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What to Do with the ECB's Secondary Mandate

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Abstract

The ECB's secondary mandate requires it to support broader economic policies by and in the EU. How should the ECB deal with its many, potentially conflicting, objectives? To answer that question, this article combines normative and legal analysis with new archival sources, as well as analysis of ECB speeches and documents. A more important role for its secondary mandate fits well with the new, more political role of the ECB. However, the requirements that the legal text imposes on the ECB are paradoxical. While strictly binding, the secondary mandate is also highly indeterminate, and the ECB lacks the democratic legitimacy and legal competence to develop its own policies for pursuing the secondary objectives. To resolve this paradoxical situation, we propose that the specification of the ECB's secondary objectives should take place via high-level coordination with the political institutions of the EU.

Keywords: European Central Bank; secondary mandate; democratic accountability; environmental policy

Introduction

The European Treaties give the ECB a mandate which is twofold. Its primary mandate is to pursue price stability.[1] However, the Treaties also impose a legally binding requirement on the central bank to 'support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union.'[2] As its board member Frank Elderson (2021) recently explained, 'the ECB's "secondary objective", stipulates a duty, not an option'. Historically, however, the central bank has largely ignored this provision. The secondary mandate was not mentioned in the 1998 and 2003 strategies outlined by the ECB; in marked contrast to its detailed interpretation and definition of price stability (ECB, 1998, 2003).

The re-emergence of the secondary mandate in the 2021 Review of the monetary policy strategy constitutes an important break with that approach (ECB, 2021a). In specifying the specific EU objectives it aims to supports, the ECB not only mentions 'balanced economic growth', 'a highly competitive social market economy aiming at full employment and social progress', but also explicitly notes 'a high level of protection and improvement of the quality of the environment.' (ECB, 2021a). To better support the latter, the ECB announced an 'ambitious' climate-related action plan.

Renewed attention for the ECB's secondary mandate follows significant changes in the ECB's policies since 2008. Before the great financial crisis, the ECB's monetary policy strategy reflected a monetarist heritage. It saw central bankers focus on the pursuit of price stability by means of setting short-term interest rates. Three key developments have

[1]Article 127 (1) TFEU.
[2]Article 127 (1) TFEU; See also Article 282 (2) TFEU.

put that approach to monetary policy under pressure. First, over the past years central bankers have broadened their understanding of how monetary policy impacts pressing potential secondary objectives such as financial stability, inequality and environmental sustainability. Second, reflecting these changing views and new challenges, the past decade saw the ECB adopt various unconventional policies that go beyond interest rate setting and fit the monetarist paradigm poorly. Third, the ECB's new role has been repeatedly contested before the European Court of Justice (CJEU) and the German Constitutional Court, putting new weight on the justification of monetary policy. In declaring the ECB's Public Sector Purchase Programme (PSPP) *ultra vires*, the German Court essentially required the ECB to better justify the proportionality of the PSPP in light of its significant economic effects.[3] Despite a cautious return of the secondary mandate in the 2021 strategy, however, the ECB's interpretation of its legal significance, and how it intends to act on it, remains far from clear.

In this article, we investigate how the ECB should navigate the many, potentially conflicting, objectives imposed on it by its secondary mandate. The article combines normative and legal analysis of the secondary mandate with new archival research, as well as analysis of ECB speeches and documents. We take the legal framework as it is and inquire how the ECB has interpreted it to date and how it should act in light of considerations of democratic legitimacy.

As we argue, the secondary mandate raises a paradox because of three features: it is (i) binding, (ii) indeterminate and (iii) supportive. Although the secondary mandate is *binding* and assigns duties, it is unclear how the ECB should support the EU's broader economic policy objectives. These objectives are highly *indeterminate,* leaving the ECB with a wide range of options for implementation. Accordingly, although the ECB has a duty to act, it is unclear what the content of that duty is. At the same time, the Treaty stipulates that the secondary mandate is *supportive* in nature: the ECB must 'support the general economic policies in the Union', but cannot simply make its own economic policy. The ECB, accordingly is required to give content to highly indeterminate treaty provisions without itself making economic policy.

The most elegant way to reconcile these requirements, we contend, is high-level coordination between the ECB and the political institutions of the EU. To discover what its mandate requires, the ECB should consider how other Union institutions and the member states have articulated their economic policy stance. The EU's political bodies can aid the ECB in this endeavour by articulating the EU's objectives relevant for the interpretation of Article 127(1). When the political institutions of the EU specify what the secondary objectives require, the ECB can support those objectives without itself making economic policy. We also explain why such a practice of coordination is compatible with the ECB's independence.

The rest of the article is structured as follows. We first discuss how the ECB has historically interpreted its secondary mandate. After a legal analysis of the secondary mandate as drafted in the 1992 Maastricht Treaty, we present evidence from speeches and internal documents acquired through a freedom of information request. These sources show that during its 2003 strategy review the ECB made a decisive choice to narrowly focus on its primary objective. From then on, the central bank comes to deny the very

[3] 2 BvR 859/15 etc., *PSPP*, judgment of 5 May 2020, ECLI:DE:BVerfG:2020:rs20200505.2bvr085915.

existence of secondary objectives. Building on the legal provisions and their historical interpretation, we then explore the ECB's new challenges and the paradoxical nature of the secondary mandate. We conclude by arguing that the ECB should implement its secondary mandate through coordination with the EU's political institutions.

The secondary mandate remains an underexplored part of the ECB's legal structure (Béres et al., 2021; Dikau and Volz, 2021; Elderson, 2021; Grünewald, 2021; Monnet, 2021). In setting out the obligations that its vague provisions impose on the central bank, our article contributes to the study of how central banks navigate their new issues of legitimacy raised by the transformation of monetary policy since 2008 (Bateman, 2021; Braun, 2017; Dawson et al., 2019; Kreuder-Sonnen, 2016; Lokdam, 2020; Scicluna, 2018). It has become clear that navigating these issues is particularly difficult for the ECB due to its high level of independence and limited democratic accountability (Amtenbrink and Repasi, 2020; Beukers, 2013; Borger, 2020; de Boer and van 't Klooster, 2020; Feichtner, 2020; Högenauer and Howarth, 2019; Markakis, 2020; Tuori, 2019). In focusing on the secondary mandate, we make concrete proposals for navigating these democratic and procedural challenges, while also contributing to recent work on the role of the European Parliament and other EU institutions (Collignon and Diessner, 2016; Dawson et al., 2019; Fromage et al., 2019; Maricut-Akbik, 2020).

I. A Short History of the Secondary Objectives

The European Community initiated the process of monetary unification assuming that its central bank's task would be simple (James, 2012; McNamara, 1998; van den Berg, 2004). That assumption was informed by a set of ideas about money and the economy, popularized by Milton Friedman, that saw monetary policy as unable to make a lasting contribution to the economy's productive capacity. Instead, the ECB was meant to achieve the well-defined objective of price stability by using one simple tool: setting interest rates.

Recognizing that how the central bank pursues price stability can support but also hinder other economic policies, the drafters of the Treaty added room for central bankers to take broader economic policy considerations into account (van den Berg, 2004, pp. 51–71). Although the 1992 Maastricht Treaty assigns to the ECB a primary objective of price stability, it was never entirely true that the ECB's mandate was so strict as to proscribe one clear course of action. The Treaty explicitly states that the ECB should not merely 'implement', but also 'define' its monetary policy. In doing so, the ECB's secondary mandate requires it to 'support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union' where that is compatible with the objective of price stability.

The secondary mandate is a source of legal duties. Commentators generally agree that when the ECB has different courses of action to maintain price stability, it would be legally barred from pursuing the course of action that does a worse job in supporting these general economic policies (see for example Grünewald, 2021; Ioannidis et al., 2021, pp. 14–15; Lenihan, 2006, p. 7; Selmayr, 2015, pp. 1251–1252; Smits, 1997, p. 189). Still, the text of Article 127 (1) TFEU does not require the ECB to always pursue price stability as the objective. The provision merely demands that the ECB's support of economic policy does not negatively affect the maintenance price stability. On this reading, the provision empowers the ECB to pursue predominantly economic policy objectives, provided it uses the instruments allowed by the Statute of the ESCB and ECB and its policies do not negatively affect price stability (Borger, 2016, pp. 181–2; Gerner-Beuerle et al., 2014, p. 310; Heun, 2014, p. 333; Ioannidis et al., 2021, p. 16; Thiele, 2016, p. 533; Wendel, 2014, pp. 295–8; Whelan, 2020, p. 43).

The Treaties, however, largely leave open which secondary objectives the ECB should take into account. The TFEU invokes both 'the general economic policies in the EU' as well as the plurality of objectives assigned to the EU by Article 3 of the Treaty on European Union (TEU). These objectives include 'balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment'. The pursuit of these quite different objectives can pull in opposite directions (Claeys and Domínguez-Jiménez, 2020, pp. 84–5). At the same time, they are so general that it is difficult to imagine any policy that could not be justified as contributing to at least some of these objectives. The Treaty provisions do not specify how the ECB must rank the secondary objectives.

Reference to 'the general economic policies in the Union' reflects the fact that the EU has only limited competences in general economic policy. Article 3 TFEU designates monetary policy as an exclusive competence of the Union for the euro-area member states. By contrast, Article 5(1) TFEU puts economic policy in a separate category, stating that member states shall coordinate these policies and that the Council can adopt measures to this end. The wording of Article 127 (1) TFEU reflects that member states retain the primary responsibility for general economic policy (van den Berg, 2004, pp. 51–71). As a result, there is no single economic policy *of* the Union. Instead there are several member states' economic policies that can be coordinated at Union level (van den Berg, 2004, p. 71; Lenihan, 2006, pp. 7–8; Smits, 1997, p. 181). Article 127 (1) also refers to *general* economic policies. The mandate, accordingly, provides the ECB with a lot of leeway in deciding how to support economic policy; it must distil the general direction not just from EU-wide polices but also from those pursued by the different member states (Selmayr, 2015, pp. 1252–3)

Reflecting their legal indeterminacy, the question of how to deal with the secondary objectives was 'heavily debated' within the ECB Governing Council in its early years (Noyer, 2020, p. 32). Yet, the secondary objectives remain almost completely absent from the ECB's monetary policy strategies published in 1998 and 2003.

At the start of its operations in 1998, the ECB put forward a detailed strategy for the pursuit of price stability. It spelled out a quantitative target 'as a year-on-year increase in the Harmonised Index of Consumer Prices (HICP) for the euro area of below 2%.' (ECB, 1998) In 2002 the ECB conducted a review of that strategy, where the ECB clarified that it would 'maintain inflation rates below, but close to, 2% over the medium term.' (ECB, 2003). On both occasions, the ECB described price stability as the primary objective but left its secondary objectives undefined. Since then, in over 2,500 speeches between 1997 and the start of the recent review of the monetary policy strategy in 2020, members of the ECB governing council used the term 'primary objective' in 441 speeches and 'primary mandate' in 65 (ECB, 2021b). The words 'secondary mandate' were not mentioned once and explicit reference to the secondary objective(s) appears in 10 speeches; five times in 1998 and 1999, and then once in 2002, 2007, 2009, 2014 and 2016 (ECB, 2021b).

These facts are puzzling and defy simple explanation. The secondary objectives are as binding on the ECB as its primary objective. Where the ECB can contribute to the broader objectives of the EU without prejudice to price stability, Article 127 (1) TFEU states that it ought to do so. Similarly, from a perspective of accountability, there is no reason to assume the secondary objectives require less explanation.

So why did the ECB say so little about its secondary mandate? Since there was no public document available on the outcome of discussions in 2002, we made two document requests to the ECB under Decision ECB/2004/31 for 'any document pertaining to the internal deliberation on the secondary mandate in the Governing Council between 1998 and 2003 […]; and any documents pertaining to the secondary mandate in the context of the 2003 review of the monetary policy strategy'. Despite acknowledging the lively discussions that took place, the ECB claimed to have only background documents and one seven-page note.[4] That note from January 2002, entitled 'Clarifying the nature of ECB support for general economic policies in the Community' written by the DG Economics led at the time by Otmar Issing, contains the ECB's early interpretation of the secondary mandate.

In the internal note, the ECB explains why it takes itself to have no objective other than price stability. The economic argument is well-known and strongly influenced by monetarist ideas. First, the ECB side-steps the broad range of potential secondary objectives by focusing macroeconomic outcomes of economic growth and employment mentioned in Article 3(3). Rather than considering the actual economic policies pursued by the EU and the member states, the ECB considers only the macroeconomic effects of its own policies.

Second, the ECB asserts that it contributes to these secondary objectives best by focusing on price stability: 'Given the medium-term orientation of monetary policy price stability and real economic objectives are not in conflict but complementary' (ECB, 2002). Invoking the monetarist theorem of the long-run neutrality of money, the ECB understands the effectiveness of monetary policy as fundamentally constrained by supply-side factors. Monetary policy, the note argues, can briefly push the economy beyond its long-term potential, but over time inflation expectations adapt. The result would be higher inflation, but no overall benefits in terms of output and employment. Accordingly, the pursuit of price stability is the best way for monetary policy to contribute to employment and economic growth. The upshot of this argument is that a narrow focus on price stability is also the best way to fulfil the secondary mandate. The note goes beyond this economic argument in denying that the ECB has secondary objectives that are distinct from price stability, stating that: 'the treaty language does not refer to 'secondary objectives' of the ECB' (ECB, 2002, p. 2).[5]

This line of argument also explains the ECB's historical opposition to coordination of its monetary policy with the political bodies of the EU (Braun et al., 2021, pp. 14–17; Domingo Solans, 2000; Duisenberg, 1999; Issing, 2002). Central bankers held the view that they should focus narrowly on price stability, thereby also supporting the economic policies of the EU. That division of tasks precluded any need for additional guidance:

[4]ECB communication of 26 April 2021 (Reference: LS/PS/2021/18) and 25 May 2021 (Reference: LS/PS/2021/22)
[5]Although the term indeed does not appear, Article 127(1) does refer to the 'objectives of the Union' that the ECB should support without prejudice to the 'primary objective' specified a sentence earlier.

> We do not need to sit around a table with other policy-makers to decide in a co-ordinated manner which monetary policy we have to formulate. We already know what to do ex ante, in a statutory manner, without any genuine need for coordinating our monetary policy decisions with others (Domingo Solans, 2000)

Reflecting this monetarist self-understanding, the secondary mandate goes unmentioned in the outcomes of the 2003 Review. It can be read into the clarification that the ECB would pursue price stability over the 'medium-term'. As the ECB acknowledges, central banks face a choice in deciding how aggressively to pursue their inflation target, which unavoidably impacts broader economic policy objectives and potentially contradicts the objectives of governments. On occasion allowing for short-term, transitory inflation 'embodies a concern for and a contribution to the stabilisation of output and employment.' (ECB, 2003, p. 82). The oblique discussion of the secondary mandate stands in marked contrast with the strategy's minute specification of the inflation target and the two-pillar strategy to achieve it.

This historical background makes clear that the 2021 Review of the monetary policy strategy is a decisive break with earlier thinking on the role of the secondary mandate (ECB, 2021a). In contrast to the 2003 Strategy's narrow focus on medium-term inflation, the new strategy links price stability to a broad set of economic pre-conditions. A new framework for monetary and financial analysis covers the transmission of monetary policy to the real economy, as well as risks to price stability from longer-term economic imbalances and financial instability. As we mentioned in the introduction, the new strategy explicitly invokes the objectives of the EU from Article 3 TEU and mentions 'the quality of the environment' as one of the objectives of the EU that the ECB will aim to support. Referring to both the new analytical framework and the EU's climate strategy, the ECB writes

> Within its mandate, the Governing Council is committed to ensuring that the Eurosystem fully takes into account, in line with the EU's climate goals and objectives, the implications of climate change and the carbon transition for monetary policy and central banking. (ECB, 2021a)

Reference to these EU objectives directly precedes the announcement of the climate related action plan. In July 2022, again invoking its secondary mandate, the ECB announced forceful measures to decarbonize European capital markets (ECB, 2022)

II. New Challenges

The re-emergence of the secondary mandate reflects new challenges that the ECB now faces. In light of these challenges, its earlier position that preventing inflation is the best, and only feasible way to promote the EU's economic policy objectives has not stood the test of time well. It assumes a central bank that focuses on price stability, which it pursues in a way that minimizes the economic costs of high interest rates. In the past years, the ECB has increasingly wrestled with new choices that go beyond the trade-off between output and inflation that is at the heart of the monetarist conception of central banking (Blot et al., 2020). The price stability objective no longer proscribes a clear course of action, putting more pressure on the ECB to acknowledge its secondary objectives. Consider three hotly contested areas of ECB policy.

First, as a result of the eurozone crisis the ECB has been increasingly willing to support the economic policies of the member states by purchasing their government bonds (Schmidt, 2015). From a legal perspective, the ECB has justified its Securities Markets Programme (SMP) and Outright Monetary Transactions (OMT) policies by conceptualizing stable bond yields as a precondition for its ability to achieve price stability (ECB, 2010, 2012).[6] However, the stakes were clearly much higher. Had the ECB not acted in 2012, the crisis would not only have impaired its ability to achieve price stability but could easily have ended the euro. Litigants in the 2015 *Gauweiler* case argued that the OMT programme constituted a 'suspension of the market mechanisms which violates the Treaties.'[7] The price stability objective itself does not provide guidance on who is right in this debate, nor does it say much on where and when the ECB should provide support for government spending. In the face of this legal indeterminacy, explicit reference to the EU's broader economic policy objectives would be directly relevant for evaluating the ECB's policies.

A second policy area where the ECB has faced new choices not easily captured by the price stability objective is the societal impact of its quantitative easing (QE) bond buying programme – the ECB's Asset Purchase Programme (APP). By far the largest sub-programme is the multi-trillion euro Public Sector Purchase Programme (PSPP). By buying debt, the ECB seeks to boost consumption and investment, thereby 'ultimately contributing to a return of inflation rates to levels below but close to 2% over the medium term'.[8] The ECB's bond purchase programmes have had a big economic impact. Companies have used low interest rates to invest, but also to buy their own shares and pay dividends (Cohen et al., 2019). By driving up the price of financial assets and real estate, Europe's asset owners have been amongst the biggest beneficiaries of these programmes (Dossche et al., 2021). Again, the secondary mandate could be brought into play in weighing where and when a bond buying programme is an adequate tool.

The Pandemic Emergency Purchase Programme (PEPP) introduced in March 2020 combines elements of the OMT and the PSPP, further exacerbating the existing indeterminacies in the ECB's self-understanding.[9] Like the OMT, the PEPP serves to stabilize spreads in sovereign bond markets and prevent a repeat of the 2010–12 panic. Like the PSPP, it serves to fight an economic downturn and stage an economic recovery. Both objectives are narrowly justified as the ECB's response to an 'extraordinary and acute economic crisis, which could jeopardise the objective of price stability and the proper functioning of the monetary policy transmission mechanism'.[10] At €1,850 billion, it is striking that the objectives of this programme are so opaque; compare this to the governance of the €750 billion Next Generation EU recovery fund.[11] Nonetheless, it seems clear that

[6]Decision of the European Central Bank of 14 May 2010 establishing a securities markets programme (ECB/2010/5).

[7]2 BvR 2728/13 etc., OMT reference, BVerfGE 134, 366, Order of 14 Jan. 2014, ECLI:DE:BVerfG:2014:rs20140114.2bvr272813. par. 5.

[8]Decision (EU) 2015/774 of the European Central Bank of 4 March 2015 on a secondary markets public sector asset purchase programme (ECB/2015/10).

[9]Decision (EU) 2020/440 of the European Central Bank of 24 March 2020 on a temporary pandemic emergency purchase programme (ECB/2020/17).

[10]Decision (EU) 2020/440 of the European Central Bank of 24 March 2020 on a temporary pandemic emergency purchase programme (ECB/2020/17).

[11]Special meeting of the European Council (17, 18, 19, 20 and 21 July 2020) – Conclusions, https://www.consilium.europa.eu/media/45109/210720-euco-final-conclusions-en.pdf.

the PEPP supports the EU's general economic policy objectives. As Christine Lagarde explicitly stated on announcing the programme, it aims to provide 'supportive financing conditions for all sectors in the economy', amongst which she included 'governments' (Lagarde, 2020). However, the ECB does not link these aims to the secondary mandate.

A third policy area concerns the environmental impact of monetary policy. This is the area where the ECB has most explicitly invoked the secondary mandate in the 2021 Review. As a consequence of its policy of 'market neutrality', the ECB's collateral policies as well as its Corporate Securities Purchase Programme (CSPP) benefit carbon-intensive firms such as utilities, companies engaged in fossil fuel extraction, and car manufacturers, which are overrepresented in bond markets (Battiston and Monasterolo, 2019; Matikainen et al., 2017; van 't Klooster and Fontan, 2020). The market neutrality policy, however, only has a shallow basis in the ECB mandate's provision that it should operate 'in accordance with the principle of an open market economy'. In its 2021 climate-related action plan, the ECB not only lists a range of measures to incorporate climate impact of issuers into the design of the monetary policy strategy. It also signals an end to its market neutrality policy and a general review of 'potential biases in the market allocation amid market inefficiencies' to result in a new design of the CSPP programme and other monetary policy instruments in 2022 (ECB, 2021c). Despite the increasingly prominent role of the secondary mandate in the ECB's climate measures, price stability also remains a prominent part of the justification of these policies (ECB, 2021a, 2022).

The initial steps that the ECB has made to incorporate the secondary mandate into the justification of its monetary policy strategy are a clear improvement over its earlier stance. However, the ECB's failure to explicitly define its secondary objectives remains difficult to square with the minimum legal requirements flowing from Article 127 (1) TFEU. Although the European Court generally offers the ECB broad discretion to make 'choices of a technical nature' and 'undertake forecasts and complex assessments', the Court subjects the ECB's discretion to:

> a review of compliance with certain procedural safeguards –– including the obligation for the ESCB to examine carefully and impartially all the relevant elements of the situation in question and to give an adequate statement of the reasons for its decisions.[12]

It is hard to see the ECB meeting even this low standard of justification in the 2021 Review. For one, it referred only selectively to a few secondary objectives. Consider the absence of the objective of 'scientific and technological advance', which is certainly not independent of financing conditions (Storm and Naastepad, 2007). The new strategy also lacks any explicit reasoning from the side of the ECB on how monetary policy decisions reflect the obligations that the secondary mandate imposes. It is clear that the ECB could have done much more to promote the EU's environmental objectives, but also much less. It could have focused on merely protecting itself against financial risk resulting from climate change but now also uses its monetary policy to 'promote more consistent disclosure practices in the market'. The ECB could also have done more in using its refinancing operations to actively promote green lending, as proposed in a recent report

[12]Case C-493/17, *Weiss and Others*, EU:C:2018:1000, paras. 73 and 30 respectively; see also Case C-62/14, *Gauweiler and others* v. *Deutscher Bundestag*, EU:C:2015:400, paras. 67–8.

by the Network for Greening the Financial System of which the ECB is a prominent member (NGFS, 2021).

III. Paradoxical Provisions

It is not surprising that the ECB remains so vague in its account of what duties the secondary mandate imposes on the central bank. The ECB's secondary mandate is paradoxical because of three features. It is (i) binding, (ii) indeterminate and (iii) supportive. In this section, we analyse that paradox and explore what the ECB could do to navigate it by itself. In the next section, we argue that the ECB should give content to the mandate's indeterminate provisions through coordination with the political institutions of the EU.

The secondary mandate is *binding* in the sense that it specifies not just that the ECB has the legal power to take account of goals beyond price stability, but also an obligation to do so. However, the secondary mandate is *indeterminate* and leaves open how the ECB should determine what its secondary objectives are. At the same time, the secondary mandate is *supportive* in nature and the ECB does not have the competence to develop policies on the secondary objectives by itself. If the ECB should try to spell out how it will act on the secondary mandate, it will face the problem that the secondary mandate itself only imposes vague obligations on the ECB.

The indeterminacy will always be difficult for the ECB to navigate by itself because of the supportive nature of the secondary mandate. Article 127 (1) requires the ECB to 'support' economic policies in the Union, which reflects the fact that the ECB cannot simply develop its own economic policy (Grünewald, 2021, pp. 275–6; Ioannidis et al., 2021, p. 16; Ioannidis, 2020, p. 371). Employment, climate, and the like are competences of the EU's political institutions and the member states. The ECB does not have competences to make policy with regard to these broader objectives. In practice it will be hardly possible for the ECB to set monetary policy that supports existing economic policies, without also making policies for those topics. Take again the case of climate policy. Any measure taken by the ECB to green the financial system will impact the allocation of capital; it can steer money towards specific green sectors as well as steering it away from carbon-intensive ones. In acting on its secondary mandate, the ECB unavoidably faces several significant choices which impact economic policy far beyond the medium-term price level.

Even if it would be legally permissible, there are also democratic concerns when the ECB takes up a leading role in making economic policy (de Boer and van 't Klooster, 2020). As a non-elected and independent institution, the ECB was historically meant to have a narrow mandate to accompany its strict independence. Legitimacy, on this account, results from the legal mandate, which authorises the central bank to use a well-defined set of powers subject to clearly specified conditions for their use. In the absence of clear instructions on what to do, there are serious democratic concerns over monetary policy objectives selected by the ECB alone. This is also problematic from a legal perspective since democracy itself is one of the core values of the EU (Article 2 TEU) and '[t]he functioning of the Union shall be founded on representative democracy.' (Article 10 TEU). That democratic concern also featured prominently in the German

Constitutional Court's decision of 5 May 2020 to declare the ECB's Public Sector Purchase Programme (PSPP) *ultra vires*.[13]

In sum, the ECB cannot reduce the indeterminacy of its mandate by setting its own objectives, without thereby going beyond merely supporting the objectives of other EU policymakers. If the ECB selectively chooses its own secondary objectives, it no longer supports other policies, but decides on its own. Yet, it is legally required to act on its secondary mandate. How can it meet these paradoxical requirements?

IV. Policy Coordination within the EMU

The ECB's failure to explicitly define its secondary objectives is difficult to reconcile with the minimal legal requirements flowing from Article 127 (1) TFEU. However, acting on self-imposed secondary objectives raises legal and democratic concerns. To reconcile these paradoxical requirements, we propose that the ECB should coordinate the specification of its secondary objectives with the political institutions of the EU.

Its secondary mandate implores the ECB to support the broader economic policies of other Union institutions as well as the member states. Giving content to this provision involves assigning a more prominent role to them in ECB decision-making. The ECB should explain how it supports the economic policies put forward by other bodies in the EU relevant for Article 127 (1). Based on this assessment, it will have to explain and justify how it pursued its secondary objectives in choosing a particular policy –see similarly regarding environmental protection Solana (2019, pp. 14–19) and Grünewald (2021, p. 275). Such justifications should include an explanation of how its policies relate to relevant economic policy frameworks adopted by Union institutions and the member states.

The political institutions of the EU can support these efforts by articulating what they take to be the EU's objectives relevant for the interpretation of Article 127(1) TFEU. They can also indicate in relevant financial legislation that they take their content to be relevant for the implementation of monetary policy. By allowing the political institutions of the EU to weigh in on the specification of its secondary objectives, the ECB can support those objectives without usurping competences.

This would not be entirely new territory. The OMT programme is an example of a programme where the ECB already incorporated EU policy into the specification of its own operations. There the ECB decided to make lending to member states dependent on politically agreed conditionality under the European Financial Stability Facility (EFSF) or the European Stability Mechanism (ESM). Under the previous SMP, the ECB had instead articulated informal conditionality on its own authority (Beukers, 2013). The ECB has already announced incorporating the EU's new disclosure policies into the rules of its monetary policy operations. These disclosures reflect in part the EU Green Taxonomy, which establishes criteria for when economic activities count as environmentally sustainable.[14] The ECB could also use the Green Taxonomy to inform the design of its refinancing operations (Böser and Colesanti Senni, 2021; van 't Klooster and van Tilburg, 2020). The

[13] 2 BvR 859/15 etc., *PSPP*, judgment of 5 May 2020, ECLI:DE:BVerfG:2020:rs20200505.2bvr085915.

[14] Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, O.J. 2020, L 198/13.

EP and the Council could support such an initiative by linking the relevant legislation to the ECB's secondary mandate.

Coordination goes beyond merely drawing on existing policies. It involves explicit statements by other EU institutions on what they take to be the objectives relevant for the interpretation of Article 127(1) TFEU. A dialogue with the Council and the European Parliament would allow the ECB to discover what these political institutions identify as the relevant objectives, without thereby taking instructions from these bodies. It would still be left to the ECB to develop an account of how it acts on these objectives in implementing its price stability objective. Through coordination, the ECB can act on its secondary mandate without determining the content of that mandate by itself.

EU inter-institutional coordination would be a more appropriate way to navigate the paradoxical requirements imposed on the ECB. From a perspective of legality, it allows the ECB to avoid setting its own economic policy objectives. In this regard, it would be able to maintain a narrow supportive role. Coordination would also be desirable from a perspective of democratic legitimacy, since the ECB would receive its secondary objectives from institutions with appropriate democratic mandates.

Crucially, there is no legal reason why the specification of the secondary objectives should be left entirely to the ECB itself. As members of the ECB's legal service recently argued,

> given that the role of the ECB in this context is to support the policies of other institutions, deferring to these policies would be warranted not only with regard to their content but also to the hierarchisation of priorities. (Ioannidis et al., 2021, p. 17)

They also state that '[t]he institutions responsible for indicating priorities for the purpose of Article 127(1) TFEU are primarily the European Council, the Council of the European Union (the "Council"), and the European Parliament.' (Ioannidis et al., 2021, p. 18).

Would Article 130 TFEU stand in the way of enhanced coordination on the secondary mandate? That view is difficult to reconcile with the logic of the legal framework governing the ECB, which serves to ensure that the ECB can faithfully implement its mandate as outlined in Article 127. Article 130 TFEU bars the ECB from seeking instructions from other EU or member state institutions regarding its tasks and duties conferred 'by the Treaties and the Statute of the ESCB and of the ECB'. Likewise, EU and member state institutions must 'not seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks.'

The Treaties make clear that a degree of influence by other institutions on the ECB's operations is compatible with Article 130 TFEU (Beukers, 2013, pp. 1581–8; Smits, 1997, pp. 170–4).[15] Article 125 (2) allows the Council to further specify the definition of the monetary financing prohibition of Article 123 (1) TFEU, while Article 129 (3) TFEU permits the Council and European Parliament to change parts of the Statutes of the ESCB and ECB. Also, Article 284 (1) TFEU gives both the President of the Council and a member of the Commission a right to participate in meetings of the ECB's

[15]See also Opinion AG Jacobs in Case C-11/00, *Commission of the European Communities v European Central Bank*, ECLI:EU:C:2002:556, (hereafter: Opinion AG Jacobs *OLAF*), paras. 156–8.

Governing Council, where the President of the Council 'may submit a motion for deliberation' (Article 284 (2) TFEU). In addition, the EP may hear the ECB's President and can organize a general debate on the basis of the ECB's annual report (Article 284 (3) TFEU). That Article 130 consequently permits coordination with other EU institutions was affirmed by Advocate-General Jacobs in the 2002 OLAF case:

> [T]he principle of independence does not imply a total isolation from, or a complete absence of cooperation with the institutions and bodies of the Community. The Treaty prohibits only influence which is liable to undermine the ability of the ECB to carry out its tasks effectively with a view to price stability, and which must therefore be regarded as undue.[16]

It would go against Article 130 if other EU bodies sought to force the ECB to into a specific interpretation of the secondary mandate. Article 130 ensures that no procedure of coordination would be legally binding as such. Instead, statements by other EU bodies would merely facilitate the ECB in discovering how to act in accordance with its own mandate. Deciding how to support the EU objectives would remain squarely with the ECB. As long as they remain *secondary* objectives, they will also not impede the pursuit of price stability.

We see two main ways to develop a procedure for specifying the secondary mandate. Firstly, Article 121(2) TFEU already allows the Council to formulate 'the broad guidelines of the economic policies of […] the Union'. These guidelines constitute non-binding recommendations (Article 288 TFEU), but can count as an authoritative statement on the economic policy stance of the Union. A downside of the Article 121(2) TFEU procedure is the limited involvement of the EP, which is only to be informed. For democratic and legal reasons, greater involvement of the EP is desirable. Democratically, because European citizens are directly represented by the EP, next to their indirect representation in the Council as member state citizens (Article 10 TEU; (von Bogdandy, 2012, p. 322). Legally, the involvement of the EP would fit with the fact that monetary policy is an exclusive competence of the Union (Article 3 (1) TFEU) and that, for this reason, the ECB also sees itself as accountable at the EU level for its monetary policy operations (Fraccaroli et al., 2018). Moreover, the secondary objectives are intertwined with policy areas where the EP has a stronger role than in the coordination of general economic policy, environmental protection being a key example (Article 191 and 192 TFEU).

The second avenue would therefore be a revamped accountability relationship with the EP, also known as the Monetary Dialogue that has developed on the basis of Article 284 (3) TFEU. As part of this dialogue, the EP adopts a yearly resolution on the ECB's annual report, in which the parliament expresses its position on the ECB's monetary policy. A further component is the quarterly hearing between the ECB President and the ECON committee of the EP. Existing research on these hearings, however, shows a lack of focus in the questions posed by MEPs (Amtenbrink and van Duin, 2009, pp. 581–2; Claeys and Domínguez-Jiménez, 2020, pp. 82–3; Fromage and Ibrido, 2018, p. 300). To remedy this lack of focus, the EP could use its yearly resolution on the ECB's general report to articulate a position on how the ECB should interpret the secondary mandate. Subsequently,

[16]Opinion AG Jacobs *OLAF*, para. 155.

its quarterly hearings could concentrate on how the ECB has developed its monetary policy in light of this specification.

On these bases, the EP and Council could provide further guidance on the secondary mandate by ranking the many distinct objectives of economic policy referenced in its secondary mandate (listed in Article 3 TEU) (Claeys and Domínguez-Jiménez, 2020, pp. 84–5; Monnet, 2021). However, they could go beyond this and articulate their stance on some of the key gaps in the ECB mandate already discussed: the permissibility of buying government bonds, the way in which the ECB should take into account the economic effects of asset purchases, as well as how the ECB should incorporate environmental concerns into its monetary policy decisions. Guidance by political institutions with stronger democratic credentials, would serve as renewed democratic authorization on how to navigate these new issues.

Conclusion

While focusing narrowly on its objective of price stability, until recently monetarist orthodoxy has led the ECB to all but ignore its secondary mandate. Although acknowledging its existence in the 2021 Review, the ECB continues to focus on the primary objective, subsuming ever more policies under its broader economic pre-conditions, while selectively invoking objectives from Article 3 TEU. We have traced the ECB's reluctance to put forward an interpretation of its secondary mandate to a paradox at the heart of the ECB's legal framework. The ECB cannot give content to its highly indeterminate treaty provisions without itself making economic policy. However, for the ECB to simply cherry-pick its own secondary objectives lands it in deep political waters, raising severe legal and democratic objections. Building on this diagnosis we have argued for high-level coordination with Council and the European Parliament, which is for both legal and democratic reasons preferable to an interpretation of the secondary mandate made by the ECB itself.

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References

Amtenbrink, F. and Repasi, R. (2020) 'The German Federal Constitutional Court's Decision in Weiss: A Contextual Analysis'. *European Law Review*, Vol. 45, No. 6, pp. 757–778.

Amtenbrink, F. and van Duin, K. (2009) 'The European Central Bank before the European Parliament: Theory and Practice after Ten Years of Monetary Dialogue'. *European Law Review*, Vol. 34, No. 4, pp. 561–583.

Bateman, W. (2021) 'The Law of Monetary Finance under Unconventional Monetary Policy'. *Oxford Journal of Legal Studies*, Vol. 41, No. 4, pp. 929–964.

Battiston, S. and Monasterolo, I. (2019) '*How Could the ECB's Monetary Policy Support the Sustainable Finance Transition?*' FINEXUS: Center for Financial Networks and Sustainability.

Béres, P., Claeys, G., De Boer, N., Demetriades, P. O., Diessner, S., Jourdan, S., Van 't Klooster, J. and Schmidt, V. (2021) 'The ECB Needs Political Guidance on Secondary Objectives'. Bruegel-Blogs.

Beukers, T. (2013) 'The New ECB and Its Relationship with the Eurozone Member States: Between Central Bank Independence and Central Bank Intervention'. *Common Market Law Review*, Vol. 50, No. 6, pp. 1579–1620. https://doi.org/10.54648/COLA2013160

Blot, C., Creel, J., Faure, J. and Hubert, P. (2020) *Setting New Priorities for the ECB's Mandate* (European Parliament).

Borger, V. (2016) 'Outright Monetary Transactions and the Stability Mandate of the ECB: Gauweiler'. *Common Market Law Review*, Vol. 53, No. 1, pp. 139–196. https://doi.org/10.54648/COLA2016007

Borger, V. (2020) *The Currency of Solidarity: Constitutional Transformation during the Euro Crisis* (Cambridge: Cambridge University Press). https://doi.org/10.1017/9781108864633

Böser, F. and Colesanti Senni, C. (2021) 'CAROs: Climate Risk-Adjusted Refinancing Operations'. ETH Working Paper.

Braun, B. (2017) *Two Sides of the Same Coin? Independence and Accountability of the European Central Bank* (Transparency International EU).

Braun, B., Di Carlo, D., Diessner, S. and Düsterhöf, M. (2021) 'Planning Laissez-Faire: Supranational Central Banking and Structural Reforms'. *SocArXiv*.

Claeys, G. and Domínguez-Jiménez, M. (2020) *How Can the European Parliament Better Oversee the European Central Bank?* (European Parliament).

Cohen, L., Gómez-Puig, M. and Sosvilla-Rivero, S. (2019) 'Has the ECB's Monetary Policy Prompted Companies to Invest, or Pay Dividends?' *Applied Economics*, Vol. 51, No. 45, pp. 4920–4938. https://doi.org/10.1080/00036846.2019.1602715

Collignon, S. and Diessner, S. (2016) 'The ECB's Monetary Dialogue with the European Parliament: Efficiency and Accountability during the Euro Crisis?' *JCMS: Journal of Common Market Studies*, Vol. 54, No. 6, pp. 1296–1312. https://doi.org/10.1111/jcms.12426

Dawson, M., Maricut-Akbik, A. and Bobić, A. (2019) 'Reconciling Independence and Accountability at the European Central Bank: The False Promise of Proceduralism'. *European Law Journal*, Vol. 25, No. 1, pp. 75–93. https://doi.org/10.1111/eulj.12305

de Boer, N. and van 't Klooster, J. (2020) 'The ECB, the Courts and the Issue of Democratic Legitimacy after Weiss'. *Common Market Law Review*, Vol. 57, No. 6, pp. 1689–1724. https://doi.org/10.54648/COLA2020765

Dikau, S. and Volz, U. (2021) 'Central Bank Mandates, Sustainability Objectives and the Promotion of Green Finance'. *Ecological Economics*, Vol. 184, 107022. https://doi.org/10.1016/j.ecolecon.2021.107022

Domingo Solans, E. (2000) 'Parameters of the Eurosystem's Monetary Policy'. British Businessmen's Club, Düsseldorf, 12 September 2000. Available at: https://www.ecb.europa.eu/press/key/date/2000/html/sp000912_1.en.html

Dossche, M., Slacalek, J. and Wolswijk, G. (2021) 'Monetary Policy and Inequality'. ECB Economic Bulletin No. 2.

Duisenberg, W. (1999) Presentation of the ECB's Annual Report 1998 to the European Parliament. Strasbourg, 26 October 1999. Available at: https://www.ecb.europa.eu/press/key/date/1999/html/sp991026_1.en.html

ECB (1998) *A Stability-Oriented Monetary Policy Strategy for the ESCB* (European Central Bank).

ECB (2002) *Clarifying the ECB Support for General Economic Policies in the Community* (European Central Bank).

ECB (2003) 'The Outcome of the ECB's Evaluation of Its Monetary Policy Strategy'. *Monthly Bulletin*, pp. 79–92.

ECB (2010) 'Euro Area Money Growth and the "Securities Markets Programme"'. *Monthly Bulletin*, June, pp. 24–6.

ECB (2012) 'Technical Features of Outright Monetary Transactions'. European Central Bank. Available at: https://www.ecb.europa.eu/press/pr/date/2012/html/pr120906_1.en.html

ECB (2021a) 'The ECB's Monetary Policy Strategy Statement'. European Central Bank. Available at: https://www.ecb.europa.eu/home/search/review/html/ecb.strategyreview_monpol_strategy_statement.en.html

ECB (2021b) Speeches Dataset. Available at: https://www.ecb.europa.eu/press/key/html/downloads.en.html

ECB (2021c) 'Annex: Detailed Roadmap of Climate Change-Related Actions'. European Central Bank. Available at: https://www.ecb.europa.eu/press/pr/date/2021/html/ecb.pr210708_1_annex~f84ab35968.en.pdf

ECB (2022) 'ECB Takes Further Steps to Incorporate Climate Change into Its Monetary Policy Operations'. Press release. Available at: https://www.ecb.europa.eu/press/pr/date/2022/html/ecb.pr220704~4f48a72462.en.html

Elderson, F. (2021) 'Greening Monetary Policy'. ECB Blog. Available at: «https://www.ecb.europa.eu/press/blog/date/2021/html/ecb.blog210213~7e26af8606.en.html»

Feichtner, I. (2020) 'The German Constitutional Court's PSPP Judgment: Impediment and Impetus for the Democratization of Europe'. *German Law Journal*, Vol. 21, No. 5, pp. 1090–1103. https://doi.org/10.1017/glj.2020.60

Fraccaroli, N., Giovannini, A. and Jamet, J. (2018) 'The Evolution of the ECB's Accountability Practices during the Crisis'. ECB Economic Bulletin No. 5.

Fromage, D., Dermine, P., Nicolaides, P. and Tuori, K. (2019) 'ECB Independence and Accountability Today: Towards a (Necessary) Redefinition?' *Maastricht Journal of European and Comparative Law*, Vol. 26, No. 1, pp. 3–16. https://doi.org/10.1177/1023263X19827819

Fromage, D. and Ibrido, R. (2018) 'The "Banking Dialogue" as a Model to Improve Parliamentary Involvement in the Monetary Dialogue?' *Journal of European Integration*, Vol. 40, No. 3, pp. 295–308. https://doi.org/10.1080/07036337.2018.1450406

Gerner-Beuerle, C., Kücük, E. and Schuster, E. (2014) 'Law Meets Economics in the German Federal Constitutional Court: Outright Monetary Transactions on Trial'. *German Law Journal*, Vol. 15, No. 2, pp. 281–320. https://doi.org/10.1017/S2071832200002959

Grünewald, S. (2021) 'The ECB's Response to the COVID-19 Crisis and Its Role in the Green Recovery'. In *Financial Stability amidst the Pandemic Crisis: On Top of the Wave* (Frankfurt: European Banking Institute), pp. 263–286.

Heun, W. (2014) 'Eine Verfassungswidrige Verfassungsgerichtsentscheidung – Der Vorlagebeschluss Des BVerfG Vom 14.1.2014'. *JuristenZeitung*, Vol. 69, No. 7, pp. 331–337. https://doi.org/10.1628/002268814X13939259576992

Högenauer, A.-L. and Howarth, D. (2019) 'The Democratic Deficit and European Central Bank Crisis Monetary Policies'. *Maastricht Journal of European and Comparative Law*, Vol. 26, No. 1, pp. 81–93. https://doi.org/10.1177/1023263X18824776

Ioannidis, M. (2020) 'The European Central Bank'. In Amtenbrink, F. and Herrmann, C. (eds) *The EU Law of Economic and Monetary Union* (Oxford: Oxford University Press). https://doi.org/10.1093/oso/9780198793748.003.0018

Ioannidis, M., Hlásková, S.J. and Zilioli, C. (2021) *The Mandate of the ECB: Legal Considerations in the ECB's Monetary Policy Strategy Review* (Occasional Paper Series) (European Central Bank). https://doi.org/10.2139/ssrn.3928298

Issing, O. (2002) 'On Macroeconomic Policy Co-Ordination in EMU'. *JCMS: Journal of Common Market Studies*, Vol. 40, No. 2, pp. 345–358. https://doi.org/10.1111/1468-5965.00358

James, H. (2012) *Making the European Monetary Union* (Cambridge, MA: Harvard University Press). https://doi.org/10.4159/harvard.9780674068087

Kreuder-Sonnen, C. (2016) 'Beyond Integration Theory: The (Anti-)Constitutional Dimension of European Crisis Governance'. *JCMS: Journal of Common Market Studies*, Vol. 54, No. 6, pp. 1350–1366.

Lagarde, C. (2020) 'Our Response to the Coronavirus Emergency'. ECB Blog. Available at: www.ecb.europa.eu/press/blog/date/2020/html/ecb.blog200319~11f421e25e.en.html

Lenihan, N. J. (2006) 'The Price Stability Mandate of the European System of Central Banks: A Legal Perspective'. Seminar on Current Developments in Monetary and Financial Law Washington, DC, October 23–7, 2006.

Lokdam, H. (2020) '"We Serve the People of Europe": Reimagining the ECB's Political Master in the Wake of Its Emergency Politics'. *JCMS: Journal of Common Market Studies*, Vol. 58, No. 4, pp. 978–998.

Maricut-Akbik, A. (2020) 'Contesting the European Central Bank in Banking Supervision: Accountability in Practice at the European Parliament'. *JCMS: Journal of Common Market Studies*, Vol. 58, No. 5, pp. 1199–1214.

Markakis, M. (2020) *Accountability in the Economic and Monetary Union: Foundations, Policy, and Governance* (Oxford: Oxford University Press). https://doi.org/10.1093/oso/9780198845263.001.0001

Matikainen, S., Campiglio, E. and Zenghelis, D. (2017) *The Climate Impact of Quantitative Easing* (Grantham Research Institute on Climate Change and the Environment).

McNamara, K.R. (1998) *The Currency of Ideas: Monetary Politics in the European Union* (Ithaca: Cornell University Press). https://doi.org/10.7591/9781501711930

Monnet, E. (2021) *La Banque Providence: Démocratiser Les Banques Centrales et La Monnaie* (Paris: Seuil).

NGFS (2021) *Adapting Central Bank Operations to a Hotter World: Reviewing Some Options* (Paris: Network for Greening the Financial System).

Noyer, C. (2020) 'Some Thoughts About the ECB's Mandate'. In Wieland, V. (ed.) *IMFS Interdisciplinary Studies in Monetary and Financial Stability* (Frankfurt: IMFS), pp. 32–37.

Schmidt, V. (2015) *The Eurozone's Crisis of Democratic Legitimacy: Can the EU Rebuild Public Trust and Support for European Economic Integration?* (European Commission).

Scicluna, N. (2018) 'Integration through the Disintegration of Law? The ECB and EU Constitutionalism in the Crisis'. *Journal of European Public Policy*, Vol. 25, No. 12, pp. 1874–1891. https://doi.org/10.1080/13501763.2017.1362026

Selmayr, M. (2015) 'Artikel 282'. In von der Groeben, Schwarze and Hatje (eds) *Europäisches Unionsrecht* (Baden-Baden: Nomos).

Smits, R. (1997) *The European Central Bank, Institutional Aspects* (Amsterdam: Kluwer Law International).

Solana, J. (2019) 'The Power of the Eurosystem to Promote Environmental Protection'. *European Business Law Review*, Vol. 30, No. 4, pp. 547–575. https://doi.org/10.54648/EULR2019024

Storm, S. and Naastepad, C. W. M. (2007) 'It Is High Time to Ditch the NAIRU'. *Journal of Post Keynesian Economics*, Vol. 29, No. 4, pp. 531–554.

Thiele, A. (2016) '(No) Haircut for Hellas?' *European Constitutional Law Review*, Vol. 12, No. 3, pp. 520–537. https://doi.org/10.1017/S1574019616000328
Tuori, K. (2019) 'The ECB's Quantitative Easing Programme as a Constitutional Game Changer'. *Maastricht Journal of European and Comparative Law*, Vol. 26, No. 1, pp. 94–107. https://doi.org/10.1177/1023263X18822796
van den Berg, C.C.A. (2004) *The Making of the Statute of the European System of Central Banks* (Amsterdam: Dutch University Press).
van 't Klooster, J. and Fontan, C. (2020) 'The Myth of Market Neutrality: A Comparative Study of the European Central Bank's and the Swiss National Bank's Corporate Security Purchases'. *New Political Economy*, Vol. 25, No. 6, pp. 865–879. https://doi.org/10.1080/13563467.2019.1657077
van 't Klooster, J. and van Tilburg, R. (2020) 'Targeting a Sustainable Recovery with Green TLTROs'. Positive Money Europe & Sustainable Finance Lab.
von Bogdandy, A. (2012) 'The European Lesson for International Democracy: The Significance of Articles 9-12 EU Treaty for International Organizations'. *European Journal of International Law*, Vol. 23, No. 2, pp. 315–334.
Wendel, M. (2014) 'Exceeding Judicial Competence in the Name of Democracy: The German Federal Constitutional Court's OMT Reference'. *European Constitutional Law Review*, Vol. 10, No. 2, pp. 263–307.
Whelan, K. (2020) *The ECB's Mandate and Legal Constraints* (European Parliament).