

Financial instruments and their proportionality and consistency under EU Law

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Propositions to the PhD Thesis

“Financial Instruments and their Proportionality and Consistency under EU Law”

Maximilian G. Vollmer

1. European Union (EU) legislation fails to provide an overall consistent legal framework of financial instruments both at EU and Member State level. (Subject)
2. In its compatibility assessment and its design of financial instruments, the European Commission fails to ensure proportionality required by the EU Courts. (Subject)
3. The Commission does not possess tools to adequately quantify the aid amount and to assess its correspondence with the extent of the discrepancy between desirable and actual market outcomes, on the one hand, and with the impact on markets and competition, on the other hand. (Subject)
4. The Commission’s compatibility assessment is based on a formalistic checklist rather than on an effects-based approach of balancing effects of the aid. (Subject)
5. The introduction of the concept of ‘manifest negative effects’ to the area of financial instruments under state aid law could render this area consistent with other areas of state aid law and the requirements of the EU Courts on proportionality. (Subject)
6. In practice, quantifying and measuring aid elements of financial instruments is difficult to carry out, particularly in the risky and uncertain environment of young and innovative SMEs. (Subject)
7. In accordance with the EU Courts’ compatibility requirements, legislation and the Commission’s decisional practice on financial instruments and risk finance aid should rely on the broader concept of discrepancy between desirable and actual market outcomes rather than on the narrow concept of market failure to justify market interventions. (Subject)
8. The failure of the EU and its institutions to properly adhere to the principle of proportionality renders the EU constitutionally vulnerable vis-à-vis critical national courts. (Discipline)
9. The complexity of EU law is detrimental to the legitimacy of the EU among its citizens. (Discipline)
10. An enhanced exchange between legislators and stakeholders could improve the application of law and compensate for the decreasing number of Commission decisions as guidance. (Discipline)
11. European state aid law, especially in times of economic crises, is an overall success story in terms of efficiency and effectiveness, but requires adjustment amid global and digital challenges. (Discipline)
12. The complex legal framework of state aid law is not clear enough, as the need for guidance for stakeholders shows. (Discipline)
13. The thesis highlights that a more consistent legal framework benefits the design of more proportionate financial instruments, rendering aid more efficient and effective and thus furthering the attainment of social and economic goals in the EU. (Impact)