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The EU's Shift to a Post-Covid NEG Regime

On 11 March 2020, the World Health Organisation recognised the Covid-19 outbreak as a global pandemic. On the same day, the *Financial Times* reported that the 'Coronavirus "tsunami" pushes Italy's hospitals to the breaking point', despite the greater number of critical care beds per person in Italy compared with most European Union (EU) member states (Johnson and Ghiglione, 2020). To prevent the collapse of their healthcare systems, European governments implemented strict containment measures, colloquially known as lockdowns. Governments also massively increased their public spending to fight the Covid-19 outbreak and to counteract the social and economic side effects of lockdown measures.

EU executives actively supported this policy response. On 17 March 2020, Commission President Ursula von der Leyen told the EU heads of states and governments at a European Council video conference that activation of the general escape clause of the Stability and Growth Pact (SGP) was imminent. In 2011, EU legislators had introduced this clause to allow the Council, on the recommendation of the Commission, to suspend the application of the preventive and corrective arms of the SGP in a situation of generalised crisis caused by a severe economic downturn in the eurozone or the EU as a whole (see Regulation (EC) 1466/97, Arts. 3(5), 5(1, 2), and 9(1), as revised by the Six-Pack of EU laws of 2011). On 20 March 2020, the Commission published its Communication (COM/2020/123 final), which called for activation of the clause. On 23 March 2020, the Council endorsed this request at a video conference and published a corresponding press 'Statement of EU ministers of finance on the Stability and Growth Pact in light of the COVID-19 crisis' (Council of the EU, 2020). The suspension of the application of both the preventive and the corrective arms of the SGP for all member states was remarkable, as a leading institutionalist scholar of the NEG regime had argued just before the outbreak of the pandemic that 'we cannot expect EU

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institutional actors to reverse stability rules and numerical targets that have become embedded in their practices as well as touted in their discourses' (Schmidt, 2020: 303). Yet, this is precisely what happened.

The activation of the dormant *general escape clause* articles of Regulation 1466/97 allowed EU executives to shift the trajectory of NEG's policy enforcement regime without having to change a single article of either primary or secondary EU law. Who would have thought that this would be possible? After all, EU scholars from very different intellectual traditions agreed that suspending the SGP rules would be virtually impossible, given that they were deeply ingrained in the discursive practices of EU executives (Schmidt, 2020) or given the *constitutional* nature of EU neoliberalism (Gill, 1998). Nonetheless, EU executives not only effectively suspended the SGP but did so based on tools that are formally very weak, namely, a Commission Communication (which is a *non-binding* legal instrument of the EU) and an informal press statement by the Council of the EU (2020) endorsing the Commission's Communication. Although the Council's decision arguably marked the start of a new era in EU economic governance, the corresponding Council document, because of its informal nature, does not feature on the official EUR-Lex website of EU laws and documents of EU institutions.

As in the case of the EU's shift to the NEG regime after 2008 (Chapter 2), EU executives again invoked a state of exception to break the existing trajectory of the EU's economic governance regime and to justify the shift to a new post-Covid version of it. This time, however, the EU executives' 'transnational exceptionalism' (Kreuder-Sonnen and White, 2022) did not lead to the same societal backlash against them, given its different policy orientation (Schmidt, 2022). EU finance ministers justified the suspension of the SGP rules as a necessary step to ensure 'the needed flexibility to take all necessary measures for supporting our health and civil protection systems and to protect our economies' (Council of the EU, 2020). Like in the NEG case, EU executives first responded to the Covid crisis with ad hoc measures before EU legislators institutionalised the EU's crisis response. In this chapter, we thus first assess EU executives' initial ad hoc interventions after the outbreak of the pandemic. In section 12.2, we describe the institutionalisation of the EU's crisis response in the form of the Recovery and Resilience Facility (RRF) Regulation (2021/241). Given our overarching interest in EU governance and labour politics as drivers of the social, economic, and political restructuring of Europe, we discuss in the chapter's conclusion whether we can still describe the post-Covid NEG regime as a system that mimics 'corporate governance structures that aim to hamper transnational trade union solidarity through the use of whipsawing tactics that put workers from different subsidiaries in competition with one another' (Erne, 2015: 358).

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12.1 PREVENTING THE EU'S DISINTEGRATION BY NEW MEANS?

By suspending the SGP sanctioning regime for all member states, EU executives implicitly recognised the commodifying NEG prescriptions' negative impact on public services in general, and healthcare services in particular (Chapter 10). As outlined in Chapter 11, EU executives had perceived healthcare expenditure as a threat to healthy public finances rather than as a productive infrastructure investment that would boost the EU's growth and competitiveness. This perception changed, however, after the outbreak of the pandemic, when the role of healthcare as an essential public service became strikingly evident for everyone. At long last, EU executives seemed to recognise that the cuts in public hospital beds, along with the managerialisation of healthcare services resulting from NEG prescriptions (Chapter 10), reduced the capacity of national healthcare services to cope with the steep rise in patient hospitalisations during the pandemic (Stan and Erne, 2023).

After the advent of the Covid pandemic, the Commission also effectively suspended its competition policy rules limiting state aid, as it had done in 2008 to allow member states to bail out insolvent banks (Chapter 2). This time however, the relaxation of the EU's state aid rules benefitted not only private businesses but also public service providers. In fact, the relaxation of state aid rules allowed governments to cover the heavy losses that public service providers suffered as a consequence of the containment measures, for example in the public transport sector.

In terms of setting up a common EU fiscal response to the pandemic, the reaction of EU leaders was much slower. Initially, the European Council was divided on the issue, replicating the same fault lines between surplus and deficit countries as during the 2008 financial crisis. In March 2020, the governments of Belgium, France, Greece, Ireland, Italy, Luxembourg, Portugal, Slovenia, and Spain called for the creation of Corona bonds to address the consequences of the pandemic by issuing joint EU debt. However, the governments of many surplus countries firmly opposed them: Austria, Denmark, the Netherlands, and Sweden. The German government, led by a grand coalition of Christian and Social Democrats at that time, initially sided with the latter.

In April 2020, the Eurogroup of eurozone finance ministers reached a first compromise on a joint EU stimulus package that totalled approximately €540bn (Eurogroup, Press Release, 9 May 2020). The package had three main components. Firstly, a fund run by the European Investment Bank would be able to raise up to €200bn on the markets to finance loans to private companies. Secondly, the SURE (Support to mitigate Unemployment Risks in an Emergency) programme, run by the Commission, aimed to aid member

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states to finance temporary short-time work schemes through up to €100bn in (cheap) loans (Andor, 2020). This measure was meant to prevent mass layoffs as a result of the shutdown of EU economies, modelled on the German *Kurzarbeitergeld* that had contributed to the speedy recovery of the German economy after the 2008 crisis (Schulten and Müller, 2020).

Finally, a Pandemic Crisis Support of up to €240bn in loans from the European Stability Mechanism (ESM) was available to all eurozone states to cover pandemic-related healthcare costs up to 2 per cent of their GDP. The ESM credit line was the most contentious element of the package, given the strong MoU conditionalities attached to ESM loans issued after the financial crisis (see Chapter 2). The final agreement reached by the Eurogroup foresaw lighter conditionality and stipulated that member states should use the money to pay for 'direct and indirect healthcare, cure and prevention-related costs due to the COVID 19 crisis' (Eurogroup, Press Release, 9 May 2020). Given the ESM's role during the financial crisis (Chapter 2), however, ESM loans were still politically toxic in most member states, and this explains why no government dared apply for an ESM pandemic credit. Moreover, the total amount of the package agreed by the Eurogroup was small in light of the magnitude of the economic crisis that had hit the global economy, especially compared with the responses adopted by other advanced economies such as the United States. The Eurogroup thus also mentioned the idea of a joint EU Recovery Fund, if only the European Council could work out a corresponding agreement (Eurogroup, Press Release, 9 May 2020).

As had happened previously (Anderson, 2009), it was a Franco–German deal that broke the deadlock. On 18 May 2020, Chancellor Merkel and President Macron issued a joint call for the creation of a €500bn Recovery Fund, which, crucially, would be composed of grants rather than loans. Whereas the French government had been supporting the idea of Corona bonds since March, the shifting position of the Merkel government was notable, given its enduring opposition to any form of debt mutualisation at EU level. In the midst of the eurozone crisis in 2012, Chancellor Merkel had declared that sharing debt liability would be 'economically wrong and counterproductive' (*Reuters*, 26 June 2012). Now, she was willing to support a deal that foresaw the EU borrowing cash on financial markets to distribute as grants to member states.

One explanation for this sudden shift in Merkel's position relates to a court judgment that the German Constitutional Court had delivered only two weeks earlier. In the judgment, the court found that the bond-buying programme implemented by the European Central Bank (ECB) since 2015 would be illegal under German law, unless the ECB provided an

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acceptable justification for it. Although the court also stated that the judgment did not affect the ECB's new pandemic purchase programme, many observers, including within the German government, thought otherwise and therefore demanded a more stable, political solution to tackle the social and economic crisis caused by the pandemic (Mallet, Chazan, and Fleming, 2020). More important, however, were the economic reasons behind Merkel's policy shift, namely, the renewed importance of the EU internal market for the German manufacturing sector, given the disintegration of transcontinental supply chains and growing difficulties in accessing Asian export markets in times of strict Covid restrictions (Schneider and Syrovatka, 2020; Ryner, 2023; Schneider, 2023). Furthermore, the Federation of German Industry (BDI), the leading organisation of German industrialists, but also prominent entrepreneurs of export-oriented family businesses such as Reinhold Würth (2020), supported the EU debt mutualisation programmes in order to prevent a repeat of the 'mega catastrophe' of Berlin's 'small-minded' stance in the financial crisis, which divided the EU and only aided Europe's competitors in China, Russia, and the United States (Würth 2020: 7; see also Syrovatka, 2022a: 460), and to foster structural reforms in member states receiving EU funds (Schneider, 2023). This is notable, as the BDI supported the imposition of EU austerity programmes in the financial crisis but not the shift to a new EU economic governance regime, as the BDI predicted that the shift to NEG would lead to a shift of national competences in labour and social policy to EU level (Chapter 2). The northern European business associations and metalworkers' trade unions supported the idea of EU debt mutualisation too, not least because they thought that increased RRF funding would benefit their export-oriented industries, despite the opposite views of many Scandinavian politicians on EU fiscal federalism (Ekman, Møller Stahl, and Ryner, 2023). Business Europe (2020a), which had stood behind the EU's shift to NEG after the 2008 crisis (Chapter 2), publicly endorsed the shift in favour of EU debt mutualisation too.

Crucially however, EU leaders in general and the Merkel government in particular changed their positions on the matter of EU debt mutualisation for political reasons also. The national and EU institutions' imposition of austerity and commodifying structural reforms after the 2008 crisis substantially increased workers' and citizens' dissatisfaction with their political leaders at national and EU level (Armingeon, Guthmann, and Weisstanner, 2016; Bojar et al., 2022), especially in countries that had received the most constraining, commodifying NEG prescriptions. This had led to significant national and transnational protest movements, growing Euroscepticism among trade unions and workers, as well as a rising share of votes for Eurosceptic parties

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in successive national and EU elections (Chapter 11; van Middelaar, 2021; chapter 4; Béthoux, Erne, and Golden, 2018). Hence, if EU executives had failed to agree to an expansive response to the economic fallout caused by the pandemic, they would have jeopardised the prospects of EU integration, which was still recovering from yet another low-point – Brexit.

The Franco–German deal on debt mutualisation broke the impasse and paved the way for a corresponding European Commission (2020b) plan that was part of its proposal for the next seven-year EU budget outline, the Multiannual Financial Framework (de la Porte and Jensen, 2021). The Commission's Next Generation EU plan added €250bn in loans to the €500bn in grants as suggested by France and Germany. In July 2020, final agreement was reached at a special European Council meeting. The total amount of the package was left unchanged, but the share of grants was lowered to €390bn (European Council, Conclusions, Brussels, 21 June 2020) to secure its unanimous approval. The final Next Generation EU package includes seven programmes and is partly a repackaging of pre-existing structural and investment funds,[1] but its cornerstone is the RRF, endowed with €360bn in loans and €312.5bn in grants. The RRF is meant to finance reforms and investments in member states from 2020 until 2026, and its funds are to be distributed to EU member states based on criteria that only partially reflect the impact of the pandemic, namely, member states' GDP, size, and unemployment levels.

The Next Generation EU package was meant to be temporary and did not imply any mutualisation of existing debt. Even so, the then SPD finance minister (and future German chancellor) Olaf Scholz hailed this decision by the EU member states as Europe's Hamiltonian moment, akin to the agreement reached in 1790 by Alexander Hamilton, the then US Secretary of Treasury, to federalise the debts of the nation's united states. Be that as it may, the political agreement in favour of the package still had to be institutionalised and integrated into a coherent post-Covid NEG regime.

12.2 THE RRF REGULATION: INSTITUTIONALISING THE EU'S POST-COVID NEG REGIME

After the 2008 crisis and the EU's shift to the NEG regime, the European Semester process became a key tool of EU economic and social policymaking

[1] Beyond the Recovery and Resilience Facility (€672.5bn), these are: React EU (€47.5bn), Horizon Europe (€5bn), Invest EU (€5.6bn), Rural Development (€7.5bn), Just Transition Fund (€10bn), and Resc EU (€1.9bn). All amounts are expressed in 2018 prices.

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(Chapter 2). After the 2020 Covid emergency however, the Semester's role in the EU's NEG regime changed significantly. In 2020, EU executives continued issuing country-specific recommendations (CSRs), even though the suspension of the SGP's preventive and corrective arms meant that almost all NEG prescriptions had lost their coercive power. This pandemic context also affected the policy orientation of the prescriptions, as we shall see in section 12.3 and in Chapter 13.

In 2021, the Commission and Council went even further, as they did not issue any CSRs at all in that year. This, however, did not mean that their impact on national economic and social policymaking vanished. Instead of drafting any country-specific NEG prescriptions, the Commission asked the governments to draft National Recovery and Resilience Plans (NRRPs) and to apply for RRF funds. To get any RRF funding, each government must convince the Commission that its plan complies with the criteria set by the RRF Regulation of the European Parliament and Council (2021/241). If this happens, then the Commission will send draft NRRPs for adoption to the Council. As a result, the Commission has further increased its leverage in EU policymaking. By contrast, the European Parliament has no say on the content of NRRPs, despite the plans' strategic role as a central steering tool of EU policy-making. The European Parliament's negligible role in the post-Covid NEG regime is largely self-inflicted, as was its marginal role in the NEG regime after the financial crisis (Chapter 2). After all, the Parliament was a co-legislator in both cases, when it approved the Six-Pack laws in 2011 (which institutionalised the NEG regime) and when it approved the RRF Regulation in 2021 (which institutionalised the post-Covid NEG regime), in both cases by very large majorities.

Each NRRP needs to detail the measures that a member state will implement to meet the conditions laid out in the regulation for RRF funding and the concrete targets and milestones for their implementation. The latter are crucial, as EU executives can freeze or withdraw RRF funding even after having approved an NRRP if the Commission concludes that a member state has failed to meet the agreed implementation targets and milestones specified in it. The targets and milestones are meticulously detailed in the annex to each country-specific Council Implementing Decision (CID). The Council's CID thus not only endorses the Commission's evaluation of the NRRPs, which gives the Commission the green light to start disbursing RRF funds to a given country, but also specifies the policy conditionalities for the disbursement of subsequent RRF tranches. In this respect, the CIDs and their annexes very much mirror the Memoranda of Understanding (MoUs) and their updates for countries under bailout conditionality.

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At first sight, this similarity might not seem threatening for labour and public services. Whereas MoUs prescribed austerity cuts, NRRPs are framed as investment plans, but, as countries received MoU bailout funding only if they also implemented the NEG prescriptions specified in MoUs and their updates, RRF funding equally depends on the implementation of accompanying policy prescriptions outlined in CIDs and their annexes. This means that the coercive power of all CID-related NEG prescriptions is very significant for all countries, irrespective of their location in the pre-pandemic NEG policy enforcement regime. However, whereas EU executives were free to add to a given MoU whatever ad hoc conditionality they pleased, EU legislators have at least specified some criteria that the Commission must use when assessing an NRRP and the implementation of the corresponding NEG prescriptions.

Article 19(3) RRF Regulation sets out the broad assessment criteria for the Commission's evaluation of the national plans. These are further detailed in the regulation's Annex V. According to the Annex's Art. 3, a member state must get an A grade from the Commission in four areas to get RRF funding (see Table 12.1), as well as at least an A and a B grade in two additional areas.

The crucial four core assessment areas are the following. Firstly, all NRRPs must *address* 'all or a significant subset' of challenges identified in the CSRs issued within the European Semester (Art. 19(3) RRF Regulation). This condition is important, as it ties the RRF firmly to the EU's NEG regime. Notably, the RRF regulation does not specify which Semester cycles shall be considered. The Commission (SWD (2021) 12 final) thus specified that governments should consider not only the post-pandemic 2020 CSRs when drafting their NRRP but also those issued in 2019. The link to the 2019 NEG prescriptions is important, as they pointed much more clearly in a commodifying policy direction (Chapter 11). It is thus hardly surprising that Klaus Regling (2021), the then director of the ESM, was pleased to note that the RRF would still be geared towards structural reforms. Whereas before 2021 member states could disregard NEG prescriptions whose coercive power was weak (see Chapter 2), this was no longer the case after the EU's shift to the post-Covid NEG regime, as the Commission linked the payment of RRF funds to *all* CSRs. In so doing, the Commission increased the coercive power of *all* NEG prescriptions, regardless of their legal base or the country's location in the NEG enforcement regime (Chapter 2). According to Article 10 of the RRF Regulation, the disbursement of RRF funds is conditional not only on the particular NRRP targets and milestones that a member state must reach but also on its 'sound economic governance' in general. This means that the Commission can propose to suspend all or part of the RRF funding to penalise governments that fail to adequately implement EU macroeconomic or fiscal corrective action plans.

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TABLE 12.1 *The EU's evaluation scoreboard for National Recovery and Resilience Plans*

	Core areas				Additional areas	
Assessment area	Implementation of CSRs	Economic, social, and territorial cohesion	Green transition	Digital transition	Balanced contribution across six areas	Do no significant harm
Definition	NRRP effectively ***addresses*** 'all or a significant subset of challenges' identified in CSRs 'including fiscal aspects thereof' and the Macroeconomic Imbalance Procedure.[a]	NRRP effectively ***contributes*** 'to strengthening the growth potential, job creation, and economic, social and institutional resilience.'[b]	NRRP effectively ***contributes*** 'to the green transition' and allocates '*at least 37 %*' of its funds to that goal.[c]	NRRP effectively ***contributes*** 'to the digital transition' and allocates '*at least 20 %*' of its funds to that goal.[d]	NRRP 'represents a ... balanced response ***contributing***' to all six pillars; (a) green transition; (b) digital transformation; (c) smart, sustainable, and inclusive growth; (d) social and territorial cohesion; (e) health, economic, social, and institutional resilience; (f) policies for the next generation (education and skills).[e]	NRRP measures ***do*** no '*significant harm* to environmental objectives'.[f]
Grades needed	An A grade is necessary in all four areas				Either A & A, A & B or B & A grades in these two areas	

Source: RFF Regulation (EU) 2021/241, own adaptation, emphases added.
[a] Annex V, Art. 2(2);
[b] Annex V, Art. 2(3);
[c] Annex V, Art. 2(5). Annex VI defines what counts as corresponding contributions;
[d] Annex V, Art. 2(6). Annex VII defines what counts as corresponding contributions;
[e] Annex V, Art. 2(1);
[f] Annex V, Art. 2(4). The principle 'do no significant harm' is defined by Regulation (EU) 2020/852.

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Secondly, NRRPs need to get an A score in a social assessment criterion. Concretely, an NRRP must include measures that strengthen 'the growth potential, job creation, and economic, *social* and institutional *resilience* of the Member State, *contributing to* the implementation of the European Pillar of Social Rights' (emphasis added) (Art. 19(3c) RRF Regulation). Compared with the first criterion, which links RRF funding to the *implementation* of concrete NEG prescriptions, the wording of the second criterion is far less constraining, as the plans must only *contribute* to the implementation of the European Pillar of Social Rights. This vague wording gives EU executives and governments a lot of leeway (Rainone, 2022).

A third criterion, also requiring an A grade, is linked to the shift to a green economy. At least 37 per cent of an NRRP's funds must be allocated to foster the green transition. This mirrors the rise in the number of NEG prescriptions semantically linked to a 'shift to the green economy' policy rationale after 2018, as outlined in Chapter 11. The criterion's clear numerical benchmark also facilitates its evaluation, as member states must simply direct 37 per cent of their RRF spending to investments that the Commission considers to be green. The regulation also states that all NRRP measures must respect the 'do no significant harm' principle (Art. 5 RRF Regulation), which stresses the role of green objectives in the post-Covid NEG regime. As outlined in Table 12.1, the no significant harm principle is an additional assessment criterion on its own – one, however, in which getting a B grade may be sufficient. This suggests that the EU's green transition NRRP assessment criterion is not linked to ecological rationales only.

As shown in Chapter 9 with regard to water charges, the pursuit of a green agenda can indeed also go hand in hand with the commodification of natural resources. As Adam Tooze wrote in a *Financial Times* editorial, just putting 'money into the NextGenEU kitty is an evasion' (Tooze, 2023). If EU executives want to bring the population with them, the green transition must include 'some element of public ownership', for example, a 'much closer involvement of trade unions in framing industrial policy ... as a counterweight to business influence, but also because labour is so crucial to the transition' (2023). Tooze's critique is very warranted, as the European Green Deal strategy, which Commission President Ursula von der Leyen unveiled in December 2019 (Commission, Communication, COM (2019) 640 final), followed the ecological modernisation leitmotif, which is compatible with EU executives' commodifying NEG policy script. Instead of seeking social change, EU executives linked the green transition to technological innovations (e.g., hydrogen and carbon dioxide removal technologies) to improve the global competitiveness of the EU economy (Haas, Syrovatka, and Jürgens,

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2022: 247). Accordingly, the high share of RRF funding that EU legislation allocated to the green transition thus also mirrors the intense lobbying of 'green' energy and technology corporations, such as Shell, which also wanted to profit from the EU's green RRF funding (European Commission, 2023a). Although the Commission's DG EMPL recently also set up a unit on Fair, Green, and Digital Transitions Research in its DG Employment, Social Affairs and Inclusion, the fair transition elements in the EU's green transition policy remain very weak. The Council Recommendation on 'ensuring a fair transition towards climate neutrality' (2022/C 243/04) that followed on a corresponding Commission proposal of 14 December 2021 merely '*invited*' member states to 'adopt and implement, in close cooperation with social partners *as relevant*, comprehensive and coherent policy packages, addressing the employment and social aspects to promote a fair transition … as well as to make optimal use of public *and private funding*' (Art. 2, emphasis added). As the latter indicates, EU executives proceeded to semantically link their calls for green investments to commodifying policy rationales, as they did in earlier NEG prescriptions on public services generally and on transport and water services in particular (Tables 11.2 and 11.4).

The fourth criterion is that NRRPs must funnel at least 20 per cent of the RRF funds towards the digital transition of the European economy.[2] As mentioned in Chapter 10, digitalisation was a policy goal that already appeared in NEG prescriptions in 2013 as a necessary tool for the operation of case-based (rather than needs-based) funding mechanisms in hospitals. In her candidacy speech for the position of Commission President, Ursula von der Leyen (2019: 4) also pledged that 'Europe must lead the transition to a healthy planet and *a new digital world*' (emphasis added). Concretely, she committed herself to 'prioritise investments in Artificial Intelligence, both through the Multiannual Financial Framework and through the increased use of *public–private partnership*' (2019: 13, emphasis added). The lobbyists from Digital Europe, the association of both the national and the global digital tech industry in Brussels, were thus knocking on an open door when they demanded that a dedicated amount of RRF funding must be set aside for their industry (Digital Europe, 2020). In view of the fact that the digital technology industry corporations were already among the major economic winners of the pandemic, given the increased demand for IT equipment and services during the lockdown consequent to the shift to online shopping, distance education,

[2] As an expenditure item can contribute to both the green and the digital transition, Annexes VI and VII in the RRF Regulation outline the method that must be used to determine whether it contributes to the green and/or the digital transition.

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and remote working arrangements, the decision of the European Parliament and Council to award up to €134.5bn of public RRF funding to the information technology sector was breathtaking. By contrast, all pleas by European unions and social NGOs to the European Commission, Parliament, and Council to include a minimum target for social expenditure in the RRF Regulation failed (Vanhercke and Verdun, 2021), even though the pandemic put member states' social services, particularly healthcare, under the greatest stress. Before the pandemic, EU executives had already issued NEG prescriptions that tasked governments to prioritise public spending for the allegedly more productive network industries rather than on healthcare services, as revealed in Chapter 11. Hence, European unions' and social NGOs' failure to secure an RRF quota for social (including healthcare) expenditure after the pandemic is all the more striking. This observation is of both practical and academic interest, as the absence of binding social spending benchmarks questions the 'social' investment paradigm that has moulded many contributions to the NEG and social policy literature (see Chapter 5).

The RRF's structural anti-social services bias is even more apparent in the RRF Regulation clause that delimits the range of eligible RRF expenses, leaving unchanged the principles of earlier EU budget cycles: 'Support from the Facility shall not, unless in duly justified cases, substitute recurring national budgetary expenditure' (Art. 5(1) RRF Regulation). As public services are typically financed through recurring national budgetary expenditure, EU legislators nominally barred recurring public sector expenditures, namely, public sector wages, from RRF funding. This provision mirrors a very formalistic view on the division of competences between the EU and its member states (Commission official, intervention, UCD–Cornell study trip, Brussels, 18 November 2022). Accordingly, member states are not allowed to use RRF funds to address the acute staffing crisis in public healthcare services, as the 'organisation and delivery of health services and medical care' is – according to Art. 168(7) TFEU – an exclusive competence of member states. Such EU competence arguments, however, did not stop EU executives from issuing NEG prescriptions that tasked governments to curtail public sector workers' wages, as shown in Chapters 6, 7, and 10. Hence, EU competence arguments are typically political arguments that policymakers use instrumentally to justify the EU's inaction in a field (Chapter 3; Stan and Erne, 2021b). When policymakers want to see EU action in a field, however, EU competence arguments quickly lose their currency. Incidentally, of all governments, it was the nationalist Orbán government that called for greater EU involvement in the provision of national public services: the Hungarian government submitted an NRRP that dedicated some RRF funds to personnel rather than

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infrastructure costs, given the acute staff shortage crisis in public services (Szabó, 2022), which is virulent stark not only in Hungary but across the entire EU (EPSU, 2022a).[3] Conversely, the left-wing Spanish government accepted the RRF's funding bias for private suppliers but then – paradoxically – tried to turn that pro-business bias into an advantage for labour, by telling Spanish capitalists that they would be the biggest losers if the EU froze its RRF funding. In December 2021, Spain's left-wing labour minister, Yolanda Díaz, would hardly have been able to get the consent of the Confederación Española de Organizaciones Empresariales for her decommodifying labour market reform had Spanish business not feared missing out on RRF funding (Wise, 2021).

Given our interest in EU economic governance interventions and countervailing protests that they might trigger as drivers of the political restructuring of Europe, we must take a step back to see the broader features of the post-Covid NEG regime. We do this in section 12.3.

12.3 EU GOVERNANCE AFTER COVID: STILL MIMICKING TRANSNATIONAL CORPORATIONS?

As outlined in Chapters 2 and 3, the NEG regime that the EU adopted after the financial crisis did not follow the classical state-centred (intergovernmental or federal) governance paradigms that still dominate the EU legal and political science literature. Instead, the NEG regime mimicked the corporate governance mechanism of transnational corporations (TNCs), which steer their subsidiaries' activities using whipsawing tactics, coercive comparisons, and subsidiary-specific ad hoc interventions (Erne, 2015). As shown in Chapter 11, adopting this corporate governance strategy helped EU executives constrain *transnational* protests by unions and social movements, as the methodology of the European Semester makes strikes against specific NEG prescriptions 'almost impossible' (CGIL union official, cited in Maccarrone, 2020: 259). However, the social and economic measures that governments adopted at national and local level to implement NEG prescriptions still triggered significant union and social-movement protests (Maccarrone, 2020; Naughton, 2023). After 2008, most protests in Europe were triggered by economic rather than culturalist grievances (Kriesi et al., 2020). Given the

[3] The Commission accepted the very cautious wording of the draft NRRP in this regard but froze the RRF payments, as the Orbán government did not 'effectively address the country-specific recommendations addressed to Hungary in relation to the rule of law' and also failed to take the required measures 'to protect the financial interests of the Union' (European Commission, 2022).

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protests' clear socioeconomic motivations however, EU executives could no longer dismiss them as objections of eternal nationalists (van Middelaar, 2021: chapter 4), as happened in the case of the mobilisations against Commissioner Bolkestein's EU Services Directive and the French, Dutch, and Irish referendums on the EU constitution and the Lisbon Treaty (Béthoux, Erne, and Golden, 2018). To prevent the EU's disintegration, EU executives thus overlaid the NEG mechanisms that mimicked TNC's labour control regimes with new governance tools that cannot be found in TNCs, namely, debt mutualisation and a pledge to strengthen the EU's social pillars.

A New Regime that Makes Countervailing Protest Action Still Difficult

In designing the post-Covid NEG regime, EU leaders nonetheless continued to deploy an institutional design that would still make it very difficult for unions and social movements to politicise the post-Covid NEG regime across borders, that is, even more intricate bureaucratic procedures, a sustained *country-specific* focus, stronger policy enforcement mechanisms, and policy formulation mechanisms that insulate national and EU executives even more effectively from their parliaments, unions, and social movements.

More intricate bureaucratic procedures: Not only have EU executives embedded the monitoring of the implementation of NRRPs' quantitative and qualitative measures in the European Semester process, but also the Commission's DG ECFIN produces and updates a specific biannual RRF scoreboard to monitor each EU member state's progress in implementing its NRRP as well as the NEG policy conditionalities specified in milestones and targets annexed to corresponding country-specific CIDs. The intricate European Semester process outlined in Chapter 2 has thus become further complicated through the addition of plenty of new NEG documents. To give national governments time to draft their original NRRPs, EU executives did not produce any CSRs in 2021. From 2022 onwards however, EU executives resumed issuing new CSRs, thereby adding new policy commitments for member states. Their implementation will be monitored by the Commission in the context of both the Semester process and the disbursement of RRF funds.

Sustained country-specific focus: It follows from the above that EU executives are still able to pursue their overarching supranational policy agenda through *country-specific* policy prescriptions. Hence, the post-Covid NEG regime remains a case of differentiated integration but not to accommodate economic, social, and cultural heterogeneity. Instead, the regime's country-specific policy prescriptions allow EU executives to realign member state policies in line with EU executives' supranational policy preferences.

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Therefore, we have described the post-Covid NEG regime as a case of *reversed* differentiated integration (Stan and Erne, 2023; Chapter 3).

Reinforced coercive mechanisms: The RRF's 'money for reform' approach mirrors the NEG regime's most effective and thus most coercive policy enforcement mechanism, namely, the threat to withdraw EU funding if a member state's implementation of the MoU-related NEG prescriptions is perceived as inadequate. Although national governments usually implemented the MoU-related prescriptions that they received, the Commission has not always been satisfied with the implementation of SGP/MIP-related prescriptions, as outlined in Chapter 2. Although the Six-Pack laws gave EU executives ample fining powers, they shied away from actually using them against non-fully complying member states, given the unpredictable backlash effects of SPG/MIP-related sanctions' 'atomic bomb' character on the EU integration process (Chapter 2); and the implementation of NEG prescriptions was even weaker in countries not under a coercive arm of the NEG policy enforcement regime. EU legislators thus made EU structural funding in the 2014–2020 budget cycle conditional on the satisfactory implementation of NEG prescriptions (Regulation 1303/2013), but 'unlike the EU budget … the recovery fund has a *continuous system of conditionality*, with tranches of money being disbursed after reform and investment milestones have been met' (emphasis added) (Cornago and Springford, 2021: 1). The policy conditionalities of RRF funding thus substantially increased the steering power of NRRP-related NEG prescriptions across all member states.[4] By contrast, EU executives were not that concerned about auditing 'the costs actually incurred' to ensure that the funds have been spent for the stated purpose, to the annoyance of the head of the European Court of Auditors (O'Leary, 2023).

Hence, the new policy conditionalities linked to the disbursement of RFF funds enables EU executives to demand policy changes even from countries that have not received NEG prescriptions that are linked to the NEG policy enforment regime of a very coercive MoU, or a coercive excessive deficit, or excessive macroeconomic imbalances procedure (see Table 5.1). This has been shown, for example, by the Commission's rejection of the German government's initial NRRP and the Commission's demand to rework the plan, namely, on structural reforms that would 'improve the sustainability of the pension system' (Holz, 2023: 219). De facto however, the coercive power

[4] In 2022, for example, the European Commission (2022) penalised the Hungarian Orbán government by withholding RRF funding for unsatisfactory implementation of a CSR on the independence of the Hungarian judiciary, which is a prescription that would have had only a weak coercive power before the EU's shift to the post-Covid NEG regime.

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of NRRP-related NEG prescriptions still differs, as the relative share of RRF funding as a share of their GDP substantially varies across countries, reflecting once more the uneven nature of the EU political economy. Whereas Romania and Italy have received, and will continue to receive, grant transfers of about 6 and 4 per cent, respectively, of their 2020 GDP from 2020 up to 2026, the agreed RRF grant payments for Germany and Ireland amount to less than 1 per cent and are thus much less significant (Nguyern and Redeker, 2022: Figure 2).

Steering the EU's economies without much democratic scrutiny: The post-Covid NEG regime remains a technocratic process steered top-down by national and EU executives. The European and national parliaments are not involved in the formulation of NRRP-related policy prescriptions. Regarding social partners, their involvement is also very limited, as even supporters of the socialisation thesis have acknowledged (Vanhercke and Verdun, 2021). Although the RRF Regulation requires member states to include in their NRRPs a statement about the involvement of social partners and other stakeholders in drafting the plan, one of the EU's own agencies has demonstrated that this involvement has been uneven and weak 'in a relatively high number of countries' (Eurofound, 2022: 1).

In sum, the inclusion of transnational redistribution mechanisms shows that the post-Covid NEG regime moved away from the beggar-thy-neighbour governance mechanisms that TNCs use to control their subsidiaries and workforce. Instead of mimicking the corporate governance structures of TNCs, the post-Covid NEG regime resembles the mechanism of examination boards and commissions in schools and universities, which evaluate their students based on the exam grades awarded across different subject areas. Hence, the post-Covid NEG regime continues to defy established standards of democratic accountability (Crouch, 2004; Mair, 2013; Erne, 2015), as NEG policymaking continues to be steered by executives without the democratic participation of national and EU parliaments, unions, and social movements.

Although member states now need A grades in four subject areas, including two that potentially point in a decommodifying policy direction, we need to get a better idea of the policy orientation of the entire EU governance regime after Covid to ascertain its role as a trigger for countervailing collective action. We do that in Chapter 13 by assessing of the policy orientation of the NRRP- and CID-related prescriptions and the new EU laws in our policy areas (employment relations and public services) and sectors (transport, water, and healthcare), before providing an outlook on what might come next.

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