

## C. Essays

### COVID-19—A ‘Hamilton Moment’ for the European Union?

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*1. COVID-19 in Europe.*

The crisis uncovered the breaking points of globalization. The distortions triggered by the Corona pandemic were manifested in the form of interrupted supply chains and a lack of vital medical equipment, protective gear and medicines that were no longer available because their production had been relocated outside Europe, partly for cost reasons, partly because foreign investment regulation, which reflected the liberal European economic order, had allowed very generous acquisitions of strategically important companies by foreign investors. The limited reliability of supply and international transport based on contractual guarantees became manifest. The confidence in global supply chains that operate efficiently even in an emergency was lost. China first, America first - and Europe left without a partner.

A survey by the European Council on Foreign Relations (ECFR), published in June 2020, ("Survey") revealed how COVID-19 has changed the European public's view on the world and, in particular, on the role of the European Union and its Member States.<sup>2</sup> The ECFR commissioned a poll of over 11,000 citizens in nine countries across the European Union (EU),

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<sup>2</sup> See Ivan Krastev and Mark Leonard, "Europe's pandemic politics: How the virus has changed the public's worldview," ECFR/326 (June 2020) (survey); available [ [https://www.ecfr.eu/page/-/europes\\_pandemic\\_politics\\_how\\_the\\_virus\\_has\\_changed\\_the\\_publics\\_worldview.pdf](https://www.ecfr.eu/page/-/europes_pandemic_politics_how_the_virus_has_changed_the_publics_worldview.pdf), last accessed 20 September 2020].

covering more than two-thirds of the EU's population and GDP. The poll generated partly surprising results.

On the one hand, a significant number of people in all surveyed Member States were of the opinion that the EU responded poorly to the crisis or was even irrelevant.<sup>3</sup> This disappointment with the EU raises the question whether the distribution of legislative and administrative competences and powers between the EU and the Member States in the health sector is adequate or requires improvement.<sup>4</sup>

The Survey revealed, however, also that the pandemic has dramatically changed how the Europeans' see the world beyond Europe, in particular the U.S.A. and China, with fundamental repercussions on the view of the role and function of the EU and the Member States in a world of blocs and regions. The COVID-19 crisis triggered - what seems a paradox at first sight - both a "European moment" and a "nationalist moment".<sup>5</sup>

## *2. The EU and the Member States - distribution of competences and powers.*

The Survey revealed that a significant number of EU citizens considered the EU's crisis management to be poor or even irrelevant. This reproach is at least partly unjustified as the EU's competences in the health care sector are rather limited. According to Art. 5 and 6 TFEU (Treaty on the Functioning of the European Union)<sup>6</sup>, public health care falls within the area of shared competences and of measures for coordination and support, in which the principle of subsidiarity (Art. 5 (3) TFEU) applies. Subsidiarity means that the EU should only act if and insofar as action by the Union is more effective than action by the Member States because of its scale or effects. A centralized intervention by the EU in the beginning of the Corona crisis when rapid, direct and coercive actions on the ground were required would not have been feasible or even useful as the EU did not have the administrative set-up nor means for an EU-wide emergency intervention. In addition, the legal and administrative organization of the national public health systems is quite different, some are federal others centralized, some states have a public health care system others follow a

<sup>3</sup> See ECFR/326 ( June 2020) (survey), supra n. 2, p. 9.

<sup>4</sup> See 2. below.

<sup>5</sup> See Section 3 of this essay. below.

<sup>6</sup> OJ EU C326 of 26 October 2012, p. 1.

private or public-private approach.<sup>7</sup> Thus the Member States were the first port of call and primarily responsible, as they had the appropriate means for immediate action and coercion.

The criticism is, however, justified insofar as the EU was hit totally unprepared and seemed to be paralysed. There was no EU-wide emergency plan for such a crisis and the EU's coordination and support mandate would have allowed for or even required a more intensive engagement, e.g. concerning the procurement of medical equipment and protective gear or the optimal utilization of the available intensive care places in Europe, so that cross-border assistance is not only based on bilateral agreements between individual Member States. The EU has to play a central role, however, with regard to the economic, political and social effects of the crisis which can only be overcome through concerted action by all European institutions in cooperation with the Member States and international organizations.<sup>8</sup>

### *3. How COVID-19 has changed the European public's worldview.*

The ECFR Survey raised the question how the virus has changed the European public's worldview, in particular concerning the U.S. and China, and, with regard to the EU: did it restrengthen public support for the Member States or rather push towards the United States of Europe?

Concerning the world beyond Europe the Survey revealed that the Europeans' faith in the traditional transatlantic relations between Europe and the U.S.A. which were considered a bedrock in former times was shaken not only because of the U.S. president's 'America first' politics and unfriendly acts against the European Union. The U.S.A. also lost its image as a role model and leader of the Western world because of the American reaction to the pandemic which was considered inadequate and irresponsible from a European perspective.<sup>9</sup>

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<sup>7</sup> The UK, e.g., has a National Health Service whereas Germany has public and private health insurance combined with public health authorities.

<sup>8</sup> See the Programme of Germany's Presidency of the Council of the EU 2020 'Together for Europe's Recovery'; available [<https://www.eu2020.de/eu2020-en/program>] (last accessed 20 September 2020).

<sup>9</sup> See Survey (Fn. 2), p. 13 ff.

At the same time the Europeans have become skeptical concerning the future of their relationship with China. The pandemic and China's Hongkong politics revealed the authoritarian face. China not only tried to avert from its responsibility for the outbreak of the pandemic but also to sow the seeds of discord between European states.<sup>10</sup>

Due to COVID-19 and other global events such as the global financial crisis, the refugee crisis, and the climate emergency Europeans have, however, also reassessed the purpose and role of the EU. The biggest group of citizens surveyed (42 %) tends to believe that the twenty-first century will be a world of blocs and regions and Europe's relevance will depend on the EU's capacity to act together. The EU is no longer a project motivated primarily by ideas and values but a community of fate.<sup>11</sup> Does this mean that we are moving towards the United States of Europe?

#### *4. The European Recovery Fund - a 'Hamilton moment'?*

When the EU leaders agreed in July 2020 to establish a 750 billion EUR Next Generation EU Recovery Fund<sup>12</sup>, allowing the EU Commission for the first time to raise money in the capital markets for all Member States, this was celebrated as the 'Hamilton moment' of the EU. Alexander Hamilton was a former U.S. Secretary of Treasury and set a milestone for the creation of the U.S.A. by consolidating the states' debt into U.S. Treasury debt.<sup>13</sup> The Survey suggests, however, that rather than a

<sup>10</sup> See Survey (Fn. 2), p. 13 ff; Leonard/Krastev, "Europa, eine lieblose Zweckehe" (engl.: "Europe, a marriage of convenience without love"), *Tagesspiegel* 18.09.2020.

<sup>11</sup> ECFR/326 (June 2020) (survey), supra. n. 2, p. 16 ff.

<sup>12</sup> European Commission, "Recovery Plan for Europe," available [https://ec.europa.eu/info/strategy/recovery-plan-europe\_en#nextgenerationeu] (last accessed 2 December 2020) ("It will help repair the immediate economic and social damage brought about by the coronavirus pandemic. Post-COVID-19 Europe will be greener, more digital, more resilient and better fit for the current and forthcoming challenges.").

<sup>13</sup> Olaf Scholz, "Jemand muss vorangehen," *Zeit Online* (20 May 2020); available [https://www.zeit.de/2020/22/olaf-scholz-europaeische-union-reform-vereinigte-staaten?] (last accessed 3 December 2020). Cf. "How Alexander Hamilton Tackled the National Debt," *Smithsonian Magazine Online* (19 April 2017); available [https://www.smithsonianmag.com/sponsored/alexander-hamilton-debt-national-bank-two-parties-1789-american-history-great-courses-plus-180962954/]; and Andrew T. Hill, "The First Bank of the United

'Hamilton moment' of proto-federalization we see a 'Milward moment' according to Alan S. Milward, *The European Rescue of the Nation-State*,<sup>14</sup> i.e. a burgeoning consensus on the necessity of the EU as a tool to preserve and empower the nation state searching for protection through joint European politics in a world of blocs and regions. The Survey shows that the roots for this new pro-Europeanism do not lie primarily in a desire for more European institution-building and bureaucracy nor in joint ideals and values but rather in deeper anxiety to lose control and to become casualties in a Sino-American confrontation.<sup>15</sup> The pandemic reenforced the realistic insight that the EU is without alternative for continental Europe. The EU Recovery Fund is designed not only to mitigate the shocks of the pandemic but also to finance digital development and the Green New Deal thus functioning as a transformation accelerator towards a more sustainable Europe.<sup>16</sup>




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States," Federal Reserve History, available [https://www.federalreservehistory.org/essays/first-bank-of-the-us ] (last accessed 3 December 2020).

<sup>14</sup> University of California Press, 1993.

<sup>15</sup> See ECFR/326 ( June 2020) (survey), supra n. 2, p. 20 f.

<sup>16</sup> European Commission, "Recovery Plan for Europe," available [https://ec.europa.eu/info/strategy/recovery-plan-europe\_en#nextgenerationeu] (last accessed 2 December 2020) ("The aim is to mitigate the economic and social impact of the coronavirus pandemic and make European economies and societies more sustainable, resilient and better prepared for the challenges and opportunities of the green and digital transitions").

