

Brussels Briefing **European Union**

What next in Karlsruhe vs ECB?

German constitutional court blows open questions about ECB independence and the supremacy of EU law

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For once, Karlsruhe lived up to the hype. The German Constitutional Court on Tuesday issued an explosive judgment on the legality of European Central Bank bond-buying, calling into question Germany's participation in eurozone monetary policy and setting off what could be years of legal challenges against the EU's highest court.

[The ruling is worth reading in full](#). In short, the Karlsruhe court said the European Court of Justice acted outside its mandate (*ultra vires*) in greenlighting ECB quantitative easing measures. German judges have now given the ECB an effective three-month deadline to produce a proportionality assessment that justifies its €2tn bond-buying to keep Germany's central bank participating. [Here's the FT's take](#) on the latest twist in Karlsruhe versus Frankfurt.

The ruling has provoked [caustic commentary](#) from economists on the judges' grasp of monetary policy – including from a former ECB vice-president who slammed the contentions of the court as “[nonsensical](#)”. Germany's central bank chief Jens Weidmann on the other hand seems to [side with the red-robed judges](#) over Frankfurt.



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The decision has the potential to unleash a constitutional crisis in the EU's biggest member state and with it the entire eurozone. It raises questions about the ECB's sacrosanct independence and the credibility of the rulings of the EU's highest court in Luxembourg. Here are some of the issues that have been blown open by Germany's judges:

What happens now on monetary policy?

For now the ECB has no need to stop any of its bond-buying, but will it heed the German court's demands to produce a "proportionality" assessment on the impact of QE within three months?

Should the deadline lapse with nothing to satisfy Karlsruhe, the Bundesbank will be required to stop its purchases — an order it will surely have to comply with. If the ECB does produce an assessment by August, who decides whether the proportionality test is up to scratch? There is some suggestion the ECJ would have to get involved again.

The ECB responded to the ruling saying only that it "took note" of the judgment with no hint at what it plans to do next.

Is EU law still supreme over member states?

In challenging the hegemony of the ECJ and dubbing its "incomprehensible" rulings as *ultra vires*, German judges have opened the door for national courts to undermine the writ of the Luxembourg-based court. For some, this is a slippery slope that threatens to erode the legal foundations on which the union is built.

"If every constitutional court of every member state starts giving its own interpretation of what Europe can and cannot do, it's the beginning of the end," [said Guy Verhofstadt](#), MEP and former Belgian prime minister. Observers also fear that recalcitrant governments in Poland and Hungary now have legal cover to ignore the jurisdiction of the ECJ. [Warsaw's deputy justice minister](#) on Tuesday shot an early warning at Brussels in this direction.

For Karlsruhe's supporters, the intervention is a much-needed corrective in the relationship between Europe's national and supranational courts. Reinhard Müller, [columnist at FAZ](#), thinks the judgment marks the end of a "distant and autocratic" EU legal order whose judges treat domestic courts with disdain. "The EU as a group of states is bound by the principle of democracy and it is a legal community. This is not the end of the EU," writes Müller.

Does this mean fiscal policy has to step up?

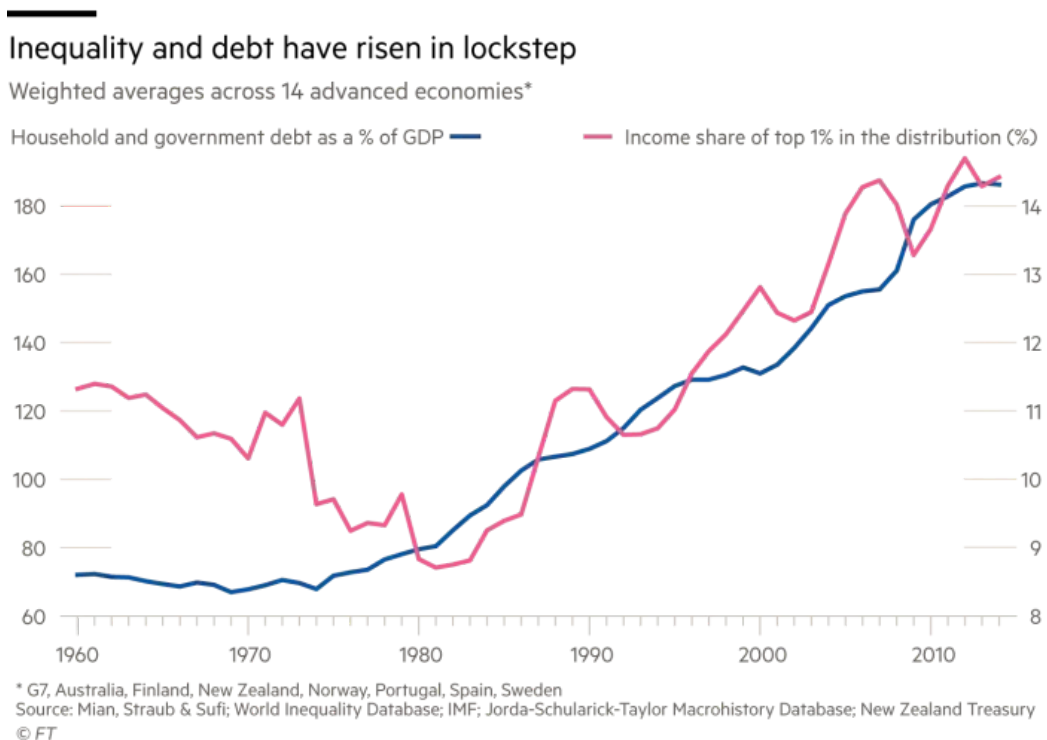
Don't hold your breath. Since 2015, the ECB has provided political cover for eurozone governments that have failed to grasp the fiscal implications of monetary union.

The Karlsruhe intervention has exposed the political limits of stealth central bank action in the middle of a punishing economic and health crisis. In theory, this should spur democratically elected governments to ramp up their joint fiscal response to compensate. In practice, the stubborn politics of the eurozone will remain unmoved by Tuesday's ruling.

Southern and northern eurozone capitals will probably remain at loggerheads over the size of the next EU budget and an accompanying recovery fund in the coming weeks and months.

In many ways, Germany's judges have only voiced the deep frustration of some German voters that they are unjustly underwriting the debts of other countries. That argument has been strengthened rather than undermined by the ECB's Karlsruhe moment.

Chart du jour: debt will tear us apart



[Martin Wolf on](#) how the debt-reliant world economy has forced governments into a pernicious choice between higher unemployment or even more debt. (FT)

Coronavirus round-up