

Why Angela Merkel is coming to the rescue in Europe

The German Chancellor's surprising move to back a cashed-up EU recovery fund is giving fresh impetus to a supranational approach.

The German Chancellor has a record of defying orthodoxies and the Covid-19 crisis cries out for extraordinary steps

BERLIN • German Chancellor Angela Merkel is well known for her political flexibility.

After the catastrophe of Japan's Fukushima nuclear disaster in 2011, she did a quick U-turn and ditched her support for nuclear power plants in Germany. In 2017, during a public talk with a women's magazine, she rather casually signaled her backing for so-called "marriage equality" or "marriage for all". It stood out for going against the stand of the conservative wing of her party, whose members oppose equal treatment for homosexuals as partners in a marriage, but it did not faze Dr. Merkel one bit to change course when she judged public sentiments to have changed.

This week came another Merkel surprise. Faced with the grim economic outlook posed by the Covid-19 pandemic, she joined France's President Emmanuel Macron in proposing a massive €500 billion (\$778 billion) program financed by bonds issued in the name of the European Union and with joint liability.

Although technically not "coronabonds", the European Recovery Programme operates along the same lines. Instead of individual countries, the debtor is the EU as a whole. If, for example, one EU country defaults on its commitments, the others have to step in.

This decision by Dr. Merkel was a stunner as it went against Germany's longstanding aversion to the notion of collective European debt. It also meant that her country was breaking ranks with European partners, such as the Netherlands and Austria, which had similarly objected to the issuance of such bonds.

But here again, the German Chancellor, a scientist by training and instincts, was

responding to the changing facts on the ground – and they were dire.

Dr. Merkel understood that extraordinary measures were needed to contain the damage to the EU. For far too long, European countries did what they thought was right for them as individual nation-states even though the EU defines itself as a union, not a loose agglomeration of states. One result was that the EU was hobbled in coming up swiftly with an adequate common response to the pandemic. Worryingly, for months, Italy was left out in the cold dealing with the severe fallout of the Covid-19 crisis all by itself.

Italy, a member of the Group of Seven and an economic heavyweight, has the potential to inflict lasting harm on the EU, should its economy collapse as a result of the Covid-19 crisis. Unlike Greece, which nearly fell out of the eurozone in 2011 because of its economic crisis, an Italian default could not be balanced out by the other member states. And then there are the dangerous political consequences.

As Dr. Merkel noted: “There is a risk that the EU’s cohesion will be endangered by the economic effects of this virus.” If no help were forthcoming from fellow EU members, the return to power of a populist right-wing government in Italy would be almost certain. And Italy is not alone in struggling with the ruinous impact of a coronavirus-induced economic downturn or the popular resentment against the EU and its richer members that comes with it.

As Dr. Merkel assessed the growing severity of the situation over recent weeks, she decided that overturning German economic orthodoxies was worth the costs of upsetting her own colleagues in the Christian Democrat party as well as some European allies. She also had the input of a trusted partner, Ms. Ursula von der Leyen, a former member of her Cabinet and now the president of the European Commission.

CONSTITUTIONAL RULING

Dr. Merkel was also certainly aware of how the European Covid-19 crisis has been complicated by a decision of the German constitutional court earlier this month. The court, based in the sleepy provincial town of Karlsruhe in the south-west of Germany, had done nothing less than challenge the authority of the European Court of Justice.

For decades, the word of the judges in the Grand Duchy of Luxembourg was gospel. Sometimes grudgingly but eventually always consenting, the national courts accepted that the European Court of Justice had the final say. This time, however, things were different.

The German constitutional court's ruling came in response to a lawsuit against the European Central Bank (ECB) for its handling of quantitative easing under its asset purchase program. Under the program, which has been in place for years, the ECB purchased bonds issued by EU member states.

For EU states with a bad credit rating, such as Greece, Portugal, Ireland, Spain, and Italy, the ECB bond-purchasing program was very helpful as the central bank's interest rates were lower than those available to them in regular capital markets.

Now the German court has ruled that the ECB has to come up with an explanation of its policy within three months.

The court has also banned the Bundesbank, the German central bank, from continuing to take part in the asset purchase program.

What has caused consternation was that the German constitutional court by its decisions was seen to be encroaching into a legal sphere that so far belonged exclusively to EU jurisdiction.

When news of the decision by the court in Karlsruhe broke, the Financial Times headlined its story "German court has set a bomb under the EU legal order".

Although the heading sounded rather alarmist in tone, the decision by the German constitutional court does have the potential to derail a cornerstone of the framework of the European Union.

A commonly agreed legal order is one of the things keeping the EU together. The superiority of EU institutions over national ones was part of the understanding. That has now been called into question by the German court's ruling. Now it is possible to openly question if national courts always have to bow to EU ones – or anything else in the EU universe.

EU member states with nationalist leaders, such as Poland and Hungary, which accept billions in EU aid but are at odds with EU justice, are cheering the German

court decision.

They see the ruling as a vindication of their resistance against the European legal framework that time and again condemns violations of freedom of the press or the independence of the judiciary in their countries.

The overall impact of the ruling by the German court still has to be assessed. But the crack in a legal system that has never been formalized, although it was mutually accepted, cannot be undone.

Dr. Merkel, in her usual unruffled demeanor, has tried to play down what had happened in Karlsruhe. But it cannot have escaped the veteran politician that the court ruling is yet another sign of the EU in distress; another reason that it was time for her to boldly go against convention and come to the EU's rescue.

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