



Purchasing Time: The First 100 Days of German COVID-19 Policy

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1 INTRODUCTION

The following chapter analyses the first 100 days of German COVID-19 policy with a specific focus on the legal and economic responses to the immediate outbreak of the Coronavirus and the accompanying public debate. It shows that, while there have been demanding measures against the spread of the virus from the beginning on, first studies suggest a high

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level of compliance with such measures (Sect. 2). At the same time, significant material support was provided in the form of financial relief for businesses and individuals (Sect. 3). With the crisis further progressing it has, however, been criticized that the relief measures were neither able to fairly distribute the full burdens of the pandemic nor could they be upheld for long without endangering public finances (Sect. 4). All this suggests that Germany, in the early days of the pandemic, was able to purchase time without, however, designing a sustainable framework for intervention and burden-sharing (Sect. 5).

2 COVID-19-MEASURES, ENFORCEMENT, AND SURVEILLANCE

The German federal system rests on strong competencies on state and communal levels, particularly with regard to the law of emergency management and prevention (Thielbörger, 2021, pp. 95 et seqq.; Hering, 2020, pp. 150 et seqq.). The 2001 German Infection Protection Act (*Infektionsschutzgesetz*, IfSG) entails provisions enabling the state governments and local authorities to take measures to combat the spread of a virus, including curfews, business closures and quarantine orders (Overview for English-speaking readers: Klafki and Kießling, 2020). Already in the first months of the crisis, the IfSG was updated to provide for more specific responses to the specific circumstances of COVID-19 (Klafki, 2020; Kaiser and Hensel, 2021, paras. 14 et seqq.). Regarding concrete enforcement and surveillance measures, decisions have mostly been made by state governments and local authorities. Responses on state levels to some extent have been unified by suggestions and recommendations based on the assessment of a federal institute on medical risk assessment (Robert Koch Institute) and agreed upon between federal and state governments. However, there have been differences between various states regarding enforcement and surveillance techniques (in detail see Kaiser and Hensel, 2021, paras. 54 et seqq.).

All in all, in the early days of the pandemic in Germany, three phases of state reactions could be distinguished: a first, rather short period of recommendations and limited state intervention was soon followed by a phase of strict contact restrictions which then have been gradually relaxed. The following section analyses these three phases (Sect. 2.1) and describes how the transition from the first to the second phase was accompanied by debates about the necessity of mandatory measures (Sect. 2.2).

Enforcement and surveillance have mainly been regarded as a public task (Sect. 2.3), including contact tracing as an important form of restricting the further spread of the virus, particularly when the strict measures of the second phase were loosened (Sect. 2.4).

2.1 *Phases of Contact Restrictions*

As mentioned above, within the first 100 days of the COVID-19 pandemic (the “first wave” of COVID-19 in Germany), three phases of enforcement measures could be distinguished: during the first, short phase from early to mid-March, the response to the first outbreaks of the COVID-19 in Germany mainly consisted of recommendations (social distancing and hygiene rules), closure of a growing number of public institutions (schools, universities) and leisure facilities, and cancellation of major events. Curfews were only set in place in local communities with a particularly high number of cases (in the following: Phase 1) (Kagermeier, 2020; Golia et al., 2021, pp. 162 et seq.). The second phase was characterized by strict contact restrictions enacted in all states following an agreement between federal and state governments, starting from 22 March 2020. While the terms of these restrictions differed between states, the main characteristics can be described as follows: strict rules of social distancing, closure of public institutions, leisure facilities, restaurants, and shops (except those serving daily needs). In six states (Bavaria, Berlin, Brandenburg, Saarland, Saxony, and Saxony-Anhalt), individuals were allowed to leave their households only for “legitimate reasons” including, however, commuting to work, consulting healthcare professionals, everyday shopping, and exercise in fresh air (in the following: Phase 2) (Schmitt, 2020, p. 1626; Guckelberger, 2020, p. 607; in detail Kaiser and Hensel, 2021, paras. 59 et seqq.). The adherence to social distancing rules and the closure of facilities was consequently monitored (Rebmann et al., 2020). In the third phase, starting from the end of April, the restrictions were slowly relaxed. However, the reopening of public life was accompanied by strict rules regarding hygiene rules in institutions and businesses, contact tracing, and the duty to wear masks in public transportation, restaurants, and shops (in the following: Phase 3). These rules, again, varied among states (Kaiser and Hensel, 2021, para. 58).

2.2 *Compliance*

The strict exit restrictions in Phase 2 were preceded by a short phase of recommendations for social distancing (Fürstenau, 2020). The duty to wear masks was enforced soon after a rather short period of recommendation and voluntary engagement (Gebauer et al., 2020). The Bavarian Minister President Söder referred to an alleged lack of compliance with the voluntary rules to justify the enforcement of strict exit restrictions (Lemkemeyer, 2020). In a press conference on 22 March 2020, Chancellor Angela Merkel reported that the overwhelming majority of the population had complied with the recommendations. To justify the new measures, she mainly referred to an alleged desire of the population for uniform rules (Die Bundeskanzlerin, 2020a). Vivid examples of voluntary engagement included the support and protection of particularly endangered individuals (Piltz, 2020), the introduction of hygiene rules in private businesses (Hoffmeyer, 2020) and many employers' consent to their employees working from home (von Blazekovic, 2020). In the society, concerns were raised against strict exit and contact restrictions regarding their consequences, e.g., for business owners, families, children, and individuals with psychological problems (Entringer et al., 2020; Huang, 2020; Huebener et al., 2020; Müller et al., 2020). Starting from April a growing number of people demonstrated against the restrictions, with some demonstrations, however, being led by conspiracy theorists and right-wing ideologists (Deutschlandfunk, 2020). The overall number of reported violations of restrictions was low, with a number of minor violations of social distancing rules particularly in cities (Frigelj, 2020). Mandatory measures were accompanied by public statements of leading policymakers on federal and state levels, referring mainly to the need to protect the most vulnerable groups of society and to prevent an overburdening of the healthcare system. In addition, there were media conferences informing on all developments on a regular, at times daily, basis (Fäßler, 2020).

2.3 *Enforcement*

According to the German Law on Combatting Infectious Diseases, violations of mandatory measures can be punished as criminal or administrative offences, depending on the degree of the respective violation (Kunst, 2020b). Fees have been imposed mainly upon individuals violating the

restrictions by illegally opening restaurants or leisure facilities or meeting up in groups (Schmidt, 2020). In a small number of cases, individuals were arrested for continued violation of restrictions (Litschko, 2020). The enforcement policies varied significantly among states: from about 19 fines per 100,000 inhabitants in Berlin to 281 fines per 100,000 inhabitants in Bavaria until June 2020 (Kaiser and Hensel, 2021, para. 95 with further references). Only occasionally, have there been incidents of individuals reporting allegedly illegal behaviour to public authorities (Stutte, 2020). While there has been public criticism of major companies not implementing hygiene related arrangements (Frese, 2020), labour inspection took place only occasionally. The inspections were not made more frequent during the crisis and this has been criticized (Zeit Online, 2020). Only in special cases, additional inspections have been reported. In one case, a serious misconduct in a slaughterhouse led to the infection of above 1400 workers in a single factory. The factory could reopen only upon inspection (Manager Magazin, 2020).

2.4 *Contact Tracing*

Contact tracing was carried out mainly in two ways: Firstly, under the German Law of Combatting Infectious Diseases, public health authorities (*Gesundheitsämter*) are entitled to question individuals who were infected or had contact to infected persons. When questioned, individuals are obliged to report on their contact with infected persons. The health authorities may also require medical examinations of contact persons (Kunst, 2020a). Secondly, with exit restrictions being relaxed, owners of restaurants and leisure facilities were obliged to keep lists of individuals visiting their premises and to make those lists available upon request by state authorities (Härting, 2020). Symptom monitoring was mainly carried out in test stations (Gensing and Grill, 2020). However, the use of telemedicine was encouraged in order to help individuals distinguish COVID-19 symptoms from other illnesses. In particular, employees were temporarily allowed to rely on medical certificates on illness issued via telemedicine. Quarantine controls were carried out by public health authorities mainly via telephone control (Wiring and Schüngel, 2020). The extent of testing was continuously increased throughout the crisis with allocation criteria being modified over time (Gensing and Grill,

2020; Kühling and Schildbach, 2020). Thereafter, in June 2020, a tracing app was launched. Following public debate on privacy rights (see Kühling and Schildbach, 2020; Hamann, 2020), the use of the app has only been introduced on a voluntary basis (Rzepka, 2020).

Contact tracing and quarantine control have been carried out by public health authorities. In order to deal with the large number of cases, the personnel capacities of those authorities have been enlarged through secondments of officers from other authorities (Baars et al., 2020) and by hiring students as short-term assistants (Becker et al., 2020). The testing stations have been run or supervised by healthcare professionals and health authorities. In some cases, private parties have been engaged in organizing the tests and guaranteeing security of the test stations (Töngi, 2020). Private companies have been involved in the process of developing the voluntary tracing app (Klößner, 2020). Also, as owners of restaurants and other facilities could be held liable for hygiene rules being observed in their premises, they were, to some extent, obliged to monitor the behaviour of their customers (Rosendorff and Meier, 2020). Besides this, no involvement of private actors in the enforcement of rules has been reported.

3 PRESERVING THE ECONOMIC STRUCTURE

As part of the European Monetary Union (EMU), the monetary policy of Germany is directly under the control of the European Central Bank (ECB), while the federal government, the governments of the 16 states, and the local authorities affect fiscal and tax policy (Seitz, 2000). In order to confront the upcoming crisis, on 25 March 2020 the German parliament declared that the country was facing exceptional circumstances, thus allowing the government to issue more than 0.35% of nominal GDP in public debt.¹ In the second quarter of 2020, the forecast was that 156 billion Euro would be issued in public debt, which amounts to 4.5% of the GDP (EU Independent Fiscal Institutions, 2020).

This section presents the main policies targeting businesses, workers, and other groups, put in place to preserve the economic structure of the country, while safeguarding stakeholders' health. The section starts by describing the ECB and government's interventions (Sect. 3.1) and continues by describing business relief (Sect. 3.2) through taxation during the pandemic (Sect. 3.2.1), special subsidies (Sect. 3.2.2), and liquidity measures (Sect. 3.2.3) in more detail. Policies targeting employees

(Sect. 3.3), private households and the unemployed (Sect. 3.4), and measures aiming at safeguarding health in the workplace (Sect. 3.5) are the focus of the following subsections.

3.1 *Financial Sources for Policy Intervention*

After the debt-issuance decision by the parliament, policymakers were not particularly concerned about unfavourable borrowing conditions from the financial market, as Germany had not accumulated public debt for six years and could rely on a solid budget. Most of the new debt has a 20-year maturity or less, starting from 2023 (Süddeutsche Zeitung, 2020b).

Moreover, in March 2020 the European Central Bank (ECB) already announced its intention to support Member States by expanding its purchasing programmes. For example, the ECB has launched the temporary pandemic emergency purchase programme (PEPP), with a ceiling of 750 billion Euro (Deutsche Bundesbank, 2020). The Governing Council of the ECB has increased the envelope of the PEPP to 1350 billion Euro on 4 June 2020. The PEPP has been extended at least until the end of June 2021 (ECB, n.d.). The ECB has also eased the conditions of the third series of targeted longer-term refinancing operations (TLTRO-III) to support the provision of credits to the private sector (companies and households). The interest rates, on the other hand, have remained unchanged (Deutsche Bundesbank, 2020).

As of the end of May 2020, the ECB has bought 46,749 million Euro of German public sector securities, which makes up around one quarter of all PEPP purchases. These public sector securities have a weighted average maturity of about 3 years (ECB, n.d.). The ECB has also bought German corporate bonds (ECB, 2020). Additionally, the ECB holds 35,384 million Euro in commercial paper, but there is no further information on the distribution of such securities across Member States (ECB, n.d.).

The resources collected from the financial market would be used to finance the Economic Stabilisation Fund and to provide liquidity to people and companies. Individuals and companies have been granted liquidity in the form of grants, subsidies, publicly-backed loans, and guarantees. While these measures (for employees, self-employed, SMEs, and large companies) are discussed in more detail below, it is worth mentioning that the amounts made available and the risk assumption

by the state-owned investment bank (KfW) vary with business size and seniority.

The 16 German states or the KfW and the regular banks have mostly managed the (online) applications to grants and benefits (BMF, n.d.). The applications have been simplified via reduced or ex-post checks in order to promptly provide liquidity. The need for simplification and promptness came with a toll, though. Many states have reported cases of fraud through fake websites, emails trying to extort sensitive data, and users falsifying their data in order to receive the grants. This has led to a slowdown and even to a temporary stop of the application procedures (Süddeutsche Zeitung, 2020a).

3.2 *Business Relief*

The German economy is export oriented, heavily reliant on the manufacturing sector, with automobile industry being the most prominent example (Grund et al., 2020). Moreover, 99.5% of all German businesses are SMEs (*Mittelständler*) (BMF, 2020b) and such smaller enterprises employ around 60% of the workforce (BMWE, n.d.). Before the spread of COVID-19 (last quarter of 2019), the German economy was already experiencing a period of zero growth in terms of GDP, with exports and automobile industry being the hardest hit by the slowdown (Inman and Wearden, 2020). It seems therefore relevant to discuss whether policy-makers have differently targeted businesses of different sizes or active in different sectors.

3.2.1 *Taxation*

This subsection discusses how taxation was temporarily adjusted to support businesses in distress. The federal government, together with state governments, has implemented a package of tax relief measures for self-employed and companies. Among others, tax relief measures have been adopted for the value added tax (VAT) and special bonuses. In order to reward hard-working employees, bonuses of up to 1500 Euro paid between March and December 2020 were tax-free (BMF, 2020a).

VAT on catering and restaurants was lowered from 19 to 7% (excluding beverages) from July 2020 to June 2021 (BMF, 2020c). The government has also decided to postpone the payment of VAT by publicly-owned companies until the end of 2022, granting them two more years to adapt

their infrastructures. Merging companies or those changing their juridical form have more time to adapt to the taxation system (BMF, 2020c).

Another tax-relief measure regards short-time work, which was already in place before the pandemic. Until the end 2020, however, the receipt of short-time work salary of up to 80% of the net salary was to be untaxed, which was not the case beforehand (BMF, 2020c). The short-time work scheme was publicly subsidized in order to give employers enough incentives to keep their workforce. The employers were responsible for applying for the subsidies (BMF, n.d.).

Companies, which due to liquidity constraints were not able to pay their taxes (income, corporate, VAT), could apply for an extension of the payments, during which no interest would be charged. Such applicants had to demonstrate to the tax authority that they were directly affected by the crisis. The charges for late payments (i.e., for overdue taxes) were dropped until the end of 2020. This was valid for income tax, VAT, energy tax, air traffic tax, insurance tax, and corporate tax (BMF, 2020d).

Companies and self-employed could adjust the amount of their income and corporate tax advance payments if they expected their revenues to deviate from their previous predictions. In this case, companies and self-employed simply had to contact the tax authority and they could also apply for a reimbursement. Moreover, small enterprises and self-employed might apply for a liquidity-help in the form of a flat-rate reimbursement of taxes paid in 2019 and advance payments for the year 2020. The reimbursement occurred whenever the applicant could demonstrate to be incurring a loss during the fiscal year 2020, due to the pandemic. All the application periods mentioned above ran until the end of December 2020 (BMF, 2020d).

3.2.2 *Special Subsidies*

This subsection presents special subsidies related to Lufthansa and electric cars. Except for these two cases, policymakers had focused on the size of firms rather than the sector in which they operated, when designing relief measures. The decision of rescuing Lufthansa, for example, was based on the fact that the company was financially and operationally sound before the crisis (vulnerability criterion). The future prospects of the company were good and the government decided to support Lufthansa with a package of around 9 billion Euro in equity and debt. The package had been granted under the commitment that Lufthansa would achieve predetermined sustainability goals such as the renewal of its fleet (BMF and

BMW, 2020). Another targeted measure was the increase of the e-car premiums, to boost demand for more environmentally- friendly cars. These premiums were subsidies by the federal government and by the producer to reduce the total cost borne by the buyer. The government-subsidized share doubled as of July 2020 and until the end of 2020 (Süddeutsche Zeitung, 2020c). Except for the case of Lufthansa and the e-car premiums, the other measures presented here did not typically entail climate or environmental targets.

3.2.3 *Liquidity*

This subsection presents the measures implemented to provide liquidity to companies, such as eased access to loans and grants for the self-employed. Starting from the first announcements in mid-March 2020, the German federal and state governments have begun rolling out policies under the Economic Stabilisation Fund to rescue businesses in financial distress. The Economic Stabilisation Fund, as active from the 30 March 2020, had a scope of around 800 billion Euro (Jennen, 2020). In addition to this, the German liquidity programme via the state-owned investment bank (KfW) initially had a scope of 465 billion Euro, which became unlimited (Grund et al., 2020).

As of June 2020, the government had taken no direct measure to prevent distress sales of domestic businesses via foreign direct investment (FDI). Although an indirect way of protecting domestic companies, was relaxing the bankruptcy procedure, thus lowering the incentives for distress sales. For the time being, companies experiencing cash-flow difficulties due to COVID-19 do not have to declare bankruptcy (BMF, n.d.).

Companies could apply for two different types of loans based on their seniority (i.e., years of activity). Loans could be of maximum 100 million Euro and could be used to cover acquisition and operating costs. Start-ups could additionally decide to opt out of the KfW's risk assumption thus obtaining longer time to maturity and adjustable interest rates (BMF, n.d.).

Some programmes were available to all companies, regardless of their size, like the KfW special loan programme (*Sonderprogramm*). The aim was to provide companies with liquidity for investment and operating costs in a quick and uncomplicated manner. The KfW offered loans with low interest rates and a simplified financing procedure. The programme

was open to all enterprises, which were not under financial distress until the end of December 2019 (BMF, n.d.).

The main programme targeting large companies was the Economic Stabilisation Fund.² The package included guarantees (400 billion Euro), loans through the KfW (100 billion Euro), and equity stakes (100 billion Euro) (Jennen, 2020). The Fund was provisionally established until the end of 2021. Conditionality may apply to companies, for example with respect to the dividend or to the compensation policies (see BMF [n.d.] for details). Small and medium enterprises (SMEs) could have been granted access to the programme if they were key to the German economic infrastructure (Fincompare, 2020). The KfW also offered fast loans (*KfW-Schnellkredite*) to medium and large enterprises, which are 100% guaranteed by the KfW (BMF, n.d.).

The programmes targeting SMEs and self-employed were the immediate assistance programme (*Soforthilfen*) and the basic income support. The *Soforthilfen* are grants to self-employed and companies employing up to 10 people in full-time equivalents (FTEs). The applicants could receive up to 15,000 Euro for three months. The only requirement was proving that the business was not in financial distress before the end of December 2019, i.e., before the pandemic (BMF, n.d.). These grants do not have to be paid back. Self-employed people could also apply for basic income support in order to cover their housing and living expenses. To quickly ensure liquidity, these benefits should be handed out without the need of disclosing the financial situation, which would be nonetheless tested at a later point in time (BMF, n.d.). However, this apparent ease has been criticized by unions because of the heavy bureaucratic procedure (Ver.di, 2020b).

Some of the federal states and cities offered additional support to self-employed, especially artists, with lump-sum transfers between 400 Euro and 3000 Euro. These one-time payments did not seem sufficient to cover expenses in the medium run and they did not apply to all self-employed (Kiel, 2020: 15).

3.3 *Employees*

In order to prevent massive dismissals, the government has eased access to the short-time-work scheme during the pandemic. The replacement rate has also been increased for employees affected for longer periods (BMAS, 2020a).³ For employees whose working hours are reduced by 50% or

more, the replacement rate was increased to 70% (or 77% for parents) as of the fourth month of short-time work and to 80% (or 87% for parents) as of the seventh month. This scheme was planned to be in place between 1 March 2020 and the end of December 2020 (BMAS, 2020b).

Employees are further protected as follows: If an employee is quarantined or written ill according to the Infection Protection Act (*Infektionsschutzgesetz*) payments of wages have to continue up to six weeks. Other categories of employees are not so well protected from precarious working conditions: temporary agency workers, people with a *Minijob*, informal workers, etc.⁴ Temporary agency workers fall under the short-term work scheme, but are not protected from being terminated within the framework of their contracts. Temporary agencies said that they suffered on average 90–100% loss of clients and almost 50% terminated contracts of employees, while 75% applied for the short-term work scheme (iGZ, 2020). *Minijob* contracts can be terminated within the normal notice of four weeks and are not covered by the short-time working scheme (Knappschaft Bahn, 2020). *Minijobs* often represent an additional source of income for students, parents and pensioners. These groups are already more likely to live under precarious conditions. Still, there have not been specific measures that compensate for the loss of *Minijobs* during the pandemic.

A solution has been proposed to support students. The Federal Ministry for Research and Education offered an interest-free support credit for students that suffer economic losses. German students can apply from May 2020, foreign students from June 2020. Furthermore, the requirements for the state support programme for students (*BAFöG*), that normally demands a certain amount of achievements per semester, have been lowered. Additionally, since June 16 students in acute distress can apply for an allowance up to 500 Euro for May, June, and July 2020 (BMBF, 2020). These measures have been criticized as insufficient to replace *Minijobs* and other forms of income, as well as the assumption that all students will be able to repay credits in the near future after the pandemic (Stendera, 2020: 9f.).

The effect of the pandemic on the informally employed has not been researched yet, even though the shadow economy is estimated to be worth 11% of the German GDP (Enste, 2017, p. 7). The majority of informal sectors were affected strongly by the contact limitations and

businesses in such sectors applied for the short-time work, but this could only apply to formal employees (see Hammerschmid et al., 2020). The informal sectors were additionally affected by the closing of national borders, as some informal workers are non-German citizens, e.g., from other European countries.⁵

3.4 *Protecting (Unemployed) Households*

The government also introduced other measures targeting the unemployed and other vulnerable groups. For example, the conditions to apply for basic security benefits were eased, with two aims to⁶ (i) allow access for larger groups of the population; and (ii) streamline the approval procedures. Unemployment benefits were extended by three months between 1 May 2020 and 31 December 2020 (BMAS, 2020d).

Social security benefits or other monetary transfers cover Germans and EU citizens who used to work in Germany (EU-Gleichbehandlungsstelle, 2020). Between March and September 2020 only labor income was considered for the provision of social security benefits, while capital ownership was disregarded (up to 60,000 Euro). This was supposed to give access to the benefits particularly to self-employed, who may own some business capital (BMAS, 2020c, 2020f).

Government policies have also targeted parents. Low-income parents could receive an additional support of up to 185 Euro a month without an assessment of means and property. This support scheme did not apply for unemployed parents, which has been criticized (Mängel, 2020). Furthermore, employed parents that lost earnings because of the closure of childcare facilities could receive additional compensation. Pregnant employees received the full maternity leave payments, even if they fell under the short-term work scheme (BMFSFJ, 2020).

Finally, the Federal Ministry of Justice and Consumer Protection has proposed and passed a regulation on the protection of tenants. Housing contracts could not be cancelled from April 2020 to July 2020 in case of missing rental payment by the tenant. If the tenant's income was affected by the pandemic, she would have had time until the end of June 2022 to pay back the missing rents. Private households with mortgages (or loans) could also postpone the installment payments in case their income has been negatively impacted by the crisis (BMJV, n.d.). For further discussion, see Zehner (2020), Ekkenga and Schirmacher (2020), and Mahdi and Rosner (2020).

3.5 *Safeguarding Workers' Health*

The rather comprehensive package of liquidity responses has been put into existence in order to contain the negative effects of a simultaneous demand and supply shock in the economy. Beyond the financial support, quick interventions were necessary to ensure that production and essential services could be carried out, while containing the spread of the virus.

The Federal Ministry of Labour and Social Affairs published the “SARS-CoV-2 Occupational Safety and Health Standard”, which applies to every workplace, i.e., employers are deemed liable for the implementation of such health and safety measures (BMAS, 2020e). The Federal Institute for Occupational Safety and Health and other entities are then responsible for adapting the general guidelines to specific cases (i.e., hair salons, gyms, etc.).

The main measures included in the guideline are home-office (which should be practised whenever possible), shifts (in order to work in small teams and easily respect distances), ventilation, and the use of personal protective equipment (PPE) and disinfectants (BMAS, 2020h). Workers with customer contact were protected by transparent plastic covers (dpa, 2020) or through a reorganization of processes (e.g., passengers were not allowed to enter buses next to the driver [rbb24, 2020]).

Businesses had to provide for their own supplies, there was no centralized support (BMAS, 2020h). All the costs incurred because of the pandemic may be financed through the loan programmes discussed above, if they fall into the category of operating costs. Otherwise, there are no extra subventions specifically targeting safety- or health-related expenditures.

One of the major challenges soon after the outbreak of the pandemic was that Germany experienced a shortage of disinfectants and masks. This led to a heavily criticized and promptly cancelled export ban of these products. Industrial networks abroad have been quickly exploited to import these products, but ministers have recognized the priority of moving medical production back inland (Wiedmann-Schmidt et al., 2020). Governmental decrees have also allowed the use of other raw materials for PPE, so that pharmacies and pharmaceutical industries could produce them by themselves (Bambauer, 2020). The textile industry started producing and selling their own masks and some breweries started donating alcohol or producing their own disinfectants (Korinth, 2020; Reinartz, 2020; Neuscheler, 2020).

Social consumption (such as indoor sport, cultural, and leisure activities) was the most heavily hit by the restrictions as these activities remained in many cases still closed or restricted as of June 2020.

4 A MODERATE PUBLIC DEBATE, ITS REASONS AND DEVELOPMENT

The previous sections have shown that in Germany rather strict restrictions of personal and economic freedoms were accompanied by a broad variety of relief programmes for businesses and employees. Besides the perceived necessity of the measures and the involvement of both renowned experts and interest groups in the political and public debate (Sect. 4.1), this combination might have been a major reason for an—in general—very moderate public debate in these early days. Only occasionally interventions have been significantly criticized or challenged. However, first traces of later discussions became visible: There have been demonstrations against too far-reaching restrictions of personal freedoms (Sect. 4.2); privacy concerns with regard to surveillance measures (Sect. 4.3); discussions about the fairness of burden-sharing in the pandemic (Sect. 4.4); and doubts that the relief programmes could be upheld in the long run without seriously endangering public finances (Sect. 4.5).

4.1 *Expertocracy*

From early on, national and state governments have consulted with both the Robert Koch Institute and independent experts on strategies of combatting the pandemic (Deutscher Bundestag, 2020). There have been early studies on the spread of the virus in areas with a particularly high number of cases (Streeck et al., 2020). There have also been studies carried out on the effectiveness of a duty to wear masks (Mitze et al., 2020). More general studies on the effectiveness and the efficacy of the measures have been started. A first assessment has shown a high effectiveness of school closures during the crisis (Dehning et al., 2020). Other studies have discussed the economic and social consequences of the restrictions showing, e.g., that young parents (Huebener et al., 2020; Müller et al. 2020) and people suffering from loneliness (Entringer et al., 2020, pp. 18 et seq.) have been affected particularly badly. While some of these studies were highly disputed (Auster and Linnhoff, 2020), the

involvement of experts into the public debate can be seen as an important factor of keeping the overall discourse on a rational level and helping decision makers in balancing the various interests involved. Already at that time, however, traces of the later intensified debate on the role of experts (on this debate see Münkler, 2021) were visible.

Since the beginning of the pandemic, unions have been involved in conversations with the government about the economic effects of the pandemic (Die Bundeskanzlerin, 2020b), as well as later regarding specific issues as the support for the car industry (Bundesregierung, 2020) and the discussions around the rescue package for the airline Lufthansa and the possible dismissals of employees. In 2019, 5.9 million German workers (employees, self-employed, as well as students) were union members (DGB, 2020). Unions have been involved in the negotiations and consultations for the social security measures,⁷ and they have been publishing critical evaluations of the situation (see DGB, 2020). Also, the increase of short-time work allowances to up to 80% was demanded by the unions (DGB, 2020) and later fulfilled by the government.

4.2 *Criticism and Judicial Review*

Also, from early on, some of the restrictions (see Sect. 2) have been challenged before administrative and constitutional courts. Some decisions led to major corrections of the restrictions, mainly in view of proportionality (Hering, 2020, pp. 155 et seq.). For example, the Federal Constitutional Court declared exit restrictions unconstitutional which contained a blanket ban on religious service (BVerfG Beschl. v. 29.4.2020—1 BvQ 44/20, COVuR 2020, 92). It further stated that authorities are obliged to assess the individual circumstances before intervening in the fundamental right of freedom of assembly (BVerfG, Beschl. v. 15.4.2020—1 BvR 828/20, NJW 2020, 1426). When more nuanced restrictions were implemented from late April 2020 on (the “third phase” of contact restrictions, cf. Sect. 2.1), courts have paid close attention to ensure that those measures were implemented in a non-discriminatory manner and have declared unjustified differentiations, for example regarding different sorts or sizes of facilities, unconstitutional (VGH München Beschl. v. 27.4.2020—20 NE 20.793, BeckRS 2020, 6630; OVG Lüneburg Beschl. v. 14.5.2020—13 MN 165/20, BeckRS 2020, 8506; VGH München, Beschl. v. 19.06.2020—20 NE 20.1127).

In 2021, courts have published their final decisions on the early day interventions. While again some measures have been overruled as being unnecessary or overly restrictive (see in particular Bayerischer Verwaltungsgerichtshof, Beschluss v. 4.10.2021—20 N 20.767 on exit restrictions), most measures have been seen as justified under the German constitution given the speed of the dissemination and the uncertainties at the time of the outbreak (Bundesverfassungsgericht, Beschluss des Ersten Senats vom 19.11.2021—1 BvR 781/21 et al.; from the early scholarly debate, see in particular Kämmerer and Jischkowski, 2020, p. 352; Hase, 2020, p. 701).

With the pandemic further progressing, there have been serious demonstrations, including incidents of violent protests and criminal offences, from a group of individuals referring to themselves as *Querdenker* (a concept that translates best as “out-of-the-box thinkers”). While the targets of these protests changed over time—including questioning the existence of the Coronavirus and thus the overall necessity of state measures, challenging individual measures such as exit restrictions and the closure of public facilities, as well as concerns against vaccination—its early traces can be seen in demonstrations and protests starting from the first introduction of preventive measures (Deutschlandfunk, 2020).

4.3 *Privacy Concerns*

While the general debate has been very moderate in the beginning, the development of surveillance and contact tracing tools have been accompanied by privacy concerns from early on. For example, a tracing app was implemented only on a voluntary level (Rzepka, 2020) following an intense scholarly debate on privacy concerns regarding a tracing app (Kühling and Schildbach, 2020; Hamann, 2020). These privacy concerns have also been voiced with regard to the duty of restaurant owners and other facilities to keep lists of customers. It became known that police authorities made use of those lists in order to investigate unrelated offences (Sikora, 2020). Privacy issues with regard to modern technology in Germany are mainly governed by the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and the Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April

2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA which has been implemented into German law. Both frameworks in general limit the use of personal data to the original purpose of the processing (Sikora, 2020). The ongoing privacy debate may have been a major factor for contact tracing losing its role as a major tool of prevention in the further development of the pandemic. With vaccination being available, obligations to trace contacts were often replaced by entry regulations allowing access only for individuals that have been vaccinated or tested.

4.4 *Fairness of Burden-Sharing*

It is a general problem of distributional justice that benefits and reliefs granted to some are challenged as unfair by others. Therefore, it does not come as a surprise that relief programmes have been accompanied by debate and criticism. E.g., increased e-car premiums have been criticized as a measure that mainly boosts demand for foreign cars, as foreign car manufacturers supply 75% of the car models to which the premium can apply (Süddeutsche Zeitung, 2020c). Another criticism related to the fact that the subsidies are tax-financed and that a similar policy, the scrappage premium of 2009, only had marginal economic effects (Boerner, 2020). The public debate further revolved around the influence and bargaining power of the automotive industry, which might lead to an unjustified preferential treatment of this industry (Heuser and Nienhaus, 2020).

One concern, however, is of a more general nature: As many relief programmes specifically targeted the economy, it is to be feared that other sectors, working class individuals, and families might not receive fair compensation for the burdens they had to bear during the pandemic. Also, it was argued that the policies were not targeting unemployed individuals or people receiving social assistance have not been affected by the measures. Some criticism has been raised concerning the lack of measures specifically targeting the poor, as could be an increase of the basic security benefits (Fried, 2020). The access to the benefits also required a valid settlement or residence permit (Bundesagentur für Arbeit, n.d.), implying that undocumented migrants cannot benefit from them.

Since the beginning of the crisis, nurses and caregivers have complained about their working conditions. Their complaints were mostly directed towards politicians and not towards single employers. The complaints were twofold. In the beginning of the crisis PPE was becoming rare, which raised employees' concerns to get infected. Moreover, complaints about the organization and small salaries were reiterated (Szymanowski, 2020). Studies showed that workers in essential jobs receive hourly wages below the average hourly wage (Koebe et al., 2020, p. 3). With regard to this question, there have also been several smaller bottom-up initiatives. An example is the initiative “*Statt Blumen*” (Instead of Flowers), a campaign that emphasizes that gender-equality and equal pay for women in essential jobs should be supported instead of just gifting them flowers (Röders-Arnold and Starcken, 2020).

From early on, the closure of schools and childcare facilities have been seen as over-proportionally affecting women. At the same time many women are working in sectors with higher health risks (e.g. health sector, care, food services, and retail) (Hammerschmid et al., 2020). The debates have been and are ongoing throughout the pandemic. All this shows that there will be a long way to go until a fair distribution of burdens is reached (see also Klauck et al., 2021, p. 745; Kersten and Rixen, 2021, ch. VII.1).

4.5 *Public Finance*

As many of the discussed programmes have been state-financed, a growing concern has centred around the question to what extent public finances can be strained during this time. While the government justified the far-reaching expenditures as temporary countercyclical measures, economists have warned that the crisis should not be taken as “an excuse” for unlimited public expenditures and low tax rates (Bofinger et al., 2020). Also, public expenditures should not be treated as a substitute for private demand (on the debate Bofinger et al., 2020).

In the early days of the crisis, the government was confident that there should not be a major concern that Germany might not be able to repay the debt incurred for fighting the pandemic. Once the economy would have recovered—the argument went—federal and state governments should be able to work on budget consolidation, with tax rates adjustments and so forth (Süddeutsche Zeitung, 2020b). Also, some economists were quite confident that the government could still issue 30-year bonds at favourable conditions (Süddeutsche Zeitung, 2020b).

The political opposition even expressed the wish of issuing debt with longer maturity (Funk, 2020). From early on, however, there were critical comments on the large amount of debt incurred, as compared to previous crises (Streck, 2020).

Later the question how to finance the costs of the pandemic—besides other expenditures, e.g., for social security benefits and the fight against climate change—has become a major debate in the election campaign and the government negotiations (Korioth and Müller, 2021, p. 960).

5 CONCLUSION

First assessments of Germany's early COVID-19 policy have regarded the governmental approach as “comparatively mild” (Golia et al., 2021, p. 163) and reported that “[d]uring the first wave, Germany was widely considered a poster-child for its approach in tackling the pandemic” (Thielbörger, 2021, p. 94). It is, indeed, remarkable that the restrictions and enforcement measures in the early days of the pandemic have been widely agreed upon in the political system and broadly accepted by the population. Our analysis suggests the economic response as a major reason for this acceptance: the German government has implemented several measures to pump liquidity into the supply side of the economy. At the same time, however, we have shown that such measures have been criticized for being neither comprehensive nor sustainable in the longer run. Also, it became visible that some of the later debates have already been foreshadowed in the early days of the pandemic (see also Thielbörger, 2021, p. 94). At least, however, the German government was able to purchase time which is not the worst response in the immediate outbreak of an international crisis. The longer the pandemic endures, it becomes more and more important to find an appropriate balance between personal freedoms and measures preventing the further spread of the virus. Also, the fair distribution of the economic burdens resulting from the pandemic is subject to future discussions. Moreover, a major societal task lies in not getting used to the leading role of the state in servicing general interest and deciding on individual lifestyle and risk assessment.

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NOTES

1. Since 2016, the structural federal deficit must not exceed 0.35% of the GDP by law. This rule is called "debt brake" (*Schuldenbremse*). The interested reader could refer to Truger and Will (2013), among others.
2. Large companies are defined as those with more than 249 employees, a balance sheet of more than 43 million Euro, and annual revenues of more than 50 million Euro (Fincompare, 2020).
3. For an employer to apply for this programme the share of employees facing a cut in working time (of at least 10%) was lowered from one third to a tenth of the staff (BMAS, 2020a).
4. Temporary agency is a subcontracted labour scheme characterized by employment by an agency, but working for another company. People with a Minijob work for up to 10 h per week and do not pay social security benefits.
5. The situation of foreign workers both formally and informally employed during the pandemics has been heavily discussed and criticized in the public debate. Better protection for them has been demanded by unions (Ver.di, 2020a) different associations (AbL, 2020), and the churches (Bönte, 2020).
6. The aim of these basic security benefits is to provide a "decent subsistence level". A single person receives 432 Euro for cost of living and 344 Euro for accommodation, which increases if the person has kids (BMAS, 2020g).
7. The first package of measures for Social Protection was passed by the government rather quickly only three days after its announcement (BMAS, 2020a; Deutscher Bundestag, 2020) The second package of measures for Social Protection was discussed and commented on by representatives of the Federation of German Trade Unions (DGB), German Employers Association (BCDA), Federation of Welfare Associations in Germany (Deutscher Paritätischer Wohlfahrtsverband), German Caritas Association (Deutscher Caritasverband), the Opposition and other surveyors in the committee on employment and social affairs (Deutscher Bundestag, 2020).

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