. 1.

²⁸³ *Ibid.*, pp. 1–2.

²⁸⁴ Y.-C. Liu, R.-L. Kuo, S.-R. Shih, "COVID-19...", p. 330.

²⁸⁵ *Ibid.*, pp. 329–331.

²⁸⁶ *Experts Claim That a New Coronavirus is Identified in Wuhan*, Xinhua News Agency, 9 January 2020, at <http://www.xinhuanet.com/2020-01/09/c_1125438971.htm>, 20 June 2021.

²⁸⁷ Y.-C. Liu, R.-L. Kuo, S.-R. Shih, "COVID-19...", p. 331.

²⁸⁸ *Ibid.*

²⁸⁹ K. Goniewicz et al., "Current Response and Management Decisions of the European Union to the COVID-19 Outbreak: A Review," *Sustainability*, vol. 12, no. 9 (2020), p. 2.

²⁹⁰ European Centre for Disease Prevention and Control, *Threat Assessment Brief: Pneumonia Cases Possibly Associated with a Novel Coronavirus in Wuhan, China*, 9 January 2020, at <<https://www.ecdc.europa.eu/en/publications-data/pneumonia-cases-possibly-associated-novel-coronavirus-wuhan-china>>, 20 June 2021.

caused by a novel coronavirus, Wuhan, China, 2020”.²⁹¹ It revealed that there were 41 pneumonia cases caused by a novel 2019-nCoV virus in the area of Wuhan and only three travel-related cases, in Thailand and Japan at that time. It further assessed that “likelihood of infection for travellers visiting Wuhan, but not visiting these markets, is considered low” and “the assessed likelihood of further spread in the community setting within the EU/EEA is very low, but the risk cannot be excluded”.²⁹²

It is worth mentioning that on 17 January 2020 the Health Security Committee of the European Commission’s Directorate-General for Health and Food Safety had its first meeting in regard to the new virus. The United Kingdom noted that “the situation is being monitored by Public Health England” and they have briefed their health workers on the situation. France took more extensive measures and sent an alert message to its medical services at the airports, health care workers, health facilities and general practitioners and all flights between Wuhan and France were providing their passengers audio messages about the threat. No other country that was present at the meeting spoke out about taken precautions.²⁹³

On 30 January 2020, the World Health Organization (hereinafter: WHO) declared the outbreak of the novel coronavirus “a public health emergency of international concern”.²⁹⁴ On 11 March 2020, the Director General of the WHO declared COVID-19 a “global pandemic”.²⁹⁵ In its report of “the WHO-China Joint Mission²⁹⁶ on Coronavirus Disease 2019 (COVID-19)” which was published on 28 February 2020,²⁹⁷ the WHO claimed that the first samples of the virus were acquired and deposited in GenBank on 30 December 2019. However, there are other sources which indicate that they were first acquired a few days earlier, on 26 December 2019.²⁹⁸ After SARS-CoV-2 epidemic in China in 2002 and 2003, the WHO issued a report which stated that while the direct cause of that epidemic is

²⁹¹ Ibid.

²⁹² Ibid.

²⁹³ The European Commission, *Audio Meeting of the Health Security Committee – 17 January 2020. Public Flash Report the Cluster of Pneumonia Cases Associated with Novel Coronavirus in Wuhan, China*, at <https://ec.europa.eu/health/sites/default/files/preparedness_response/docs/ev_20200117_sr_en.pdf>, 20 June 2021.

²⁹⁴ World Health Organization, *Statement on the Second Meeting of the International Health Regulations (2005) Emergency Committee Regarding the Outbreak of Novel Coronavirus (2019-nCoV)*, 30 January 2020, at <[https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-\(2019-ncov\)](https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov))>, 20 June 2021.

²⁹⁵ World Health Organization, *Director-General’s Opening Remarks at the Media Briefing on COVID-19*, 11 March 2020, at <<https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>>, 20 June 2021.

²⁹⁶ The WHO-China joint mission of 25 national and international experts was held from 16–24 February 2020 and was led by dr. Bruce Aylward of WHO and dr. Wannian Liang of PRC.

²⁹⁷ World Health Organization, *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*, 28 February 2020, at <[https://www.who.int/publications/i/item/report-of-the-who-china-joint-mission-on-coronavirus-disease-2019-\(covid-19\)](https://www.who.int/publications/i/item/report-of-the-who-china-joint-mission-on-coronavirus-disease-2019-(covid-19))>, 20 June 2021.

²⁹⁸ C. Wang et al., “COVID-19...”, p. 1.

unknown, it is highly possible that the virus was carried out of the National Institute of Virology in Beijing, where scientists conducted experiments using live and inactivated SARS.²⁹⁹ In this report, the WHO warned that new cases involving coronavirus that were laboratory-associated were possible and that biosafety practices of institutions and laboratories (especially those working with SARS coronavirus) should be reviewed.³⁰⁰

2. European Union's Competences and Actions

The EU's political system as a multilayer decision-making system with the ability to act supra-nationally, internationally, multilaterally and transnationally is potentially well suited to manage a global health crisis as well as ensuing economic and security crises, but good leadership and solidarity of the Member States play a pivotal part in it.³⁰¹ In the time of the rise of nationalist movements in several Member States it is easier said than done,³⁰² and the pandemic exposed many weaknesses of the EU as an international organization based on effective cooperation of its Member States.³⁰³ However, what started off as intergovernmental and nationalistic approach of the Member States to the crisis, ended in adopting blended and patchwork-like integrative and collective solutions.³⁰⁴ It is also crucial to understand that the European Union is not equipped or legally competent to be responsible for delivering health care, or to address differences in delivering health care to its citizens between the Member States.³⁰⁵ This subchapter aims to consider the EU's role and legal competence in relation to health so that its actions taken in response to the pandemic and their limitations could be fully understood.

Article 168 of the Treaty on the Functioning of the EU (hereinafter: TFEU) limits EU's competence in relation to public health. However, as it is quite typical for the EU, a right for autonomous interpretation and implementation of European legal provisions is very wide. According to article 168(7) TFEU, all Member States retain their sovereignty in both organization and delivery of health services and medical care, and the EU is obligated to respect that sovereignty.³⁰⁶ When analysing EU's actions toward the pandemic, it is also important to look at article

²⁹⁹ World Health Organization, *China's Latest SARS Outbreak Has Been Contained, but Biosafety Concerns Remain – Update 7*, at <https://www.who.int/emergencies/disease-outbreak-news/item/2004_05_18a-en>, 20 June 2021.

³⁰⁰ Ibid.

³⁰¹ R. Roloff, "COVID-19 and No One's World, Connections," *The Security Impacts of the COVID-19 Pandemic*, vol. 19, no. 2 (2020), p. 29.

³⁰² Ibid.

³⁰³ E. Brooks, R. Geyer, "The Development of EU Health Policy and the Covid-19 Pandemic: Trends and Implications," *Journal of European Integration*, vol. 42, no. 8 (2020), p. 1060.

³⁰⁴ Ibid., p. 1061.

³⁰⁵ D. Townsend et al., "What is the Role of the European Union in the Covid-19 Pandemic?," *Medicine and Law*, vol. 39, no. 2 (2020), p. 252.

³⁰⁶ Ibid., p. 252.

35 of the Charter of Fundamental Rights of the EU. Article 168 TFEU³⁰⁷ and article 35 of the Charter³⁰⁸ imply that the EU has no competence to centralize the

³⁰⁷ Article 168 TFEU:

1. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

Union action, which shall complement national policies, shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education, and monitoring, early warning of and combating serious cross-border threats to health.

The Union shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.

2. The Union shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action. It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.

Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. By way of derogation from Article 2(5) and Article 6(a) and in accordance with Article 4(2)(k) the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, shall contribute to the achievement of the objectives referred to in this Article through adopting in order to meet common safety concerns:

(a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures; (b) measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health; (c) measures setting high standards of quality and safety for medicinal products and devices for medical use.

5. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, may also adopt incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, measures concerning monitoring, early warning of and combating serious cross-border threats to health, and measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States.

6. The Council, on a proposal from the Commission, may also adopt recommendations for the purposes set out in this Article.

7. Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. The responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.

³⁰⁸ Article 35 of the Charter of Fundamental Rights of the European Union: *Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the*

response to a pandemic. The EU is not able to command the Member States' healthcare infrastructure, take precautions and introduce restrictions. Its role is basically limited to encouraging cooperation between the Member States³⁰⁹ and promote health. Most importantly, the EU is not responsible for implementing major legislation or centralize frontline healthcare provisions.³¹⁰ Whatever the newly implemented national policies are, the EU cannot directly challenge them. It only possesses soft-law mechanisms, such as guidelines, recommendations and health promotions.³¹¹ This largely explains the limited scope of EU's response, which is extensively analysed and critiqued in following subchapters and chapters.

In response to the cross-sectoral and complex crisis that the pandemic is, on 28 January 2020 the EU Council activated the Integrated Political Crisis Response Mechanism (hereinafter: IPCR).³¹² IPCR is supposed to enable more flexible communication and a timely and effective decision-making. However, the main responsibility lays in the hands of the Permanent Representatives Committee (which acts as a representative of the Member States). It allows the Member States to receive unrestricted access to reports from the European Commission and the European External Action Service through a dedicated secure web platform. Furthermore, the European Commission and the EU Council are responsible for communication and coordination among national health and interior ministries.³¹³ During video conference meetings, which were held on March 17 and 26 March 2020, EU leaders decided to focus their response to COVID-19 on public health, travel and transportation, research and innovations, economy, crisis management and solidarity, and education. They also confirmed a need to implement restrictions on free movement of persons within the EU.³¹⁴ Personal Protective Equipment was to be purchased through the civil protection framework that was coordinated by the European Commission and financed from the EU funds (in fact, by mid-2020, the EU allocated 4.5 billion euro to support public health measures³¹⁵). Additionally, they pointed out to a need for a coordinated and transparent process of sharing and supporting any developments in research amongst all the supporting

conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.

³⁰⁹ Article 168 TFEU.

³¹⁰ D. Townsend et al., "What is the Role...", p. 252.

³¹¹ *Ibid.*, p. 253.

³¹² K. Goniewicz et al., "Current Response...", p. 4.

³¹³ *Ibid.*

³¹⁴ European Council, *Conclusions by the President of the European Council Following the Video Conference with Members of the European Council on COVID-19*, at <<https://www.consilium.europa.eu/en/press/press-releases/2020/03/17/conclusions-by-the-president-of-the-european-council-following-the-video-conference-with-members-of-the-european-council-on-covid-19/>>, 20 June 2021.

³¹⁵ J. Wise, "Covid-19: EU Has Lessons to Learn From Early Response to Pandemic, Say Auditors," *BMJ*, vol. 372, no. 173 (2021), p. 1.

Advisory Groups on coronavirus.³¹⁶ In order to counter disinformation on the virus with transparent, timely, and fact-based communication, the European External Action Service set out to debunk fake news and make sure that European citizens are well informed. The EEAS has been publishing reports (for example, *Short Assessment of Narratives and Disinformation Around the COVID-19 Pandemic*³¹⁷). The ECDC's continuous reports on risk assessment also aim to support the Member States and the European Commission in their preparedness and response to a severe public health threat that COVID-19 is.³¹⁸ It is important to emphasize that the Member States have obligations to provide information to the ECDC on relevant technical and scientific issues, which is further delivered to the Community network via the early warning and response network. Furthermore, it is also the Member States' responsibility to identify "recognized competent bodies and public health experts" whose work could contribute to ongoing projects conducted by the ECDC.³¹⁹

On 8 April 2020, the ECDC released its opinion on the use of face masks in public by individuals who are not ill to reduce potential pre-symptomatic or asymptomatic transmission of COVID-19. It has been published in 26 languages.³²⁰ On 14 April, the European Commission and the President of the European Council published "A European roadmap to lifting coronavirus containment measures."³²¹ It was not until 13 May that the European Commission published guidelines and recommendations that aimed to help the Member States gradually lift travel restrictions. Under articles 45 and 52 of the Charter of Fundamental Rights of the European Union, free movement of persons is a right of all EU citizens. It can be limited by a Member State only if it is necessary for protection of the rights and freedoms of others. This means that the temporary closures of the Member States' borders was against article 45, and whether or not they had the right to close their borders under article 52 may be put in question.³²² After all, according to the European Commission, "the reintroduction of border control at the internal borders must be applied as a last resort measure, in exceptional

³¹⁶ K. Goniewicz et al., "Current Response...", p. 3.

³¹⁷ EEAS, *Short Assessment of Narratives and Disinformation Around the COVID-19 Pandemic*, updated on December 2020 – April 2021, 28 April 2021, at <<https://www.euneighbours.eu/sites/default/files/publications/2021-05/EEAS-Special-Report-Covid-19-vaccine-related-disinformation-6.pdf>>, 20 June 2021.

³¹⁸ ECDC, *Outbreak of Novel Coronavirus Disease 2019 (COVID-19): Increased Transmission Globally – Fifth Update*, at <<https://www.ecdc.europa.eu/sites/default/files/documents/RRA-outbreak-novel-coronavirus-disease-2019-increase-transmission-globally-COVID-19.pdf>>, 20 June 2021.

³¹⁹ Article 4 of the Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control.

³²⁰ ECDC, *Timeline of ECDC's response to COVID-19*, at <<https://www.ecdc.europa.eu/en/covid-19/timeline-ecdc-response>>, 20 June 2021.

³²¹ *Ibid.*

³²² E. Berry, M.J. Homewood, B. Bogusz, *Complete EU Law Text, Cases, and Materials*, Oxford 2019, p. 522.

situations, and must respect the principle of proportionality.”³²³ During the time of the travel restrictions, the EU continuously pressed the Member States to allow cross-border workers to commute to their workplaces as well as to allow movement of healthcare professionals and seasonal workers.³²⁴ Eight days after the publication of the roadmap, the EU Aviation Safety Agency and the ECDC jointly published guidance for the management of airline passengers in relation to the COVID-19 pandemic.³²⁵

On 26 October 2020, the ECDC published its report “Key aspects regarding the introduction and prioritization of COVID-19 vaccination in the EU/EEA and the UK.” At the time there were no vaccines available yet, so it is a good example of an EU institution getting ahead of potential challenges (like developing national vaccination strategies) that Member States may face.³²⁶ On 23 November, the ECDC published updated projects of COVID-19 in which they foresaw that if more than a half of the EU/EEA Member States were to keep the measures that were in place in November until the end of December, they would observe a reduction of more than 50% in the daily number of confirmed cases.³²⁷ The report points out that making any projections is difficult due to the Member States enacting new measures and policies individually.³²⁸ Between 2 December 2020 and 3 February 2021, the ECDC published four reports on national vaccination implementation strategies. On 1 February 2021, the ECDC launched an interactive dashboard that provides “live” information on the progress of vaccination efforts across the EU/EEA.³²⁹

On 23 April 2020, EU leaders endorsed a 540 billion euro package of three safety nets for workers, businesses and Member States. The package consists of 100 billion euro to mitigate unemployment risks in an emergency, 200 billion euro to guarantee fund for loans to companies and 240 billion euro for European Stability Mechanism for pandemic crisis support for the Member States. The EU also took action to redirect funds to further help the Member States through “€37 billion from structural funds to support EU countries and their citizens in their fight against the outbreak,” “up to €800 million through the EU Solidarity Fund, which has been amended to provide support to member states affected by public health

³²³ European Commission, *Migration and Home Affairs, Temporary Reintroduction of Border Control*, at <https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en>, 20 June 2021.

³²⁴ E. Townsend et al., “What is the Role...,” p. 255.

³²⁵ ECDC, *Timeline...*

³²⁶ ECDC, *Key Aspects Regarding the Introduction and Prioritisation of COVID-19 Vaccination in the EU/EEA and the UK*, 26 October 2020, at <<https://www.ecdc.europa.eu/en/publications-data/key-aspects-regarding-introduction-and-prioritisation-covid-19-vaccination>>, 20 June 2021.

³²⁷ ECDC, *Updated Projections Of COVID-19 In The EU/EEA And The UK*, 23 November 2020, at <<https://www.ecdc.europa.eu/sites/default/files/documents/covid-forecasts-modelling-november-2020.pdf>>, 20 June 2021.

³²⁸ Ibid.

³²⁹ Ibid.; ECDC, *Timeline...*

crises like the one caused by COVID-19” and unlocked “additional €3.1 billion from the 2020 budget to respond to the COVID-19 crisis”³³⁰

In a table below, the authors gathered dates of initial occurrences of the first confirmed COVID-19 cases in all Member States and the UK. They are listed in an alphabetical order. The United Kingdom has been included because when the pandemic began, the United Kingdom was still a part of the EU.³³¹ The first COVID-19 cases in the EU were confirmed on 24 January 2020 in Bordeaux, in France, and then two others in Paris, and had onset of symptoms on 17, 19 and 23 January 2020 respectively.³³² The virus quickly spread in Europe and was identified in other Member States. The second Member State which reported the COVID-19 cases on 28 January 2021 was Germany. The United Kingdom and Finland confirmed their first cases on 29 January 2020.³³³ Within two months all Member States were affected by the virus. The first death, which was related to the COVID-19, occurred in France on 15 February 2020.

Table 1: First cases of COVID-19 in each Member State³³⁴

Country	Date of the first reported COVID-19 case
Austria	25 February 2020 ³³⁵
Belgium	3 February 2020 ³³⁶
Bulgaria	8 March 2020 ³³⁷

³³⁰ KPMG, *European Union. Government and institution measures in response to COVID-19*, at <<https://home.kpmg/xx/en/home/insights/2020/04/european-union-government-and-institution-measures-in-response-to-covid.html>>, 20 June 2021.

³³¹ EUR-Lex, *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, at <[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12019W%2FTXT\(02\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12019W%2FTXT(02))>, 20 June 2021.

³³² S.B. Stoecklin et al., “First Cases of Coronavirus Disease 2019 (COVID-19) in France: Surveillance, Investigations and Control Measures,” *Euro Surveill*, vol. 25, no. 6 (2020).

³³³ Bayerisches Staatsministerium für Gesundheit und Pflege, *Bestätigter Coronavirus-Fall in Bayern – Infektionsschutzmaßnahmen laufen*, at <<https://www.stmgp.bayern.de/presse/bestae-tigter-coronavirus-fall-in-bayern-infektionsschutzmassnahmen-laufen>>, 20 June 2021.

³³⁴ For more information on each case (age, gender, symptoms etc.) see: J. Liu, S. Liu, “Epidemiology, Clinical Characteristics of the First Cases of COVID-19,” *European Journal of Clinical Investigation*, vol. 50, no. 10 (2020).

³³⁵ P. Czarny, “Ograniczenia praw i wolności w okresie pandemii COVID-19 w Republice Austrii [Restrictions on the Exercise of Freedoms and Rights during the COVID-19 Pandemic in the Republic of Austria], in: K. Dobrzaniecki, B. Przywora (eds.), *Ograniczenia praw i wolności w okresie pandemii COVID-19 na tle porównawczym. Pierwsze doświadczenia*, Warszawa 2021, p. 12.

³³⁶ A. Krzynówek-Arndt, “Ograniczenia praw i wolności w okresie pandemii COVID-19 w Królestwie Belgii” [Restrictions on the Exercise of Freedoms and Rights during the COVID-19 Pandemic in the Kingdom of Belgium], in: K. Dobrzaniecki, B. Przywora (eds.), *Ograniczenia praw i wolności...*, p. 32.

³³⁷ *Bulgaria: Government Confirms First Cases of COVID-19 March 8*, GardaWorld, at <<https://www.garda.com/crisis24/news-alerts/320616/bulgaria-government-confirms-first-cases-of-covid-19-march-8>>, 20 June 2021.

Croatia	25 February 2020 ³³⁸
Cyprus	9 March 2020 ³³⁹
Czech Republic	1 March 2020 ³⁴⁰
Denmark	27 February 2020 ³⁴¹
Estonia	27 February 2020 ³⁴²
Finland	29 January 2020 ³⁴³
France	24 January 2020 ³⁴⁴
Germany	28 January 2020 ³⁴⁵
Greece	28 February 2020 ³⁴⁶
Hungary	4 March 2020 ³⁴⁷
Ireland	26 February 2020 ³⁴⁸
Italy	30 January 2020 ³⁴⁹ 20 February 2020 ³⁵⁰
Latvia	2 March 2020 ³⁵¹

³³⁸ *Croatia Reports First Confirmed Coronavirus Case in Balkans*, Medical Express, at <<https://medicalxpress.com/news/2020-02-croatia-coronavirus-case-balkans.html>>, 20 June 2021.

³³⁹ *Coronavirus: Timeline of the Covid-19 Outbreak in Cyprus*, CyprusMail, at <<https://cyprus-mail.com/2020/12/30/coronavirus-timeline-of-the-covid-19-outbreak-in-cyprus/>>, 20 June 2021.

³⁴⁰ *Czech Republic Reports First Cases of Coronavirus*, Reuters, at <<https://www.reuters.com/article/us-china-health-czech-idUSKBN20O1XK>>, 20 June 2021.

³⁴¹ *Denmark: Health Minister Confirms First COVID-19 Case February 27*, GardaWorld, at <<https://www.garda.com/crisis24/news-alerts/318031/denmark-health-minister-confirms-first-covid-19-case-february-27-update-1>>, 20 June 2021.

³⁴² *First Coronavirus Case Found in Estonia*, ERR, at <<https://news.err.ee/1057196/first-coronavirus-case-found-in-estonia>>, 20 June 2021.

³⁴³ *Finland Confirms Its First Coronavirus Case*, Reuters, at <<https://www.reuters.com/article/us-china-health-finland-idUSKBN1ZS27O>>, 20 June 2021.

³⁴⁴ *Epidémie de coronavirus Covid-19 au départ de Wuhan, Chine*, Santé publique France, at <<https://www.santepubliquefrance.fr/dossiers/coronavirus-covid-19>>, 20 June 2021.

³⁴⁵ *Bayerisches Staatsministerium für Gesundheit und Pflege, Bestätigter Coronavirus-Fall in Bayern – Infektionsschutzmaßnahmen laufen*, at <<https://www.stmgp.bayern.de/presse/bestae-tigter-coronavirus-fall-in-bayern-infektionsschutzmassnahmen-laufen>>, 20 June 2021.

³⁴⁶ *Greece: Government Confirms First COVID-19 Case February 26*, GardaWorld, at <<https://www.garda.com/crisis24/news-alerts/317701/greece-government-confirms-first-covid-19-case-february-26>>, 20 June 2021.

³⁴⁷ *Hungary Confirms First Two Coronavirus Cases*, Reuters, at <<https://www.reuters.com/article/us-health-coronavirus-hungary-idUSKBN20R2RA>>, 20 June 2021.

³⁴⁸ V. Perumal, T. Curran, M. Hunter, *First Case of Covid-19 in Ireland*, at <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7576383/>>, 20 June 2021.

³⁴⁹ A couple of Chinese tourists visiting Rome. G. Apolone et al., “Unexpected Detection of SARS-Cov-2 Antibodies in The Prepandemic Period in Italy,” *Tumori Journal*, 2020, pp. 1–6.

³⁵⁰ Ibid.

³⁵¹ *Latvia: Country Confirms Its First COVID-19 Case March 2*, GardaWorld, at <<https://www.garda.com/fr/crisis24/alertes-de-securite/319196/latvia-country-confirms-its-first-covid-19-case-march-2>>, 20 June 2021.

³⁵² *First Coronavirus Case Confirmed in Lithuania*, My Government, at <<https://lrv.lt/en/news/first-coronavirus-case-confirmed-in-lithuania>>, 20 June 2021.

Lithuania	28 February 2020 ³⁵²
Luxembourg	29 February 2020 ³⁵³
Malta	7 March 2020 ³⁵⁴
Netherlands	28 February 2020 ³⁵⁵
Poland	4 March 2020 ³⁵⁶
Portugal	2 March 2020 ³⁵⁷
Romania	26 February 2020 ³⁵⁸
Slovakia	6 March 2020 ³⁵⁹
Slovenia	4 March 2020 ³⁶⁰
Spain	31 January 2020 ³⁶¹
Sweden	31 January 2020 ³⁶²
United Kingdom	29 January 2020 ³⁶³ The new mutation strain known as VUI-202012/01: December 202 ³⁶⁴

Source: Created for the purpose of this research.

³⁵² *First Coronavirus Case Confirmed in Lithuania*, My Government, at <<https://lrv.lt/en/news/first-coronavirus-case-confirmed-in-lithuania>>, 20 June 2021.

³⁵³ *Luxembourg Reports First Coronavirus Case, linked to Italy*, Medical Express, at <<https://medicalxpress.com/news/2020-02-luxembourg-coronavirus-case-linked-italy.html>>, 20 June 2021.

³⁵⁴ S. Micallef et al., *The First Wave of COVID-19 in Malta: A National Cross-Sectional Study*, at <<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0239389>>, 20 June 2021.

³⁵⁵ A. Asiran, *Netherlands Announces First Coronavirus Case*, Anadolu Agency, at <<https://www.aa.com.tr/en/europe/netherlands-announces-first-coronavirus-case/1747688>>, 20 June 2021.

³⁵⁶ *Poland: First Case of COVID-19 Confirmed March 4*, GardaWorld, at <<https://www.garda.com/crisis24/news-alerts/319811/poland-first-case-of-covid-19-confirmed-march-4-update-1>>, 20 June 2021.

³⁵⁷ *Portugal Registers First Two Cases of Coronavirus: Health Minister*, Reuters, at <<https://www.reuters.com/article/us-health-coronavirus-portugal-idUSKBN20P1BB>>, 20 June 2021.

³⁵⁸ *Romania Detects First Virus Case after Man Has Contact with Italian Visitor*, RFE/RL Romania, at <<https://www.rferl.org/a/romania-finds-first-coronavirus-covid-19-case-contact-with-italian/30457117.html>>, 20 June 2021.

³⁵⁹ *Slovakia: Government Confirms First Case of COVID-19, Suspends All Flights to Italy March 6*, GardaWorld, at <<https://www.garda.com/crisis24/news-alerts/320366/slovakia-government-confirms-first-case-of-covid-19-suspends-all-flights-to-italy-march-6>>, 20 June 2021.

³⁶⁰ *Slovenia Confirms First Case of Coronavirus: Health Minister*, Reuters, at <<https://www.reuters.com/article/us-health-coronavirus-slovenia-idUSKBN20R33X>>, 20 June 2021.

³⁶¹ J. Henriquez et al., "The First Months of The COVID-19 Pandemic in Spain," *Health Policy Technology*, vol. 9, no. 4 (2020), pp. 560–574.

³⁶² L. Roden, *First Case of Coronavirus in Sweden Confirmed*, Sverige Radio, at <<https://sverigesradio.se/artikel/7398979>>, 20 June 2021.

³⁶³ O. Wright, *Coronavirus: How the UK Dealt with Its First Covid Case*, at <<https://www.bbc.co.uk/news/uk-england-55622386>>, 20 June 2021.

³⁶⁴ S. Law, A. Wingnang Leung, C. Xu, "COVID-19 Mutation in the United Kingdom," *Microbes and Infectious Diseases*, vol. 2, no. 2 (2020), p. 187.

Contrary to the ECDC's reports, National Cancer Institute of the Italian city of Milan claims that its study shows cases of COVID-19 as early as in September 2019,³⁶⁵ even despite the fact that Italy first detected cases of COVID-19 in Rome on 30 January 2020 (two tourists in Rome), and its first official COVID-19 patient was detected on 20 February 2020 in Lombardy.³⁶⁶ According to the Italian researchers, 11,6% of 959 healthy volunteers that enrolled in a lung cancer screening trial between September 2019 and March 2020, had developed coronavirus antibodies. Further research conducted by the University of Siena proved that four cases must have contracted the virus in September 2019.³⁶⁷ According to Giovanni Apolone, the co-author of the study, those patients had no symptoms and only found out about being infected from the study.³⁶⁸

Another surprising finding came from France, where samples from 24 patients tested negative for flu in December and in early January were retested because of demonstrated symptoms of COVID-19. According to the results, the first case of the COVID-19 could be traced back to 27 December 2019.³⁶⁹ Groupe Hospitalier Paris Seine in Saint-Denis confirmed these findings, and contacted the patient. As it turned out, he could have contracted the virus from his wife who had contact with Chinese co-workers from a sushi stand at a supermarket near an airport visited by many departing travellers,³⁷⁰ and could potentially be the "patient zero." However, this information has not been officially confirmed yet.³⁷¹

The first clusters of COVID-19 cases were located in Italy, specifically in the region of Lombardy, where in February up to 320 cases per day were reported.³⁷² The northern regions of Lombardy, Veneto, and Emilia-Romagna, have been most affected by the outbreak of the COVID-19 disease.³⁷³ At first, the disease remained unidentified, and the reason why it was spreading so rapidly among Italian citizens was unknown. One of the Italian virologists, Roberto Burioni, said that "This is not the bubonic plague, but it's not the flu either, which is why containment is key and I'm sorry there hasn't been a common European response to

³⁶⁵ G. Vagnoni, *The Coronavirus Emerged in Italy as Early as September of Last Year, A Study Shows*, at <<https://www.businessinsider.com/coronavirus-emerged-italy-september-of-last-year-study-shows-2020-11?r=US&IR=T>>, 20 June 2021.

³⁶⁶ G. Apolone et al., "Unexpected detection..."

³⁶⁷ Ibid.

³⁶⁸ G. Vagnoni, *The Coronavirus Emerged...*

³⁶⁹ A. Deslandes et al., "SARS-CoV-2 Was Already Spreading in France in Late December 2019," *International Journal of Antimicrobial Agents*, vol. 55, no. 6 (2020).

³⁷⁰ *Coronavirus: France's First Known Case Was in December*, BBC News, 5 May 2020, at <<https://www.bbc.co.uk/news/world-europe-52526554>>, 20 June 2021.

³⁷¹ A.B.B. Laguipo, *First French COVID-19 Case Was in December 19*, 5 May 2020, at <<https://www.news-medical.net/news/20200505/First-French-COVID-19-case-was-in-December.aspx>>, 20 June 2021.

³⁷² S. Sciorilli Borrelli, *Politics Goes Viral as Italy Struggles with Outbreak*, 25 February 2020, at <<https://www.politico.eu/article/politics-goes-viral-as-italy-struggles-with-outbreak/>>, 20 June 2021.

³⁷³ F.I. Pratiwi, L. Salamah, "Italy on COVID-19: Response and Strategy," *Journal Global and Strategies*, vol. 14, no. 2 (2020), p. 391.

the emergency”.³⁷⁴ Italy was the first European country which introduced restrictions to prevent the rapid spread of the virus. Firstly, Italian government decided to close schools, gyms, museums, clubs and other public places. Secondly, mass events and social gatherings were banned.³⁷⁵ The newly implemented measures of safety were introduced with a help of the Italian army. Italian army helped citizens in mundane activities, such as buying them groceries or transporting them to the hospitals.³⁷⁶ Further restrictions put 16 million people in northern Italy under full lockdown.³⁷⁷ On 10 March 2020, full lockdown was extended to the whole country. Moreover, all sport events were cancelled until 3 April 2020.³⁷⁸ Italy was the first Member State which introduced such harsh restrictions. Overall, Italy's reaction was evaluated as belated.³⁷⁹ The lack of experience in responding to such a severe public health crisis and underestimating the virus spread resulted in a high death rate and a rapid tempo of contracting virus within the country.³⁸⁰ Furthermore, Italy also became the epicentre of the COVID-19 outbreak in Europe, accounting for 60% of all confirmed cases and 90% of those in the EU in March 2020.³⁸¹

Another country which perfectly illustrates the rapid spread of the virus is Spain, where during only one month (March 2020) 100,000 people were infected with the COVID-19 virus and nearly 10,000 of them died.³⁸² Shockingly, the Director of the Emergency Medical Services of Madrid, Fernando Simon, stated in an interview that very few Spanish citizens could be infected.³⁸³ This dismissive attitude towards the spread of the coronavirus contributed to the collapse of the national health system.³⁸⁴ The outbreak of the COVID-19 pandemic in Spain constituted the first case of “community transmission”.³⁸⁵ This term means that the source of

³⁷⁴ S. Sciorilli Borrelli, *Politics...*

³⁷⁵ F. I. Pratiwi, L. Salamah, *Italy...*, pp. 391–392.

³⁷⁶ E. Mee, *Coronavirus: Italian Army Called in as Crematorium Struggles to Cope with Deaths*, 19 March 2020, at <<https://news.sky.com/story/coronavirus-italian-army-called-in-to-carry-away-corporse-as-citys-crematorium-is-overwhelmed-11959994>>, 20 June 2021.

³⁷⁷ *Coronavirus: Northern Italy Quarantines 16 Million People*, BBC, 8 March 2020, at <<https://www.bbc.com/news/world-middle-east-51787238>>, 20 June 2021.

³⁷⁸ *Coronavirus: Italy Extends Emergency Measures Nationwide*, BBC, 10 March 2020, at <<https://www.bbc.com/news/world-europe-51810673>>, 20 June 2021.

³⁷⁹ F. I. Pratiwi, L. Salamah, “Italy...,” p. 399.

³⁸⁰ *Ibid.*

³⁸¹ M. Demertzis et al., “An Effective Economic Response to the Coronavirus in Europe,” *Policy Contribution*, no. 6 (2020), p. 4, at <<https://www.bruegel.org/wp-content/uploads/2020/03/PC-06-2020-130320.pdf>>, 20 June 2021.

³⁸² A. Viguria, N. Casamitjana, “Early Interventions and Impact Of COVID-19 In Spain,” *International Journal of Environmental Research and Public Health*, vol. 18, no. 8 (2021), p. 3.

³⁸³ G. Tremlett, *How Did Spain Get its Coronavirus Response So Wrong?*, 26 March 2020, at <<https://www.theguardian.com/world/2020/mar/26/spain-coronavirus-response-analysis>>, 20 June 2021.

³⁸⁴ E. Sánchez Nicolás, *Italy and Spain: Worst – or Just First?*, 31 March 2020, at <<https://euobserver.com/coronavirus/147932>>, 20 June 2021.

³⁸⁵ Redaccion Medica, *Sanidad confirma 5 nuevos casos de coronavirus en Andalucía*, at <<https://www.redaccionmedica.com/autonomias/andalucia/sanidad-confirma-5-nuevos-casos-de-coronavirus-en-andalucia-6106>>, 20 June 2021.

the infection is unknown or that there is no connection with another confirmed case.³⁸⁶ The first wave of the COVID-19 pandemic in Spain began on 8 March, when three popular public events, including an International Women's Day celebration, a local football match and a meeting of 9,000 supporters of the Vox Italia party, were organised. Unsurprisingly, the virus spread at an alarming rate, and soon, Spain reached a second largest number of total cases in Europe.³⁸⁷ Moreover, it was also a country with the fastest daily spread of the virus.³⁸⁸ Unfortunately, the Spanish government did not learn from the mistakes of the Italian government, whose slow reaction led to the collapse of their healthcare system. On 13 March a state of alarm was finally declared in Spain.³⁸⁹ As of 15 March, restrictions on movement were introduced, obliging Spanish citizens to stay at homes with the exception of purchasing food, medicines or going to work. The Prime Minister of Spain Pedro Sanchez explained that this decision was necessary in his country in face of a health, economic and social crisis.³⁹⁰ As of 16 March, all flights and all other modes of transport to Spain were banned for both non-citizens and residents.³⁹¹ The situation in the country became tragic, and on 1 April Spain passed 100,000 of total coronavirus cases. On 5 April the number of cases began decreasing, and as of 13 April the government started easing the restrictions.³⁹²

As it was mentioned earlier, the first case of COVID-19 in Europe was recorded in Bordeaux.³⁹³ Similarly, the first death related to COVID-19 was also reported in France.³⁹⁴ At the beginning, the increase in France was rather slow. The rate of the spread of the virus drastically accelerated after a religious event³⁹⁵ held on 17–24 February 2020 in Mulhouse, where about 2,500 people attended the festivities.³⁹⁶ Radio France reported that possibly half of the participants of

³⁸⁶ A.K. Pitol, T.R. Julian, "Community Transmission of SARS-CoV2 by Surfaces: Risks and Risk," *Environmental Science & Technology Letters*, no. 8 (2021), pp. 263–265.

³⁸⁷ A. Viguria, N. Casamitjana, "Early Interventions...", p. 3.

³⁸⁸ *Ibid.*

³⁸⁹ Council of Ministers, *Government Decrees State of Emergency to Stop Spread of Coronavirus COVID-19*, 14 March 2020, at <<https://www.lamoncloa.gob.es/lang/en/gobierno/councilministers/Paginas/2020/20200314council-extr.aspx>>, 20 June 2021.

³⁹⁰ S. Jones, *Spain Orders Nationwide Lockdown to Battle Coronavirus*, 14 March 2020, at <<https://www.theguardian.com/world/2020/mar/14/spain-government-set-to-order-nationwide-coronavirus-lockdown>>, 20 June 2021.

³⁹¹ *Coronavirus: Spain Set to Declare National Lockdown*, BBC, 14 March 2020, at <<https://www.bbc.com/news/world-europe-51888936>>, 20 June 2021.

³⁹² *Coronavirus: Spanish Deaths Fall for Fourth Consecutive Day*, BBC, 6 April 2020, at <<https://www.bbc.com/news/world-europe-52182245>>, 20 June 2021.

³⁹³ Eurosurveillance Team, "First Cases of Coronavirus Disease 2019 (COVID-19) in France: Surveillance, Investigations and Control Measures, January 2020," *Euro Surveill*, vol. 25, 2020, p. 3.

³⁹⁴ *Ibid.*

³⁹⁵ This religious gathering is organised every year in the Christian Open Door Church in Mulhouse, visited by almost 2000 pilgrims.

³⁹⁶ *Coronavirus: la «bombe atomique» du rassemblement évangélique de Mulhouse*, Le Point, 28 March 2020, at <https://www.lepoint.fr/sante/coronavirus-la-bombe-atomique-du-rassemblement-evangelique-de-mulhouse-28-03-2020-2369173_40.php>, 20 June 2021.

Milhouse's festivities was exposed to the virus.³⁹⁷ Interestingly, none other than the President of France Emmanuel Macron also participated in the event. On 2 March 2020, French health authorities officially linked the outbreak of the pandemic in France with that religious event.³⁹⁸ In March, local elections were held in France,³⁹⁹ even though at the same time the French government ordered its citizens to close bars, restaurants and businesses that were not essential. Predictably, the elections resulted in the increased number of cases⁴⁰⁰ and the lowest turnout in history.⁴⁰¹ On 11 March, an advisory commission of 11 scientists was appointed to develop a strategy of fighting the virus.⁴⁰² The following day, French president announced that schools and universities across the country were to be closed until further notice. On 13 March, Prime Minister of France Édouard Philippe announced the closure of pubs, restaurants and nightclubs. On 16 March, the French government decided to close the borders.⁴⁰³ On 17 March, the entire country was engulfed in lockdown,⁴⁰⁴ which meant that citizens were not allowed to go too far from home, except for work, or to the nearest grocery store and pharmacy.⁴⁰⁵ At the beginning, the lockdown was announced to last 15 days, but this period was quickly extended due to the increasing number of infections and deaths.⁴⁰⁶ It was not until 11 May when primary and secondary schools were allowed to open, which constituted a first step in reopening the economy in France.⁴⁰⁷

An equally important state that is worth mentioning in the context of first COVID-19 cases in Europe is the Federal Republic of Germany. The first case in Germany was discovered on 27 January 2020 in the state of Bavaria. In response

³⁹⁷ Ibid.

³⁹⁸ *France votes in nationwide municipal elections despite coronavirus lockdown*, France24, 15 March 2020, at <<https://www.france24.com/en/20200315-france-heads-to-the-polls-in-nationwide-municipal-elections-amid-coronavirus-pandemic>>, 20 June 2021.

³⁹⁹ Ibid.

⁴⁰⁰ *French Voters Shun Elections, Enjoy Sunshine Despite Coronavirus Restrictions*, Reuters, 15 March 2020, at <<https://www.reuters.com/article/us-health-coronavirus-france-elections-v-id-USKBN2121A9>>, 20 June 2021.

⁴⁰¹ Ibid.

⁴⁰² *Germany Confirms Human Transmission of Coronavirus*, DW, 28 January 2020, at <<https://www.dw.com/en/germany-confirms-human-transmission-of-coronavirus/a-52169007>>, 20 June 2021.

⁴⁰³ *Macron Announces 15-day Lockdown in French 'War' on Coronavirus*, France24, 16 March 2020, at <<https://www.france24.com/en/20200316-live-france-s-macron-addresses-nation-amid-worsening-coronavirus-outbreak>>, 20 June 2021.

⁴⁰⁴ G. Pullano et al., *Population Mobility Reductions During COVID-19 Epidemic in France Under Lockdown*, Yale 2020, p. 2, at <<https://www.medrxiv.org/content/10.1101/2020.05.29.20097097v1.full.pdf>>, 20 June 2021.

⁴⁰⁵ J. Roux, C. Massonnaud, P. Crepey, *COVID-19: One-Month Impact of the French Lockdown on the Epidemic Burden*, Rennes 2020, p. 1, at <<https://www.medrxiv.org/content/10.1101/2020.04.22.20075705v1.full.pdf>>, 20 June 2021.

⁴⁰⁶ Ibid.

⁴⁰⁷ *Macron Says France's Covid-19 Lockdown to Last Until May 11*, France24, 13 April 2020, at <<https://www.france24.com/en/20200413-live-france-s-macron-makes-third-prime-time-tv-address-on-covid-19-crisis>>, 20 June 2021.

to the spread of the COVID-19, the Federal Ministry of Health prohibited people from crossing state borders, introduced tracking potentially infected people, and involved all doctors, health professionals and medical students in fighting the pandemic. On 4 March 2020, Germany issued an extensive version of a document titled the “National Pandemic Plan,”⁴⁰⁸ which set four objectives: reduction in morbidity and mortality, treatment of infected people, maintaining basic public services, and keeping decision makers, doctors, the media and the public informed on an ongoing basis.⁴⁰⁹ The National Pandemic Plan made sense in the successive waves of the pandemic, where decisions were made more quickly, and all phases of actions were not mixed together. On 1 March, it was announced that the vaccine would be developed by the end of the year, and the Minister of Finance declared that the bailout package was ready to mitigate any negative economic effects.⁴¹⁰ In the following days, Germany supplied itself with laboratory equipment for hospitals. Public events were cancelled and the first deaths related to the pandemic occurred at the beginning of March. The day after local elections were held, Bavaria declared a 14-day state of emergency and imposed a travel ban. On 16 March, the German government announced that there would not be any “shutdown” of the state,⁴¹¹ while in the following days Bavaria, inspired by Austria, announced a curfew and a lockdown for the entire state. On 22 March, the lockdown deepened throughout the country by banning gatherings of more than two people and introducing a safe distance of 1.5 meters. On 23 March, the government decided to implement a financial package worth 750 billion euro.⁴¹² Medical equipment, protective masks and a great number of tests were delivered. On 2 April, the Robert Koch Institute advised to impose the obligation to wear masks on all citizens, regardless of the presence of typical COVID-19 symptoms.⁴¹³ In the following days, German strategy was defined and since the middle of April restrictions have been progressively eased. Shops up to 800 square meters or bookstores were opened by the end April, followed by schools on 4 May. However, mass events remained banned until 31 August.⁴¹⁴

⁴⁰⁸ Robert Koch Institute, *Ergänzung zum Nationalen Pandemieplan – COVID-19 – neuartige Coronaviruserkrankung*, Berlin 2020.

⁴⁰⁹ *Ibid.*, p. 8.

⁴¹⁰ *Coronavirus Cases in Germany Jump to 117*, Reuters, 1 March 2020, at <<https://www.reuters.com/article/us-health-coronavirus-germany-cases/coronavirus-cases-in-germany-jump-to-117-idUSKBN2001NG>>, 30 June 2021.

⁴¹¹ D. Rzepka, *Merkel: Supermärkte dürfen sonntags öffnen*, 16 March 2020, at <<https://www.zdf.de/nachrichten/politik/corona-merkel-geschaefte-schliessen-100.html>>, 20 June 2021.

⁴¹² M. Nienaber, *Germany Launches 750 Billion Euro Package to Fight Coronavirus*, 23 March 2020, at <<https://www.reuters.com/article/us-health-coronavirus-germany-budget/germany-launches-750-billion-euro-package-to-fight-coronavirus-idUSKBN21A2XU>>, 20 June 2021.

⁴¹³ *They Could Reduce the Risk: Germany's Public Health Institute Updates Stance on Face Masks*, TheLocalDE, 2 April 2020, at <thelocal.de/20200402/latest-face-masks-in-public-could-help-to-reduce-spread-of-coronavirus-says-germanys-robert-koch-institute/>, 20 June 2021.

⁴¹⁴ P. Oltermann, *Merkel Announces Plans to Reopen Schools and Shops in Germany*, 15 April 2020, at <<https://www.theguardian.com/world/2020/apr/15/angela-merkel-announces-plans-reopen-schools-shops-germany-coronavirus-lockdown>>, 20 June 2021.

Similar to the above discussed cases, March 2020 turn out to be a key month in other Member States as well. Not only did most of European states faced their first COVID-19 cases at that time, but they also decided to impose lockdowns and close their borders. Beside the previously described, the earliest European cases were reported in Croatia, Greece, Romania, Denmark, Estonia, the Netherlands, Ireland, Luxembourg, the Czech Republic, Latvia, Portugal, and Poland. Initially, the pandemic seemed to develop quite gently in these countries, which might be explained by a small number of tests. Interestingly, smaller countries took coronavirus and its potentially tragic consequences much more seriously. For instance, in Greece the carnival week was cancelled just after two or three identified cases.⁴¹⁵ On 10 March, the Greek schools were closed for two weeks and football matches were played without audience. Similarly, on 11 March, Polish schools and universities were closed for two weeks.⁴¹⁶

At the beginning of the first wave in the EU, the pattern of national governments' activities was rather similar – it usually started with the closure of educational institutions, then the number of people allowed in public places was reduced, and later people were asked not to participate in mass events such as football matches and concerts. The Member States quickly learned from the mistakes of the Mediterranean countries that they cannot underestimate the spread of the virus. After 12 March, four countries (Slovakia, Denmark, Poland, and the Czech Republic) closed their borders. Moreover, the Prime Minister of the Czech Republic, Andrej Babiš, suggested that it would be worth banning the movement of Italian citizens within the Schengen area, but his request passed unnoticed.⁴¹⁷ The President of the European Commission, Ursula von der Leyen, criticized the decision of closing borders, referring to the WHO which stated that the travel ban is an ineffective measure for spreading the transmission of the virus, and that the shutdown is dangerous for people who wish to return to their countries and are not able to do so immediately. However, just a few days later, she admitted that she had underestimated the virus and announced that the EU would strengthen the external borders by applying a temporary 30-day ban on trips to the EU that are not essential.

After closing the borders, introducing online teaching and banning mass gathering, most Member States decided on closing businesses and prohibiting travel, with a few exceptions. For example, in the Czech Republic, the lockdown was introduced only in the western part of the country, and citizens were allowed to move only to work or in case of emergency. Another example was Poland,

⁴¹⁵ *World Combats Virus Outbreak as Spread Continues*, BBC, 26 February 2020, at <<https://www.bbc.com/news/live/world-51655133/page/2>>, 20 June 2021.

⁴¹⁶ *Ministerstwo Nauki zawiesza zajęcia dydaktyczne na uczelniach do 25 marca, aby zapobiec rozprzestrzenianiu się COVID-19*, Polish Government Site, 13 March 2020, at <<https://www.gov.pl/web/edukacja-i-nauka/ministerstwo-nauki-zawiesza-zajecia-dydaktyczne-na-uczelniach-do-25-marca-aby-zapobiec-rozprzestrzenianiu-sie-covid-19>>, 20 June 2021.

⁴¹⁷ *Czech PM: Italians Should Be Banned From Travelling Due to Coronavirus*, Schengen Visa Info, 9 March 2020, at <<https://www.schengenvisainfo.com/news/czech-pm-italians-should-be-banned-from-travelling-due-to-coronavirus/>>, 20 June 2021.

where on 24 March new restrictions were generally imposed.⁴¹⁸ Additionally, special rules for seniors were introduced in Poland, such as, a time of the day during which older citizens could safely do their shopping without the risk of contracting the virus from younger people in stores.⁴¹⁹ The Czech Republic was the first country in the EU that ordered its citizens to wear masks, which were obligatory from 18 March 2020.⁴²⁰

Although most Member States followed a certain pattern of imposing restrictions, there was one country which created its own model to survive the first wave of the COVID-19 pandemic. As one may guess that state was the Kingdom of Sweden. The whole Swedish strategy was based only on isolating infected people from society without any obligatory restrictions for the rest of the society. The local businesses were not prohibited to operate.⁴²¹ The cost of that strategy was the overloading of the health system. Even though the Swedish Ministry of Health decided to introduce some restrictions, they were not obligatory.⁴²² The Swedish authorities simply assumed that their citizens would follow the restrictions voluntarily, because they could observe severe effects of the virus in other Member States. The Swedish Public Health Agency is an institution that has largely contributed to the great explosion of the virus cases in society, and the authorities themselves have been criticized numerous times by Swedish and foreign scientists demanding radical measures to counter the virus.⁴²³ In opposition to the Swedish government's hopes, the citizens did not follow the official recommendations. Criticism fell on the decision of the Swedish authorities for not implementing any major restrictions. A group of 22 researchers⁴²⁴ (Vetenskapsforum) was formed to criticize the government's actions on an ongoing basis and demanded more decisive action. According to researchers, the Swedish model was incapable of fighting the pandemic as many more people contracted the virus and died from COVID-19.⁴²⁵

⁴¹⁸ *Wprowadzamy nowe zasady bezpieczeństwa w związku z koronawirusem*, Polish Government Site, 24 March 2020, at <<https://www.gov.pl/web/koronawirus/wprowadzamy-nowe-zasady-bezpieczenstwa-w-zwiazku-z-koronawirusem>>, 20 June 2021.

⁴¹⁹ *Ibid.*

⁴²⁰ *Coronavirus: How the Wearing of Face Masks Has Exposed a Divided Europe*, Euronews, 15 July 2020, at <<https://www.euronews.com/2020/07/14/coronavirus-how-the-wearing-of-face-masks-has-exposed-a-divided-europe>>, 20 June 2021.

⁴²¹ E. Reynolds, *Sweden Says its Coronavirus Approach Has Worked. The Numbers Suggest a Different Story*, 28 April 2020, at <<https://amp.cnn.com/cnn/2020/04/28/europe/sweden-coronavirus-lockdown-strategy-intl/index.html>>, 20 June 2021.

⁴²² M. Lindström, "The New Totalitarians: The Swedish COVID-19 Strategy and the Implications of Consensus Culture and Media Policy for Public Health," *SSM – Population Health*, no. 14 (2021), pp. 1–2.

⁴²³ Library of Congress Law, *Sweden: Legal Responses to Health Emergencies*, The Law Library of Congress. Washington 2015, pp. 211–220, at <<https://tile.loc.gov/storage-services/service/l1/llgldr/2014504236/2014504236.pdf>>, 20 June 2021.

⁴²⁴ The group increased to 150 researchers.

⁴²⁵ J.F. Ludvigsson, "The First Eight Months of Sweden's COVID-19 Strategy and The Key Actions and Actors That Were Involved," *Acta Paediatrica*, vol. 109, no. 12 (2020), p. 2470.

A relative stabilization began in Europe around the second week of April 2020. The European leaders noticed that some of the introduced restrictions paid off, and they wrongly assumed the worst was over. Austria was the first Member State which opened up on a large scale. It was also one of the first European countries which announced a significant policy of opening its economy.⁴²⁶ According to a report made by a team from the Global Policy Lab at UC Berkeley, the decisions implemented by the governments of most Member States to introduce restrictive measurements saved about 500 million people around the world from becoming infected.⁴²⁷ Between May and July, it was decided (on a national level) to open up most European countries also for non-European citizens travelling from the countries with stabilised COVID-19 situation. On 30 June, the EU decided to open its borders to 14 countries.⁴²⁸ Unfortunately, the favourable situation after overcoming the first wave of the COVID-19 pandemic in Europe did not last long. Moreover, the loosening up of some preventive measures eventually contributed to the imminent collapse of the system in many Member States. This paradox has a sound psychological explanation – when people noticed that the situation was improving, they assumed that they had successfully beaten the virus and could now return to pre-COVID normality.⁴²⁹ A great number of European governments began to downplay the virus – its contagiousness and mortality rates. This dismissive approach brought on tragic consequences. One of the most noticeable example of such a reckless approach during summer 2020 was Poland. In June and July 2020, two rounds of previously postponed presidential election were held⁴³⁰ respectively. Polish Prime Minister, Mateusz Morawiecki, publicly encouraged Polish citizens, especially the elderly, to turn out in masses to vote for President Andrzej Duda (who is commonly known as a supporter of Morawiecki's party) who was fighting for re-election. Specifically, on 1 July 2020 Morawiecki stated that “We are less and less afraid of this virus. This is a good approach, because (the epidemic) is in retreat. You do not need to be afraid of it now. You should go

⁴²⁶ European Parliament, *The Enlargement of the EU*, p. 62, at <<https://www.europarl.europa.eu/factsheets/en/sheet/167/the-enlargement-of-the-union>>, 20 June 2021.

⁴²⁷ *Emergency COVID-19 Measures Prevented More than 500 Million Infections, Study Finds*, Berkeley News, 8 June 2020, at <<https://news.berkeley.edu/2020/06/08/emergency-covid-19-measures-prevented-more-than-500-million-infections-study-finds/>>, 20 June 2021.

⁴²⁸ Council of the EU, *Council Agrees to Start Lifting Travel Restrictions for Residents of Some Third Countries*, 30 June 2020, at <<https://www.consilium.europa.eu/en/press/press-releases/2020/06/30/council-agrees-to-start-lifting-travel-restrictions-for-residents-of-some-third-countries/>>, 20 June 2021.

⁴²⁹ S. Messinger Cayetano, L. Crandall, “Paradox of Success and Public Perspective: COVID-19 and the Perennial Problem of Prevention,” *Journal of Epidemiology and Community Health*, vol. 74 (2020), at <<https://jech.bmj.com/content/74/8/679>>, 20 June 2021.

⁴³⁰ Polish presidential election are held each five years and usually two round are needed to determine the winner. As regard Polish presidential elections in 2020, the original date of the first round, 10 May 2020, was postponed due to the COVID-19 pandemic in Poland. On 3 June 2020, the Marshal of the Sejm, Elżbieta Witek, announced that the first round of the election would be held on 28 June 2020, whereas the second round was scheduled on 12 July 2020.

vote ‘in crowds’ on 12 July... Everyone, especially seniors, do not be afraid. Let’s go vote.”⁴³¹ Just two months later the number of the COVID-19 cases started to dramatically increase in Poland. In September, the second wave of the COVID-19 pandemic began in Poland. Even though the country succeeded in keeping infections low during the first phase of the coronavirus pandemic, the second wave hit the country hard with its COVID-19 death rate among the highest in the EU at that time.⁴³² In fact, according to Eurostat, Poland recorded the highest rate of excess deaths among all EU Member States in 2020.⁴³³

Another example of a Member State which struggled with the sudden increase of daily COVID-19 cases in summer was Czech Republic. There were two main reasons for this rapid growth. First one was related to the infection of miners in the Karvina area, where about 20% of workers suffered from COVID-19 and spread the virus in their homes and neighbourhoods.⁴³⁴ The second source of spreading the virus were clubs, popular among many young Czechs.⁴³⁵ These two cases prove that the transmission of the virus was still high, and the threat was still real in the EU.

Although there is no single common date of the beginning of the second wave of the COVID-19 pandemic in the EU, as it differs between the Member States, there are no doubts that in August 2020 the virus was winning again. During that time, Spain was the Member State which struggled the most in the EU. On 19 August, it recorded 145 cases per 100,000 inhabitants, which was about three times more than in France.⁴³⁶ At the end of August, many other Member States, such as Greece, Ireland, Germany, Italy and Belgium, began to struggle with the rapidly growing number of infected people per day. This resulted in tightening restrictions and introducing new restrictive measures in many Member States. Face masks were obligatory, many businesses had to shut down, and the limits of people in public places were reintroduced. The second wave of the pandemic in the EU was becoming a reality at the beginning of Autumn 2020. September became as important in the second wave, as March was one in the first wave of the COVID-19 pandemic in Europe. During that month new records of infections

⁴³¹ ‘We No Longer Need Fear Coronavirus’: PM Encourages Elderly to Vote in Polish Presidential Election, Notes from Poland, 1 July 2020, at <<https://notesfrompoland.com/2020/07/01/poles-no-longer-need-fear-coronavirus-pm-encourages-elderly-to-vote-in-presidential-election/>>, 20 June 2021.

⁴³² *Where Did it Go Wrong for Poland’s Pandemic Response?*, Notes from Poland, 11 February 2020, at <<https://notesfrompoland.com/2020/11/02/where-did-it-go-wrong-for-polands-pandemic-response/>>, 20 June 2021.

⁴³³ Eurostat, *Deaths (Total) by Month*, at <http://ec.europa.eu/eurostat/databrowser/view/demo_mmonth/default/table?lang=en>, 20 June 2021.

⁴³⁴ European Trade Union Institute, *Covid-19 Rising Cases in Czech Mines*, 19 June, 2020 at <<https://www.etui.org/news/covid-19-rising-cases-czech-mines>>, 20 June 2021.

⁴³⁵ *Number of Coronavirus Cases Linked to Prague Nightclub Rises to 98*, The Guardian, 23 July 2020, at <<https://www.theguardian.com/world/2020/jul/23/coronavirus-cases-linked-to-prague-nightclub-98-outbreak-football-czech-republic>>, 20 June 2021.

⁴³⁶ Ibid.

were recorded in many Member States. Notably, in France, this number exceeded 10,000 within just 24 hours.⁴³⁷

In March 2021, the third wave of the pandemic began. The number of infections, hospitalizations and deaths increased. In France, decisions were made immediately to block the country and to implement a curfew. Growth was recorded in many countries – in Belgium by 95%, in the Netherlands by 48% and in Germany by 75%. The third wave in Poland was by far the worst as the health care system was burdened the most. The third wave lasted about two weeks, was the shortest wave so far, but at the same time the most dynamic one. However, the Member States themselves have expressed quite responsible behaviour. The restrictions were quite radical, but most importantly – they were effective. The most crucial, however, are vaccinations. They can replace social distancing and increased restrictions when the number of new cases is growing.

During the first three waves of the COVID-19 pandemic in the EU, it was necessary to develop initiatives and mechanisms that would strengthen a cooperation between the Member States and protect European citizens. Initiatives came not only from the EU itself, but also from individual Member States. Some of the mechanisms had been developed much earlier and were used for the first time during the COVID-19 pandemic. At that time, several Member States showed an impressive level of solidarity and cooperation, however, a few egoistic and non-cooperative actions of some Member States were also noticed. Let us explore the most significant of them.

The EU Civil Protection Mechanism, which was established in October 2001 by the European Commission, aims to strengthen cooperation between the Member States and six Participating States (Iceland, Norway, Serbia, North Macedonia, Montenegro, and Turkey) on civil protection to improve prevention, preparedness and response to disasters.⁴³⁸ Through the EU Civil Protection Mechanism, the European Commission has coordinated and co-financed the supply of 15 million different medical supplies to 30 countries in Europe. Examples of cooperation included deployment of teams of doctors and nurses from Romania and Norway to Italy in March, further delivery by Norway of 4 million surgical gloves in October/November, shipment of 50 respirators to Ukraine from Denmark, and shipment of gloves, blankets and disinfectants to Moldova from Austria and Poland.⁴³⁹

The recently introduced additional component of the Mechanism is popularly known as the “rescEU” which stands for a European reserve of additional capacities. It consists of a fleet of firefighting planes and helicopters, medical evacua-

⁴³⁷ *France Reports Highest Number of New COVID-19 Cases in a Day*, Reuters, 17 September 2020, at <<https://www.reuters.com/article/us-health-coronavirus-france-casualties-idUKKBN2682VD>>, 20 June 2021.

⁴³⁸ European Commission, *EU Civil Protection Mechanism*, at <https://ec.europa.eu/echo/what/civil-protection/mechanism_en>, 20 June 2021.

⁴³⁹ European Commission, *Crisis Management and Solidarity*, at <https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/crisis-management-and-solidarity_en>, 20 June 2021.

tion planes, and stocks of medical equipment.⁴⁴⁰ The purpose of this institution is to respond to emergency health cases as well as to potential biological and nuclear incidents that can occur on the European continent.⁴⁴¹ In response to the COVID-19 pandemic, European Commission sent 3.5 million masks with other necessary equipment to the countries that were particularly in need of it under the rescEU mechanism. The first Member States where rescEU stockpiles were located were Germany and Romania. Since September, stocks have also been stored in Denmark, Greece, Hungary and Sweden. Since January 2021 they have been also placed in Belgium, the Netherlands and Slovenia. The inventory includes 65 million face masks and 15 million FFP2 and FFP3 masks, 280 million pairs of medical gloves, several thousand oxygen concentrators and respirators. Over a million protective masks from the medical reserve have been distributed by rescEU. The masks were distributed to Italy (142,000), Spain (173,000), Croatia (65,000), Lithuania (20,000), Montenegro (140,000), and to some non-EU countries, such as North Macedonia and Serbia. The rescEU reserves are constantly replenished and deliveries take place on a regular basis depending on the needs of the Member States.

Under the “Europeans versus COVID-19” initiative, the Council of the EU honoured those Europeans who, in solidarity, were helping other citizens to get through the COVID-19 crisis by continuing their work, helping those in need, keeping Europe going and paving the way to recovery. The purpose of such a remembrance of many citizens of the EU Member States is to honour them by reporting on their activities in helping others and acting in a spirit of solidarity.⁴⁴² Several citizens’ outstanding actions were presented on the Council’s webpage,⁴⁴³ and national campaigns for bringing citizens home were praised as well.⁴⁴⁴ The goal of such a heart-warming tribute was to create bonds between the European citizens.

The national campaigns for bringing citizens home are also admirable. At the beginning of the COVID-19 pandemic, the Member States managed to bring 600,000 of their citizens home.⁴⁴⁵ Such a huge number of passengers and tremendous effort in organising flights required a lot of cooperation from the Member States, whose embassies aided every EU citizen regardless of their country of origin. The whole action was financially supported by the EU. Overall, return flights were co-financed by the EU up to 75% of the fare, which was an enormous help for many European citizens who could come back home safely.

⁴⁴⁰ Ibid.

⁴⁴¹ J. Almodóvar Aráez, *RescEU: A new development for the UCPM*, at <<https://www.ironore.eu/wp-content/uploads/2020/09/RescEU-for-IRONORE-2020.pdf>>, 20 June 2021.

⁴⁴² European Council, *Europeans versus COVID-19*, 9 March 2021, at <<https://www.consilium.europa.eu/en/events/europeans-versus-covid-19/>>, 20 June 2021.

⁴⁴³ Ibid.

⁴⁴⁴ Ibid.

⁴⁴⁵ Ibid.

Apart from the above presented individual examples of European solidarity in micro scale, numerous examples on a macro scale between Member States could be noticed during the first months of the COVID-19 pandemic. Many Member States sent medical personnel and medical equipment to those Member States that struggled the most with the health crisis and the ensuing collapse of their national health care.⁴⁴⁶ For instance, medical teams from Germany, Poland and Romania were sent to help in hospitals in the north and south of Italy at the beginning of the pandemic.⁴⁴⁷ Moreover, Austria, Belgium, Luxembourg and Germany made their hospital rooms in intensive care units available to patients in serious condition who were citizens of other Member States, such as France, the Netherlands and Italy.⁴⁴⁸ Another act of solidarity in the treatment of patients was performed by Germany and Luxembourg – both countries provided air ambulance teams, pilots and personnel to help treat and rescue patients from countries such as Italy, France and Netherlands in March.⁴⁴⁹ Other actions of solidarity between the Member States that are worth mentioning include supplying respirators (e.g. from Austria to the Czech Republic), medical masks (e.g. from Austria to Italy), sharing protective suits (e.g. the Czech Republic with Italy and Spain), creating helmets in 3D technology (the idea was first conceived by the Czech Technical University in Prague and shared with other companies all over Europe), wholesale shipping of various equipment (e.g. Italy received one million masks, 20,000 protective suits and 2,400 specialized medical clothing from France, and around 5 tons of equipment from Germany) and shipping other useful items, such as bottles of disinfectant.⁴⁵⁰ Furthermore, the European Commission delivered 10 million protective masks to several Member States and the United Kingdom.⁴⁵¹ They were the first batch purchased with the Emergency Support Facility money and were delivered in weekly instalments of 1.5 million units between May and June 2020.⁴⁵² Prior to this initiative, around 330,000 masks had been distributed by the EU to the Mediterranean countries of the EU, including Spain, Italy and Croatia.

The above-described examples illustrate an impressive degree of mutual support and solidarity between the Member States during this unprecedented and severe crisis. With a perspective of assisting the Member States, the EU created online platforms and tools dedicated to enhancing cooperation on many levels.⁴⁵³ Generally, they helped reduce the stagnation of health services, and fill in staff

⁴⁴⁶ European Council, *Europeans versus...*

⁴⁴⁷ *Ibid.*

⁴⁴⁸ *Ibid.*

⁴⁴⁹ *Ibid.*

⁴⁵⁰ *Ibid.*

⁴⁵¹ *Ibid.*

⁴⁵² *Ibid.*

⁴⁵³ Such as a European Solidarity Tracker, EUvsDisinfo.

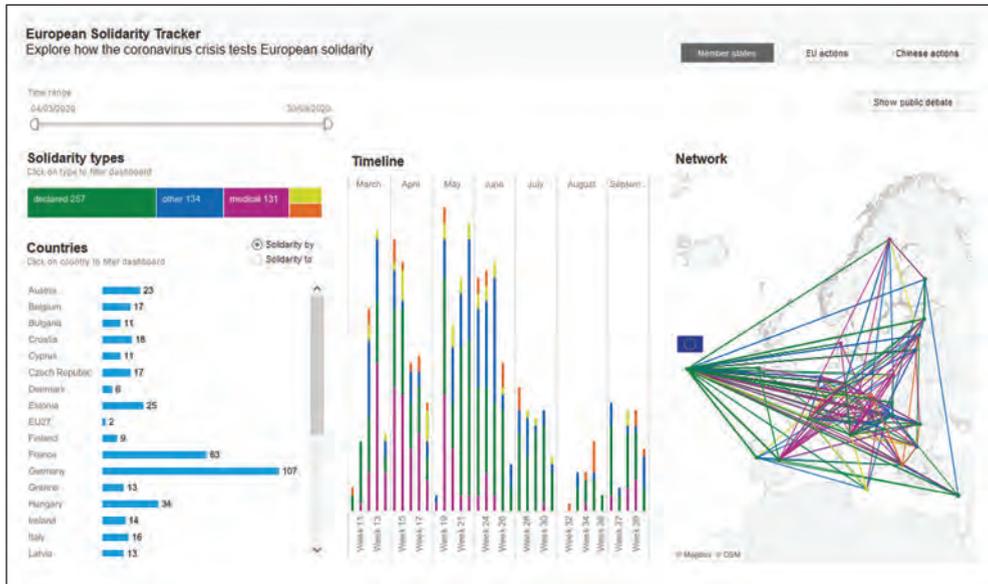


Figure 2. European Solidarity Tracker, source: <https://ecfr.eu/special/solidaritytracker>

or equipment gaps in the Member States.⁴⁵⁴ One of such tools is the European Solidarity Tracker (hereinafter: the tracker), which was created under Rethink: Europe project by scientists affiliated to the European Council on Foreign Relations.⁴⁵⁵ Rethink: Europe is an initiative launched in 2015, aimed to craft policy strategies based on open data sources, government statistics, dialogue, and experts' recommendation.⁴⁵⁶ The European Solidarity Tracker analyses cohesion and cooperation in the EU by collecting and examining national open data sources. It helps to assess effectiveness of communication and level of solidarity of the Member States during the COVID-19 pandemic.⁴⁵⁷ After analysing activities of the Member States from March to September 2020, it removed duplicates of information through deep and careful selection and provided high quality information to both the EU and its Member States.⁴⁵⁸ It successfully created a very dense network of aid between the Member States, which helped in indicating a space for the supportive role of the EU. The tracker proved that the claims of the irrelevance of actions taken by the EU had no solid grounds.⁴⁵⁹ However, the European

⁴⁵⁴ European Council, *Europeans versus...*

⁴⁵⁵ C. Busse et al., *European Solidarity Tracker*, European Council on Foreign Relations, 11 June 2020, at <<https://ecfr.eu/special/solidaritytracker/>>, 20 June 2021.

⁴⁵⁶ European Council on Foreign Relations, *Rethink: Europe*, 8 July 2020, at <<https://ecfr.eu/europeanpower/rethink/>>, 20 June 2021.

⁴⁵⁷ European Council on Foreign Relations, *European Solidarity Tracker: The Solidarity That Always Was There*, 10 June 2020, at <https://ecfr.eu/article/commentary_european_solidarity_tracker_the_solidarity_that_always_was_there/>, 20 June 2021.

⁴⁵⁸ Ibid.

⁴⁵⁹ Ibid.

Commission reminded France and other Member States that, for example, restrictions on the export and supply of drugs could hinder any overall European response. One particularly interesting finding from this tool is that smaller Member States appeared less frequently in articles and other published works on sending aid to other countries, whereas in fact examples of their help were numerous.⁴⁶⁰ For example, Luxembourg welcomed unaccompanied children who were located in refugee camps in Greece when the virus hit them.⁴⁶¹ Further, Estonia and Lithuania sent protective equipment and high quantities of disinfectant to Spain and Italy along with other valuable equipment for the local health service.⁴⁶² Another fascinating and somewhat peculiar case was that of Portugal, which sent language teachers to primary schools in Luxembourg.⁴⁶³ Thus, the tracker demonstrated that the mutual support between the Member States was not only of financial, but also of spiritual nature.

3. European Union versus Disinformation

The European Digital Media Observatory (hereinafter: EDMO) is one of the projects established in order to strengthen cooperation between the Member States in the area of combating disinformation. EDMO is managed by the European University Institute in Florence, Italy. EDMO is basically a platform for fact-checkers, academics and other relevant stakeholders, which contributes to mapping and supporting fact-checking organisations in Europe, coordinating research activities on disinformation at the European level, and raising awareness through a safe, public platform.⁴⁶⁴ In the first phase, EDMO will implement a platform to support the work of a community of fact-checkers, academic researchers and other stakeholders with expertise in the field of online disinformation. EDMO will contribute to a deeper understanding of the relevant actors of disinformation, vectors, tools, methods, dissemination dynamics, priority targets and impact on society.⁴⁶⁵ The second phase of the project will aim to establish both national and regional media research centres. EDMO developed training courses for people who check information and verify facts about the virus itself, its transmission and vaccines.⁴⁶⁶ EDMO also designs courses where one can learn how to identify false information – especially during a pandemic.⁴⁶⁷

⁴⁶⁰ Ibid.

⁴⁶¹ Ibid.

⁴⁶² Ibid.

⁴⁶³ Ibid.

⁴⁶⁴ European Commission, *European Digital Media Observatory (EDMO)*, at <<https://digital-strategy.ec.europa.eu/en/policies/european-digital-media-observatory>>, 20 June 2021.

⁴⁶⁵ Ibid.

⁴⁶⁶ Ibid.

⁴⁶⁷ EDMO, *EDMO News*, at <<https://edmo.eu/news/>>, 20 June 2021.

To counter disinformation, the EU has also funded the East StratCom Task Force, which was established in 2015 as part of the Strategic Communication and Information Analysis Unit of the European External Action Service. The main three goals set by the task force are to introduce effective communication and promotion of the EU policies in the Eastern Neighbourhood, strengthen relations with the Eastern Neighbourhood in the field of media and supporting independent opinion in that region, and to combat disinformation which is carried out by external entities.⁴⁶⁸ According to EUvsDisinfo, which is the main project of the East StratCom Task Force, disinformation is a:

verifiably false or misleading information that is created, presented and disseminated for economic gain or to intentionally deceive the public, and may cause public harm. Public harm includes threats to democratic processes as well as to public goods such as Union citizens' health, environment or security. Disinformation does not include inadvertent errors, satire and parody, or clearly identified partisan news and commentary.⁴⁶⁹

The main goal of EUvsDisinfo is to increase public awareness and understanding of the Kremlin's disinformation activities to help citizens in Europe and beyond to develop resilience to digital information and media manipulation. EUvsDisinfo identifies, processes and reveals cases of disinformation from pro-Kremlin media that are scattered throughout the EU and the Eastern Partnership countries. Cases are collected in the EUvsDisinfo database, which now contains over 6,500 samples of pro-Kremlin disinformation. The database is updated weekly with a short trend summary.

Infodemia is a relatively new word which was created to describe a phenomenon such as:

an overabundance of information, both online and offline. It includes deliberate attempts to disseminate wrong information to undermine the public health response and advance alternative agendas of groups or individuals. Mis- and disinformation can be harmful to people's physical and mental health; increase stigmatization; threaten precious health gains; and lead to poor observance of public health measures, thus reducing their effectiveness and endangering countries' ability to stop the pandemic.⁴⁷⁰

During the World Health Assembly in May 2020, WHO member states implemented Resolution WHA73.1 which states that information management is a key element in controlling the COVID-19 pandemic. It called on the Member States to provide reliable content on COVID-19, to take measures to counter disinformation and to use digital technologies in response to fake news. The resolution

⁴⁶⁸ Ibid.

⁴⁶⁹ European Commission, *Tackling Online Disinformation*, at <<https://digital-strategy.ec.europa.eu/en/policies/online-disinformation>>, 20 June 2021.

⁴⁷⁰ World Health Organization, *COVID-19 Response*, at <https://apps.who.int/gb/ebwha/pdffiles/WHA73/A73_R1-en.pdf>, 20 June 2021.

also called on international organizations to tackle misinformation in the digital sphere, work to prevent harmful cyber activities that undermine the health response and support the provision of scientific data to the public.⁴⁷¹ According to the Communication to the European Parliament made by European Council, infodemia is believed to exacerbate people's fears. Isolation measures forced millions of people to stay at home, and this resulted in a heavy usage of social media, which were bombarded with millions of false or misleading posts at the time of pandemic.⁴⁷² According to the Action Plan to Combat Disinformation, the problem requires more coordinated actions to counter threats to open societies. Anyone with access to the Internet is exposed to this problem, particularly intense during the unsettling time of this unprecedented pandemic.⁴⁷³

On 10 June 2020, joint communication to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions was implemented in order to address a burning problem of the rapid spread of fake news during the COVID-19 pandemic.⁴⁷⁴ The key message from this document, titled "Tackling COVID-19 disinformation – Getting the facts right,"⁴⁷⁵ explains how detrimental infodemia's spread was during the first wave of the COVID-19 pandemic. The EU suggests that the media, journalists, and competent state authorities should take action to refute harmful theories, for example in a form of closing accounts or legal sanctions against their owners.⁴⁷⁶ The challenges indicated in the communication include false information that circulated in social media regarding the work of medical personnel, blaming ethnic groups for the outbreak of the global epidemic, and cybercrimes. The People's Republic of China and the Russian Federation were identified as the countries particularly active in flooding the European society with false information.⁴⁷⁷ The goals of the EU in regards to combating disinformation include strengthening strategic communication in the EU and beyond,⁴⁷⁸ improving cooperation within the organization,⁴⁷⁹ as well as with third countries and partners of the EU (cooperation with WHO, UN, G7 or NATO),⁴⁸⁰ introducing more transparency on online platforms and tasking them with counteracting disinformation,⁴⁸¹ ensuring free-

⁴⁷¹ Ibid.

⁴⁷² European Council, *Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions – Tackling COVID-19 disinformation – Getting the Facts Right*, Brussels 2020, at <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020JC0008>>, 20 June 2021.

⁴⁷³ Ibid.

⁴⁷⁴ Ibid.

⁴⁷⁵ Ibid., p. 1.

⁴⁷⁶ Ibid., p. 4.

⁴⁷⁷ Ibid., pp. 2–4.

⁴⁷⁸ Ibid., pp. 5–6.

⁴⁷⁹ Ibid., p. 7.

⁴⁸⁰ Ibid., pp. 7–9.

⁴⁸¹ Ibid., pp. 9–14.

dom of expression and pluralistic democratic debate,⁴⁸² and strengthening public awareness through the opinions of scientists and verified information, protection of public health and consumer rights.⁴⁸³

At this point, it is worth quoting the Bronisław Geremek Foundation's report which examined the image of the EU in Poland during the first months of the COVID-19 pandemic.⁴⁸⁴ It identified some of the most popular trends in the spreading of disinformation about the actions taken by the EU. The main findings of the report were that the overall image of the EU during the pandemic is negative, that the debate about the EU and the coronavirus in social media is largely shaped by politicians who deliberately exaggerate EU's failures and diminish its achievements, and that the pandemic situation is used by political actors for political purposes (that is, putting the blame on the EU to avoid public outrage at national politics, running a presidential campaign, image-building).⁴⁸⁵ In general, it can be concluded that online debate on the EU actions is controlled to some extent by bot or troll accounts and by vast manipulative and misinformative content in the web. The number of mentions of the Union grew along with the increase of infections in Europe, and the slogan "Where is the EU?" became particularly popular in March 2020. The main messages were that the EU is weak, incompetent and useless; that the organisation is downplaying the pandemic; and that the EU's action were taken too late. To combat the spread of such misinformation, the European Commission introduced in March 2020 a storehouse of strategic materials and called upon online platforms to help prevent flooding the net with misleading information.

A European Parliament's study on disinformation and propaganda found that some of the Kremlin's disinformation efforts are targeting disadvantaged communities abroad in order to "feed on frustration."⁴⁸⁶ The research shows that the economic crisis and the resulting social inequalities and frustration have the potential to fuel violent extremism and terrorism; however, such a correlation requires further study and analysis. One of the goals of the Russian hybrid warfare strategy is to provoke riots and mass protests abroad. Russia is believed to support and finance, directly or indirectly, competing foreign groups of countries.⁴⁸⁷ The first disinformation about the coronavirus that the EUvsDisinfo recorded appeared on 22 January 2020 on the Kremlin-funded Sputnik News website. In March 2020, the methods and techniques of spreading fake news, as in the case of Brexit, were

⁴⁸² Ibid., pp. 15–16.

⁴⁸³ Ibid., pp. 16–19.

⁴⁸⁴ Bronisław Geremek Foundation, *Raport „Obraz Unii Europejskiej w trakcie pierwszych miesięcy pandemii COVID-19,”* March 2020, p. 1.

⁴⁸⁵ Ibid., p. 5.

⁴⁸⁶ European Parliament, *Disinformation and Propaganda – Impact on the Functioning of the Rule of Law in the EU and its Member States*, Brussels 2019.

⁴⁸⁷ W.R. Moy, K. Gradon, "COVID-19 Effects and Russian Disinformation Campaigns," *Homeland Security Affairs – Special Covid Issue*, 2020, p. 7, at <https://www.uw.edu.pl/wp-content/uploads/2020/12/hsaj_covid192020_covid19effectsrussiandisinformationcampaigns.pdf>, 20 June 2021.

re-adapted only to lower trust in the institution.⁴⁸⁸ Russian disinformation consisted of throwing claims that the virus is a hoax and that the EU states exaggerate its threat. Conspiracy theories about the ineffectiveness and harmfulness of vaccines, as well as false claims that mass vaccination and implantation of nano-processors were used for social control, have been disseminated through local branches of Sputnik, RT and South Front.⁴⁸⁹ Following China, Russia also sent medical supplies and teams to Italy in March as a part of the “From Russia with Love” mission. Interestingly, both the Italian populist Five Star Movement and the far-right Alternative for Germany party tried to take credit for allowing Russian aid. This “humanitarian” mission was later used for propaganda and disinformation campaigns against the EU. A report released by the U.S. Department of State in August 2020 indicated that senior Moscow military intelligence officers were involved in spreading disinformation about the pandemic through English-language proxy sites (such as South Front, Global Research, and New Eastern Outlook) in order to reach audiences in the US and the EU.⁴⁹⁰

Last but not the least, it is worth to examine Eurobarometer reports on how the EU citizens perceive the actions of the organization. Two reports particularly interesting in the context of the COVID-19 pandemic were issued in June 2020⁴⁹¹ and in spring 2021.⁴⁹²

The first report shows that 34% of respondents are satisfied with solidarity of the Member States and the actions between them.⁴⁹³ The respondents from Ireland, Denmark and the Netherlands were the most satisfied ones, whereas those from Greece, Spain and Italy – the least satisfied.⁴⁹⁴ About three-quarters of respondents (74%) declared they have heard, seen or read about measures or actions initiated by the EU in response to the coronavirus pandemic. Overall, about two out of five respondents (42%) said that they were satisfied with the measures taken by the EU to fight against the coronavirus pandemic; including 5% very satisfied and 37% fairly satisfied. The most satisfied countries were Ireland, the Netherlands and Denmark respectively, and the least satisfied were Greece, Spain and Italy.⁴⁹⁵ One important question that was asked was whether “The EU should have more competences to deal with crises such as the coronavirus pandemic,” and 67% of respondents gave positive answers.⁴⁹⁶ The most positive answers were

⁴⁸⁸ Y. Brovdiy, “Disinformation in Times of COVID-19: Reinforcing the Responses of the European Union and the United States,” *CEBOP*, no. 5 (2020), p. 1.

⁴⁸⁹ *Ibid.*, p. 2.

⁴⁹⁰ *Ibid.*

⁴⁹¹ European Parliament, *Uncertainty/EU/Hope, Public opinion in times of COVID-19*, Brussels 2020.

⁴⁹² European Parliament, “Resilience and Recovery. Public Opinion One Year into Pandemic,” *Eurobarometer*, vol. 95, no. 1 (2021).

⁴⁹³ European Parliament, *Uncertainty/EU/Hope...*, pp. 21–22.

⁴⁹⁴ *Ibid.*

⁴⁹⁵ *Ibid.*, pp. 27–28.

⁴⁹⁶ European Parliament, *Uncertainty/EU/Hope...*, pp. 30–31.

in Portugal, Ireland and Romania, and the most negative ones in Croatia, Sweden and the Czech Republic.⁴⁹⁷

In the report issued in spring 2021, almost half of respondents have heard, seen or read about EU measures/actions in response to the COVID-19 pandemic and know what those measures are.⁴⁹⁸ The respondents in Slovenia, Germany and Finland know the most, and the least is known in Poland, France and Denmark.⁴⁹⁹ Almost half of the respondents (48%) are very satisfied or rather satisfied with what the EU is doing to combat the pandemic.⁵⁰⁰ Most EU citizens have a positive image of the EU.⁵⁰¹ Despite a slight decline since December 2020, the positive image of the EU remains at its highest level in more than a decade. Across all Member States, the vast majority of respondents agree to some extent that the EU should be more competent to deal with crises similar to the COVID-19 pandemic.⁵⁰²

The most admirable fact is that the EU, after a year of fighting the virus, has received a better recognition and admiration for its action among the EU citizens. More citizens wish that the EU received more competences, which may come from their fear of another crisis and the understanding that certain national mechanisms simply do not work. This means that actions of the EU are generally viewed as effective and the fight against fake news (which at first was not very successful) eventually resulted in rebuilding a trust among citizens.

4. Distribution of Vaccines in the EU and Vaccination Certificates

Since the beginning of the COVID-19 pandemic, one particular question has been discussed and debated on relentlessly. Everybody has been wondering whether medicine and unified society will be enough to win over the coronavirus. For many, the most promising tool to win this difficult and bloody battle is vaccination and achieving herd immunity. However, there is a group of people who view vaccines as tools to enslave society. The opinion of both the EU's institutions and the Member States was clear from the beginning – that Europe's best hopes and efforts are in quick and effective vaccination.

On 17 June 2020, the European Commission approved the EU Strategy for vaccines against COVID- 19,⁵⁰³ with the hope that vaccination would help the

⁴⁹⁷ Ibid.

⁴⁹⁸ European Parliament, "Resilience and Recovery..." p. 8.

⁴⁹⁹ Ibid., p. 9.

⁵⁰⁰ Ibid., p. 10.

⁵⁰¹ Ibid., p. 11.

⁵⁰² Ibid., pp. 12–13.

⁵⁰³ European Commission, *Coronavirus: Commission Unveils EU Vaccines Strategy*, 17 June 2020, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1103>, 20 June 2021.

Member States return to the pre-COVID normality. To understand how important this goal is for the EU, it is worth citing a part of Ursula van der Leyen's speech given on 16 March 2020, in which she said:

This is a moment for science and solidarity. Nothing is certain, but I am confident that we can mobilise the resources to find a vaccine to beat this virus once and for all. We must be ready to manufacture and deploy such a vaccine across Europe and the world. This vaccine will be a breakthrough in the fight against the coronavirus, and a testament to what partners can achieve when we put our minds, research and resources together. The EU will do all in its power to ensure that all peoples of this world have access to a vaccine, irrespective of where they live.⁵⁰⁴

The same message was heard from Stella Kyriakides, who holds the position of Commissioner for Health and Food Safety.⁵⁰⁵ The EU's strategy predicts that the process of creating a vaccine will last from 12 to 18 months and that depending on the producers of vaccines, it may be either delayed or completed much faster.⁵⁰⁶ The strategy also indicated that the EU takes responsibility for testing, treatment and vaccination in a spirit of solidarity and willingness to return to normality.⁵⁰⁷ Noteworthy, solidarity constituted the main theme of this document.⁵⁰⁸ Austrian Chancellor Sebastian Kurz harshly criticized the EU's COVID vaccine distribution system among the Member States for to the lack of transparency or accountability, and comparing it to a "bazaar" operating upon agreements between pharmaceutical companies and certain Member States. A few days later, on March 16, Kurz and the leaders of Bulgaria, Croatia, the Czech Republic, Latvia and Slovenia wrote to the President of the European Commission to complain that the vaccine supplies "are not being delivered on an equal footing according to a population-proportional key" and that if the current system continues, it will exacerbate the "huge disparities" that already exist between the Member States. They called for a solution to the problem to be considered at an upcoming EU Council meeting and to adopt a "correction mechanism."⁵⁰⁹ Their voice was heard and the vaccination rollout mechanism was improved in the following weeks.

A common strategy for vaccination gives the Member States a better security and higher chances to make an investment with more certain and satisfying

⁵⁰⁴ Ibid.

⁵⁰⁵ Ibid.

⁵⁰⁶ European Commission, *Communication from the Commission to the European Parliament, the European Council, the Council and the European Investment Bank – EU Strategy for COVID-19 Vaccines*, Brussels 2020, p. 1, at <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0245>>, 20 June 2021.

⁵⁰⁷ Ibid., pp. 1–2.

⁵⁰⁸ Ibid.,

⁵⁰⁹ *EU Counters 'Vaccine Nationalism' With 'Vaccine Solidarity' for Hard-hit Eastern States*, Yale Macmillan Center, 5 April 2021, at <<https://macmillan.yale.edu/news/eu-counters-vaccine-nationalism-vaccine-solidarity-hard-hit-eastern-states>>, 20 June 2021.

results. It also makes transactions simpler, more transparent and at reduced cost for all. It is also faster in its efficiency because if one entity comes out with a procurement initiative, the company does not have to negotiate with 27 different entities.⁵¹⁰ Consequently, such a solution was presented as a tool, which would prevent harmful competition between the Member States and strengthen solidarity between them. However, despite these obvious benefits, a group of Member States decided to act on their own. France, Germany, Italy and the Netherlands decided to create an inclusive vaccine alliance.⁵¹¹ It was created to pool these countries' national resources and secure fair access to a supply of vaccines available to the people of Europe. This clearly set a very dangerous precedent in context of the strength of European integration.

The purchase of vaccines is funded from the EU's Emergency Support Fund. According to the communication from the European Commission, the European Parliament and the Council made 2.7 billion euro available for that purpose.⁵¹² Acknowledging that quick and effective vaccination is the main priority, the Commission intended to allocate most of the funds to actions aimed at developing an effective vaccine in the shortest time possible. On 9 April 2020, the European Medicines Agency set up an EMA Pandemic task Force (ETF) to cooperate with companies developing vaccines against COVID-19.⁵¹³ The EMA itself also offered scientific support in the early stages of development by providing scientific advice and feedback to help vaccine manufacturers increase efficiency.⁵¹⁴ All these activities were intended to facilitate the evaluation of the manufacturers' activities and to accelerate development, efficiency, issuing marketing authorizations, and determining whether the vaccines are safe for European citizens. By the end of June, around 16 billion euro was collected for the fight against COVID-19 and the creation of a vaccine.⁵¹⁵ On 27 June 2020, additional funds were donated in the amount of 6.9 billion euro. The funding was mobilized as a part of the Global Purpose: United for the Future campaign. That huge amount was collected by Global Citizens, the European Commission, world leaders and artists.⁵¹⁶ On 31 August,

⁵¹⁰ European Commission, *Communication from the Commission...*, p. 4.

⁵¹¹ On 13 June 2020, these countries signed a contract with Astra Zeneca for 300 million doses by the end of the year. Ursula von der Leyen argued that both the common good and the interests of individual countries would be best served by strengthening the Commission's position in this matter. Ultimately, the Alliance withdrew, allowing the European Commission to take over negotiations with pharmaceutical companies.

⁵¹² *Ibid.*

⁵¹³ EMA, *EMA Establishes Task Force to Take Quick and Coordinated Regulatory Action Related to COVID-19 Medicines*, 9 April 2021, at <<https://www.ema.europa.eu/en/news/ema-establishes-task-force-take-quick-coordinated-regulatory-action-related-covid-19-medicines>>, 20 June 2021.

⁵¹⁴ *Ibid.*

⁵¹⁵ *Global Goal: Unite for Our Future | The Concert*, An official website of European Union, at <https://global-response.europa.eu/index_en>, 20 June 2021.

⁵¹⁶ Global Citizen, *Global Citizen Mobilized Over \$1.5B in Cash Grants and \$5.4B in Loans and Guarantees for a Total of \$6.9B Pledged for COVID-19 Relief*, 27 June 2020, at <<https://www.globalcitizen.org/en/content/global-goal-unite-for-our-future-impact-report/>>, 20 June 2021.

the EU confirmed its decision to join the COVAX program.⁵¹⁷ The main goal of this initiative was to provide vaccines at appropriate, fair prices and to make them available even in the poorest parts of the world.⁵¹⁸ The “Team Europe”⁵¹⁹ was very active in COVAX and shared its expertise in production of the vaccines.

At the end of July, the European Commission ordered overall 300 million doses of the vaccine on behalf of the Member States. The first pharmaceutical company that the EU reached out to was Sanofi-GSK. To date, there is no such vaccine in circulation, but it was the first company with which the EU signed a preliminary contract.⁵²⁰ However, this was a sign that pharmaceutical companies had a chance to create a vaccine by the end of the year. Initial talks were completed with Johnson & Johnson on 13 August 2020.⁵²¹ Moderna on 24 August,⁵²² and with BioNTech-Pfizer on 9 September.⁵²³ On 27 August, the first official agreement negotiated by the European Commission with Astra Zeneca for 300 million doses of the vaccine, with the options to purchase another 100 million, entered into force.⁵²⁴ The contract with this company additionally provided for a transfer of vaccines to low and middle-income countries.⁵²⁵ Further agreements were signed with Sanofi-GSK on September 18 (300 million doses),⁵²⁶ Janssen Pharmaceutical (Johnson & Johnson) on October 8 (200 million doses),⁵²⁷ BioNTech and Pfizer on

⁵¹⁷ European Commission, *Coronavirus Global Response: Commission Joins the COVID-19 Vaccine Global Access Facility (COVAX)*, 31 August 2020, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1540>, 20 June 2021.

⁵¹⁸ Ibid.

⁵¹⁹ Team Europe is an expert team providing information about the functioning and policies of the European Union. They offer their expertise to those who need specialists in the field of EU policies.

⁵²⁰ European Commission, *Coronavirus: Commission Concludes Talks to Secure Future Coronavirus Vaccine for Europeans*, 31 July 2020, at <https://ec.europa.eu/commission/presscorner/detail/%5Beuropa_tokens:europa_interface_language%5D/ip_20_1439>, 20 June 2021.

⁵²¹ European Commission, *Coronavirus: Commission Reaches First Agreement on a Potential Vaccine*, 14 August 2020, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1438>, 20 June 2021.

⁵²² European Commission, *Coronavirus: Commission Expands Talks to a Fifth Vaccine Manufacturer*, 24 August 2020, at <https://ec.europa.eu/commission/presscorner/detail/%5Beuropa_tokens:europa_interface_language%5D/ip_20_1513>, 20 June 2021.

⁵²³ European Commission, *Coronavirus: Commission Completes Vaccines Portfolio Following Talks With a Sixth Manufacturer*, 9 September 2020, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1556>, 20 June 2021.

⁵²⁴ European Commission, *Coronavirus: the Commission Signs First Contract With AstraZeneca*, 27 August 2020, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1524>, 20 June 2021.

⁵²⁵ Ibid.

⁵²⁶ European Commission, *Coronavirus: the Commission signs second contract to ensure access to a potential vaccine*, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1680>, 20 June 2021.

⁵²⁷ European Commission, *Coronavirus: the Commission Signs Second Contract to Ensure Access to a Potential Vaccine*, 18 September 2020, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1680>, 20 June 2021.

November 11 (initially 200 million doses for the Member States and subsequently 100 million if the product proves safe and effective).⁵²⁸ On 12 November, the EU announced that it would allocate another 100 million euro to faster distribution of the vaccine in low and middle-income countries.⁵²⁹

In the following weeks, the European Commission, in its communication to the European Parliament and the Council “Preparedness for COVID-19 vaccination strategies and vaccine deployment” presented the principles that should be implemented in the vaccination strategy of each Member State as part of solidarity and cooperation in vaccine distribution.⁵³⁰ According to these principles, once vaccines are approved by the EMA, the Member States should be ready with a vaccination strategy ensuring services responsible for the safe vaccination of citizens (qualified personnel with an appropriate amount of medical and protective equipment), easy access to vaccines for the citizens, supply chains that are to safely transport vaccines to the right places, as well as an access to transparent information through social campaigns created by the government and the media.⁵³¹ This communication confirmed that the Member States would have access to vaccines proportionally to their population sizes.⁵³²

A date that gave a real hope for a return to normality in the EU was 21 December 2020. On that day, the European Commission approved BioNTech/Pfizer’s vaccine as the first accepted COVID-19 vaccine in the EU.⁵³³ A study by the EMA concluded that it was safe and effective.⁵³⁴ On 8 January, 200 million doses of the vaccine were purchased with the option for another 100 million, which would bring the number of doses to a total of 600 million. The next approved vaccines were those developed by Moderna (6 January 2021),⁵³⁵ Astra Zeneca (29 January), and Johnson & Johnson (11 March).⁵³⁶

⁵²⁸ European Commission, *Coronavirus: Commission Approves Contract with BioNTech-Pfizer Alliance to Ensure Access to a Potential Vaccine*, 11 November 2020, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2081>, 20 June 2021.

⁵²⁹ European Commission, *Coronavirus Global Response...*

⁵³⁰ European Commission, *Communication from the Commission...*, p. 1.

⁵³¹ *Ibid.*, pp. 7–9.

⁵³² *Ibid.*, p. 1.

⁵³³ European Commission, *European Commission Authorises First Safe and Effective Vaccine Against COVID-19*, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2466>, 20 June 2021.

⁵³⁴ European Medicines Agency, *EMA Recommends First COVID-19 Vaccine For Authorisation in the EU*, 21 December 2020, at <<https://www.ema.europa.eu/en/news/ema-recommends-first-covid-19-vaccine-authorisation-eu>>, 20 June 2021.

⁵³⁵ European Commission, *European Commission Authorises Second Safe and Effective Vaccine Against COVID-19*, 6 January 2021, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3>, 20 June 2021.

⁵³⁶ European Commission, *European Commission Authorises Fourth Safe and Effective Vaccine Against COVID-19*, 11 March 2021, at <https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1085>, 20 June 2021.

Several studies show that Europeans are among the most sceptical as regards vaccination against COVID-19. In the survey conducted in October 2020,⁵³⁷ 73% of respondents from 15 countries stated that they would vaccinate against COVID-19 if the vaccine was available. However, an intention to vaccinate against COVID-19 was expressed by just over half of adults in France (54%) and around two-thirds in Spain (64%), Italy (65%) and Germany (69%).⁵³⁸ Two Czech polls conducted in early December 2020 found that only 40% of Czechs would be willing to vaccinate against COVID-19.⁵³⁹ Vaccine hesitancy has been successfully fought by both the Member States and the EU institutions. Misinformation on vaccines has been combated through governmental and European platforms (EUvsDisinfo). The Member States created numerous campaigns to encourage the public to vaccinate and tried to ensure that false information about vaccines would be deleted as soon as possible. The vaccines producers are also very transparent and provide all necessary information on their websites.

As regards the vaccination process, solidarity and cooperation between Member States has shown some flaws. For example, in March 2021, Germany, France and Italy stopped vaccinating with AstraZeneca without prior informing the EMA. Their action was caused by the increased number of blood clot cases after vaccination. A few days after this decision, they returned to vaccinating with AstraZeneca, because it was evaluated that the benefits of the vaccine prevail over the risk of blood clots and other side effects. Another act of disobedience was recorded in Hungary, which started to vaccinate with Chinese and Russian vaccines without any permission from the EMA.

At the beginning of the vaccine rollout in Europe, the EU searched for ways the Member States could safely open their borders in order to enable free movement. Many European tourist destinations suffered from the pandemic in 2020, and in 2021 they could go bankrupt due to the lack of tourists.⁵⁴⁰ A key factor in opening up was a rapid and effective distribution of vaccines. In a communication titled “A common path to safe and sustained re-opening,”⁵⁴¹ the European Commission set out goals for itself and for the Member States to re-open economy and borders.⁵⁴² The European Commission pointed out that the Member States, so far, effectively introduced vaccination strategies and encouraged their citizens to vaccinate.⁵⁴³ However, the Commission made it clear that a common framework

⁵³⁷ *COVID-19 Vaccination Intent is Decreasing Globally*, IPSOS, 5 November 2020, at <<https://www.ipsos.com/en/global-attitudes-covid-19-vaccine-october-2020>>, 20 June 2021.

⁵³⁸ *Ibid.*

⁵³⁹ European Parliament, *Covid-19 Vaccination Campaigns: The Public Dimension*, 29 January, 2021, p. 3.

⁵⁴⁰ European Commission, *COVID-19: Digital Green Certificates*, 10 April 2021, at <https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans/covid-19-digital-green-certificates_en#what-is-a-digital-green-certificate>, 20 June 2021.

⁵⁴¹ European Commission, *Communication from the Commission...*, p. 1.

⁵⁴² *Ibid.*, pp. 1–2.

⁵⁴³ *Ibid.*, p. 1.

developed at the Union level could help in increasing confidence in decisions, especially among the individuals less concerned about the pandemic due to being tired with the subject or due to their constantly growing sense of security.⁵⁴⁴ Furthermore, it was noted that a common framework could lead to an increased trust between the Member States, whereas an excessive caution – to the collapse of quite well-functioning solidarity between the Member States.⁵⁴⁵ The first and the most important tool mentioned in the communication is the Digital Green Certificate⁵⁴⁶ which aims to provide the EU citizens with a secure proof that they have been vaccinated against COVID-19, or that they have received a negative test result, or that they have recovered from COVID-19.⁵⁴⁷ The certificate would enable EU citizens to move freely within the EU.

On 28 April 2021, the European Parliament voted to introduce the EU Digital COVID Certificate. The solution is to be tested for the first time in the Member States in June.⁵⁴⁸ However, there were some heated controversies regarding the naming of this tool. The European Parliament suggested that it should be called the EU COVID-19 certificate as it would be used within the organization.⁵⁴⁹ France raised some concerns that perhaps introducing such a solution would cause more problems and someone would accuse the EU itself of a lack of solidarity.⁵⁵⁰ This was due to the fact that many people simply did not have a chance to get vaccinated. On the other hand, it was proposed that in the scope of the tool unvaccinated citizens should be allowed free testing to find out if they are carriers of the virus. Among all the amendments that were agreed on by the Member States, the most important is the one that the EU Digital COVID Certificate “is not a precondition to exercise free movement rights and it is not a travel document in order to stress the principle of non-discrimination, in particular towards non-vaccinated persons.”⁵⁵¹ A study conducted by Euroconsumers shows that, in general, the digital green certificate has been well received.⁵⁵² According to this

⁵⁴⁴ Ibid., pp. 1–2.

⁵⁴⁵ Ibid., pp. 2–3.

⁵⁴⁶ Ibid., pp. 3–4.

⁵⁴⁷ Ibid., p. 5.

⁵⁴⁸ *EU COVID-19 Certificate Must Facilitate Free Movement without Discrimination*, European Parliament News, 29 April 2021, at <europarl.europa.eu/news/en/press-room/20210422IPR02606/eu-covid-19-certificate-must-facilitate-free-movement-without-discrimination>, 20 June 2021.

⁵⁴⁹ European Parliament, *EU Covid-19 Certificate – A Tool to Help Restore the Free Movement of People Across the European Union*, 20 May 2021, p. 4. Afterwards they named it EU Digital COVID Certificate, at <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690618/EPRS_BRI\(2021\)690618_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690618/EPRS_BRI(2021)690618_EN.pdf)>, 20 June 2021.

⁵⁵⁰ *EU Countries Agree to Five Key Amendments to the Digital Green Certificate Proposal*, The Journal.ie, 14 April 2021, at <<https://www.thejournal.ie/council-of-eu-5410140-Apr2021/>>, 20 June 2021.

⁵⁵¹ Ibid.

⁵⁵² Euroconsumers, *Euroconsumers' Second Survey on Vaccination: Citizens Expect Free of Charge Tests For the EU Digital Green Certificate*, 9 April 2021, at <<https://www.euroconsumers.org/activities/survey-vaccination-citizens-expect-free-charge-tests>>, 20 June 2021.

study, 59% respondents agreed that this tool is a good way to move freely within the EU again, and 63% agreed that the tool will encourage vaccination. However, the vast majority of respondents expressed their concerns that the COVID pass may discriminate between vaccinated and unvaccinated people. Two-thirds believed that free testing should be offered to people who have not had the opportunity to get vaccinated in order to obtain this pass.⁵⁵³

Another valid element of the opening up process is testing and infectious contact tracing by the Member States. Monitoring epidemiological situation and responding to it helps stop the spread of the virus. A large amount of testing is still needed for citizens who may have a chance of encountering the virus.⁵⁵⁴ On 28 October 2020, the Health Safety Committee agreed on a common list of antigen tests.⁵⁵⁵ The European Commission will provide⁵⁵⁶ around 20 million rapid antigen tests in 2021.⁵⁵⁷ Currently, the Commission is also putting a great amount of pressure on the Member States to introduce mobile applications that track infectious contacts.⁵⁵⁸ Patient location cards collected by the Member States are additional, useful tools to identify people who will become infected with COVID-19 in the future. They show data from foreign travellers and the exchange of this data between the Member States' authorities can be important in identifying the infected citizens. Such data, thanks to the cooperation with EU Healthy Gateways is now available on the Passenger Locator Form digital platform and is used by the governments of the Member States.⁵⁵⁹

The future will depend on the EU citizens' willingness to act in accordance with social solidarity. At the moment of writing this chapter, 173 million EU citizens are vaccinated with the first dose, and 84 million are fully vaccinated.⁵⁶⁰ The Member States reporting the highest number of doses are Germany, France and Italy. This gives them the sixth, seventh and eighth places in the world, respectively. Hungary (39%), Cyprus (27.1%) and Lithuania (24.6%) come last in the percentages of the vaccinated population.⁵⁶¹

⁵⁵³ Ibid.

⁵⁵⁴ Ibid., p. 5.

⁵⁵⁵ European Commission, *Communication from the Commission...*, p. 5.

⁵⁵⁶ European Union signed a contract with Abbott and Roche which allowed to purchase about 20 million antigen tests.

⁵⁵⁷ European Commission, *Communication from the Commission...*, p. 5.

⁵⁵⁸ Ibid., p. 6.

⁵⁵⁹ Ibid.

⁵⁶⁰ ECDC, *COVID-19 Vaccine Tracker*, at <<https://vaccinetracker.ecdc.europa.eu/public/extensions/COVID-19/vaccine-tracker.html#uptake-tab>>, 20 June 2021.

⁵⁶¹ *Coronavirus (COVID-19) Vaccinations*, Our World in Data, at <https://ourworldindata.org/covid-vaccinations?country=OWID_WRL>, 20 June 2021.

5. Summary

In the last 16 months, the European Union and its Member States had to face an unprecedented deadly threat which not only put health and lives of the European citizens at risk, but also threatened the core of solidarity and integrity of the union. For the first time in the EU history, the Member States univocally closed their borders, limited their citizens' rights and freedoms to unparalleled scale, and took intergovernmental and nationalistic approach in order to prevent the collapse of their national health systems. Although the COVID-19 pandemic initially exposed many weaknesses of the EU, the later integrative, solidarity-based and collective approach of the Member States eventually prevailed. With the exception of Sweden, the pattern of the Member States activities at the beginning of the COVID-19 pandemic was similar and could be summed up as a sum of chaotic and uncoordinated national responses. However, the Member States quickly learned a lesson from the mistakes of the most affected Mediterranean countries – that they cannot underestimate the spread of the virus.

Although the competences of the EU in handling health crisis are legally limited, the organisation assisted its Member States by developing initiatives and mechanisms that strengthened the cooperation between countries and boosted their morale. They included, for instance, the EU Civil Protection Mechanism, “rescEU” project, and the Council’s “Europeans versus COVID-19” initiative. The European Solidarity Tracker showed an impressive level of solidarity and cooperation between the Member States; however, a few egoistic and non-cooperative actions were also noticed.

At that time of severe health crisis, the EU had to address numerous fake news, Russian disinformation campaigns and misleading information clearly directed against the EU. Due to an impressive amount of work performed by the European Digital Media Observatory, the East StratCom Task Force and the EUvsDisinfo, the EU combated false information, successfully increased public awareness and helped its citizens develop resilience to online disinformation and media manipulation.

The EU managed to keep its positive image, which can be clearly identified in the Eurobarometer reports which focus on evaluating the response to actions taken by the EU and its Member States during the COVID-19 pandemic. The surveys demonstrated that 2/5 of the respondents were satisfied with the measures taken by the EU to fight against the coronavirus pandemic, 1/3 of the respondents were satisfied with the solidarity of the Member States and the actions between them, and 2/3 of the respondents thought that the EU should have more competences in health crisis management and other emergency situations. Particularly admirable is the fact that the EU, after a year of fighting the virus, has received a great deal of recognition and admiration for its actions from the EU citizens.

ZUZANNA KOPANIA

IV. Critical Perspective on the Reactions to the COVID-19 Pandemic in the European Union

1. Actions Taken by Member States

Strict restrictions on rights and freedoms of European citizens during the COVID-19 pandemic were a novelty for many, but their implementation was crucial in combating the rapidly spreading coronavirus. The first reactions of the Member States were marked by chaos, panic and lack of coordination. Despite taking different approaches to fighting the spread of the virus and initially choosing to make decisions unilaterally, the Member States soon realized that they needed each other. They needed to learn from each other's experiences in order to share – at the beginning in a very limited scope – resources, and to fight the virus side by side. In this subchapter, various actions taken by selected representative Member States will be presented. The authors chose them in such a manner as to show the enormity of the variety of activities, the pace and manner of their implementation, legality, evaluation, compliance with EU recommendations, etc.

In Austria, no state of emergency was introduced as the reaction to the COVID-19 pandemic, because there is simply no constitutional basis for it. The use of the federal President's ordinances was also not permissible during the pandemic due to the fact that not all constitutional conditions were met.⁵⁶² The first legislative measures to counteract SARS-CoV-2 at the federal level were based on the epidemic law (*Bundesgesetz über die Verhütung und Bekämpfung übertragbarer*

⁵⁶² P. Czarny, "Ograniczenia praw i wolności w okresie pandemii COVID-19 w Republice Austrii [Restrictions on the Exercise of Freedoms and Rights during the COVID-19 Pandemic in the Republic of Austria]," in: K. Dobrzaniecki, B. Przywora (eds.), *Ograniczenia praw i wolności...*, p. 18.

*Krankheiten*⁵⁶³). In most cases, it regulates quite precisely which diseases could be subject to specific preventive measures, but it also allows for the extension of this catalogue.⁵⁶⁴ It is important to note that SARS (*Schweres Akutes respiratorisches Syndrom*) has already been on the list since SARS epidemic in 2003. The government of Austria acted fast and effectively. Only three days after the first case of COVID-19 was reported, which happened on 25 February 2020, the Federal Minister of Social Affairs, Health and Consumer Protection issued an ordinance which stated that preventive measures provided for in the law on epidemics in the scope of limiting the activity of entrepreneurs could also be applied in the case of SARS-CoV-2 infection. A key legislative point occurred on 15 March 2020 when a day after a draft was formally submitted, the National Council and the Federal Council considered, voted on and enacted a federal law on temporary measures to prevent the spread of COVID-19 (*Bundesgesetz betreffend vorläufige Maßnahmen zur Verhinderung der Verbreitung von COVID-19*). The fact that it only took two days (14 May was a Saturday and 15 May was a Sunday) shows that Austria was under great time pressure to introduce restrictions. The law contained two essential mandates for the federal Minister of Health. Firstly, in order to prevent the spread of coronavirus he was now allowed to restrict access to certain sites (both for a specific and a non-specific period of time). Secondly, the Minister could, under the same condition that it had to be done to prevent the spread of the infection, prohibit access to the permanent premises of enterprises or only to certain premises for the purpose of purchasing goods and services. The Minister's ordinance could specify the number of people allowed and time of admission to the facilities exempt from the ban. Violation of the introduced bans could result in the imposition of an administrative penalty of up to 3,600 euro. It is important to note that the law was assumed to be of a temporary nature, and it was to expire on 31 December 2020.⁵⁶⁵ Currently, the act is comprehensive and allows for implementing rules concerning: the access to and movement around premises of enterprises, workplaces, specific places (including public places), the use of means of transport and restrictions on leaving home as sanitary measures preventing the spread of COVID-19. The temporary nature of the law has been maintained, but it will expire on 30 June 2021. However, the federal government may extend the duration of this law if necessary due to the epidemic situation, but no longer than until 31 December 2021.⁵⁶⁶

In total, more than 50 regulations were issued in Austria in response to the COVID-19 pandemic, the vast majority of them amending the existing provisions, and about 300 regulations were issued.⁵⁶⁷ All this resulted in a large number

⁵⁶³ Also known as: *Epidemiegesetz*.

⁵⁶⁴ P. Czarny, "Ograniczenia praw..." p. 18.

⁵⁶⁵ *Ibid.*, pp. 19–20.

⁵⁶⁶ *Ibid.*, p. 21.

⁵⁶⁷ *Coronavirus in Österreich – Rechtliche Grundlagen*, oesterreich.gv.at, at <https://www.oesterreich.gv.at/themen/coronavirus_in_oesterreich/Rechtliche-Grundlagen.html>, 20 June 2021.

of constitutional complaints to the Constitutional Tribunal. In Austria, the legal acts on counteracting the spread of COVID-19 were assessed by the Constitutional Tribunal relatively early – in July 2020.⁵⁶⁸ The only thing that the Tribunal found inconsistent with the Constitution was the limit of space available to customers (400 m²), on which the admissibility of conducting commercial and service activities was dependent. It should be emphasized that the Tribunal, pursuant to Article 140 Section 7 of The Federal Constitution banned the application of the provisions of the ordinance that were inconsistent with the law to the actual situations that arose at the time when it was in force, which is a rather exceptional situation in Austria. The Constitutional Tribunal later continued this line of jurisprudence and found that a number of specific restrictions introduced in various periods of the “fight against the pandemic” (e.g. the ban on parties and other events involving more than ten people) were either unconstitutional or the Minister of Health did not sufficiently demonstrate that the specific shape of the restrictions was indeed necessary to prevent the spread of COVID.⁵⁶⁹ In Austria, *necessitas non habet legem* (which means necessity has no law) was not used in connection with the COVID-19 pandemic, but efforts were made to maintain the standards of the constitutional rule of law at that time.⁵⁷⁰

Adhering to EU policies, Austria lifted its travel ban on 16 June 2020 along with 15 other Member States,⁵⁷¹ and later was eager to take part in the European Commission’s economic aid initiatives, especially in NextGenerationEU, where Austria submitted a national recovery and resilience plan under the European Union’s Recovery and Resilience Facility. It includes measures for an overall amount of 4.5 billion euros.⁵⁷² Austria’s government worked with the European Commission to provide the Western Balkans with COVID-19 vaccines and called it “an act of European solidarity and an investment in the health and security of the whole region.”⁵⁷³ Austrian Chancellor Sebastian Kurz praised the EU for taking the initiative so early to procure vaccines for the EU and expressed his doubts in whether or not the EU is ready for future dangerous mutations. He also stated that since European Medicines Agency was slow to approve vaccines and there

⁵⁶⁸ In Austria, individual constitutional complaints are admissible, which may be filed (without exhausting the legal route) by any person who claims that his or her rights have been directly violated due to constitutional contravention of a federal or national law (or a regulation inconsistent with the law), provided that the relevant acts’ legal effects have exerted independent legal effects on it without issuing a court ruling or an administrative decision.

⁵⁶⁹ P. Czarny, “Ograniczenia praw...,” pp. 25–26.

⁵⁷⁰ *Ibid.*, p. 27.

⁵⁷¹ International Monetary Fund, *Policy Responses to Covid-19*, at <<https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19>>, 20 June 2021.

⁵⁷² International Labour Organization, *COVID-19 Country Policy Responses – Austria*, at <<https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang--en/index.htm>>, 20 June 2021.

⁵⁷³ *The European Commission and Austria Secure COVID-19 Vaccines for the Western Balkans*, Reliefweb, 20 April 2021, at <<https://reliefweb.int/report/world/european-commission-and-austria-secure-covid-19-vaccines-western-balkans>>, 20 June 2021.

were production and delivery issues, then he hoped that in the future Austria would not have to be dependent solely on the EU as regards “second-generation” vaccines.⁵⁷⁴

The Constitution of the Kingdom of Belgium, referred to as the “peacetime constitution” (*une Constitution de temps de paix*), does not recognize an institution of a state of emergency. Article 187 of the Constitution states “The Constitution may not be suspended, either in whole or in part.”⁵⁷⁵ This provision is treated as an expression of attachment to the idea of constitutionalism understood as the absolute binding of constitutional organs with constitutional norms, even in extraordinary situations.⁵⁷⁶ Neither the *raison d'état* nor *salus populi* may constitute grounds for suspending the functioning of public institutions and constitutional rights. In emergency situations, it is possible to appeal to the doctrine developed in the case law and the institutions of the executive delegation of “special competence” (*les pouvoirs spéciaux*) by Parliament.⁵⁷⁷ The first emergency measures at the federal level were introduced under a ministerial decree on 13 March 2020. The regulation prohibited cultural, social, sports and entertainment activities, both in the private and public dimension, and religious ceremonies (except for funerals and activities in the circle of relatives). It has also suspended school education and partially restricted trade on Saturdays and Sundays.⁵⁷⁸ Only five days later, more restrictions were introduced, and later on 23 March a new ministerial decree⁵⁷⁹ repealed the previous one (which introduced limited hours for stores and night shops, compulsory work from home, travel ban on non-essential travel from Belgium)⁵⁸⁰ and introduced the most restrictive preventive measures, such as closing stores (with the exception of grocery stores, pet food stores, pharmacies, bookstores and gas stations), introducing social distancing of at least 1.5 metres, as well as shutting down event and catering businesses. However, hotel

⁵⁷⁴ *Coronavirus: Austria and Denmark Break Ranks With EU on Vaccines*, DW, 2 March 2021, at <<https://www.dw.com/en/coronavirus-austria-and-denmark-break-ranks-with-eu-on-vaccines/a-56747054>>, 20 June 2021.

⁵⁷⁵ The Belgian Constitution, Article 187, p. 77, at <https://www.dekamer.be/kvvcv/pdf_sections/publications/constitution/GrondwetUK.pdf>, 20 June 2021.

⁵⁷⁶ S. Van Drooghenbroeck, “L’article 187 de la Constitution,” *Revue Belge de Droit Constitutionnel*, no. 3 (2006), pp. 293–297.

⁵⁷⁷ A. Krzyniecki-Arndt, “Ograniczenia praw i wolności w okresie pandemii COVID-19 w Królestwie Belgii [Restrictions on the Exercise of Freedoms and Rights during the COVID-19 Pandemic in the Kingdom of Belgium],” in: K. Dobrzański, B. Przywora (eds.), *Ograniczenia praw i wolności...*, p. 38.

⁵⁷⁸ *Arrêté ministériel du 13 mars 2020 portant des mesures d’urgence pour limiter la propagation du coronavirus COVID-19*, 14 March 2020, at <https://www.etaamb.be/fr/erratum-du-13-mars-2020_n2020030330.html>, 20 June 2021.

⁵⁷⁹ *Arrêté ministériel du 23 mars 2020 portant des mesures d’urgence pour limiter la propagation du coronavirus COVID-19*, eJustice, 23 March 2020, at <<http://www.ejustice.just.fgov.be/eli/arrete/2020/03/23/2020030347/moniteur>>, 20 June 2021.

⁵⁸⁰ *Arrêté ministériel du 18 mars 2020 portant des mesures d’urgence pour limiter la propagation du coronavirus COVID-19*, eJustice, 18 March 2020, at <<http://www.ejustice.just.fgov.be/eli/arrete/2020/03/18/2020030331/moniteur>>, 20 June 2021.

restaurants and hotels could remain open, and meal deliveries were allowed. The number of people in large-format stores was limited to one customer per 10 m², they were also expected to do their shopping in no more than 30 minutes and, if possible, individually. A ban on staying in public places was introduced, with the exception of travelling on business (including travel to the workplace), going to post offices and shops and other institutions open under the regulation, leaving home in order to use ATMs related to access to healthcare, and caring for the elderly, minors, people with disabilities and people in difficult situations. Pursuant to the regulation it was also allowed to stroll in the company of family members living in the same household, as well as to perform physical activity, either individually or in the company of a person who was either a family member living in the same household, or a friend (always the same one), on the condition of keeping social distance. Classes and extra-curricular activities were suspended at all levels of education, and colleges and universities were obliged to provide distance education only. All enterprises and institutions that were not deemed necessary to meet the basic needs of the nation and the population were obliged to introduce remote work for all workers, as long as the nature of their work allowed it. For the remaining employees, a requirement was introduced to organize work in conditions that guaranteed the respecting of the social distancing requirements or – if not possible – to close the workplace.⁵⁸¹ Official government website announced that “these decisions are again the result of strong cooperation between the levels of competence, which is essential for the proper management of the current crisis”⁵⁸²

The country’s relationship with the EU during the pandemic has had its ups and downs with Belgium criticising some Member States for export bans on medical equipment at the beginning of the pandemic, claiming that it was against the spirit of the EU.⁵⁸³ On 1 December 2020, the European Commission disbursed 2 billion euros to Belgium under the SURE instrument. All in all, Belgium will receive 7.8 billion euros under this instrument.⁵⁸⁴ Belgium and the EU disagreed for months on the ban on non-essential travel within the EU that Belgium

⁵⁸¹ *Ministerieel besluit houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken*, eJustice, 23 March 2020, at <http://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=2020-03-23&numac=2020030347%0D%0A#top>, 20 June 2021.

⁵⁸² *Coronavirus: Reinforced Measures*, Belgium.be, 24 March 2020, at <https://www.belgium.be/en/news/2020/coronavirus_reinforced_measures>, 20 June 2021.

⁵⁸³ S. Pornschlegel, *Europe versus Coronavirus – Belgium: Successful Crisis Management Despite Political Fragility*, Institut Montaigne, 2 June 2020, at <institutmontaigne.org/en/blog/europe-versus-coronavirus-belgium-successful-crisis-management-despite-political-fragility>, 20 June 2021.

⁵⁸⁴ International Labour Organization, *Country Policy Responses – Belgium*, 4 May 2021, at <<https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang--en/in dex.htm#BE>>, 20 June 2021.

imposed on its citizens.⁵⁸⁵ On January 2021, Belgian authorities along with several other Member States received a letter from the European Commission saying that it would be possible to protect the health of the public by having less restrictive measures rather than a total ban, and asking Belgium to suspend the ban on 2 March 2021.⁵⁸⁶ The ban was eventually lifted on 19 April.⁵⁸⁷

The introduced preventive measures meant serious limitation of rights and freedoms of citizens, especially the freedom of movement (Article 12 of the Constitution), freedom of assembly (Article 26 of the Constitution), freedom of worship and public practice of it (Article 19 of the Constitution) and the right to education (Article 24 of the Constitution). They also constituted an interference with private and family life as protected under Article 22 of the Constitution.⁵⁸⁸ Royal Decree of 9 April 2020 introduced regulations regarding the suspension of the running of limitation periods, including the limitation of prosecution and time limits for the effective bringing of an appeal (with the exception of time limits for lodging an appeal), an objection to a judgment or a cassation appeal in criminal cases, and suspension of public hearings, except for hearings in criminal cases. In civil cases, if neither of the parties objected, the courts were principally expected to give their rulings without holding a hearing.⁵⁸⁹ Therefore, there has also been a partial restriction on the right to a fair trial (under Article 13 of the Constitution).

While at that time the restrictions seemed to be justified to protect citizens against a new and unknown virus, they are now being questioned as to their legitimacy, specificity of the law and proportionality. The Council of State referring to the European Convention on Human Rights, indicated that the right to a fair trial, the right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association may only be subject to limitations prescribed by law and necessary in a democratic society.⁵⁹⁰ The closest equivalent of the state of emergency in Belgium is a legal regime of extraordinary powers vested by the government on the basis of statutory delegation. The statutory delegation has clearly defined time limits, precisely defines the objectives for which the competences are exercised, and provides for

⁵⁸⁵ *EU Continues to Pressure Belgium to Put an End to Travel Ban*, Shengenvainfo News, 22 March 2021, at <<https://www.schengenvainfo.com/news/eu-continues-to-pressure-belgium-to-put-an-end-to-travel-ban/>>, 20 June 2021.

⁵⁸⁶ *Belgium Rejects Proposal to Suspend Non-Essential Travel Ban*, Shengenvainfo News, 3 March 2021, last modified 7 June, at <<https://www.schengenvainfo.com/news/belgium-rejects-proposal-to-suspend-non-essential-travel-ban/>>, last modified 20 June 2021.

⁵⁸⁷ *Belgium's Coronavirus Rules at a Glance*, Politico, 19 October 2020, at <<https://www.politico.eu/article/belgium-coronavirus-lockdown-rules-restrictions-overview/>>, 20 June 2021.

⁵⁸⁸ A. Krzynówek-Arndt, "Ograniczenia praw..." p. 48.

⁵⁸⁹ *Arrêté royal n° 2 du 9 avril 2020 concernant la prorogation des délais de prescription et les autres délais pour ester en justice ainsi que la prorogation des délais de procédure et la procédure écrite devant les cours et tribunaux* *Moniteur belge*, 9 avril 2020), eJustice, 9 April 2020, at <<http://www.ejustice.just.fgov.be/eli/arrete/2020/04/09/2020030581/moniteur>>, 20 June 2021.

⁵⁹⁰ C.E., section de législation, avis 67.142/AG du 25 mars 2020 sur une proposition de loi:habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19.

the adoption of legislation in the parliamentary procedure within a specified time frame. Meanwhile, the most important restrictions were introduced by ministerial ordinances, which were not replaced by royal decrees issued on the basis of statutory delegated extraordinary powers.⁵⁹¹

In Czechia, a state of emergency (*nouzový stav*) was declared on 12 March 2020.⁵⁹² The announcement was made pursuant to a resolution of the Government of Czechia. It was initially introduced for a period of 30 days. However, due to the development of the pandemic itself, the period was extended twice – initially until 30 April 2020 and then, under another resolution of the Government of Czechia, until 17 May 2020. On 13 March 2020, the government adopted eight more resolutions, including four very important to the protection of the right to health: on guaranteeing the provision of care in social welfare centres during the state of emergency, on crisis measures in relation to the prohibition of presence in selected institutions and marketplaces, on crisis measures relating to the quarantine obligation in the event of return from risk zones, and on crisis measures relating to the ban on entry of foreigners into the territory of the Czech Republic and departure of Czech citizens abroad. On 14 March 2020, the government adopted a resolution restricting retail sales and catering activities. From 15 March to 18 September 2020, the government issued 33 resolutions, including ones concerning: the aid shield in connection with COVID-19, the order to cover the mouth and nose in public spaces, limiting the movement of people and introducing shopping hours for seniors.⁵⁹³

Not too long after the pandemic had begun in Czech Republic, on 23 April 2020, the Municipal Court in Prague issued a judgment in the case against the Ministry of Health of Czechia. The court examined the allegation that the restrictions on rights and freedoms introduced by the Minister of Health (and earlier also by the government) were consistent with the Constitution and laws. The basis was a dispute of a competence nature, that is, whether the authority at the level of the Ministry of Health is competent to issue relevant legal acts limiting civil rights and freedoms, or the competence is exclusive to the Government of Czechia. The Court finally assumed that some of the ordinances issued by the Minister of Health had exceeded the competences.⁵⁹⁴ However, the Court emphasised that at the moment of issuing the judgment, it fully understood how the decisions that have been hurriedly made were crucial to protect the country's citizens.⁵⁹⁵

⁵⁹¹ A. Krzynyówek-Arndt, "Ograniczenia praw...", p. 48.

⁵⁹² *Resolution of the Government of the Czech Republic of 12 March 2020*, No. 194; 69/2020 Sb., 12 March 2020, at <https://www.randls.com/wp-content/uploads/194_120320_Usneseni-vlady-k-vyhlaseni-nouzoveho-stavu_EN.pdf>, 20 June 2021.

⁵⁹³ M. Žaba, "Ograniczenia praw i wolności w okresie pandemii COVID-19 w Republice Czeskiej [Restrictions on the Exercise of Freedoms and Rights during the COVID-19 Pandemic in the Czech Republic]," in: K. Dobraniecki, B. Przywora (eds.) *Ograniczenia praw i wolności...*, p. 134.

⁵⁹⁴ Justification to the judgment of the Municipal Court in Prague of 23/04/2020, sp. 14 A 41/2020.

⁵⁹⁵ M. Žaba, "Ograniczenia praw..." pp. 130–133.

At the beginning of the pandemic, Peter Ludwig and Aneta Kernová from Czechia created a video encouraging people across Europe to wear face masks during the global pandemic in order to slow down the spread of the coronavirus. It promoted wearing masks as a prosocial activity that protects everyone.⁵⁹⁶ In October 2020, it was one of the first countries to receive ventilators from RescEU.⁵⁹⁷ In November 2020, after months of travel restrictions, Czechia decided to implement the EU's recommendation and allowed for the epidemiological rules for Czech citizens travelling abroad and for foreign nationals coming to the Czech Republic to be governed by the "international traffic light system".⁵⁹⁸

The measures introduced by the government to counter the COVID-19 pandemic affected the rights and freedoms guaranteed by the Charter of Fundamental Rights and Freedoms⁵⁹⁹ to a varying extent. Actions of the authorities which came into force gradually interfered with such rights and freedoms as freedom of movement and residence (Article 14 of the Charter), the right to participate in religious practices and rituals (Article 16 of the Charter), the right to education (Article 33 of the Charter), freedom of assembly (Article 19 of the Charter), the right to freely pursue economic activity (Article 26 of the Charter) and personal freedom (Article 8 of the Charter), in particular when it comes to detaining persons in health care institutions without their consent. The measures that were taken due to the development of the pandemic did not arouse widespread opposition among the public. The exceptions were the ordinances of the Ministry of Health of the Czech Republic, which preceded the resolutions of the government several times. Governments' actions were mostly considered as justified, and when assessing the measures in terms of their legality, proportionality, rationality, economic effects, appropriate time for their introduction, it can be concluded that the government tried to act with due diligence.⁶⁰⁰

On 11 March 2020, Danish authorities announced strict restrictions on the freedom of entry into the country. The Kingdom of Denmark has been open to the movement of people between the Nordic countries for decades, and also belongs to the visa-free zone (Schengen Area). As a consequence of those restrictions, the control of the movement of people across Danish borders was restored. The principle was adopted that the list of strict restrictions was subject to weekly updates, carried out every Thursday by 4:00 p.m. in order to be implemented on

⁵⁹⁶ Czech Universities, *Czech Video Inspires the World to Wear Face Masks During the Global Pandemic*, 6 April 2020, at <<https://www.czechuniversities.com/article/czech-video-inspires-the-world-to-wear-face-masks-during-the-global-pandemic>>, 20 June 2021.

⁵⁹⁷ European Commission, *Timeline of EU Action*, at <https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/timeline-eu-action_en>, 20 June 2021.

⁵⁹⁸ Government of the Czech Republic, *Measures Adopted by the Czech Government Against the Coronavirus*, 12 July 2021, at <<https://www.vlada.cz/en/media-centrum/aktualne/measures-adopted-by-the-czech-government-against-coronavirus-180545/>>, 20 June 2021.

⁵⁹⁹ Authors refer to Charter of Fundamental Rights and Freedoms (*Listina Základních Práv a Svobod*) adopted on 16 December 1992.

⁶⁰⁰ M. Žaba, "Ograniczenia praw..." pp. 139–140.

the following Saturday (00:00). Interestingly, the two autonomous territories of Denmark, Greenland and the Faroe Islands, were governed by separate rules, according to the epidemic situation there.⁶⁰¹ On 13 March 2020, a partial lockdown was introduced. In the case of factories operating in the public sector that did not require continuous work it was recommended to keep employees at home for a period of two weeks or switch (if possible) to a remote working system. As regards private sector, the government called for applying similar solutions. Secondary schools, universities, libraries and cultural institutions were closed by a government order until further notice. The Danish society, which has a high degree of social trust in the authorities and persons performing public functions, “withdrew” children from schools and pre-school care institutions within 24 hours from the announcement by the government of its intention to close schools and kindergartens (for which the government’s plans allocated a period of four days). Such behaviour indicated a quick understanding of the seriousness of the situation and a sense of responsibility expressed in concern not only for one’s own health, but also for other people relying on close contacts in educational or pre-school care centres. Seniors citizens (due to their higher sensitivity to the life-threatening illness) were recommended to be isolated, especially from their grandchildren. City authorities were obliged to maintain places of care for children who could not be provided care by their parents or guardians.⁶⁰²

In March 2020, a system of testing people suspected of having crossed paths with the infected was launched. It was similar to the one used in South Korea.⁶⁰³ At the same time, the Ministry of Health developed guidelines to focus attention of hospitals dedicated to combating COVID-19 on people with breathing difficulties and shortness of breath. The result was a significant underestimation of the number of cases. According to the guidelines of the Ministry of Health, people with no clear symptoms of the disease and weak symptoms had to remain in home isolation while maintaining telephone contact with their general practitioners. Each of Denmark’s five regions was obliged by a government order to establish isolation sites for a minimum of 1000 people.⁶⁰⁴

On 18 March 2020, restrictions on assemblies were introduced pursuant to the provisions of the Epidemic Act. The number of their participants was limited to ten. Former recommendations regarding the risks for people gathering in shopping centres, showrooms and other places of easy access have been replaced with bans. Failure to comply with the ban resulted in the imposition of a financial penalty of up to 1500 Danish krone. At the end of March, testing of individuals

⁶⁰¹ M. Grzybowski, “Ograniczenia praw i wolności obywatelskich w okresie pandemii COVID-19 w Królestwie Danii,” in: K. Dobraniecki, B. Przywora (eds.), *Ograniczenia praw i wolności...*, p. 143.

⁶⁰² *Ibid.*, p. 149.

⁶⁰³ See: T. Cheshire, *Coronavirus: How South Korea’s Track and Trace System Has Kept Death Count Below 500*, Sky News, 13 October 2020, at <<https://news.sky.com/story/coronavirus-how-south-koreas-track-and-trace-system-has-kept-death-count-below-500-12103124>>, 20 June 2021.

⁶⁰⁴ *Ibid.*, p. 152.

suspected of a contact with infected people intensified. Local authorities took new initiatives to allow immediate testing of the inhabitants of their communities. Due to the threat of a pandemic and its consequences for all citizens and residents of the state, it was possible to acquire the consensus of 12 political parties represented in the Folketing to quickly amend the statutory regulations. It significantly expanded the regulatory powers of the government and the central administration bodies, while focusing the responsibility for the medical dimension of combating the pandemic in the Ministry of Health and the competent central authority, and for the implementation of (also by force) restrictions and limitations – in the Ministry of Justice and in the newly established central special body (in fact operating from July 2020 in an institutional link with the Ministry of Justice).⁶⁰⁵

The decision to reintroduce border control and the related regulations were notified to the European Commission in accordance with the requirements of Article 25 of the Schengen Borders Code.⁶⁰⁶ Given the large number of immigrant communities residing in Denmark, regulatory acts limiting the number of participants in public gatherings and access to public means of transport, and the principles of keeping distance in these vehicles, at stations and stops, as well as in shops and publicly accessible service establishments were shared with the public, not only in Danish and English, but also in the languages of all larger national communities of immigrants.⁶⁰⁷

After finding a mutated strain of COVID-19 in five different mink farms, Danish officials decided to kill 17 million minks because they were thought to be hosts of a mutated version of COVID-19 that could seriously threaten the efficacy of any future vaccines. Before that, Denmark had been world's largest producer of mink pelts and the industry itself brought the country 1.3 billion dollars in exports.⁶⁰⁸ Eventually, it turned out that the government had no legal basis to order the killing and in January 2021 decided to give mink farmers up to 19 billion Danish krone to recoup the losses (Financial Times counted that an average farmer would receive DKR 2.7 to 4.1 million for the dead animals, about DKR 7.6 million for loss of future earnings and about DKR 1.3 million for capital costs such as those of buildings and equipment). Additionally, they had to exhume the mass graves after swollen mink corpses came to the surface and threatened drinking water supplies.⁶⁰⁹

⁶⁰⁵ Ibid., p. 152–158.

⁶⁰⁶ Justits Ministerie, *Letter From the Minister of Justice to EU Commissioner Johansson of 13 March 2020*, at <<https://www.ft.dk/samling/20191/almdel/REU/bilag/305/2163329/index.htm>>, 20 June 2021; Official Journal of the European Union, *Article 25 SBC*, 13 April 2006, at <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R0562&from=EN>>, 20 June 2021.

⁶⁰⁷ Ibid., p. 159.

⁶⁰⁸ G. Carbonaro, *How Do You Kill 17m Mink Sick With a COVID-19 Mutation?*, CGTN, at <<https://newseu.cgtn.com/news/2020-11-06/How-do-you-kill-17m-mink-sick-with-a-COVID-19-mutation--Vb9hjGXbwI/index.html>>, 20 June 2021.

⁶⁰⁹ R. Milne, *Denmark Offers Mink Farmers More than \$3bn in Covid Compensation*, Financial Times, at <<https://www.ft.com/content/624f65b5-cd3e-45a1-b7f4-eeacff4f74fd>>, 20 June 2021.

Since the sunset clause on the Epidemic Act expired on 1 March 2021, the Parliament adopted a new, permanent Epidemic Act. It includes parliamentary oversight and veto for a number of the most intervening steps the government could take, and ensures automatic judicial review of measures resembling retention. Even though the new Epidemic Act may raise certain concerns as it has no expiry date and seems to introduce a permanent state of emergency, Denmark's fight with the pandemic is perceived well, and the officials responsible for it are said to have passed a test.⁶¹⁰ However, according to Kristin Cedervall Lauta, this experience proves that the country has to reform its crisis management and reinforce the separation of powers.⁶¹¹

Denmark's long standing travel bans provoked a stern response and disapproval from the European Commission, which sent a letter to the Danish government asking for the ban to be lifted.⁶¹² In March 2021 YouGov's latest Eurotrack survey showed that 50% of Danes thought the EU did not perform well in the vaccine rollout and only 34% perceived it positively, and 80% of Danes believe that their government did well during the pandemic.⁶¹³ Denmark's approach to the pandemic is considered socially inclusive and promoting social solidarity. Its government worked with labour and industry to compensate those affected by the lockdown and created a politically united front.⁶¹⁴

Since 2014, France has had a plan called ORSAN. The ORSAN plan (*Organisation de la Réponse du système de Santé en situation sanitaire exceptionnelles*) is an emergency plan that includes emergency procedures based on the crisis type, protocols for individual crisis units, and available tools.⁶¹⁵ It actually consists of multiple "white plans" (*plans blancs*) that have been prepared for each French hospital for whenever there is a risk of an increased need for healthcare or a serious disruption to its work. On 13 February, 2020 ORSAN was activated (using

⁶¹⁰ K. Cederwall Lauta, *The Eternal Emergency? Denmark's Legal Response to COVID-19 in Review*, *Verfassungsblog*, 22 March 2021, at <<https://verfassungsblog.de/the-eternal-emergency-denmarks-legal-response-to-covid-19-in-review/>>, 20 June 2021.

⁶¹¹ *Ibid.*

⁶¹² E. Sánchez Nicolás, *Brussels: Six EU States Travel Restrictions Went 'Too Far'*, *EUobserver*, 24 February 2021, at <<https://euobserver.com/coronavirus/151031>>, 20 June 2021.

⁶¹³ J. Conner, *Eurotrack: How Well Have Governments Handled Coronavirus?*, *YouGov*, 30 March 2021, at <<https://yougov.co.uk/topics/politics/articles-reports/2021/03/30/eurotrack-how-well-have-governments-handled-corona>>, 20 June 2021.

⁶¹⁴ D. Ornston, *Learning from Denmark's Socially Inclusive Approach to COVID-19*, *Policy Options Politiques*, 26 June 2020, at <<https://policyoptions.irpp.org/magazines/june-2020/learn-ing-from-denmarks-socially-inclusive-approach-to-covid/>>, 20 June 2021.

⁶¹⁵ ORSAN plan has five categories: Orsan Amavi (to deal with a massive influx of uncontaminated victims), Orsan Clim (to manage a massive influx of patients following a natural climate disaster), Orsan Epi-Vac (to manage a national epidemic or pandemic, including exceptional vaccination campaigns), Orsan Bio (to manage a known or emerging biological risk), Orsan NRC (to deal with nuclear, radiological or chemical risks); *Everything You Need To Know About a Hospital Emergency Procedures Plan*, *AlarmTILT*, at <<https://www.alarmtilt.com/en/studies-case/1256-everything-you-need-to-know-about-a-hospital-emergency-procedures-plan>>, 20 June 2021.

a scenario called REB) for SARS-CoV-2 pandemic. Its primary goals are to ensure the continuity of healthcare while limiting the spread of the virus. The plan was divided into four following stages:

- First – the virus does not spread to the population as a whole and its spread can still be stopped.
- Second – focusing on the territorial limitation of the spread of the virus, with an emphasis on the availability of outpatient and inpatient procedures, as well as the protection of people at high risk (with emphasis on those operating in communities such as nursing homes).
- Third – limiting viral transmission and actively combating the consequences of a pandemic.
- Fourth – returning to normal, pre-pandemic, life.⁶¹⁶

Under the ORSAN plan, health care professionals were mobilized through reorganising current working staff, increasing volunteer capacity, mobilizing the “health reserve” of retired and student health professionals, and the requisition of new staff wherever possible.⁶¹⁷

Initially, the government implemented only less severe measures once infections began to rapidly rise and most actions came in the form of recommendations for safe practices. Unfortunately, they were largely ignored,⁶¹⁸ so between 10 March and 17 March 2020 the country went into complete lockdown. Thousands of police officers were patrolling the streets. Unlike any other country, in France, police officers issued fines up to 135 euro if people did not have written declarations that justified their reasons for being out of their homes. Additionally, at the beginning of March, there was a non-binding recommendation on self-quarantining for 14 days after arriving in France but eventually the borders were closed on 17 March.⁶¹⁹

In support of phase one of the ORSAN plan, on 11 May the Pasteur Institute created a “COVID-score” website where everyone could calculate their risk of severe complications or dying from COVID-19, based on statistics for risk factors such as age, size, weight, and sex.⁶²⁰ On 1 June 2020, the Stop-COVID mobile app was released. The app uses Bluetooth technology and its use is completely voluntary but it did spark debates on data protection. The app warns users that they have crossed paths with someone who has tested positive for COVID-19 in the two previous weeks. One week after its launch, 1.4 million people downloaded it,

⁶¹⁶ P. Szewdo, L. Helińska, J. Woźniak, “Ograniczenia praw i wolności w okresie pandemii COVID-19 we Francji. [Restrictions on the Exercise of Citizens’ Rights and Freedoms in France during the COVID-19 Pandemic],” in: K. Dobraniecki, B. Przywora (eds.), *Ograniczenia praw i wolności...*, pp. 166–168.

⁶¹⁷ Z. Desson et al., “An Analysis of the Policy Responses to the COVID-19 Pandemic in France, Belgium, and Canada,” *Health Policy and Technology*, vol. 9, no. 4 (2020), p. 443.

⁶¹⁸ *Ibid.*, pp. 437–438.

⁶¹⁹ *Ibid.*

⁶²⁰ Pasteur Institute, *Covid-score*, at <<http://www.covid-score.fr/>>, 20 June 2021.

representing only 2% of the French population. By mid-June, the number of daily cases has reduced and the country started to open up.⁶²¹

It is important to emphasise that when on 23 March 2020 the French parliament adopted the law on the introduction of a state of emergency, it thus gave the government extensive authority to respond to the development of the epidemic by restricting constitutional rights and freedoms. Hence, the decrees issued by the Prime Minister after the entry into force of the law in question had an appropriate legal basis.⁶²² The adopted solutions balanced between the need to stop the spread of the virus on the one hand, and the need to ensure the functioning of the economic life on the other hand. The main EU values, such as respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, were also not violated.⁶²³

In Spain, the first measures were adopted as a result of actions by regional and local administrations. On 14 March 2020, under Royal Decree 463/2020, the Council of Ministers announced a state of alert that was supposed to last 15 days and was imposed in order to manage the sanitary crisis caused by COVID-19. The state of alert has been later extended six times by successive royal decrees.⁶²⁴ The state of emergency was in force from 14 to 20 June 2020. However, on 28 April, a national plan was announced. It consisted of four phases of a gradual recovery from the crisis. The entire country was also divided into areas within which the scope of the preparedness for fighting the pandemic was assessed.⁶²⁵

According to the general rule established in accordance with the applicable regulations, especially royal decrees, in Spain no one could leave their home for any purpose other than performing the few activities indicated as permitted during that period. This measure was unlike any other in other Member States, where for most of the time, freedom of movement was not restricted. Sick or not, people had to stay in their homes.⁶²⁶ Other limitations included the activity of retail premises and establishments, hotels and restaurants, as well as closing all schools and other in-person learning facilities.⁶²⁷

Initially, each autonomous community was responsible for the management of health services in each territory with the help from national authorities in re-

⁶²¹ Z. Desson et al., "An analysis...", pp. 441–442.

⁶²² P. Szwedo, L. Helińska, J. Woźniak, "Ograniczenia praw...", p. 196.

⁶²³ Ibid., pp. 197–198.

⁶²⁴ M. Osuchowska, "Ograniczenia praw i wolności obywatelskich w okresie pandemii COVID-19 w Królestwie Hiszpanii [Restrictions on the Exercise of Freedoms and Rights during the COVID-19 Pandemic in Kingdom of Spain]," in: K. Dobraniecki, B. Przywora (eds.), *Ograniczenia praw i wolności...*, p. 209.

⁶²⁵ Ibid., p. 211.

⁶²⁶ Ibid.

⁶²⁷ *Spain's Response to Covid-19: Emergency Measures; Gradual Relaxation*, International Financial Law Review, 4 June 2020, at <<https://www.iflr.com/article/b1lxmrrfr4gkfs/spains-response-to-covid19-emergency-measures-gradual-relaxation>>, 20 June 2021.

gard to supplying material resources related to combating the COVID19 outbreak (which was later criticized due to supposed lack of experience in purchasing healthcare material by the Ministry of Health and lack of proper coordination with the territorial administrations). Additionally, at the beginning of the pandemic there was a shortage of healthcare professionals and infrastructure. In order to support the National Health System, the government decided to increase its capacity with 52,000 health care professionals (including final year students and retired health care professionals). The General Council of Official Medical Professional Colleges responded to these measures with an opposing statement and expressed doctors' worries of having people working in healthcare workforce before completing their medical degrees. They also pointed out the lack of participation of health care professionals in the development of the public health measures, which was perceived as a proof that national and subnational authorities are not coordinating their work properly. Additionally, due to lack of personal protective equipment and the fact that the maximum bed and intensive care capacity has been exceeded in many territories, territorial administrations enabled temporary hospitals in hotel buildings and other public and private establishments. In response to the lack of sufficient medical equipment, a wave of innovation and solidarity was triggered among businesses, including those not specialized in medical equipment. An example of this corporative solidarity was the auto manufacturer SEAT, which generously helped the country by developing new prototypes of ventilators to counteract the shortage of these devices.⁶²⁸

On 7 July 2020, Royal Decree-Law 26/2020 introduced, *inter alia*, provisions that the directives of the European Union Aviation Safety Agency and ECDC were mandatory for airport operators, companies operating at airports, airlines and all users of airports. This decision proves that Spain was looking up to European Union's officials and united decisions. When considering reopening for tourism in June 2020, the country also notably followed several communications published by the European Commission.⁶²⁹

Those first reactions and measures are viewed negatively,⁶³⁰ but it should be remembered that Spain was one of the first countries to have clusters of COVID-19 cases reported, so it did not have that many other strategies, experiences or plans

⁶²⁸ U.A. Viguria, N. Casamitjana, "Early Interventions and Impact of COVID-19 in Spain," *International Journal of Environmental Research and Public Health*, vol. 18, no. 8 (2021), pp. 3–5.

⁶²⁹ Such as: European Commission Communication, „Tourism and transport in 2020 and beyond” (COM (2020) 550 final); European Commission Communication, „Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls” (2020/C 169/03); European Commission Communication, „Guidelines on the progressive restoration of transport services and connectivity” (2020/C 169/02); EU Recommendation 2020/648 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic; European Commission Communication, „EU Guidance for the progressive resumption of tourism services and for health protocols in hospitality establishments” (2020/C 169/01).

⁶³⁰ M. Osuchowska, „Ograniczenia praw...,” pp. 218–219.

to draw upon. Once the European Union started creating directions and recommendations, Spanish officials followed them adapting them to the country's specific needs. On 1 April 2020, as one of the first Member States, Spain signed a joint declaration aimed at emphasizing the importance of respecting EU values, in particular the rule of law during the COVID-19 pandemic. However, when it comes to introducing those regulations, both the matter and form of their preparation went beyond the constitutional regulations. The principle of proportionality is also questioned, which is reflected in numerous lawsuits filed by citizens, although this is not the only allegation raised in the complaints. There has also been a visible lack of a coherent concept of economic support.⁶³¹

The Netherlands introduced the first restrictions on 9 March 2020, when citizens were asked to stay in their homes if possible and to keep social distance. Three days later, on 12 March, so-called "intelligent lockdown measures"⁶³² were introduced. Their main objective was to protect people and prevent the spread of the virus while keeping the economy running. The intelligent lockdown measures included cancellation of events attended by more than 100 people, limited visits to the elderly and other vulnerable people, and promoted working at home whenever possible. Soon churches cancelled their services, universities switched to online teaching and many shops temporarily closed. Further measures were announced at press conferences held by the government on a regular basis. Following restrictions included closing nursery homes to visitors, limiting the number of funeral attendees to 30, prohibiting gatherings of more than two people (not counting the household members), and closing some recreation areas and beaches. Only necessary businesses, shops and public transportation were allowed to continue their operations but they had to obey health and social distancing regulations. Restaurants and bars had to close as well but were allowed to deliver their food.⁶³³

The government quickly developed and presented an economic plan for the COVID-19 crisis. On 31 March, in order to maintain jobs, companies with low turnover for three months (provided that all staff remained in their jobs) could apply for a compensations of 90% of wages. Moreover, those who were self-employed at the time could receive social benefit allowances for three months, companies that were hit by the lockdown measures could receive an extra subsidy of 4,000 euro, and start-up companies could borrow up to 2 million euro. Furthermore, contract workers received a social benefit allowance of 600 euro for three months and a national airline KLM received a 1 billion euro loan and state's guarantees for another 2.4 billion euro loans.⁶³⁴

⁶³¹ Ibid.

⁶³² See: A. Schippers, *The Netherlands: an 'Intelligent Lockdown'*, University of Sheffield, at <<https://www.sheffield.ac.uk/social-sciences/research/centres/ihuman/disability-and-covid-19-global-impacts/netherlands-intelligent-lockdown>>, 20 June 2021.

⁶³³ G. Antonides, E. van Leeuwen, *Covid-19 Crisis in the Netherlands: 'Only together we can control Corona'*, Mind & Society, at <<https://link.springer.com/content/pdf/10.1007/s11299-020-00257-x.pdf>>, 20 June 2021.

⁶³⁴ Ibid.

Due to the outbreak of the COVID-19 pandemic, the judicial procedure had to adapt to the new conditions. As a result, the courts principally work remotely whenever it is possible. From 17 March to 16 April 2020, only very urgent cases were conducted online (usually via Skype) or by telephone in the courts. Such cases may include cases relating to pre-trial detention, family supervision, and cases relating to the detention of immigrants. From 7 April to 10 May 2020, apart from very urgent cases, most cases were also settled online or by phone. A new general (not particular) law on COVID-19 was discussed for many months, one that would “anchor” the measures applied in law (*Tijdelijke wet maatregelen COVID-19*) and it entered into force on 1 December 2020. According to the new regulations, mayors are now required to make many decisions after consultation with the municipal health services.⁶³⁵ The act also introduces the concept of a safe distance that people are to keep from each other when they are outside. This distance is determined in agreement with the National Institute for Health and Environment (in Dutch: *Rijksinstituut voor Volksgezondheid en Milieu*, also known as RIVM). Also, it is generally forbidden to gather in larger groups, but the details are to be determined by an ordinance. However, this does not apply to religious assemblies, meetings of the States General, elections, meetings of city councils, etc. The act also stipulates that the conditions under which mass events may be organized shall be determined by way of a ministerial order. Further, it introduces the possibility of introducing regulations on general public hygiene rules and the use of generally accessible facilities, and it is to define the distance to be kept from the others.⁶³⁶ Since October 2020, restaurants and bars have been closed, and in December a new lockdown was introduced for a month.⁶³⁷

On 23 January 2021, the government introduced 9 pm – 4:30 am curfew as a proportional measure to tackle the COVID-19 crisis. A group called *Viruswaarheid* (*Virustruth*) appealed that decision to the court. On 26 February, The Hague Court of Appeal decided that the curfew’s limitation of constitutional freedoms “is justified.”⁶³⁸ This ruling overturned a judge’s decision made earlier that month that the government overstepped its legal powers.⁶³⁹

⁶³⁵ *Wet publieke gezondheid*, Overheid.nl, at <https://wetten.overheid.nl/BWBR0024705/2021-06-01#HoofdstukV_Paragraaf3_Artikel30>, 20 June 2021.

⁶³⁶ G. Krawiec, “Ograniczenia praw i wolności obywatelskich w okresie pandemii COVID-19 w Królestwie Niderlandów [Restrictions on the Exercise of Freedoms and Rights during the COVID-19 Pandemic in Kingdom of the Netherlands],” in: K. Dobraniecki, B. Przywora (eds.), *Ograniczenia praw i wolności...*, p. 235.

⁶³⁷ Government of the Netherlands, *Lockdown in Order to Minimise Contact between People*, 14 December 2020, at <<https://www.government.nl/latest/news/2020/12/14/lockdown-in-order-to-minimise-contact-between-people>>, 20 June 2021.

⁶³⁸ *Hague Court of Appeal’s Ruling on C/09/607056 / KG ZA 21-118*, Rechtspraak, at <<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2021:285&showbutton=true&keyword=ECLI%3aNL%3aGHDHA%3a2021%3a285>>, 20 June 2021.

⁶³⁹ *Dutch Appeals Court Says Coronavirus Curfew Was Right Move*, Reuters, 26 February 2021, at <<https://www.reuters.com/world/europe/dutch-appeals-court-says-coronavirus-curfew-was-right-move-2021-02-26/>>, 20 June 2021.

As of 20 June 2020, weddings in the Netherlands may be attended by no more than 50 people, and funerals by no more than 100 people. Schools and universities are open or partially open. Recreational, cultural and sports venues are open and events can be held. People are expected to work from home if possible and receive no more than four guests over the age of 13. Travel inside the country is allowed only if essential, however, travel abroad is allowed to a regularly updated list of countries with low rate of infection.⁶⁴⁰

The pandemic was a shock to the Dutch society and negatively affected many areas of life. Initially, there was an information chaos, and the actions taken by the government were frequently incomprehensible to ordinary people and judged by business as insufficient. Concerns have been expressed about the place and importance of the Netherlands in the “new normality” – some believe that in many areas the country will no longer count. The government’s lethargy in introducing new legal solutions was justified by the need to ensure that the new legal regulations do not violate the general principles of the constitution in the area of human rights.⁶⁴¹

At the beginning of the pandemic in the Federal Republic of Germany, due to the political system of that country, the response to the spread of SARS-CoV-2 was left to the individual states (lands). This was due to the fact that these states, based on their *Katastrophenschutzgesetzen*, had effective legal means to prevent and combat the effects of infectious diseases, including COVID-19, established in accordance with constitutional standards for the protection of human rights and respect for human dignity. The scale of the coronavirus pandemics and its effects, which went beyond the borders of the federal states as well as exceeded any initial projections, made it necessary to undertake multifaceted and nationwide measures within the entire federation. For this reason, the response to COVID-19, including interference with human rights, is currently taking place at the level of both the individual states and the federal authorities. The government eventually introduced restrictions on the freedoms of profession and economic activity, as well as restrictions on contacts or the prohibition of assembly and restrictions related to the exercise of religious freedom.

On 16 March 2020, the federal authorities introduced controls and limited passenger traffic at the borders with Austria, Denmark, France, Luxembourg and Switzerland. On the next day, the entry to Germany of people from outside the Schengen area was restricted.⁶⁴² On 10 April 2020, people returning to Germany

⁶⁴⁰ Government of the Netherlands, *Coronavirus Measures in Brief*, at <<https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/coronavirus-measures-in-brief>>, 20 June 2021.

⁶⁴¹ G. Krawiec, “Ograniczenia praw...” p. 243.

⁶⁴² A. Syryt, “Ograniczenia praw i wolności obywatelskich w okresie pandemii COVID-19 w Republice Federalnej Niemiec [Restrictions on the Exercise of Freedoms and Rights during the COVID-19 Pandemic in Federal Republic of Germany],” in: K. Dobraniecki, B. Przywora (eds.), *Ograniczenia praw i wolności...*, p. 319.

were obliged to undergo a compulsory fourteen-day home quarantine. The rules governing the administration and the course of quarantine were determined by the authorities of individual federal states. On 22 March 2020, bars and restaurants were closed, except for delivering food. It was allowed to open stores groceries, pharmacies, gas stations, banks, post offices and institutions providing basic needs. However, service establishments related to beauty industry, including beauty salons and hairdressing salons, were closed. From mid-April, smaller shops were gradually allowed to open (with an area of up to 800 m²), provided that they adhered to sanitary standards. Since May 2020, all stores have been opened and the decision on this matter has been left to each individual state. On the other hand, until 31 August 2020, the organization of mass events remained banned. In some lands, such as Bavaria, a curfew was introduced. The gradual lifting of travel restrictions led the lands to introduce an order to cover the mouth and nose in public transport and shops. It should be emphasized that the provisions governing the obligations in this respect are not uniform and, as in many other cases, they differ from one federal state to another.⁶⁴³ Before the COVID-19 pandemic, it was possible to use legal norms of individual federal states contained in the *Katastrophenschutzgesetz*, amend the *Infektionsschutzgesetz* and grant extensive powers to the federal government in the field of COVID-19, including those related to the possibility of suspending the application of certain legal acts.⁶⁴⁴

Compared to other countries, the Swedish legislator did not initially decide to introduce far-reaching restrictions on the public space. The main instruments used in counteracting the COVID-19 pandemic were recommendations and guidelines addressed to citizens, entrepreneurs running restaurants or organizing mass events, as well as manufacturers of medications and hygiene products. Quantitative restrictions were also introduced in regard to the possibility of gatherings and visiting people in nursing homes. Restrictions in the Kingdom of Sweden affected the right of movement, to run business, and of public gatherings. Interestingly, during the COVID-10 pandemic, Sweden did not close all schools completely. Primary schools operated under normal conditions; however, secondary schools and universities switched to distance learning.⁶⁴⁵

What is particularly outstanding and unique is the fact that in contrast to other EU's Member States, Sweden did not adopt the model of strict restrictions on the rights and freedoms of citizens in response to the COVID-19 pandemic. Legal instruments already existing in Sweden were used, supplemented with elements enabling them to function more efficiently. The initial effectiveness of the Swedish model was evident. However, it is more the result of the discipline of Swedish citizens, their mutual cooperation, keeping social distancing and adhering

⁶⁴³ Ibid., p. 320.

⁶⁴⁴ Ibid., p. 325.

⁶⁴⁵ B. Przywora, A. Wróbel, "Ograniczenia praw i wolności obywatelskich w okresie pandemii COVID-19 w Szwecji [Restrictions of Rights and Freedoms during the COVID-19 Pandemic in Sweden]," in: K. Dobraniecki, B. Przywora (eds.), *Ograniczenia praw i wolności...*, p. 357.

to the rules of hygiene. A clear example of cooperation in the fight against the COVID-19 is the attitude of Swedish teachers, who filled in the questionnaires regarding their skill sets, and some of them were delegated during the school closure to help the elderly. Special emphasis was placed on the continuous monitoring of procedures and legislation related to preventing the spread of infectious diseases. The COVID-19 pandemic did not spur the introduction of revolutionary changes in Swedish law and policies. One could say that the existing law and procedures appropriate to the COVID-19 pandemic were used. Thus, the Swedish legal system, unlike that in many Member States, did not experience an “amendment shock” at the level of acts on limiting the rights and freedoms of citizens, as well as in the scope of freezing the state economy, but only a specific subsumption of the actual state of affairs was made to the regulations.⁶⁴⁶

However, all in all, Sweden became Europe’s cautionary tale.⁶⁴⁷ After initially being a “COVID-sceptics’ safe haven” and not restricting the lives of its citizens, Sweden lost 40% more people than the United States, 12 times more than Norway and six times more than Denmark. For a population of only 10 million, these are huge numbers.⁶⁴⁸ Sweden’s 42.5% households are single-person ones, so protecting its citizens could have been a fairly easy task. Swedish virologist Lena Einhorn said that the country’s strategy was a dramatic failure.⁶⁴⁹ Sweden’s excess mortality concentrated on the elderly, where one review found lack of personal protection equipment, testing and not very well qualified staff.⁶⁵⁰

In December 2020, both King Carl XVI Gustaf and Prime Minister Stefan Lofven said that they failed the public and that Sweden’s somewhat relaxed approach was a mistake, failing to protect the elderly in care homes.⁶⁵¹ Prime Minister’s words are surprising considering that on 3 April 2020 he told a Swedish newspaper *Dagens Nyheter* that the country needed to prepare for counting the dead in thousands.⁶⁵² All along, the government’s plan was to develop herd immunity and, despite ECDC’s recommendation to wear masks, it actually recommended against wearing protective masks in public places (with the exception of places where healthcare professionals treated patients that had or could have

⁶⁴⁶ Ibid., p. 374.

⁶⁴⁷ P.S. Goodman, *Sweden Has Become the World’s Cautionary Tale*, The New York Times, 7 July 2020, at <<https://www.nytimes.com/2020/07/07/business/sweden-economy-coronavirus.html>>, 20 June 2021.

⁶⁴⁸ Ibid. Data as of 7 July 2020.

⁶⁴⁹ NewStatesman, *Sweden’s Covid-19 Failures Have Exposed the Myths of the Lockdown-Sceptics*, at <<https://www.newstatesman.com/world/europe/2020/12/sweden-s-covid-19-failures-have-exposed-myths-lockdown-sceptics>>, 20 June 2021.

⁶⁵⁰ F. Diderichsen, *How did Sweden Fail the Pandemic?*, International Journal of Health Services, at <<https://journals.sagepub.com/doi/full/10.1177/0020731421994848#>>, 20 June 2021.

⁶⁵¹ *Coronavirus: Swedish King Carl XVI Gustaf Says Coronavirus Approach ‘Has Failed,’* BBC, 17 December 2020, at <<https://www.bbc.co.uk/news/world-europe-55347021>>, 20 June 2021.

⁶⁵² K. Bjorklund, A. Ewing, *The Swedish COVID-19 Response Is a Disaster. It Shouldn’t Be a Model for the Rest of the World*, Time, 14 October 2020, at <<https://time.com/5899432/sweden-coronavirus-disaster/>>, 20 June 2021.

COVID-19). In early May 2020, the Public Health Agency estimated that by the end of May, 40% of Stockholm's population would have protective antibodies. The Agency's own study later showed that this was not the case, and by late June only 11.4% of Stockholm's population acquired the antibodies.⁶⁵³

This approach did not save Swedish economy. Its GDP fell 8.6% during the second quarter of 2020. At the same time, Denmark registered a 7.4% fall and Finland a 3.2% fall. However, Sweden's chief epidemiologists and main creator of its strategy said that the economic aspect was not taken into consideration when making a decision whether or not to impose a lockdown.⁶⁵⁴ Due to the fact that Swedish people responded to the fear of the virus by limiting their shopping, Sweden suffered a much higher death rate than neighbouring countries while not collecting any economic gains.⁶⁵⁵

Before the COVID-19 crisis, the Member States had a visible tendency to determine and fund their own priorities in public health sector in an uncoordinated and rather unilateral manner.⁶⁵⁶ As can be seen from the selected examples above, the Member States have adopted different strategies to combat COVID-19. Initially, their actions were incoherent and chaotic, very often at the expense of the freedoms and rights of EU citizens. Only with time did the policies of the Member States begin to become similar and adopt similar models due to two factors: internal, that is, the Member States learned from each other and imitated their solutions, and external – EU communications contributed to the coordination of actions. The exception was Sweden, which for almost 1.5 years stuck with its model, but finally admitted that it was a failure and both the king and the government apologized to citizens. The authors believe that despite the initially rather nationalistic and selfish attitudes of the Member States, thanks to the EU press releases and decades of integration of the Member States, gestures of solidarity began to dominate, and the policies of the Member States were more and more similar. Over time, the Member States' adherence to EU recommendations began to increase. In the future, the authors recommend that the Member States place greater trust in the EU institutions and take them into account from the very beginning in planning national strategies.

⁶⁵³ Ibid.

⁶⁵⁴ S. Baker, *Sweden's GDP Slumped 8.6% in Q2, More Sharply than its Neighbors Despite its No-Lockdown Policy*, Business Insider, 14 August 2020, at <<https://www.businessinsider.com/coronavirus-sweden-gdp-falls-8pc-in-q2-worse-nordic-neighbors-2020-8?r=US&IR=T>>, 20 June 2021.

⁶⁵⁵ P.S. Goodman, *Sweden Has Become...*

⁶⁵⁶ L. van Schaik, K.E. Jørgensen, R. van de Pas, "Loyal at Once? The EU's Global Health Awakening in the Covid-19 Pandemic," *Journal of European Integration*, vol. 42, no. 8 (2020), p. 1146.

2. Actions Taken by European Union

The pandemic itself was predictable. Moreover, it was expected and announced by many specialists throughout the last few years. Repeated warnings have been given by respected individuals and groups of experts in numerous scientific articles, reports and press releases. For instance, the prediction of global pandemic was mentioned in the Report of the “High-level Panel on the Global Response to Health Crises” in 2016.⁶⁵⁷ In 2019, the Global Preparedness Monitoring Board clearly expressed their concern that the world is not prepared for a swift, virulent respiratory pathogen pandemic.⁶⁵⁸ This was confirmed in a simulation exercise conducted in the United States of America in October 2019 that showed “major unmet global vulnerabilities and international system challenges posed by pandemics that will require new robust forms of public–private cooperation.” Around the same time, the Global Health Security Index report stated a similar warning.⁶⁵⁹

After the SARS outbreak in 2003, the European Centre for Disease Prevention and Control was established. Its role is to strengthen Europe’s defences against infectious diseases. Its core functions are surveillance, epidemic intelligence, response, scientific advice, microbiology, preparedness, public health training, international relations, and health communication.⁶⁶⁰ However, due to financial crisis in 2008 and the following financial cuts on national public health spending, the organisation was struggling with staff costs and daily expenses.⁶⁶¹ Additionally, there was a noticeable struggle in cooperation and communication between the Member States, in particular with regard to the Epidemic Intelligence Information System and the European Surveillance System. Despite introduced instruments and institutions such as the EU Decision on Serious Cross-Border Threats to Health,⁶⁶² EIT Health⁶⁶³ and the ECDC, the EU’s governance framework on public health is still a continuous work in progress.⁶⁶⁴

In 2020, everyone learnt that viruses do not care about national borders or diplomatic relations. The world went through a traumatic experience, and it has shown humanity in national and international politics. However, the first

⁶⁵⁷ Panel Makes Recommendations on Health Crises, Health-Related SDGs, SDG Knowledge Hub, 10 February 2016, at <<http://sdg.iisd.org/news/panel-makes-recommendations-on-health-crises-health-related-sdgs/>>, 20 June 2021.

⁶⁵⁸ Global Preparedness Monitoring Board, *A World at Risk. Annual report on global preparedness for health Emergencies*, September 2019, at <https://apps.who.int/gpmb/assets/annual_report/GPMB_annualreport_2019.pdf>, 01 July 2021.

⁶⁵⁹ A. Renda, R. Castro, “Towards Stronger EU Governance of Health Threats after the COVID-19 Pandemic,” *European Journal of Risk Regulation*, vol. 11, no. 2 (2020), p. 3.

⁶⁶⁰ ECDC, *About ECDC*, at <<https://www.ecdc.europa.eu/en/about-ecdc>>, 20 June 2021.

⁶⁶¹ A. Renda, R. Castro, “Towards Stronger EU...,” p. 5.

⁶⁶² *Decision No 1082/2013/Eu of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC*, at <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013D1082>>, 20 June 2021.

⁶⁶³ EIT Health, *Together We Are Stronger*, at <<https://eithealth.eu/covid-19/>>, 20 June 2021.

⁶⁶⁴ A. Renda, R. Castro, “Towards Stronger EU...,” p. 5.

reactions of international organisation and states to the spread of the coronavirus were chaotic and uncoordinated, more and more actions of solidarity have been noticed in the months that followed. What is important, many of such gestures went beyond borders or disagreements. Countries, global companies, local businesses and ordinary people tried to cooperate and helped each other in the best ways they could. Before we delve into the actions taken by the EU within its borders, let us have a look at the first recommendations of World Health Organisation, which took a role of global leader in introducing policies and strategies to fight pandemic.

According to the European Solidarity Tracker, between 4 March 2020 and 30 September, there were 131 acts of solidarity. After the first outbreaks of COVID-19 in Europe, following understandable initial chaos and panic, there was a wave (or even a flood) of mutual support between the Member States, EU citizens and EU institutions. Everyone knew that no matter the politics, at that moment people needed to protect and support each other. In September 2020, in a study of 14,000 respondents from seven countries (including Poland, the United Kingdom, France, Germany, Italy, the Netherlands and the US) on the impact of the pandemic on trust, social cohesion, democracy and expectations towards the future, it was found that “the pandemic has created a new sense of togetherness, making us more aware of our shared humanity and of the living conditions of others”⁶⁶⁵ The researchers concluded that many people feel that COVID-19 has changed us into more caring societies, and while “there is disappointment with the EU’s handling of COVID-19, majorities still see its relevance, and support European and multilateral cooperation over ‘go-it-alone’ approaches, including taking on common debt within the EU”⁶⁶⁶

Although the EU itself does not hold a position of a Member State of the WHO, all 27 Member States are amongst the 194 Member States of the WHO. In practical terms, the Member States are coordinated to some point by the EU delegation in Geneva in voicing their concerns and goals on WHO’s matters. It is also worth mentioning that the European Commission was the main funder of WHO’s Universal Health Coverage partnership program. It is WHO’s flagship program that aims to enable social health protection and health systems strengthening worldwide. Besides, the European Commission, the European Parliament and the senior leadership of the WHO⁶⁶⁷ hold annual meetings that focus on improving communication and creating strategies which would help to achieve common goals, governance and protection.⁶⁶⁸

⁶⁶⁵ *The New Normal?*, More in Common, at <<https://www.moreincommon.com/newnormal/>>, 20 June 2021.

⁶⁶⁶ *Ibid.*

⁶⁶⁷ WHO’s leadership team can be seen here: World Health Organization, *WHO Headquarters Leadership Team*, at <<https://www.who.int/director-general/who-headquarters-leadership-team>>, 20 June 2021.

⁶⁶⁸ *Ibid.*, p. 1148.

In pre-COVID-19 times, the Member States were generally not eager to share their competence in public health with the European Union. They reluctantly agreed on funding European and global health programmes, because it was considered an area of national policy. As a result, global health and potential health crises were not high on the European political agenda. This partially explains why the COVID-19 pandemic has been declared and Europe plunged into a big shock and crisis. To put it simply, in 2020 there was no comprehensive and effective EU strategy on handling huge global health crises in place. Even though some Member States (such as France, Germany and Sweden) had developed their own public health strategies, there was a visible lack of common approach on the EU level.⁶⁶⁹

The President of the European Commission, Ursula von der Leyen, and the Vice-President, Josep Borrell advocated for “global cooperation and solidarity through multilateral efforts which they view as the only effective and viable avenues”.⁶⁷⁰ They also agreed that the WHO needs to continue being able to lead the international response to pandemics, current and future.⁶⁷¹ The EU’s current efforts to uphold the WHO are commendable but it is not traditionally known to be a strong supporter of the WHO, despite its ongoing rhetoric on adhering strongly to effective multilateralism. However, for years now, the EU has neglected the WHO, both politically and structurally, especially when it comes to who and how leads the organization. In the years 2016–2017 it was accepted that the Director would be a Chinese woman, Margaret Chan (who has Chinese citizenship), replaced by Tedros Adhanom Ghebreyesus, clearly backed by Chinese officials. The amount of money spent on certain projects and efforts may end up meaning nothing if one does not have enough political influence and power. China stems its political influence from economic links with many low- and middle income countries and it invests in healthcare infrastructure and the production of medicines (including vaccines) in third-world countries through state-owned manufacturing companies.⁶⁷² Unfortunately, in its initial responsiveness to the COVID-19 outbreak, the WHO did not meet expectations. In fact, its somewhat lenient position has been widely criticised around the world.⁶⁷³

⁶⁶⁹ Ibid., p. 1149.

⁶⁷⁰ European Commission, *US announcement on breaking ties with the World Health Organisation: Statement by the President of the Commission Ursula von der Leyen and High Representative/ Vice-President Josep Borrell*, at <https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_20_983>, 20 June 2021.

⁶⁷¹ Ibid.

⁶⁷² L. van Schaik, K.E. Jørgensen, R. van de Pas, “Loyal at Once?...” p. 1151.

⁶⁷³ See: P. Beaumont, *UK and US Criticise WHO’s Covid Report and Accuse China of Withholding Data*, The Guardian, 30 March 2021, at <<https://www.theguardian.com/world/2021/mar/30/who-criticises-chinas-data-sharing-as-it-releases-covid-origins-report>>, 20 June 2021; B. Altug, *WHO Criticized for ‘Contradictory’ COVID-19 Statements*, AA, 7 July 2020, at <<https://www.aa.com.tr/en/europe/who-criticized-for-contradictory-covid-19-statements/1902436>>, 20 June 2021; *WHO Criticised for Major Delays in COVID-19 Origins Investigation*, SkyNews, 15 January 2021, at <https://www.skynews.com.au/details/_6223034787001>, 20 June 2021.

In comparison to the previous decade, the pandemic has highly influenced and changed WHO as an important organisation. Although the EU had always been vocal and committed to united and multilateral efforts, it was not until the COVID-19 pandemic when the EU realised how essential effective cooperation under the WHO structure is during this and any other future pandemics. It is particularly valid in terms of obtaining actual information on the spread of the virus and on actions taken to stop it in other parts of the world. Given that infectious diseases cannot be simply stopped at national borders, global approach and cooperation are currently view as indispensable, also from the EU's perspective.⁶⁷⁴

Perhaps the most remarkable step in the direction of further integration of the Member States can be noticed in the vaccine purchasing and distribution process. The EU's reasonable concerns over strategic autonomy accelerated the developing of a common strategy. This prevented the Member States from not treating each other as competitors in vaccine rollout. It is even more admirable given the risk that the European Commission had to take. Due to its nature, a vaccine race is a highly politicised and unsure business. The European Commission was fully aware of the fact that if vaccine investments did not pay out, it would be blamed for wasting public funding, which would then contribute to general distrust in the EU and vaccine hesitancy of many European citizens.

At the moment, the EU faces a major contradiction between seeking neo-liberal macro-economic policies that impose austerity and competitiveness, and pursuing solidarity and economic and social cohesion through social and cohesion funds.⁶⁷⁵ The key part of any regional development program consists of socio-spatial redistribution aiming at reducing unevenness and socio-spatial injustices, which is inconsistent with austerity. The EU leaders need to acknowledge it. Otherwise, the European society will not be able to make any major positive changes.⁶⁷⁶

In fact, the EU actually has a tool that measures European cohesion by tracking a range of socio-economic and political variables. The EU Cohesion Monitor is an index of all the Member States and the UK, and of their readiness to work together. Its central assumption is that European cohesion is the EU's precondition to its capacity to act and that working together successfully makes it stronger.⁶⁷⁷ Indeed, cohesion is the glue that holds the Member States together. Currently, three major threats have been identified with regard to the European cohesion:

- The southern challenge – Countries that were the most affected by the crisis (such as Spain, Greece, Italy, Bulgaria, Romania, Croatia) are at risk

⁶⁷⁴ Ibid., p. 1156.

⁶⁷⁵ C. Hadjimichalis, "An Uncertain Future for the Post-Brexit, Post-COVID-19 European Union," *European Urban and Regional Studies*, vol. 28, no. 1 (2021), <https://doi.org/10.1177/0969776420968961>, pp. 8–13.

⁶⁷⁶ Ibid.

⁶⁷⁷ C. Busse et al., *EU Cohesion Monitor*, European Council on Foreign Relations, 10 December 2020, at <<https://ecfr.eu/special/eucohesionmonitor/>>, 20 June 2021.

of stagnation, rise of unemployment and veer from the wealthier Member States. Unless they feel that the EU has effectively and successfully responded to the crisis, it could eventually lead to growing frustration among their populations and scepticism towards the EU.

- The northern challenge – Some countries, such as Austria, Denmark, Finland, the Netherlands, Sweden and maybe even Germany, can simply lose patience with the Member States that constantly need bailouts or suffer from inside corruption and weak rule of law. Greece makes a perfect examples of such countries. The “northern” countries may struggle to understand their issues and eventually diverge from the EU. Thus, it is vital for economically unstable Member States to address their financial and legal problems and take this weight off the shoulders of the northern Member States.
- The central European challenge – In some countries in this region, particularly in Hungary and Poland, judicial independence, protection of minorities and media pluralism are under a great strain. The pandemic has only deepened these issues. In May 2020, Freedom House’s annual Nations in Transit report evaluated the state of democracy in Poland and Hungary. Poland was categorised as a semi-consolidated democracy and Hungary as a transitional/hybrid regime and no longer a democracy.⁶⁷⁸ If the EU turns out to be ineffective in pushing these Member States to comply with the rule of law, it might cause a major problem for the integrity of the EU and the entire region can suffer.⁶⁷⁹

In April 2020, the European Council on Foreign Relations conducted a poll across nine Member States, including Bulgaria, Denmark, France, Germany, Italy, Poland, Portugal, Spain, and Sweden. 63% of respondents agreed there was a need for more cooperation at the EU level. In Portugal (91%), Spain (80%), and Italy (77%), the numbers of approval in response to this question were exceptionally high. All in all, almost half of respondents in all nine countries disagreed with the claim that the EU had lived up to its responsibilities during the crisis, with numbers especially high in Italy (63%), France (61%), and Spain (52%). Despite this level of discontent, a majority of respondents placed their hopes in greater EU cooperation.⁶⁸⁰

A majority of the surveyed nations agreed that the Member States should share the financial burden of the crisis (70% of the respondents in Portugal, 63% in Spain,

⁶⁷⁸ Hungary ‘No Longer a Democracy’ Says Freedom House, *Kafkadesk*, 6 May 2020, at <<https://kafkadesk.org/2020/05/06/hungary-no-longer-a-democracy-says-freedom-house/>>, 20 June 2021.

⁶⁷⁹ C. Busse et al., *The Crisis that Made the European Union: European Cohesion in the Age of Covid*, European Council on Foreign Relations, pp. 4–5, at <<https://ecfr.eu/publication/the-crisis-that-made-the-european-union-european-cohesion-in-the-age-of-covid/>>, 20 June 2021.

⁶⁸⁰ S. Dennison, P. Zerka, *Together in trauma: Europeans and the world after Covid-19*, European Council on Foreign Relations, 29 June 2020, at <https://ecfr.eu/publication/together_in_trauma_europeans_and_the_world_after_covid_19/>, 20 June 2021.

57% in Italy, 55% in Poland, 54% in Bulgaria), with some being not that confident in this statement (47% of the respondents in France, 43% in Germany, 30% in Sweden and only 24% in Denmark supported the idea of a shared financial burden).⁶⁸¹ 52% of all respondents believe that the EU should have a more unified response to global threats and challenges, and when each nation was asked on their broad attitudes towards the EU, most of them categorised themselves either as engaged Europeans or switched-off Europeans.⁶⁸²

According to the European Parliament's survey that was conducted in July and October 2020, two-thirds of European citizens thought that the EU should have more powers to deal with crises such as the COVID-19 pandemic.⁶⁸³ Ironically, the COVID-19 pandemic might have only brought those countries closer to the EU. However, some of the "northern" countries, such as Austria, Denmark, Finland, the Netherlands and Sweden, showed lower levels of support and enthusiasm when asked whether or not the EU should have bigger financial resources to address the consequences of the crisis.⁶⁸⁴ Overall, the EU actions are evaluated positively and there is a will to broaden the EU's competence in handling crises such as pandemics.

3. Recommendations of Actions Which Should Be Taken to Handle Crises in the European Union

This is not the first pandemic of the century, and researchers repeatedly warn that due to certain demographic trends (such as urbanisation, environmental degradation, climate change, persistent social and economic inequalities) as well as globalised trade and travel, it probably will not be the last one. COVID-19 exposed that at least at the current state of European health policies, the Member States are not ready for handling such threats quickly and effectively.⁶⁸⁵ In previous chapters the deficiencies of both national and the EU mechanisms were pointed out. In this subchapter, the authors share a wide range of observations and recommendations on what can be improved in order to prepare for similar crises in the future.⁶⁸⁶

⁶⁸¹ Ibid.

⁶⁸² 50% of Spanish respondents, 44% of Portuguese respondents, 38% in Denmark, 34% in Poland, 30% in Italy, 30% in Sweden, 29% in Germany, 28% in France and 24% in Bulgaria called themselves engaged Europeans. 19% of Spanish respondents, 22% of Portuguese respondents, 21% in Denmark, 22% in Poland, 20% in Italy, 21% in Sweden, 26% in Germany, 23% in France and 20% in Bulgaria called themselves switched-off Europeans. Source: Ibid.

⁶⁸³ C. Busse et al., *The Crisis...*, pp. 19–20.

⁶⁸⁴ Only a little over 50% of respondents were positive about the EU's future cooperation; C. Busse et al., *The Crisis...*, pp. 19–20.

⁶⁸⁵ D. Carroll et al., "Covid-19: The Road to Equity and Solidarity. Preventing the Next Pandemic: the Power of a Global Viral Surveillance Network," *BMJ* 2021, pp. 1–2, at <<https://www.bmj.com/content/372/bmj.n485>>, 1 July 2021.

⁶⁸⁶ Ibid.

The first recommendation worth mentioning was proposed by Dennis Carroll and his colleagues, and it is to build a surveillance system at the EU level. Apart from strengthening existing national and transnational health systems, a European surveillance system should be introduced that would cover wildlife, livestock and human populations. It could make use of already known geographical “hot spots” in order to detect as early as possible any viral transfer into human and livestock populations and stop it from spreading. It would highly enhance the EU’s ability to predict future threats and allow for prevention and early intervention.⁶⁸⁷ Latest diagnostic technologies and standardised protocols would be needed to detect early spillover in real time. Samples should be tested for many viruses from priority pandemic virus families, and other new viruses originating from wild animals. In order to ensure the maximum effectiveness of the surveillance system, the Member States should agree on safety protocols which would offer guidance on how to eliminate new pathogens from infected animals and humans as soon as they are discovered. Such a system would require setting up some governance and administrative mechanisms to cover all essential areas and ensure fluent communication flow within the system. Handling the roots of each spread instead of fighting with a pandemic when it is fully developed and difficult to stop might be the best way to be ready for potential epidemic and health crises in the future.⁶⁸⁸

The second solution is to focus on five climate-related public health areas, which include Governance, Information, Services, Determinants, and Capacity; and how they should be adjusted. At this point, some researchers believe that the COVID-19 pandemic is one of many signs indicating that the world has to urgently adjust public health care systems to the climate change and natural disasters. National public health systems were clearly overwhelmed by the quickly-spreading new virus. Even though at the moment there is no certain proof that SARS-CoV-2 is associated with climate change, experts have been worrying for decades that the global warming creates conditions (such as heat, drought, storms, and other related hazards) that support the rapid spread of such an infectious disease.⁶⁸⁹ The five climate-related areas of public health that can be adjusted to global warming and how it is changing the environment that we live in are: governance, information, services, determinants and capacity.

According to Mary Sheehan and Mary Fox, clear, allocated roles and responsibilities of international organisations and countries are essential to handle health crises.⁶⁹⁰ The response of the Member States to the COVID-19 pandemic revealed institutional confusion, even in an integrated group such as the EU. Addressing those institutional challenges while also addressing the climate change problem will require redoubling efforts to define clear modes of collaboration

⁶⁸⁷ Ibid., pp. 2–3.

⁶⁸⁸ Ibid., pp. 3–4.

⁶⁸⁹ M.C. Sheehan, M.A. Fox, “Early Warnings: The Lessons of COVID-19 for Public Health Climate Preparedness,” *International Journal of Health Services*, vol. 50, no. 3 (2020), pp. 264–270.

⁶⁹⁰ Ibid., p. 265.

among global actors and their responsibilities. This would certainly contribute to improving international public health strategies, which would be much stronger and more coordinated during future crises. They point out that one of the reason for the continuous shortages of N95 face masks is that they are needed not only in hospitals but also in the growing number of forest fires.⁶⁹¹

After the 2003 SARS outbreak, South Korea has protocols and legislation in place, and it provided transparency and quality communication between all involved actors. Korean Centres for Disease Control and Prevention quickly responded to COVID-19 with strong public messages on hand washing and social distancing, press briefings two times a day, targeted text messages to citizens, and always up-to-date online information. Better communication with the public, targeted messaging and clear protocols would highly contribute to better public emergency preparedness and resilience.⁶⁹² This is an excellent example of how a lesson can be learned from the pandemic, and South Korea should set an example for the European Union. Sheehan and Fox firmly believe that since public health agencies are responsible for carrying out a range of services to ensure population well-being, including testing, case reporting, surveillance, and contact tracing, then they need to be trained, retrained and prepared for this kind of crisis.⁶⁹³ Public health capacity is focused on technical skills, data and knowledge. However, a good leadership with skills to implement a coherent strategy that takes into account all aforementioned determinants is also necessary. Multiple universities across the globe, along with public health agency partners and citizen volunteers are developing an open database of COVID-19 policies in different countries, which should be later used by the EU to create coherent future policies.⁶⁹⁴ The EU should develop policies to repurpose existing workforce and hire new staff when needed as well as introduce high-tech tools and protocols that are ready for test and trace, especially given that they proved to be highly effective during the COVID-19 pandemic.⁶⁹⁵

According to Ralf Rolloff, the EU's defence of democracy needs to go beyond the EU to its neighbouring countries and a return of positive conditionality need to be reconsidered. The EU should not tolerate any temptation of autocratic ruling within any of the Member States. One of the ways to achieve that is to link economic support out of the COVID-19 package to democratic values and the protection of civil and human rights. The Union's credibility depends strongly on democratic values.⁶⁹⁶

⁶⁹¹ Ibid., p. 265; EFI, *Why and How Forest Fires are Becoming a European Problem?*, 9 August 2018, at <<https://efi.int/news/why-and-how-forest-fires-are-becoming-european-problem-2018-08-09>>, 20 June 2021.

⁶⁹² M.C. Sheehan, M.A. Fox, "Early Warnings...", p. 266.

⁶⁹³ Ibid.

⁶⁹⁴ Ibid.

⁶⁹⁵ Ibid.

⁶⁹⁶ R. Rolloff, "COVID-19...", pp. 34–35.

The EU's trade policy should be directly linked to its climate and development policies, and further progress on EU defence integration needs to be made. The EU needs to take responsibility for its own security. When it comes to economy, the EU should open a larger and broader debate on the social aspects of the market economy and of capitalism. Roloff states that the European model of a social welfare state that is currently combined with the market economy should be re-considered and adapted. However, the Member States' post-pandemic economic recovery should not take place at the expense of the green deal. He recommends it to be the heart of those programs and future initiatives.⁶⁹⁷

After COVID-19 pandemic it is clear that the EU needs to take a more proactive a stronger position in public health. In some Member States, where large parts of public health sector are privatised, it should be reconsidered in terms of future health protection and health crises management.⁶⁹⁸

According to Bisser Angelov, one of the main political consequences of the pandemic may be a reduced support for European integration.⁶⁹⁹ As the authors mentioned earlier, according to the EU's survey, this is not the case. However, the same survey found that many respondents were more likely to believe that in a crisis no one will help them than to believe that the EU and its institutions will.⁷⁰⁰ In order to avoid such developments in the future, it might be best for the EU to establish a body of experts. Its aim would be to prepare contingency plans for future crises that would detail how the EU can best serve as a platform for cooperation and recommend mutually compatible measures to each Member State.⁷⁰¹

Bisser Angelov expects the Member States to cut their defence budgets significantly in order to deal with more pressing economic issues. To minimise the negative impact of these actions, they should be coordinated at the EU level. He also believes that the Member States should compensate for each other's gaps and coordinate their actions in a complimentary way. When it comes to labour market, due to sudden popularity of working from home, the EU should invest in lifelong learning while the Member States improve their digital infrastructures and reduce potential bureaucratic burden.⁷⁰²

Sarah Wolff and Stella Ladi point out that the EU's adaptability is different across policy areas, hence it displays different degrees of capacity or necessity to change the said policy. For example, the European Green Deal may not need any major changes and it was reinforced with all major EU's institutions. Current

⁶⁹⁷ Ibid., p. 35.

⁶⁹⁸ Ibid.

⁶⁹⁹ B. Angelov, *European Integration after Covid-19*, Institute for Politics and Society, June 2020, p. 11, at <<https://www.politikaspolecnost.cz/wp-content/uploads/2020/06/European-Integration-after-Covid-19-IPPS.pdf>>, 20 June 2021.

⁷⁰⁰ S. Dennison, P. Zerka, *Together in trauma...*

⁷⁰¹ B. Angelov, *European Integration...*

⁷⁰² Ibid.

crisis tests the EU's policy adaptability as it provides a 'critical juncture' for a policy's path. It definitely showed that EU institutions acquired a bureaucratic capacity, and they managed to quickly come up with many propositions and repurpose funding when necessary. Wolff and Ladi emphasize that the EU's road towards the Recovery and Resilience Facility demonstrates that.⁷⁰³

The European Committee for Standardization (hereinafter: CEN) and the European Committee for Electrotechnical Standardization (hereinafter: CENELEC)⁷⁰⁴ identified four lessons that they have learnt from the COVID-19 pandemic. Firstly, they point out that the digital transformation needs to be fast tracked. They plan to invest more in the development of user-friendly digital platforms for the efficient, collaborative creation of standards online. They also aim to make the best use of modern technologies in order to enable virtual standards development, while increasing the speed of this development. They also see a need for more "smart mixes" between virtual and physical engagement.⁷⁰⁵ Secondly, CEN and CENELEC believe that they need to further explore the resilient business models that have worked for businesses during this pandemic thanks to adapting. They noticed openness to alternative, sustainable business models that might be crucial in future crises.⁷⁰⁶ Thirdly, they believe there is a need to enhance stakeholder, Member and policy engagement. At the beginning of the pandemic, CEN and CENELEC noticed a big increase and closeness in its engagement with policymakers and regulatory authorities. They believe that future joint endeavours between the EU institutions will foster a better mutual understating of issues of concern for each of them.⁷⁰⁷ Lastly, they believe that the crisis showed the importance of information sharing and responsive cooperation at the international level, as well as a crucial value of a strong international standardization system.⁷⁰⁸

According to the European Federation of Pharmaceutical Industries and Associations, this pandemic tested Europe's supply chains like never in the past, and before any future crisis happens, it is important to understand what caused the medicine shortages that did happen. They also believe that the dialogue between institutions, governments and pharmaceutical companies is highly important because it allowed authorities to take the decisions necessary to ensure the

⁷⁰³ S. Wolff, S. Ladi, "European Union Responses to the Covid-19 Pandemic: Adaptability in Times of Permanent Emergency," *Journal of European Integration*, vol. 42, no. 8 (2020), pp. 1034–1035.

⁷⁰⁴ CEN and CENELEC are recognized by the EU and the European Free Trade Association (EFTA) as European Standardization Organizations responsible for developing standards at European level (as per the EU Regulation 1025/2012). CEN, CENELEC, *Lessons Learned During the Covid-19 Pandemic*, p. 11, at <https://www.cencenelec.eu/media/CEN-CENELEC/News/Publications/lessonslearned_covid19_pandemic.pdf>, 20 June 2021.

⁷⁰⁵ *Ibid.*, pp. 4–5.

⁷⁰⁶ *Ibid.*, p. 6.

⁷⁰⁷ *Ibid.*, pp. 7–8.

⁷⁰⁸ *Ibid.*, pp. 9–10.

continuity of supply, such as ensuring that workers reach their manufacturing sites (sometimes even across closed borders), implementing green lanes or agreeing on regulatory flexibilities to fast-track certain administrative procedures.⁷⁰⁹ According to the Federation, there needs to be a harmony in regulations by the relevant authorities across the EU. Measures to allow flexible labelling when it comes to multi-language labelling (for example allowing multi-language labelling to be downloadable from the manufacturers site) should be introduced, and there should be transparency and cooperation between all of the supply chain actors. Demand surges are in most cases unpredictable, so they encourage the EU and the Member States to maintain reserve supply of targeted critical medicines.⁷¹⁰

The EU has been and will continue to be a target of disinformation, influence operations, and foreign interference. In order to fight disinformation, the European Commission should formulate tailored responses to state-sponsored disinformation in order to properly deter particular country or actor by altering their strategic calculus in a coherent and coordinated manner. The Commission should review which state-based disinformation campaigns similar to the Russian attack against the EU in March 2020 could create similar challenges in the future, and prepare for them through including their staff on joint training, red-team drills, and risk-assessment exercises. It is also time to take a look at, and actually consider long-term picture of, and anticipate potential future disinformation campaigns, as well as prepare for them. The European Commission ought to offer appropriate backing to the bodies responsible for responding to disinformation, such as EUvsDisinfo. The Member States should also support the EU's fight against disinformation on their national digital platforms. Finally, the EU should be simply more transparent and open about its actions in order to prevent the spread of disinformation in the first place.

Another perspective to consider and address concerns the long term outcomes of disasters caused by epidemics, natural disasters and any other potential crises that may occur in the EU. The most urgent ones which needs to be addressed are the future economic crises, solidarity between the Member States, and a potential decline in mental health and morals of the EU citizens. Restrictive social distancing measures that were designed to flatten the curve and reduce the number of COVID-19 cases severely impacted national economics. According to the European Council on Foreign Relations, the EU should be prepared to offer more financial support and predict the long-term effects of recovery funds on how people in each Member State will feel about the EU.⁷¹¹

⁷⁰⁹ N. Moll, *Drug Shortages: Lessons From the COVID-19 Crisis*, The European Federation of Pharmaceutical Industries and Associations, 17 December 2020, at <<https://www.efpia.eu/news-events/the-efpia-view/blog-articles/drug-shortages-lessons-from-the-covid-19-crisis/>>, 20 June 2021.

⁷¹⁰ *Ibid.*

⁷¹¹ C. Busse et al., *The Crisis...*, p. 29.

The Member States and institutions are dependent on each other's effectiveness and communication. The EU should enhance its awareness of what is happening at a local level in the Member States when it comes to the restrictive measures that the Member States introduce, but also in identifying which of the Member States experienced the most devastation from the COVID-19 crisis and thus may need further help and support. It should also identify the areas where it should be more proactive and act strategically.⁷¹²

Sheehan and Fox call for effective public health policy that already takes account of the determinants of health to also address social, economic and mental well-being, provide social safety nets, but also to take into account health benefits from ongoing greening initiatives.⁷¹³ It should also be highlighted that the Member States cannot be simply put in one box. Each country has its own specific weaknesses that require unique and tailored solutions. Therefore, the open dialogue and effective communication with each Member State is essential. On the other hand, national leaders should be careful with what kind of narrative on the EU they create or allow to be spread in their countries. In the southern Member States this means sending the voters a message that the EU funds are only one of the ingredients which they need in order to recover, and that they have to be accompanied by structural reforms. At the same time in the north, the message should be sent that the EU is not just an economic initiative, and that they should be treating it more than just a market. Certain governments in central and eastern Europe, such as Poland and Hungary, have to accept that being a Member State entails obligations in terms of respecting common values. Moreover, all Member States absolutely need to avoid any temptations to create a narrative that nation states are more important than European or international cooperation. The governments shall also monitor inequalities within their nations as well as fulfil the needs of their youth. Young people's political awareness and the resulting voting decisions might depend on whether they feel that the EU and their national leaders have succeeded in their response to the crisis. As regards, the current state of the COVID-19 pandemic, young Europeans have to face many challenges, from the unemployment in a time of crisis resulting from the movement, studying and meeting restrictions, to the harmful effects of the pandemic on their mental health. They have to rebalance their work and personal life in the reality of working from home. The EU and the Member States should address these challenges and steer their actions in a positive direction.⁷¹⁴

In June 2021, the European Commission drew what they called "early lessons" that should be acted on. They believe that the EU should lead efforts to design

⁷¹² K. Shaw, P. Repyeuski, *Council Recommendation for Promoting Cooperation and Solidarity Amongst the Member States: A Far Enough Step?*, European Papers, 7 June 2021, at <<https://www.europeanpapers.eu/en/europeanforum/council-recommendation-promoting-cooperation-and-solidarity-amongst-member-states>>, 20 June 2021.

⁷¹³ M.C. Sheehan, M.A. Fox, "Early Warnings...", p. 266.

⁷¹⁴ *Ibid.*, p. 30.

a new global surveillance system based on comparable data because it will be crucial for faster detection and better responses, and announced that a new European pandemic information gathering system will be launched in 2021. By the end of 2021, the EU plans to appoint a European Chief Epidemiologist and a corresponding governance structure to ensure more clear and coordinated scientific advice that will facilitate policy decisions and public communication. As the preparedness requires constant investments, scrutiny and reviews, they plan to issue annual State of Preparedness Reports. The EU also plans to establish a framework for the activation of an EU Pandemic State of Emergency and a much needed toolbox for crisis situations, because they were not ready fast enough and easy to activate at the beginning of the COVID-19 pandemic.⁷¹⁵ By the end of 2021, the EU wants to establish the European Health Union and strengthen coordination and working methods between institutions. There is also a need for public-private partnerships and stronger supply chains, therefore, a Health Emergency Preparedness and Response Authority, a Health Important Project of Common European Interest and the EU FAB facility are to be established with the EU FAB facility's aim to ensure that the EU has a capacity to produce up to 700 million doses of vaccines per year with half of them ready in the first six months of a future pandemic. In the future, the EU wants to establish a platform for multi-centre clinical trials. It plans to support the Member States in strengthening the overall resilience of health care systems, and create pandemic preparedness partnerships with key partners. According to the European Commission, there is also a need for a more coordinated and sophisticated approach to tackling misinformation and disinformation.⁷¹⁶

Various exemplary recommendations for making changes and introducing institutional and procedural measures are presented above. They should be adopted and supported by all Member States and, to be fully effective, they have to be implemented in many different areas. The above mentioned recommendations are merely examples, but both representatives of science and the governments of the Member States and EU institutions should also analyse the strengths and weaknesses of the actions taken during the COVID-19 pandemic and learn from them lessons and recommendations for the future. These recommendations must be adopted as soon as possible in order to protect European society from a similar catastrophe. In order to be successful in future crises, cooperation between EU institutions, its Member States and citizens is necessary.

⁷¹⁵ European Commission, *Emerging Stronger From the Pandemic: Acting on the Early Lessons Learnt*, 15 June 2021, at <https://ec.europa.eu/commission/presscorner/detail/en/IP_21_2989>, 20 June 2021.

⁷¹⁶ See: *Communication From The Commission To The European Parliament, The European Council, The Council, The European Economic And Social Committee And The Committee Of The Regions on Drawing the early lessons from the COVID-19 pandemic*, at <<https://ec.europa.eu/info/sites/default/files/communication150621.pdf>>, 20 June 2021.

4. Summary

In light of economic, refugee and Brexit crises, the COVID-19 pandemic could have been the final nail in the coffin of the European Union. Instead, it should be rather identified as a “make it or break it” moment in the history of European integration. The Member States’ unilateral decisions of shutting down borders and introducing national export bans on medical supplies at the beginning of the COVID-19 pandemic in Europe could give an impression that the Member States took approach of “my country comes first” and the decades of fruitful cooperation and intensive integration mean nothing in a time of severe crisis.

The first quarter of 2020 definitely has been a heated period of uncertainty about the future of the EU.⁷¹⁷ However, as the Spanish Prime Minister, Pedro Sánchez fittingly concluded in April 2020, “Without solidarity there can be no cohesion, without cohesion there will be disaffection and the credibility of the European project will be severely damaged.”⁷¹⁸ Similarly, in May 2020, the European Commissioner for Home Affairs, Ylva Johansson followed this noble reasoning by reminding the European community that the Member States should realize that they really need each other.⁷¹⁹ Moreover, he directly claimed that “What we are seeing is not a failure of the European Union. We have a lot of difficulties, of course, but these are not new difficulties and we can manage them.”⁷²⁰ She also stated that people “should have high expectations” for cooperation between the Member States and explained that the initial desperate actions of the Member States were quite understandable because they found themselves in a novel, unprecedented and extremely severe crisis.⁷²¹ As a result, several Member States called for the European Commission to “take a stronger role, to do more, to coordinate more,” even in areas in which the Commission is not empowered to take actions.”⁷²²

Taking the above-mentioned actions and declarations into consideration, the authors have no doubts that during the COVID-19 pandemic Europeans have proven in many ways that they can lift each other up, even in a time of severe crisis. Not only did the European integration endured this difficult time in the world’s history, but it also proved the strength of European solidarity. What is more, the COVID-19 crisis contributed to strengthening cooperation between the Member States and European institutions. It has also raised crucial questions about empowering the European Union in areas which have been so far governed by the Member States. It is noteworthy that after certain institutional

⁷¹⁷ C. Busse et al., *The Crisis...*, p. 2.

⁷¹⁸ Ibid.

⁷¹⁹ *Can the EU Regain its Credibility After the Pandemic?*, DW, 7 May 2020, at <<https://www.dw.com/en/can-the-eu-regain-its-credibility-after-the-pandemic/a-53363722>>, 20 June 2021.

⁷²⁰ Ibid.

⁷²¹ Ibid.

⁷²² Ibid.

and procedural reforms in the first months of the COVID-19 pandemic, such as the RescEU common stockpile of medical supplies and the EU recovery fund with its unprecedented financial firepower, Europeans are now better prepared and more equipped for the future.⁷²³ In the authors' opinion, this indicates that closer cooperation in new areas and further progress on European integration are key elements to ensure peace, safety and sustainable development in the EU.

After all, we, as Europeans, share the same values, concerns and goals. We should support each other and work hand in hand for better future. The COVID-19 crisis proves that the EU is the most effective platform to achieve this goal and that by working together, the Member States can achieve much more and more effectively. Both the Member States and the European institutions should draw their lessons from the COVID-19 pandemic and make sure that their actions in future will be consistent, functional and well-coordinated.

⁷²³ R. Loss, *Tracking European Solidarity During Covid-19: Lessons From the First Wave*, European Council on Foreign Relations, 11 November 2020, at <<https://ecfr.eu/article/tracking-european-solidarity-during-covid-19-lessons-from-the-first-wave/>>, 20 June 2021.

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Conclusions

The shape and future of the European integration has always been a topic frequently generating numerous heated debates amongst politicians, lawyers and political scientists. The authors view the European integration as a dynamic and evolving process which accelerated in recent years due to the new developments and challenges of a fast-paced, globalised modern world. What started as a purely economic project in the middle of the 20th century, progressively evolved into impressive cooperation in numerous political, economic and legal areas. Although there are no doubts that the European Union is a unique and ambitious international organisation which remarkably contributed to the growth and development of its Member States as well as to a significant improvement of the quality of life of the European citizens, it seems that the initial enthusiasm derived from the creation of the union has burnt out and the Eurosceptic tendencies grew in strength in recent years.

During several decades of its existence, the EU went through various peaks and valleys. The last fifteen years were particularly tough and challenging given that the EU had to face the financial crisis of 2007–2009, the annexation of Crimea by the Russian Federation and the ensuing hybrid war in Ukraine, the migration crisis, discussions on the democratic character of European integration and Eurosceptic propaganda, and the most recent withdrawal of the United Kingdom from the EU which took place on 31 January 2020. Even though the EU handled each of these crises rather successfully, more and more negative opinions about the EU emerged, especially in the cyber world. This is even more evident due to numerous disinformation campaigns, fake news and anti-EU online propaganda which have been spreading for a few years. There are several reasons for being dissatisfied with the EU, which is accused of being incompetent, undemocratic, bureaucratic, slow in action and inefficient in a time of crisis. To make it worse, the ongoing COVID-19 pandemic put to the test the ability of the EU to react quickly and effectively, and exposed the weak points of cooperation and solidarity of its Member States. This made 2020 a real test for the strength of the integrity of the

organisation, as well as of the effectiveness of the EU institutions and the Member States in handling the extremely challenging and life-threatening crisis.

The COVID-19 pandemic made it painfully clear that viruses know no borders and that the Member States were not prepared well enough to prevent the spread of a deadly disease. In fact, the first reactions of the Member States could be characterised as chaotic, inconsistent and uncoordinated. For the first time in the EU history, many Member States univocally decided to close their borders, prohibited mass gatherings and imposed severe lockdowns. Such strict restrictions on rights and freedoms of European citizens during the COVID-19 pandemic were a novelty for many, and cast reasonable doubts on the effectiveness of the EU law and the strength of European integrity. Moreover, the initial nationalistic and egoistic approach of some European countries posed a serious threat to the long-built solidarity between the Member States. Although the first month of the COVID-19 pandemic in Europe undeniably exposed some weaknesses of the EU and its Member States, the later integrative and solidarity-based actions of EU institutions and the Member States eventually prevailed.

In the last 16 months, the EU and its Member States had to face an unprecedented deadly threat which put health and lives of the European citizens at risk. The EU had to deal with unprecedented and severe crisis in an area in which it had limited, supportive competences. Despite this hardship, the EU continuously assisted its Member States by developing initiatives and mechanisms which eventually strengthened cooperation between countries, lifted morals of EU citizens and saved thousands of European lives. What is more, at that time of severe health crisis, the EU had to address anti-EU disinformation campaigns and online propaganda created and spread intensively in spring 2020 by the Russian Federation. Despite numerous fake news on the virus, vaccines and the EU performance, the EU institutions (including the European Commissions, the European Digital Media Observatory, the East StratCom Task Force and the EUvsDisinfo) successfully increased public awareness and helped its citizens to develop resilience to infodemia and online manipulation.

During a time of horrendous health crisis and detrimental cyberattacks, the level of trust that European citizens have in the EU and national governments could be potentially lowered. However, thanks to its quick response and adaptability, the EU managed to keep its positive image. According to the Eurobarometer reports, a significant number of EU citizens express their satisfaction with the measures taken by the EU as well as with the overall level of solidarity of the Member States. What is more, the majority of responders shared a belief that the EU should have more competences in a time of health crisis and other emergency situations. Indeed, this is one of many recommendations which can be drawn from the hard yet extremely valuable lessons learnt by the EU in the first 1,5 years of the COVID-19 pandemic.

Thanks to the adaptability of European institutions to handle severe crises and the impressive level of solidarity between the Member States, the EU seems

to have survived another and perhaps the most threatening to its existence crisis which was caused by the COVID-19 pandemic. The historical development of European integration demonstrates that it is an irreversible progress which requires a lot of effort and compromising from the Member States. Although some claimed that the COVID-19 would spell the end of the EU, in the authors' opinion the credibility of the European project has not been damaged. Contrary, the EU institutions and the Member States ultimately seem to respond effectively and successfully to the ongoing COVID-19 crisis. In this turbulent time, it is extremely important to remain cooperative and faithful.

It is certainly not an easy task to predict what the European integration will look like in future. Regardless of which course of action the Member States will choose in the post-COVID-19 era, in order to support and develop a 70-year-long successful cooperation, they have to stand together with a strong sense of unity, integrity and solidarity. As Robert Schuman declared on 9 May 1950, and as the authors quoted at the beginning of this book: "Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a *de facto* solidarity."

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Summary

This publication discusses a diverse range of issues associated with European integration, ranging from the origins of the European Union, the evolution of the organisation over the last several decades, the changing visions of the future of Europe, the crises that the Member States faced in the past, and finally, the impact of the Covid-19 pandemic on the current and future level of European integration. Although the shape and future of the EU have been debated since its formation, the authors strongly believe that they need to be revisited due to the severe challenges this unique organisation and its Member States have been facing following the outbreak of COVID-19. The rapid spread of coronavirus around the world led to an unprecedented global emergency which severely affected many countries, including all the Member States of the EU. The COVID-19 pandemic put the ability of the EU to react quickly and effectively to the test. In addition, it also exposed the weak points of cooperation and solidarity of the Member States, and the level of trust their citizens have in the EU during a time of horrendous crisis. In this publication, a scope of integration and cooperation of the Member States is re-evaluated, and the level of European citizens' trust given to the EU and its Member States during the deadly pandemic is analysed. In order to provide the reader with an in-depth and comprehensive research analysis on European integration, the study is presented through a historic, political, and legal lens.

Key words: European integration, European Union, COVID-19 pandemic

Streszczenie

Niniejsza publikacja jest poświęcona tematyce integracji europejskiej i obejmuje szerokie grono zagadnień: od powstania struktur europejskich, przez ewolucję strukturalną organizacji i dotkliwe kryzysy, z którymi Unia Europejska się zmagala w ostatnich dekadach, oraz zmieniające się wizje przyszłości europejskiej, aż po wpływ pandemii COVID-19 na obecny i przyszły kształt integracji europejskiej. Chociaż przyszłość Unii Europejskiej stanowiła przedmiot debaty akademickiej i medialnej już od początku powstania organizacji, to temat ten wymaga aktualizacji z uwagi na znaczące wyzwania, z jakimi UE i państwa członkowskie zmagają się od początku pandemii COVID-19. Szybkie rozprzestrzenianie się koronawirusa na świecie doprowadziło do bezprecedensowego globalnego kryzysu w dziedzinie zdrowia i ekonomii, który dotknął wiele krajów, w tym państwa członkowskie UE. Pandemia COVID-19 wystawiła na próbę zdolność UE do szybkiego i skutecznego reagowania, obnażyła słabe punkty we współpracy i okazywaniu solidarności państw członkowskich, a także wpłynęła na poziom zaufania obywateli do UE w czasie dotkliwego kryzysu. W niniejszej publikacji dokonano aktualnej oceny zakresu integracji i współpracy państw członkowskich oraz poziomu zaufania obywateli europejskich do UE i państw członkowskich podczas śmiertelnej pandemii koronawirusa. Aby zapewnić Czytelnikowi rzetelne i kompleksowe studium integracji europejskiej, analizowane tematy przedstawiono z perspektywy historycznej, politycznej i prawnej.

Słowa kluczowe: integracja europejska, Unia Europejska, COVID-19, pandemia koronawirusa

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This publication makes a notable contribution to the highly discussed and lively topic of European integration. It includes a brief description of the origins of the European Union, the evolution of the organisation over the last several decades, the changing visions of the future of Europe, the crises that the Member States faced in the past, and finally, the impact of the COVID-19 pandemic on the current and future level of European integration. This publication provides the reader with novel and very detailed data on the performance of the EU and its Member States during the unprecedented global pandemic. It is a must-read for those who search for the most recent information on the shape and level of European integration, the cooperation of the Member States during the COVID-19 pandemic, as well as on the level of trust given to the EU by its citizens. Additionally, this book sheds light on the Eurosceptic disinformation and fake news which have arisen in the past few years and which will continue to constitute a very controversial topic for the next few years.



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