

Editorial	5
A. Legal questions	11
B. Legal opinion	15
I. Law, politics and economics in the crisis	15
1. No Suspension of Law	15
2. Interests of the EU institutions	17
II. Scope of protection of fundamental and human rights	22
1. Human rights obligations of the Commission and ECB	23
1.1. CFR obligation	23
1.1.1 Scope	23
1.1.2 Subjective rights under the CFR	26
1.2. Obligations under international human rights codifications	27
1.2.1 Liberal human rights codifications: ECHR and UN Civil Covenant	27
1.2.1.1 ECHR	27
1.2.1.2 UN Civil Covenant	29
1.2.2 Social human rights codifications	29
1.2.2.1 UN Social Covenant and (R)ESC	30
1.2.2.2 Principles of EU law	33
1.2.2.3 Social human rights as general principles	34
1.2.2.4 Interim conclusion	35
1.2.3 ILO Conventions	36
1.2.4 UN Disability Convention	37
1.3 Obligations under customary international law	38
1.3.1 International Bill of Rights	40
1.3.2 Odious debts doctrine	41
2. Specific scope of protection of human rights	42
2.1 Labour and trade union rights	42
2.1.1 Article 31 CFR (fair and just working conditions)	44
2.1.2 Art. 28 CFR (freedom of collective bargaining)	45
2.1.3 Interim conclusion	48

2.2	Housing and social security	48
2.3	Health	51
2.4	Education	52
2.5	Property	54
2.6	The right to good administration	54
3.	Interim conclusion	55
III.	Encroachment on fundamental rights by the MoUs	56
1.	Legal status of the MoUs	56
1.1	MoUs as sui generis legal acts	56
1.2	MoUs as real acts	60
2.	Encroachment	61
3.	Interim conclusion	62
IV.	Justification	62
1.	Compliance with the system of competences under EU law	62
1.1	The ESM and EU law	63
1.2	Ultra vires	64
1.2.1	Competences on EU level	64
1.2.2	Separation of powers	66
2.	Substantive justification of encroachments	67
2.1	Criterion for assessment of justification	67
2.2	Details of substantive justification	69
2.2.1	No public interest	69
2.2.2	Disproportionality	72
2.2.2.1	Insufficient regard for the non-regression principle	72
2.2.2.2	Disproportionate deficit limits	73
2.2.2.3	No long-term income protection	74
2.2.2.4	Insufficient consideration of alternative cuts	75
2.2.2.5	Insufficient balancing	75
2.2.2.6	Interim conclusion	77
2.2.3	No regard for core obligations	77
2.2.4	Discriminatory effect	78
2.2.5	No regard for participation requirements	79
3.	Interim conclusion	81
V.	Legal protection	82
1.	EU law institutions	83
1.1	Action for annulment	83
1.1.1	'Act' of an EU institution	84

1.1.2 Locus standi	85
1.2 References for a preliminary ruling	86
1.3 Claim for damages on the basis of official liability	87
1.4 Article 37(3) of the ESM Treaty	87
2. Council of Europe institutions	87
3. International bodies	89
3.1 ILO	89
3.2 Human Rights Committees	89
3.3 IMF compliance	90
3.4 ICJ	91
C. Summary of main conclusions	93