

## Press Release

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EBI is happy to announce the contribution of [Prof. Dr. Filippo Annunziata](#) (Bocconi University; European Banking Institute; European Corporate Governance Institute (ECGI)), [Prof. Dr. Marco Lamandini](#) (University of Bologna - Department of Business Law) and [Prof. Dr. David Ramos Muñoz](#) (Universidad Carlos III de Madrid) in the EBI Working Paper Series No. 67. Their joint paper entitled "**Weiss and EU Union Banking Law. A Test for the Fundamental Principles of the Treaty**" was published on 13 June 2020.

In their joint paper, the authors argue that the Weiss affair, which culminated in the BVerfG ruling of 5 May 2020, marks a break-up point in the long-standing dialogue between the BVerfG and the CJEU. The judges in Karlsruhe refused to follow the decision rendered by the CJUE in a preliminary ruling and admonished the German parliament and government to "work towards a proportionality analysis by the ECB" in relation to the so called "Public Sector Purchase Programme". This paper claims that the arguments employed by the BVerfG in the Weiss judgement are quite similar to those employed in the Gauweiler and Landeskreditbank-Banking Union cases and that the Weiss judgment must therefore be read in conjunction with those precedents. Considering that background, it will be argued that the construction of the principles employed by the BVerfG for the judicial review of the EU acts have not undergone any substantial changes over time. The different outcome in the Weiss judgement rather depends on the fact that, in Weiss, the BVerfG believes that insufficient elements of explanation and justification were provided by the ECB and the CJEU. Therefore, the problem of the Weiss case ends up being a procedural question of statement of reasons. Eventually, it will be pointed out that these judgements show that a common standard for the judicial review of the ECB's decision exists, although the intensity of the review still varies depending on whether the ECB decision concerns monetary policy or banking supervision and resolution.

To read the entire paper: <https://ssrn.com/abstract=3650430> or <http://dx.doi.org/10.2139/ssrn.3650430>.

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