

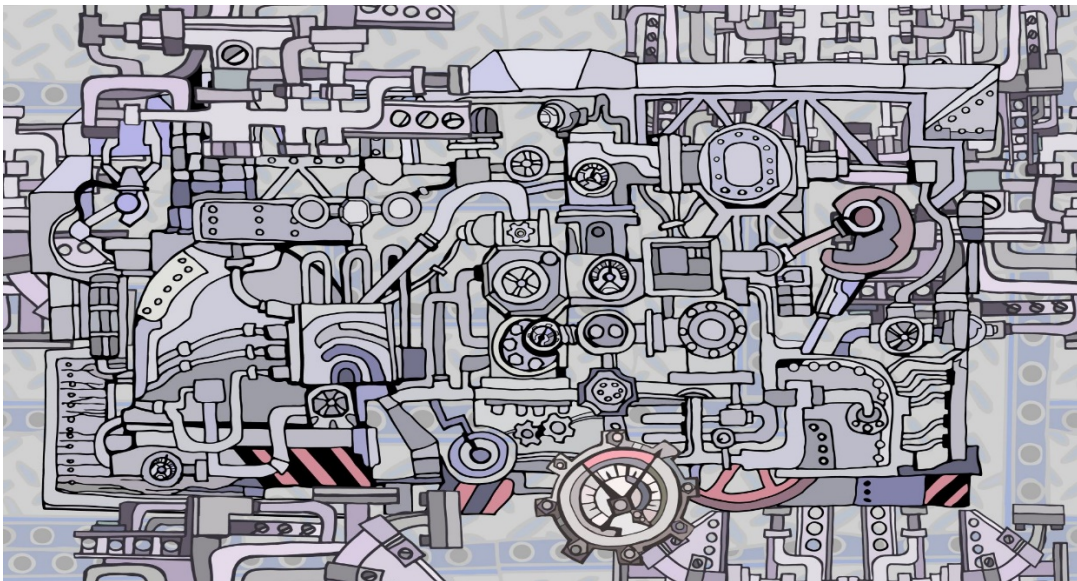
STUDY

Requested by the BUDG committee



# **THE NEXT REVISION OF THE FINANCIAL REGULATION AND THE EU BUDGET GALAXY**

How to safeguard and strengthen budgetary principles  
and parliamentary oversight



Policy Department for Budgetary Affairs  
Directorate-General for Internal Policies  
PE 721.500 - March 2022



# THE NEXT REVISION OF THE FINANCIAL REGULATION AND THE EU BUDGET GALAXY

---

How to safeguard and strengthen budgetary  
principles and parliamentary oversight

## **Abstract**

Over the last two decades, the combined effect of multiple crises and low Multi-Annual Financial Framework (MFF) ceilings has led to the emergence of a 'galaxy' of EU funds and instruments with variable participation of Member States and a diverse range of decision-making and accountability procedures. This study analyses the impacts on the EU governance and the ability of the European Parliament to fulfil its duties and considers that reforms are needed to ensure the EU budget and financial rules reflect the realities the EU faces.

This document was requested by the European Parliament's Committee on Budgets.

## **AUTHORS**

Iain Begg, CEPS  
Giacomo Benedetto, CEPS  
Daina Belicka, Central and Southern Europe Centre of Excellence  
Francesco Corti, CEPS  
Jorge Nuñez Ferrer, CEPS  
Eulalia Rubio, Institut Jacques Delors Notre Europe

## **ADMINISTRATOR RESPONSIBLE**

Alix DELASNERIE

## **EDITORIAL ASSISTANT**

Mirari URIARTE

## **LINGUISTIC VERSIONS**

Original: EN

## **ABOUT THE EDITOR**

Policy departments provide in-house and external expertise to support EP committees and other parliamentary bodies in shaping legislation and exercising democratic scrutiny over EU internal policies.

To contact the Policy Department or to subscribe for updates, please write to:  
Policy Department for Budgetary Affairs  
European Parliament  
B-1047 Brussels  
Email: [Poldep-Budg@ep.europa.eu](mailto:Poldep-Budg@ep.europa.eu)

Manuscript completed in March 2022  
© European Union, 2022

This document is available on the internet at:  
<http://www.europarl.europa.eu/supporting-analyses>

## **DISCLAIMER AND COPYRIGHT**

The opinions expressed in this document are the sole responsibility of the authors and do not necessarily represent the official position of the European Parliament.  
Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.  
© Cover image used under licence from Adobe Stock.com

## TABLE OF CONTENTS

<b>LIST OF ABBREVIATIONS</b>	<b>7</b>
<b>LIST OF BOXES</b>	<b>9</b>
<b>LIST OF FIGURES</b>	<b>9</b>
<b>LIST OF TABLES</b>	<b>9</b>
<b>EXECUTIVE SUMMARY</b>	<b>10</b>
<b>1. INTRODUCTION</b>	<b>24</b>
1.1. Impact of the galaxy on the EU budgetary principles	24
1.2. Issues related to the use of external assigned revenues	25
1.3. Issues related to the use of EU borrowing instruments	26
1.4. Objectives of the study	27
<b>2. UPDATING THE EU BUDGET “GALAXY”</b>	<b>28</b>
2.1. From 2017 to 2021: Main changes in the EU budgetary galaxy	28
2.1.1. EU budgetary guarantee instruments	29
2.1.2. Common Provisioning Fund	30
2.1.3. Financial assistance and other debt-based instruments	31
2.1.4. Hybrid instruments	31
2.1.5. Off-budget instruments	31
2.2. The EU budgetary galaxy from a parliamentary perspective	32
2.2.1. European Parliament’s legislative involvement	32
2.2.2. The European Parliament’s involvement in budgetary authorisations	33
2.2.3. EP’s capacity to exert budgetary scrutiny	34
2.2.4. European Parliament’s role as discharge authority	35
<b>3. EXTERNAL ASSIGNED REVENUES</b>	<b>36</b>
3.1. Legal and accounting framework	36
3.2. Contributions by third countries to EU programmes	37
3.2.1. Contributions by EFTA	38
3.2.2. Switzerland	39
3.2.3. Contributions by associated countries under IPA	40
3.2.4. Contributions by the UK	40
3.3. External assigned revenues of the Innovation fund	41
3.4. The use of External Assigned Revenues for borrowing and lending	41
3.4.1. External assigned revenues in the SURE programme	42
3.4.2. External assigned revenues in the NGEU programme	42

3.5. EARs for hybrid instruments	42
3.6. The implications of the expansion of EARs for budgetary governance	43
<b>4. FUNCTIONING AND GOVERNANCE OF BORROWING AND LENDING OPERATIONS</b>	<b>44</b>
4.1. The fundamental logic of borrowing and lending operations	45
4.2. The evolution of borrowing and lending operations	47
4.3. Pre-pandemic borrowing and lending	48
4.3.1. Macro-financial assistance	48
4.3.2. Euratom loans	48
4.3.3. Balance of Payments facility	49
4.3.4. The European Financial Stabilisation Mechanism	49
4.4. European instrument for temporary Support to mitigate Unemployment Risks in an Emergency – SURE	51
4.5. The European Union Recovery Instrument	52
4.5.1. The involvement of the EP in NGEU governance	53
4.5.2. NGEU implementation	54
4.6. Conclusions and preliminary recommendations on B&L	56
<b>5. MEMBER STATES' CONTRIBUTIONS TO TRUST FUNDS</b>	<b>57</b>
<b>6. EXPERIENCE FROM OTHER JURISDICTIONS</b>	<b>59</b>
6.1. Assigned revenue	60
6.2. Switzerland and Australia	61
6.3. Borrowing and lending	61
6.4. The United Nations	63
6.5. Implications for the Financial Regulation	64
<b>7. CONCLUSIONS AND PROPOSALS FOR REFORM OF THE FINANCIAL REGULATION</b>	<b>65</b>
7.1. Shortcomings identified in the research and approach to correcting them	66
7.2. Reforms of the governance of EAR and trust funds	68
7.3. Reforms of the governance of B&L: moderate scenario	70
7.4. More ambitious B&L reform scenario	70
<b>ANNEX I. THE GALAXY OF THE EU BUDGET</b>	<b>77</b>
<b>ANNEX II. THE ROLE OF THE PARLIAMENT AS BUDGETARY AUTHORITY</b>	<b>78</b>
<b>ANNEX III. NON MEMBER CONTRIBUTIONS TO THE EU BUDGET</b>	<b>79</b>
<b>ANNEX IV. NON MEMBER CONTRIBUTIONS TO THE EU BUDGET</b>	<b>80</b>
<b>ANNEX V. MFA BALANCES AND NEW OPERATIONS</b>	<b>82</b>
<b>ANNEX VI. SURE IMPLEMENTATION</b>	<b>83</b>

## LIST OF ABBREVIATIONS

<b>BoP Facility</b>	Balance of Payments Facility
<b>B&amp;L</b>	Borrowing and Lending
<b>COSME</b>	Europe's programme for Small and Medium-sized enterprises
<b>CPF</b>	Common Provisioning Fund
<b>CSDP</b>	Common Security and Defence Policy
<b>EAG</b>	External Action Guarantee
<b>EAR</b>	External Assigned Revenue
<b>ECA</b>	European Court of Auditors
<b>EDF</b>	European Development Fund
<b>EFSD+</b>	European Fund for Sustainable Development Plus
<b>EFSI</b>	European Fund for Strategic Investments
<b>EFSM</b>	European Financial Stabilisation Mechanism
<b>EFTA</b>	European Free Trade Association
<b>EFC</b>	Economic and Financial Committee
<b>EIB</b>	European Investment Bank
<b>EP</b>	European Parliament
<b>ESI</b>	Emergency Support Instrument
<b>ESM</b>	European Stability Mechanism
<b>ETS</b>	EU Emissions Trading System
<b>EU</b>	European Union
<b>EURI</b>	European Union Recovery Instrument
<b>EUTF</b>	EU Trust Fund
<b>EWG</b>	Eurogroup Working Group
<b>FR</b>	Financial Regulation
<b>FRT</b>	Facility for Refugees in Turkey
<b>GDP</b>	Gross Domestic Product
<b>GNI</b>	Gross National Income
<b>HERA</b>	European Health Emergency preparedness and Response Authority
<b>IAR</b>	Internal Assigned Revenue
<b>IIA</b>	Inter-Institutional Agreement

<b>IPA</b>	Instrument for Pre-Accession Assistance
<b>MFA</b>	Macro- Financial Assistance
<b>MFF</b>	Multi-Annual Financial Framework
<b>NDICI</b>	Neighbourhood, Development, and International Cooperation Instrument
<b>NGEU</b>	Next Generation EU
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OLP</b>	Ordinary Legislative Procedure
<b>ORD</b>	Own Resources Decision
<b>RRF</b>	Recovery and Resilience Facility
<b>SRF</b>	Single Resolution Fund
<b>SURE</b>	European Instrument for Temporary Support to mitigate Unemployment Risks in an Emergency
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>US</b>	United States
<b>VAT</b>	Value Added Tax



## LIST OF BOXES

Box 1. Classification of EU B&L operations	44
Box 2. Overview of findings from practice in other jurisdictions and implications for reform	64

## LIST OF FIGURES

Figure 1. Total contributions to the EU budget from non-member countries, 2014-2019	38
Figure 2. Basic mechanism of B&L operations	46
Figure 3. NGEU B&L activities for EU budget operations and back to back loans	53
Figure 4. The Galaxy of the EU Budget	77
Figure 5. The role of the parliament as budgetary authority	78
Figure 6. Overview of main contributions to the EU budget in 2019 by country, programme and responsible DG	79

## LIST OF TABLES

Table 1. EFTA budgetary contributions to EU programmes 2014-2020 (EUR)	39
Table 2. Switzerland's contributions to EU programmes 2019	40
Table 3. Overview of the Union's borrowing and lending operations	45
Table 4. The overview of the outstanding balances of EU B&L operations 2013-2021, EUR million	47
Table 5. Risk borne by the Budget from EFSM loans (2021-2029), EUR million	50
Table 6. Key statistics of the NGEU borrowing transactions, up to 31 December 2021	55
Table 7. Overview of EU trust funds and the Facility for Refugees in Turkey	58
Table 8. Reforms of the governance of EAR and Trust Funds	73
Table 9. Reforms of the governance of B&L	75
Table 10. Non-member contributions to the EU budget	80
Table 11. MFA loans disbursements 2019 to 2021 (expected) in EUR	82
Table 12 Key statistics of the SURE borrowing transactions	84
Table 13. Repayment Schedule of EU' SURE Outstanding Loans (EUR billion)	85

## EXECUTIVE SUMMARY

During the last two decades, the EU's public finances have seen the introduction of new financing mechanisms in response to a variety of political and economic developments. As a result, **the 'galaxy' of financing instruments has become more complex**. In the process, principles of budgeting enshrined in the TFEU, notably unity and universality, are not always fully adhered to.

The most significant developments have been an increase in external assigned revenue (EAR), the use of trust funds to finance specific policy initiatives, more use of loan guarantees and resort to borrowing and lending (B&L), in order to open new channels of financing for policy programmes.

EAR is a distinctive feature of the EU's public finances. It is not unusual for a proportion of revenues in any system to be assigned to particular purposes; terms commonly used to describe this are 'earmarking' or 'hypothecation'. Where this happens, it tends to be on the basis of formal provisions on how money from a specific revenue source is split between different uses, instead of going into a general revenue fund. Nevertheless, the revenues in question can be regarded as 'owned' by the state.

In the EU context, by contrast, EAR refers to flows of money separate from the own resources of the Union and not entered into the EU's budget in the same way. Until the launch of NextGenerationEU in 2021, the principal sources of EAR were contributions by third countries, sources not formally tied to the EU budget (for example, from carbon allowances sold as part of the Emissions Trading System), donations earmarked for defined purposes and certain others. The revenues deemed to be 'external' and 'assigned' are defined in art. 21.2 of the 2018 Financial Regulation, and thus distinct from internal assigned revenues, defined in art. 21.3. In 2019, EAR amounted to EUR 2.2 billion, with the largest proportion of it coming from the contributions of the EFTA countries to various EU programmes, above all the Horizon research ones. In 2020 it increased to EUR 4.2 billion due to the entry into force of the Innovation Fund which uses ETS allowances to finance innovation projects.

Most borrowing and lending – off-budget financial flows – up to 2019 consisted of loans taken out by the EU to enable it to lend to Member States or third countries. Because the EU is an AAA rated borrower, reflecting the collective creditworthiness of EU members, it is able to secure funding from financial markets on highly favourable terms. It then lends the money to the country requiring financial support on these favourable terms in what are called back-to-back loans. For most recipient countries, this means better terms than they would be likely to obtain had they borrowed directly from financial markets. The recipients are expected to service and repay the EU loans, but lenders are unaffected by any default by recipients, since they lend not to them but to the EU, which relies on its own resources to repay them, whatever happens.

"Hybrid instruments" is a term used in this study to designate Trust Funds and other mechanisms which bring together resources from the EU budget and contributions from Member States. The largest is the Facility for Refugees in Turkey. The use of a similar hybrid mechanism for vaccines procurement and the recent proposal for a new Union Health Emergency preparedness and Response Authority (HERA) suggest a disposition to make greater use of them.

Prior to the pandemic, both EAR and B&L could be regarded as relatively insignificant in the wider scheme of EU finances, although the latter did draw attention to certain potential difficulties, such as the lack of clarity on how any default by a country receiving a loan would be covered. Although a common provisioning fund was established to deal with this eventuality (art. 212 of the FR), what would happen if it were exhausted could still be a problem.

Developments in 2020 changed the picture on both EAR and B&L. Brexit may lead to more EAR when the UK joins specific programmes and offers assigned contributions, similarly to the EEA countries or

Switzerland. The new flows from the UK to cover its legacy commitments from the 2014-20 MFF from 2021 and other specific outstanding liabilities are not EAR, but an increase of non-assigned revenues not emerging from own resources between 2021 and 2023. An exception may be the contributions to the pension schemes for employees of the European institutions from the UK, which are most likely to appear as assigned revenue, as proposed by the European Commission in the Draft budget amending letter No1 (COM(2021)0642) for 2022. Once the major components of *reste à liquider* from the 2014-2020 MFF (notably Cohesion Policy projects) are paid, the amount will fall substantially. In future, payments are expected to support UK participation in EU programmes, but their value cannot easily be predicted, not least in the light of continuing speculation about adherence to the 2020 Trade and Cooperation Agreement. A reasonable expectation, based on the economic weights of the UK compared to the EFTA countries, is that they would be some four times greater than pre-2020 EARs from third countries.

Responses to the pandemic are much more consequential. First, the SURE programme made use of guarantees from the EU budget, backed by counter-guarantees from Member States, allowing the EU to borrow up to a maximum of EUR 100 billion to be loaned back-to-back to Member States. The purpose of these loans is to support Member States' actual or planned expenditure for short-time work schemes and similar measures, including health-related ones, and the take-up has used some 95% of the funding agreed.

The much more substantial pandemic response is the **Next Generation EU package (NGEU)** agreed late in 2020. By **enabling borrowing to fund both grants and back-to-back loans to Member States, the agreement constituted a quantitative as well as qualitative leap for both EAR and B&L.**

### The role of the European Parliament

The expansion of the EU budget galaxy in recent years has raised concerns about the European Parliament's capacity to decide on, and oversee the use of, EU funds. A key difficulty is that most EU financial assistance instruments are adopted by Council regulation, thus excluding the Parliament from shaping the instrument.

The Parliament has the right to oversee the use of EU funds or instruments financed or linked to the EU budget, but the amount and quality of information received and the scrutiny procedures vary. For B&L, which could lead to future demands on the EU's own resources, the lack of power for the Parliament over decision-making is anomalous.

The anomaly became particularly visible in how the **European Commission and the Council established NGEU alongside the Multiannual Financial Framework**, determining also a number of key guidelines without any formal involvement of the European Parliament. In doing so they exploited a power made possible by using External Assigned Revenues to address specific temporary difficulties. Nevertheless, the 2020 Inter-Institutional Agreement (IIA), setting out the role of the institutions for the multiannual Financial Framework 2021-2027, included provisions for regular, updated and detailed information to be provided to the European Parliament, as well the organization of dedicated inter-institutional meetings. The EP is also involved in the interinstitutional groups on monitoring the implementation. In addition, the Parliament was fully involved under the ordinary legislative procedure in shaping the details of all programmes financed by NGEU.

Nevertheless, these **provisions still do not extend to decision-making on particularly significant uses of EARs, as is the case for NGEU or the Facility for Refugees in Turkey, implying that the**

**Commission and the Council have the power to bypass the EP to create separate instruments<sup>1</sup>.** These amount to parallel multiannual instruments with financial mechanisms that hamper the ability of the European Parliament to fulfil its budget scrutiny obligations. **This raises questions of legitimacy, because the Parliament's limited powers in relation to NGEU, compromise its ability to fulfil its role as a budgetary authority,** despite the substantial proportion of the NGEU funds disbursed as grants. The monitoring and control of NGEU does not follow the usual pipelines of the policies in the Multiannual Financial Framework and **hampers the EP's role of scrutiny of the expenditures.**

### Other jurisdictions

Recent research by the OECD reveals a trend among its members towards stronger engagement of parliaments across the full budget cycle, but in view of the distinctive nature of the EU's fiscal 'constitution', few insights can be garnered from other jurisdictions about how to deal with the dilemmas posed by EAR or B&L.

EAR is not a concept much in evidence in other jurisdictions, although earmarking of at least a limited proportion of revenues is not unusual, albeit with parliaments able to influence decisions. However, earmarking is not identical conceptually to EAR, because the 'E' in the acronym is crucial: revenue coming from outside the jurisdiction is not the same as revenue assigned internally. The parallel to be drawn with the many examples of earmarking is, therefore, with internal assigned revenue as provided for in Art. 21.3 of the current Financial Regulation. Moreover, in several EU Member States, the principle of universality for revenues is respected, thereby excluding any kind of assigned revenue.

In most cases, Parliaments must authorise increased borrowing by governments and, in many systems, there is a debt ceiling, either in the constitution or as a result of a parliamentary vote. A finding emerging from an inquiry in the Parliament of Australia is that the presentation of information on the balance sheet of the public finances can be improved to facilitate scrutiny of the risks and implications of alternative financing mechanisms.

**An intriguing parallel for the EU is with the United Nations (UN) where 'voluntary contributions' have overtaken the UN equivalent of own resources in funding many programmes.** As a result, the power of the UN's equivalent to a legislature – its General Assembly – is diminished in key policy choices, prompting criticisms from poorer UN members. However, the role of voluntary contributions is entrenched in the UN system and appears to be resistant to change, **perhaps offering a salutary lesson about the stickiness of what, at the outset, might be considered temporary arrangements to the EU in the light of increased use of 'off-budget' mechanisms.**

### Potential reforms to the Financial Regulation and, possibly, the Treaty

Although the Financial Regulation was last revised as recently as 2018, its provisions on both external assigned earnings and the borrowing and lending activities of the EU require fresh thinking.

**For EAR, the main reform proposal is to empower the budgetary authority (Parliament and Council) to adopt annual commitments and payments for certain categories of EAR.** Further reforms aimed at **improving the transparency in the presentation of the EAR** in the EU budget would improve accountability and the quality of oversight by the EP.

---

<sup>1</sup> To which trust funds could be added: Member States' contributions to them are coordinated outside the EU budget (irrespective of GNI key) while MS contributions to the FRT are coordinated inside the EU budget (following the GNI key); however they are equally supposed to finance EU policies.

For B&L, two scenarios are presented. A ‘moderate’ scenario would be realisable by limiting reforms to revisions of the Financial Regulation. It would entail **provisions for the Parliament to grant authorisation for the creation of new B&L programmes, to enhance the transparency and accuracy of the information on B&L operations** guaranteed by the EU budget, and to **strengthen the Parliament’s power to monitor the risks** to the EU budget arising from B&L operations.

While a balance sheet will offset loans against the expectation that borrowers will repay them, the risks of non-repayment need to be highlighted. Plainly, **more extensive and diverse B&L amplify the risk of a default by one or more of the Member States** affecting the annual budget. Because future revenues from own resources may be required to repay loans (and will be in the case of the grants component of NGEU), the time profiles of loan maturities will be relevant. Loan instruments used for SURE and NGEU include partial guarantees by Member States, but there is a **lack of easily accessible and precise explanations on how they will operate and the actual residual risk, if any, of the instruments and their guarantees**.

A more ambitious scenario would be to **move to full budgetisation of B&L operations within the EU budget**. This would imply that annual **loan disbursements and repayments are in the budget and thus subject to budgetary authorisation and control**. There appears to be no need for Treaty change, since B&L operations already exist and **B&L is not explicitly excluded in the TFEU**, hence a reform of the Financial Regulation may be sufficient. Arguably, for B&L to be incorporated into the EU budget, the challenge is primarily a matter of political will. In addition, it would be a technical matter to devise a **mechanism through which budgetary balance in any specific year is guaranteed**. Such a mechanism would have to be designed in a manner able to cover any liability automatically. **That this is possible is not only proven by the B&L operations and the guarantees in place, but also by the way in which the repayment of the loans and the interest due on NGEU borrowing to finance grants has been ensured, namely by placing the obligation to repay in full on the EU’s own resources until 2058**.

**Given that guarantees and B&L expose the EU budget to risk, there is also a case for the EP** – as is the case for legislatures in so many other jurisdictions – **to have the power to set a debt ceiling**. This may not be possible under the present Treaty provisions.

This study also considers it **anomalous to keep other revenues**, such as EAR and additional Member State contributions, and the programmes they finance **outside the normal budgetary procedure**. It is a violation of the principles of transparency and unity of the budget. Proposals are therefore presented to bring those revenues into the normal budgetary procedure.

## SYNTHÈSE

Ces vingt dernières années, les finances publiques de l'Union européenne ont connu l'avènement de nouveaux mécanismes de financement introduits à la suite de diverses évolutions politiques et économiques. En conséquence, **la «galaxie» des instruments de financement est devenue plus complexe**. Ce faisant, les principes de budgétisation inscrits dans le traité FUE ne sont pas toujours pleinement respectés, notamment les principes d'unité et d'universalité.

Parmi les évolutions les plus importantes figurent l'augmentation des recettes affectées externes, la création de fonds fiduciaires pour le financement d'initiatives stratégiques spécifiques, l'utilisation plus fréquente des garanties de prêts ainsi que le recours aux emprunts et aux prêts pour disposer de nouvelles modalités de financement de programmes stratégiques.

Les recettes affectées externes sont une caractéristique spécifique des finances publiques de l'Union européenne. Il n'est pas rare qu'une partie des recettes d'un mécanisme soit attribuée à des objectifs spécifiques: c'est ce que l'on appelle l'«affectation spéciale». Lorsque c'est le cas, c'est généralement sur la base de dispositions formelles précisant la façon dont une source spécifique de recettes doit être répartie entre diverses affectations au lieu d'être versée dans les recettes générales. Les recettes en question sont toutefois considérées comme la «propriété» de l'État.

Par contre, dans le contexte de l'Union européenne, les recettes affectées externes désignent des flux monétaires distincts des ressources propres de l'Union et ne sont pas inscrites au budget de l'Union selon les mêmes modalités. Avant le lancement de Next Generation EU en 2021, les grandes sources de recettes affectées externes étaient les contributions de pays tiers, les sources non officiellement liées au budget de l'Union européenne (comme les quotas d'émission de carbone vendus dans le cadre du système d'échange de quotas d'émission), les dons affectés à des objectifs définis et certaines autres sources. Les recettes qualifiées d'«externes» et d'«affectées» sont définies à l'article 21, paragraphe 2, du règlement financier de 2018, qui les distingue des recettes affectées internes, définies à l'article 21, paragraphe 3. En 2019, les recettes affectées externes s'élevaient à 2,2 milliards d'EUR, la majorité provenant des contributions des pays de l'AELE à divers programmes de l'Union européenne, principalement les programmes de recherche d'Horizon. En 2020, ce montant est passé à 4,2 milliards d'EUR avec l'entrée en vigueur du Fonds pour l'innovation, qui utilise les quotas du SEQE pour financer des projets d'innovation.

Jusque 2019, la majorité des prêts et des emprunts – qui sont des flux financiers extrabudgétaires – étaient des emprunts contractés par l'Union européenne pour lui permettre d'octroyer des prêts à des États membres ou à des pays tiers. Comme l'Union européenne est un emprunteur noté AAA, ce qui reflète la solvabilité collective de ses membres, elle est en mesure de se financer sur les marchés financiers à des conditions extrêmement favorables. Elle prête ensuite ces fonds aux mêmes conditions favorables au pays qui a besoin d'un soutien financier dans le cadre de ce que l'on appelle des «prêts adossés». Pour la majorité des pays bénéficiaires, il s'agit de conditions plus favorables que celles qu'ils obtiendraient vraisemblablement s'ils empruntaient directement sur les marchés financiers. Bien que les bénéficiaires soient tenus d'assurer le service et le remboursement des prêts de l'Union, les créanciers ne sont pas affectés par un défaut éventuel de paiement de la part des bénéficiaires étant donné qu'ils accordent des prêts non pas à ces bénéficiaires, mais à l'Union européenne, qui compte sur ses ressources propres pour les rembourser quoi qu'il arrive.

Dans le cadre de la présente étude, nous qualifierons d'«instruments hybrides» les fonds fiduciaires et les autres mécanismes comportant à la fois des ressources du budget de l'Union et des contributions des États membres. Le principal instrument de ce type est la Facilité en faveur des réfugiés en Turquie. Le recours à un mécanisme hybride similaire pour l'achat de vaccins et la proposition récente de



création d'une nouvelle Autorité européenne de préparation et de réaction en cas d'urgence sanitaire (HERA) semblent indiquer une propension à y recourir davantage.

Avant la pandémie, les recettes affectées externes et les opérations d'emprunt et de prêt étaient considérées comme relativement marginales dans le cadre général des finances de l'Union même si certaines difficultés potentielles des opérations d'emprunt et de prêt avaient été soulignées, notamment le manque de clarté quant à la façon dont il conviendrait de couvrir le défaut de paiement d'un pays bénéficiant d'un prêt. Un fonds commun de provisionnement a bien été créé pour faire face à cette éventualité (article 212 du règlement financier), mais le problème de ce qui se passerait s'il venait à être épuisé demeure.

Les évolutions connues en 2020 ont modifié la donne, aussi bien pour les recettes affectées externes que pour les opérations d'emprunt et de prêt. Le Brexit entraînera probablement une hausse des recettes affectées externes lorsque le Royaume-Uni participera à des programmes spécifiques et versera des contributions affectées, à l'instar des pays de l'EEE ou de la Suisse. Les contributions nouvelles versées par le Royaume-Uni pour respecter ses engagements hérités du CFP 2014-2020 à partir de 2021 et d'autres encours d'engagements spécifiques ne sont pas des recettes affectées externes, ce sont des montants qui viendront augmenter, entre 2021 et 2023, les recettes non affectées non issues de ressources propres. Les contributions aux régimes de pension des agents britanniques des institutions européennes constitueraient une exception. Elles apparaîtront vraisemblablement sous la forme de recettes affectées, comme l'a proposé la Commission européenne dans la lettre rectificative n° 1 au projet de budget pour 2022 (COM(2021)0642). Lorsque les grandes composantes du reste à liquider du CFP 2014-2020 (notamment les projets de la politique de cohésion) auront été payées, le montant baissera considérablement. À l'avenir, des versements devraient sous-tendre la participation du Royaume-Uni aux programmes de l'Union, mais leur montant n'est pas facilement prévisible, notamment en raison des incertitudes qui persistent à propos du respect de l'accord de commerce et de coopération de 2020. Compte tenu de l'importance économique du Royaume-Uni par rapport aux pays de l'AELE, il faut raisonnablement s'attendre à ce que leur montant soit multiplié par quatre par rapport aux recettes affectées externes versées par les pays tiers avant 2020.

Les réactions à la pandémie ont eu des conséquences bien plus marquées. Tout d'abord, le programme SURE a eu recours aux garanties du budget de l'Union, adossées à des contre-garanties des États membres, pour permettre à l'Union d'emprunter un montant maximal de 100 milliards d'EUR destiné à octroyer aux États membres des prêts adossés. Le but de ces prêts est de soutenir les dépenses actuelles ou prévues des États membres en faveur de dispositifs de chômage partiel et de mesures semblables, notamment des mesures en matière de santé, et le taux d'utilisation a atteint 95 % de la dotation convenue.

L'adoption, fin 2020, du **paquet «Next Generation EU» (NGUE)** constitue une réaction bien plus importante encore à la pandémie. **En permettant d'emprunter pour financer des subventions et des prêts adossés aux États membres, l'accord a constitué un saut aussi bien quantitatif que qualitatif pour les recettes affectées externes comme pour les emprunts et prêts.**

### **Le rôle du Parlement européen**

Ces dernières années, l'expansion de la galaxie budgétaire de l'Union européenne a suscité des inquiétudes concernant la capacité du Parlement européen à décider de l'utilisation qui est faite des fonds de l'Union européenne et à en assurer la supervision. Une difficulté majeure tient au fait que la plupart des instruments d'assistance financière de l'Union sont adoptés par un règlement du Conseil, ce qui exclut le Parlement du processus de définition de l'instrument.

Le Parlement a certes le droit de superviser l'utilisation qui est faite des fonds de l'Union ou des instruments financés par le budget de l'Union ou liés à celui-ci, mais le volume et la qualité des informations reçues et les procédures de contrôle varient. Pour les opérations d'emprunt et de prêt, qui sont susceptibles de grever les ressources propres de l'Union à l'avenir, l'absence de compétences du Parlement dans le processus décisionnel est anormale.

Cette anomalie a été particulièrement visible dans la façon dont **la Commission européenne et le Conseil ont mis en place l'instrument Next Generation EU parallèlement au cadre financier pluriannuel** et défini, par la même occasion, une série d'orientations clés sans que le Parlement européen n'y soit formellement associé. Pour ce faire, ils ont eu recours à une disposition permettant d'utiliser les recettes affectées externes pour faire face à des difficultés temporaires spécifiques. Néanmoins, l'accord interinstitutionnel de 2020 (AII), qui définit le rôle des institutions pour la durée du cadre financier pluriannuel 2021-2027, prévoit notamment la fourniture régulière d'informations détaillées et actualisées au Parlement européen ainsi que l'organisation de réunions spécifiques entre les institutions. Le Parlement européen participe également aux groupes interinstitutionnels de suivi de l'exécution. De plus, le Parlement a été pleinement associé, dans le cadre de la procédure législative ordinaire, à la définition des détails de tous les programmes financés par NGUE.

Toutefois, ces **dispositions ne peuvent être assimilées à un pouvoir de décision sur des utilisations particulièrement importantes des recettes affectées externes, comme dans le cas de NGUE ou de la Facilité en faveur des réfugiés en Turquie, ce qui implique que la Commission et le Conseil ont la possibilité de contourner le Parlement européen pour créer des instruments séparés<sup>2</sup>**. Il s'agit en fait d'instruments pluriannuels parallèles assortis de mécanismes financiers qui entravent la capacité du Parlement européen à remplir ses obligations de contrôle budgétaire. **Cette situation soulève des questions de légitimité dès lors que les pouvoirs limités du Parlement à l'égard de NGUE ne lui permettent pas d'assumer sa fonction d'autorité budgétaire**, et ce malgré la part considérable des fonds de NGUE versés sous la forme de subventions. La surveillance et le contrôle de NGUE ne se font pas selon les mêmes modalités que les politiques relevant du cadre financier pluriannuel et **entravent le Parlement européen dans sa fonction de surveillance des dépenses**.

### Comment fait-on ailleurs?

Une étude récente de l'OCDE a révélé que ses membres avaient tendance à davantage associer le Parlement à l'ensemble du cycle budgétaire. Néanmoins, compte tenu de la nature spécifique de la «constitution» budgétaire de l'Union, peu nombreuses sont les inspirations à tirer d'autres juridictions, pour résoudre les dilemmes posés par les recettes affectées externes ou les opérations d'emprunt et de prêt.

Le concept de recettes affectées externes n'est pas très répandu ailleurs même si l'affectation spéciale ne serait-ce que d'une partie limitée des recettes n'est pas inhabituelle, les parlements étant toutefois en mesure d'influencer les décisions. Or, sur le plan conceptuel, l'affectation spéciale n'équivaut pas à des recettes affectées externes, car dans ce dernier cas, le terme «externe» est capital: les recettes provenant de l'extérieur ne sont pas des recettes affectées internes. Pour pouvoir faire un parallèle avec les nombreux exemples d'affectation spéciale, il faut donc prendre les recettes affectées internes prévues à l'article 21, paragraphe 3, du règlement financier actuel. De plus, dans un certain nombre

<sup>2</sup> Auxquels on peut ajouter les fonds fiduciaires: Les contributions des États membres à ces fonds sont coordonnées en dehors du budget de l'Union (sans tenir compte de la clé RNB) tandis que les contributions des États membres à la Facilité en faveur des réfugiés en Turquie sont coordonnées au sein du budget de l'Union (selon la clé RNB); or, ils sont tous censés financer des politiques de l'Union.



d'États membres de l'Union, le principe d'universalité des recettes est respecté, ce qui exclut toute forme de recettes affectées.

Dans la plupart des cas, l'augmentation des emprunts par le gouvernement doit être autorisée par le Parlement et, dans de nombreux pays, la dette est plafonnée, soit dans la Constitution, soit à la suite d'un vote du Parlement. Une conclusion issue d'une enquête réalisée au Parlement australien est qu'améliorer la présentation des informations figurant dans le bilan des finances publiques faciliterait l'examen des risques et des implications des mécanismes de financement alternatifs.

**Un parallèle intéressant avec l'Union européenne existe aux Nations unies, où les «contributions volontaires» ont supplanté l'équivalent des ressources propres de l'ONU dans le financement de nombreux programmes.** Il en résulte une diminution des pouvoirs de l'Assemblée générale de l'ONU - qui équivaut à son pouvoir législatif - dans les choix stratégiques importants, suscitant des critiques des États plus pauvres de l'Organisation. Néanmoins, le rôle des contributions volontaires est intégré au système des Nations unies et résiste apparemment à tout changement, **ce qui témoigne de la capacité de persistance de ce qui, à l'origine, n'est sans doute considéré que comme un mécanisme temporaire et constitue peut-être un exemple salubre pour l'Union européenne, étant donné le recours de plus en plus fréquent aux mécanismes «extrabudgétaires».**

#### Réformes potentielles du règlement financier et, éventuellement, du traité

Bien que le règlement financier ait été révisé en dernier lieu en 2018 seulement, ses dispositions sur les recettes affectées externes et sur les opérations d'emprunt et de prêt de l'Union exigent d'être repensées.

**Pour les recettes affectées externes,** la principale proposition de réforme consiste à **habiliter l'autorité budgétaire (Parlement et Conseil) à adopter des engagements et des paiements annuels pour certaines catégories de recettes affectées externes.** D'autres réformes destinées à **améliorer la transparence de la présentation des recettes affectées externes** dans le budget de l'Union permettraient d'améliorer la responsabilité et la qualité du contrôle exercé par le Parlement européen.

Pour les opérations d'emprunt et de prêt, deux scénarios sont proposés: Un scénario «modéré» serait réalisable en limitant les réformes à la révision du règlement financier. Il supposerait de **prévoir que la création de nouveaux programmes d'emprunt et de prêt soit soumise à l'autorisation du Parlement, d'améliorer la transparence et l'exactitude des informations relatives aux opérations d'emprunt et de prêt** garanties par le budget de l'Union et de **renforcer le pouvoir de surveillance, par le Parlement, des risques** que les opérations d'emprunt et de prêt font courir au budget de l'Union.

Dans un bilan, les prêts sont compensés par le remboursement que l'on en attend des emprunteurs, cependant il faut attirer l'attention sur les risques de non-remboursement. En clair, **l'augmentation du volume et de la diversité des opérations d'emprunt et de prêt accroît le risque de défaut d'un ou de plusieurs États membres,** ce qui affecterait le budget annuel. Comme les recettes futures issues des ressources propres pourraient être nécessaires au remboursement des prêts (et le seront pour le volet «subventions» de NGUE), la distribution dans le temps des échéances des prêts aura toute son importance. Les instruments de prêt utilisés pour SURE et NGUE prévoient des garanties partielles des États membres, mais on ne dispose **pas d'explications précises et aisément accessibles sur la façon dont elles fonctionneront ou sur le risque résiduel éventuel des instruments et de leurs garanties.**

Un scénario plus ambitieux consisterait à **inscrire la totalité des opérations d'emprunt et de prêt au budget de l'Union européenne**. Il supposerait que **les décaissements et les remboursements annuels de prêts figureraient au budget et feraient donc l'objet d'une autorisation et d'un contrôle budgétaires**. Il ne semble pas nécessaire de modifier le traité étant donné que les opérations d'emprunt et de prêt existent déjà et que **les opérations d'emprunt et de prêt ne sont pas expressément exclues dans le traité FUE**; une réforme du règlement financier devrait suffire. Sans doute pour intégrer les opérations d'emprunt et de prêt au budget de l'Union le défi est-il avant tout d'en trouver la volonté politique. Quant à la définition d'un **mécanisme garantissant l'équilibre budgétaire de tout exercice**, il s'agirait d'une question technique. Un tel mécanisme devrait être conçu de façon à pouvoir couvrir automatiquement tout passif. **C'est parfaitement envisageable, comme en témoignent les opérations d'emprunt et de prêt et les garanties existantes, mais aussi les modalités mises en place pour garantir le remboursement des emprunts, intérêts compris, contractés dans le cadre de NGUE pour financer les subventions, à savoir en imposant leur remboursement intégral au moyen des ressources propres de l'Union jusqu'en 2058.**

**Comme les garanties et les opérations d'emprunt et de prêt exposent le budget de l'Union à un risque, le Parlement européen serait en droit – à l'instar du pouvoir législatif de nombreux autres pays – de disposer du pouvoir de plafonner la dette.** Les dispositions actuelles du traité ne le permettent peut-être pas.

La présente étude estime par ailleurs qu'**il est anormal que les autres recettes**, comme les recettes affectées externes et les contributions supplémentaires des États membres, ainsi que les programmes qu'elles financent, **restent exclues de la procédure budgétaire ordinaire**. Il s'agit d'une violation des principes de transparence et d'unité du budget. L'étude présente donc des propositions permettant d'inclure ces recettes dans la procédure budgétaire ordinaire.

## ZUSAMMENFASSUNG

In den letzten zwei Jahrzehnten wurden als Reaktion auf verschiedene politische und wirtschaftliche Entwicklungen neue Finanzierungsmechanismen für die öffentlichen Finanzen der EU eingeführt. Dies hat dazu geführt, dass die „Galaxie“ der Finanzierungsinstrumente komplexer geworden ist. Dabei werden die im AEUV verankerten Grundsätze der Haushaltsaufstellung, insbesondere Einheit und Universalität, nicht immer vollständig eingehalten.

Die wichtigsten Entwicklungen waren die Erhöhung der externen zweckgebundenen Einnahmen (external assigned revenue – EAR), die Verwendung von Treuhandfonds zur Finanzierung spezifischer politischer Initiativen, der verstärkte Einsatz von Darlehensbürgschaften und der Rückgriff auf Aufnahme und Vergabe von Krediten (borrowing and lending – B&L), um neue Finanzierungskanäle für politische Programme zu erschließen.

Die EAR sind eine Besonderheit der öffentlichen Finanzen der EU. Es ist nicht ungewöhnlich, dass ein Teil der Einnahmen in einem System bestimmten Zwecken zugewiesen wird; die gängigen Begriffe hierfür sind „Zweckbindung“ oder „Verwendungszusammenhang“. Wo dies geschieht, erfolgt es meistens auf der Grundlage förmlicher Bestimmungen darüber, wie Gelder aus einer bestimmten Einnahmequelle auf verschiedene Verwendungszwecke aufgeteilt werden, anstatt in einen allgemeinen Einnahmentopf zu fließen. Dennoch können die betreffenden Einnahmen als „eigene Einnahmen“ des Staates betrachtet werden.

Im EU-Kontext hingegen bezieht sich der Begriff EAR auf Geldströme, die von den Eigenmitteln der Union getrennt sind und nicht auf dieselbe Weise in den EU-Haushalt fließen. Bis zum Start des Instruments „NextGenerationEU“ im Jahr 2021 waren die wichtigsten Quellen der EAR Beiträge von Drittländern, Quellen, die nicht formell an den EU-Haushalt gebunden sind (z. B. aus Kohlenstoffzertifikaten, die im Rahmen des Emissionshandelssystems verkauft werden), Spenden, die für gewisse Zwecke vorgesehen sind, und bestimmte andere Quellen. Die Einnahmen, die als „extern“ und „zweckgebunden“ gelten, sind in Artikel 21 Absatz 2 der Haushaltsordnung 2018 definiert, der sie von den internen zweckgebundenen Einnahmen unterscheidet, die in Artikel 21 Absatz 3 definiert sind. Im Jahr 2019 beliefen sich die EAR auf 2,2 Mrd. EUR, wobei der größte Teil davon aus den Beiträgen der EFTA-Länder zu verschiedenen EU-Programmen stammte, vor allem zu den Horizont-Forschungsprogrammen. Durch das Inkrafttreten des Innovationsfonds, der ETS-Zertifikate zur Finanzierung von Innovationsprojekten verwendet, stieg der Betrag 2020 auf 4,2 Mrd. EUR an.

Der Großteil der Aufnahme und Vergabe von Krediten – Finanzströme außerhalb des Haushaltsplans – bestand bis 2019 aus Darlehen, die die EU aufgenommen hat, um Kredite an Mitgliedstaaten oder Drittländer vergeben zu können. Da die EU ein Kreditnehmer mit AAA-Rating ist, was die kollektive Kreditwürdigkeit der EU-Mitglieder widerspiegelt, kann sie sich auf den Finanzmärkten Finanzmittel zu äußerst günstigen Bedingungen sichern. Anschließend leiht sie dem Land, das finanzielle Unterstützung benötigt, das Geld zu diesen günstigen Bedingungen in sogenannten Back-to-Back-Darlehen. Für die meisten Empfängerländer bedeutet dies bessere Konditionen, als sie bei einer direkten Kreditaufnahme auf den Finanzmärkten erhalten würden. Von den Empfängern wird erwartet, dass sie die EU-Darlehen bedienen und zurückzahlen, aber die Darlehensgeber sind von einem etwaigen Zahlungsausfall der Empfänger nicht betroffen, da sie die Darlehen nicht an diese vergeben, sondern an die EU, die über ihre eigenen Mittel verfügt, um die Darlehen – in jedem Fall – zurückzuzahlen.

„Hybride Instrumente“ ist ein Begriff, der in dieser Studie verwendet wird, um Treuhandfonds und andere Mechanismen zu bezeichnen, die Mittel aus dem EU-Haushalt und Beiträge der Mitgliedstaaten zusammenführen. Das größte dieser Instrumente ist die Fazilität für Flüchtlinge in der Türkei. Der

Einsatz eines ähnlichen hybriden Mechanismus für die Beschaffung von Impfstoffen und der jüngste Vorschlag für eine neue EU-Behörde für die Krisenvorsorge und -reaktion bei gesundheitlichen Notlagen (Health Emergency preparedness and Response Authority – HERA) deuten darauf hin, dass die Bereitschaft besteht, diese Instrumente stärker zu nutzen.

Vor der Pandemie konnten sowohl die EAR als auch die B&L als relativ unbedeutend im Gesamtgefüge der EU-Finzen angesehen werden, obwohl bei letzterer bestimmte potenzielle Schwierigkeiten zutage traten, wie z. B. die mangelnde Klarheit darüber, wie ein etwaiger Ausfall eines Landes, das ein Darlehen erhält, gedeckt werden würde. Zwar wurde für diesen Fall ein gemeinsamer Dotierungsfonds eingerichtet (Artikel 212 der HO), doch könnte die Frage, was geschieht, wenn dieser Fonds erschöpft ist, immer noch ein Problem darstellen.

Die Entwicklungen im Jahr 2020 haben das Bild sowohl bei den EAR als auch bei der B&L verändert. Der Brexit kann zu mehr EAR führen, wenn das Vereinigte Königreich an spezifischen Programmen teilnimmt und zweckgebundene Beiträge leistet, ähnlich wie die EWR-Länder oder die Schweiz. Die neuen Mittelzuflüsse des Vereinigten Königreichs zur Deckung seiner Altverpflichtungen aus dem MFR 2014-20 ab 2021 und anderer spezifischer ausstehender Verbindlichkeiten sind keine EAR, sondern ein Anstieg der nicht zweckgebundenen Einnahmen, die zwischen 2021 und 2023 nicht aus Eigenmitteln stammen. Eine Ausnahme könnten die Beiträge des Vereinigten Königreichs zu den Altersversorgungssystemen für die Bediensteten der europäischen Organe sein, die höchstwahrscheinlich als zweckgebundene Einnahmen erscheinen werden, wie von der Europäischen Kommission im Entwurf des Berichtigungsschreibens zum Haushaltsplan Nr. 1 (COM(2021) 642 final) für 2022 vorgeschlagen wurde. Sobald die wichtigsten Komponenten der *Reste à liquider* aus dem MFR 2014-20 (insbesondere Projekte der Kohäsionspolitik) ausgezahlt sind, wird der Betrag erheblich abnehmen. Es wird erwartet, dass die Zahlungen in Zukunft die Teilnahme des Vereinigten Königreichs an EU-Programmen unterstützen werden, aber ihr Wert lässt sich nicht leicht vorhersagen, nicht zuletzt angesichts der anhaltenden Spekulationen über den Beitritt zum Handels- und Kooperationsabkommen 2020. Ausgehend vom wirtschaftlichen Gewicht des Vereinigten Königreichs im Vergleich zu den EFTA-Ländern kann davon ausgegangen werden, dass sie etwa viermal so hoch sein werden wie die vor 2020 geleisteten Zahlungen aus Drittländern.

Die Reaktionen auf die Pandemie sind weitaus folgenreicher. Erstens wurden im Rahmen des SURE-Programms Bürgschaften aus dem EU-Haushalt in Anspruch genommen, die durch Rückbürgschaften der Mitgliedstaaten abgesichert wurden, sodass die EU Kredite bis zu einem Höchstbetrag von 100 Mrd. EUR aufnehmen konnte, die an die Mitgliedstaaten weitergereicht wurden. Mit diesen Krediten sollen die tatsächlichen oder geplanten Ausgaben der Mitgliedstaaten für Kurzarbeitsregelungen und ähnliche Maßnahmen, einschließlich gesundheitsbezogener Maßnahmen, unterstützt werden. Die Inanspruchnahme lag bei etwa 95 % der vereinbarten Mittel.

Die wesentlich umfangreichere Reaktion auf die Pandemie ist das **Paket „NextGenerationEU“ (NGEU)**, das Ende 2020 vereinbart wurde. **Die Vereinbarung ermöglichte die Aufnahme von Krediten zur Finanzierung von Zuschüssen und Back-to-Back-Darlehen an die Mitgliedstaaten und stellte damit einen qualitativen Sprung hinsichtlich der Höhe der EAR und der B&L dar.**

### Die Rolle des Europäischen Parlaments

Die Ausweitung der EU-Haushaltsgalaxie in den letzten Jahren hat Bedenken hinsichtlich der Fähigkeit des Europäischen Parlaments aufgeworfen, über die Verwendung der EU-Mittel zu entscheiden und diese zu überwachen. Ein Hauptproblem besteht darin, dass die meisten EU-Finanzhilfinstrumente durch eine Verordnung des Rates angenommen werden, wodurch das Parlament von der Gestaltung des Instruments ausgeschlossen ist.

Das Parlament hat das Recht, die Verwendung von EU-Mitteln oder von Instrumenten, die aus dem EU-Haushalt finanziert werden oder mit ihm verbunden sind, zu überwachen, aber der Umfang und die Qualität der erhaltenen Informationen sowie die Kontrollverfahren sind unterschiedlich. In Bezug auf die B&L, die zu künftigen Verbindlichkeiten zulasten der EU-Eigenmittel führen könnte, ist die fehlende Entscheidungsbefugnis des Parlaments ein Unding.

Dies wurde besonders anhand der Art und Weise deutlich, wie die **Kommission und der Rat neben dem mehrjährigen Finanzrahmen das NextGenerationEU festlegten** und auch eine Reihe maßgeblicher Leitlinien ohne förmliche Beteiligung des Europäischen Parlaments bestimmten. Dabei nutzten sie eine Befugnis, die durch die Verwendung externer zweckgebundener Einnahmen zur Bewältigung spezifischer vorübergehender Schwierigkeiten ermöglicht wurde. Die Interinstitutionelle Vereinbarung (IIV) 2020, in der die Rolle der Organe für den mehrjährigen Finanzrahmen 2021-2027 festgelegt ist, sieht jedoch vor, dass dem Europäischen Parlament regelmäßig aktualisierte und ausführliche Informationen zur Verfügung gestellt werden und dass eigens anberaumte interinstitutionelle Zusammenkünfte stattfinden. Das EP ist auch an den interinstitutionellen Gruppen zur Überwachung der Umsetzung beteiligt. Darüber hinaus war das Parlament im Rahmen des ordentlichen Gesetzgebungsverfahrens in vollem Umfang an der Ausgestaltung der Einzelheiten aller aus dem NGEU finanzierten Programme beteiligt.

Dennoch **erstrecken sich diese Bestimmungen nach wie vor nicht auf die Beschlussfassung in Fällen einer besonders wichtigen Verwendung von EAR, wie dies bei dem NGEU oder der Fazilität für Flüchtlinge in der Türkei der Fall ist, was bedeutet, dass die Kommission und der Rat befugt sind, das EP zu umgehen, um gesonderte Instrumente zu schaffen**<sup>3</sup>. Diese laufen auf parallele mehrjährige Instrumente mit Finanzierungsmechanismen hinaus, die das Europäische Parlament daran hindern, seinen Verpflichtungen zur Haushaltskontrolle nachzukommen. **Dies wirft Fragen der Legitimation auf, da die begrenzten Befugnisse des Parlaments in Bezug auf das NGEU seine Fähigkeit beeinträchtigen, seiner Rolle als Haushaltsbehörde gerecht zu werden**, obwohl ein erheblicher Teil der NGEU-Mittel als Zuschüsse ausgezahlt wird. Überwachung und Kontrolle des NGEU folgen nicht den üblichen Pfaden der Politikgestaltung im mehrjährigen Finanzrahmen, was **die Rolle des EP bei der Kontrolle der Ausgaben schmälert**.

### Andere Länder und Institutionen

Jüngste Untersuchungen der OECD zeigen einen Trend unter ihren Mitgliedern hin zu einer stärkeren Einbindung der Parlamente über den gesamten Haushaltszyklus hinweg. Aber angesichts der besonderen Natur der fiskalischen „Verfassung“ der EU können nur wenige Erkenntnisse aus anderen Ländern und Institutionen darüber gewonnen werden, wie mit dem Dilemma umzugehen ist, das sich aus den EAR oder der B&L ergibt.

Das Konzept der EAR ist in anderen Ländern und Institutionen nicht sehr verbreitet, obwohl die Zweckbindung zumindest eines begrenzten Teils der Einnahmen nicht ungewöhnlich ist, auch wenn die Parlamente die Möglichkeit haben, die Entscheidungen zu beeinflussen. Vormerkungen sind jedoch konzeptionell nicht mit EAR identisch, denn das „E“ in der Abkürzung ist entscheidend: Einnahmen, die von außerhalb der Institution (extern) kommen, sind nicht dasselbe wie Einnahmen, die intern zweckgebunden werden. Die Parallele zu den zahlreichen Beispielen für eine Vormerkung besteht daher in den internen zweckgebundenen Einnahmen, wie sie in Artikel 21 Absatz 3 der

<sup>3</sup> Daneben könnten Treuhandfonds genannt werden: Die Beiträge der Mitgliedstaaten zu den Treuhandfonds werden außerhalb des EU-Haushalts koordiniert (unabhängig vom BNE-Schlüssel), während die Beiträge der Mitgliedstaaten zur Fazilität für Flüchtlinge in der Türkei innerhalb des EU-Haushalts koordiniert werden (nach dem BNE-Schlüssel). Bei beiden wird aber gleichermaßen davon ausgegangen, dass sie die EU-Politik finanzieren.

geltenden Haushaltsordnung vorgesehen sind. Darüber hinaus gilt in mehreren EU-Mitgliedstaaten der Grundsatz der Universalität der Einnahmen, wodurch jede Art von zweckgebundenen Einnahmen ausgeschlossen wird.

In den meisten Fällen müssen die Parlamente eine höhere Kreditaufnahme der Regierungen genehmigen, und in vielen Systemen gibt es eine Schuldenobergrenze, entweder in der Verfassung oder als Ergebnis eines Parlamentsbeschlusses. Eine Untersuchung im australischen Parlament hat ergeben, dass die Darstellung der Informationen über die Bilanz der öffentlichen Finanzen verbessert werden kann, um die Prüfung der Risiken und Auswirkungen alternativer Finanzierungsmechanismen zu erleichtern.

Eine interessante Parallele für die EU sind die Vereinten Nationen (VN), wo „freiwillige Beiträge“ bei der Finanzierung vieler Programme das VN-Äquivalent der Eigenmittel überholt haben. Infolgedessen wird die Macht des VN-Äquivalents einer Legislative – der Generalversammlung – bei wichtigen politischen Entscheidungen geschwächt, was zu Kritik seitens ärmerer VN-Mitglieder geführt hat. Die Rolle der freiwilligen Beiträge ist jedoch im VN-System fest verankert und scheint sich nicht zu ändern, was **vielleicht eine heilsame Lektion über die Beständigkeit dessen ist, was man angesichts der zunehmenden Nutzung von „außerbudgetären“ Mechanismen anfangs als zeitlich begrenzte Vereinbarungen im Rahmen der EU angesehen haben könnte.**

### Mögliche Reformen der Haushaltsordnung und möglicherweise des Vertrags

Obwohl die Haushaltsordnung erst 2018 zuletzt überarbeitet wurde, erfordern ihre Bestimmungen zu den externen zweckgebundenen Einnahmen sowie zur Kreditaufnahme- und Kreditvergabetätigkeit der EU ein neues Denken.

**Für die EAR** besteht der wichtigste Reformvorschlag darin, **die Haushaltsbehörde (Parlament und Rat) zu ermächtigen, jährliche Mittelbindungen und Zahlungen für bestimmte Kategorien von EAR zu beschließen.** Weitere Reformen zur **Verbesserung der Transparenz bei der Darstellung der EAR** im EU-Haushalt würden die Rechenschaftspflicht und die Qualität der Aufsicht durch das EP verbessern.

Für die B&L werden zwei Szenarien vorgestellt. Ein „moderates“ Szenario wäre realisierbar, wenn sich die Reformen auf die Überarbeitung der Haushaltsordnung beschränken würden. Es würde **Bestimmungen** umfassen, **nach denen das Parlament die Schaffung neuer B&L-Programme zu genehmigen hätte, die Transparenz und Genauigkeit der Informationen über B&L-Operationen,** die durch den EU-Haushalt garantiert werden, **verbessert würden und die Befugnisse des Parlaments zur Überwachung der Risiken** für den EU-Haushalt, die sich aus B&L-Operationen ergeben, **gestärkt würden.**

Auch wenn in einer Bilanz den Krediten die Erwartung gegenübersteht, dass die Kreditnehmer sie zurückzahlen werden, dürfen die Risiken einer Nichtrückzahlung doch nicht unterschätzt werden. Es liegt auf der Hand, dass **umfangreichere und vielfältigere B&L das Risiko eines Zahlungsausfalls eines oder mehrerer Mitgliedstaaten** mit Auswirkungen auf den Jahreshaushalt **erhöhen.** Da künftige Eigenmitteleinnahmen für die Rückzahlung von Darlehen benötigt werden können (und im Falle der Zuschussskomponente des NGEU benötigt werden), sind die Zeitprofile der Darlehenslaufzeiten von Bedeutung. Die für das SURE und das NGEU verwendeten Darlehensinstrumente umfassen Teilgarantien der Mitgliedstaaten, aber **es fehlt an leicht zugänglichen und präzisen Erklärungen zu deren Funktionsweise und dem tatsächlichen Restrisiko der Instrumente und ihrer Garantien, falls es eines gibt.**



Ein ehrgeizigeres Szenario wäre der **Übergang zu einer vollständigen Einbeziehung der B&L-Maßnahmen in den EU-Haushalt**. Dies würde bedeuten, dass die jährlichen **Darlehensauszahlungen und -rückzahlungen in den Haushalt eingestellt werden und somit der Haushaltsgenehmigung und -kontrolle unterlägen**. Eine Änderung des Vertrags scheint nicht erforderlich zu sein, da es bereits B&L-Operationen gibt und die **B&L im AEUV nicht ausdrücklich ausgeschlossen sind**, sodass eine Reform der Haushaltsordnung ausreichend sein dürfte. Die Einbeziehung der B&L in den EU-Haushalt ist wohl in erster Linie eine Frage des politischen Willens. Darüber hinaus wäre es eine technische Frage, einen **Mechanismus zu entwickeln, mit dem ein ausgeglichener Haushalt in einem bestimmten Jahr garantiert wird**. Ein solcher Mechanismus müsste so konzipiert sein, dass er automatisch alle Verbindlichkeiten abdeckt. **Dass dies möglich ist, zeigen nicht nur die B&L-Transaktionen und die bestehenden Garantien, sondern auch die Art und Weise, wie die Rückzahlung der Darlehen und der Zinsen für die NGEU-Kreditaufnahme zur Finanzierung der Zuschüsse sichergestellt wurde, nämlich durch die Verpflichtung zur vollständigen Rückzahlung aus den Eigenmitteln der EU bis 2058.**

**Angesichts der Tatsache, dass Garantien und die B&L den EU-Haushalt einem Risiko aussetzen, spricht auch einiges dafür, dass das EP – wie die Legislative in so vielen anderen Ländern und Institutionen – die Befugnis erhält, eine Schuldenobergrenze festzulegen.** Im Rahmen der derzeitigen Vertragsbestimmungen ist dies möglicherweise nicht möglich.

In der Studie wird auch die Meinung vertreten, dass es **ein Unding sei, dass andere Einnahmen**, wie die EAR und zusätzliche Beiträge der Mitgliedstaaten, sowie die damit finanzierten Programme **außerhalb des normalen Haushaltsverfahrens bleiben**. Dies ist ein Verstoß gegen die Grundsätze der Transparenz und der Einheit des Haushalts. Es werden daher Vorschläge unterbreitet, um diese Einnahmen in das normale Haushaltsverfahren einzubeziehen.

## 1. INTRODUCTION

The last two decades have seen the emergence of “a ‘galaxy’ of funds and instruments surrounding the EU budget. This is the combined effect of multiple crises, low Multi-Annual Financial Framework (MFF) ceilings and the desire to extend the reach of the EU budget by diversifying the types of financial support, compounded by variable participation of Member States and a diverse range of decision-making and accountability procedures” (Crowe, 2017<sup>4</sup>).

Apart from the emergence of new instruments and funds around the Union budget, the support provided by the EU budget has become more complex. On the one hand, there has been a shift from the classic grant and subsidy schemes to an increased use of financial instruments and of the EU budget as a guarantee for borrowing and lending (B&L) operations. On the other, more EU programmes are now fully or partly financed by external assigned revenues (EAR). This includes the integration of the EU Innovation Fund (funded by revenues from the EU emissions trading system) into the EU budget, the creation of the Next Generation EU (NGEU) package of measures in response to the pandemic, and is expected to include UK contributions assigned to specific programmes<sup>5</sup>. The UK unassigned legacy commitments enter the budget as general revenue instead<sup>6</sup>. In addition, instruments such as the European Peace Facility are being developed and financed off-budget, due to legal restrictions or prohibitions.

To a certain extent, the use of earmarked revenues (such as EARs) and off-budget activities is not a specificity of the EU level but a general feature of modern public financing in developed countries. The increasing resort to loan guarantees also reveals a transformation in the way governments intervene in the economy, with more emphasis placed on influencing private behaviour and leveraging private investment, instead of directly providing goods and services<sup>7</sup>. Placing elements outside the budget can also be justified by the need to allow for more flexible or rapid disbursement of funds when exceptional circumstances demand it.

At the EU level, however, there have been additional motivations to expand the use of off-budget or hybrid instruments, such as the political difficulty of expanding the EU budget, the need to overcome some legal hurdles or the desire to coordinate EU expenditure with contributions from third countries or voluntary contributions from some Member States. While there can be good reasons for these financing innovations, their use challenges the fundamental principle of parliamentary oversight of public finances, common to all democracies. It is therefore fair to look for solutions that preserve the EU budget principles and the right of parliamentary oversight also in these new budgetary areas.

### 1.1. Impact of the galaxy on the EU budgetary principles

The EU budget accounting framework closely follows International Public Accounting Standards (Nuñez Ferrer and Musmeci, 2019<sup>8</sup>) but the creation of extra-budgetary expenditures and special

---

<sup>4</sup> Crowe, Richard (2017), “The European Budgetary Galaxy”, *European Constitutional Law Review*, 13: 428–452, 2017

<sup>5</sup> The UK has reached an agreement in principle to participate in the Horizon Europe, Copernicus and the Euratom Research and Training programmes. Participation still needs to be formalised though.

<sup>6</sup> See chapter 3.2.4

<sup>7</sup> See A. Schick (2007), ‘Off-Budget Expenditure: An Economic and Political Framework’, *OECD Journal of Budgeting*, Volume 7 – No 3.

<sup>8</sup> Núñez Ferrer J. and R. Musmeci (2019), ‘Beyond Public Debt and Deficits – The Hidden Rapid Erosion of Government Balance Sheets is a Financial Threat to Society’, CEPS research report, No 2019/10, March 2019.



revenues creates some tensions with certain EU budgetary principles enshrined in the TFEU<sup>9</sup> and in the Financial Regulation<sup>10</sup>.

- The increasing use of off-budget instruments **undermines the principle of the unity of the budget** (art. 310.1 TFEU, art. 7.1 FR) which provides that all revenue and expenditure of the Union shall be shown in the budget. This has practical implications for the European Parliament, which lacks full democratic control over the use of many of these off-budget instruments, undermining its role in the scrutiny of EU public finances.
- The extensive use of external assigned revenues is at odds with the **principle of universality** (art. 20 FR), which states that '**total revenue shall cover total payment appropriations**'. A corollary of this principle is that the use of assigned revenues (that is, revenues assigned to specific expenditure items) shall be exceptional and limited.
- The issuance of EU debt to finance non-repayable forms of expenditure (notably through NGEU) and the use of this funding in the form of external assigned revenue has been seen by some experts as a questionable way to **circumvent the principle of budgetary balance**, which requires that "the revenue and expenditure shown in the budget be in balance." (art. 310 TFEU, art. 17 FR)<sup>11</sup>.
- Given that the agreement on NGEU was not accompanied by a firm or binding agreement on new EU revenue sources, NGEU also creates tensions with the **principle of budgetary discipline** (art. 310.4 TFEU).

## 1.2. Issues related to the use of external assigned revenues

Assigned revenues are one type of 'other revenues'<sup>12</sup> financing the EU budget. Unlike Own Resources, they are assigned to specific items of expenditure and thus constitute an exception to the budgetary principle of universality. Art. 21 of the FR distinguishes between two types of assigned revenues i) external assigned revenue (EAR), which consist of specific additional financial contributions from external sources to specific EU programmes and ii) internal assigned revenue, which consist predominantly of diverse recoveries.

Contrary to the expectation that assigned revenue should, by its nature, be exceptional and marginal in volume, over recent years there has been an expansion in its use. In 2014 and 2015, assigned revenues (aggregating internal and external) accounted for about 5 % of the annual EU budget adopted, but in 2017 their share had more than doubled to 11.5% and it remained at 10.5 % in the years 2018 and 2019<sup>13</sup>. This increase is largely explained by the creation of the Facility for Refugees in Turkey (FRT) in 2016. The volume of external assigned revenues will become far higher as a result of NGEU, as explained in chapters 3 and 4, below.

<sup>9</sup> OJ C326, 26.12.2012, p. 47-319

<sup>10</sup> OJ L 193, 30.7.2018, p. 1-222

<sup>11</sup> Nettesheim, Martin: Legally Feasible, Constitutionally Dubious: Establishing 'Next Generation Europe' on the Basis of EU Secondary Legislation, *VerfBlog*, 2020/12/04, <https://verfassungsblog.de/legally-feasible-constitutionally-dubious/>, DOI: 10.17176/20201204-175711-0; Leino-Sandberg, Päivi: *Who is ultra vires now?: The EU's legal U-turn in interpreting Article 310 TFEU*, *VerfBlog*, 2020/6/18, <https://verfassungsblog.de/who-is-ultra-vires-now-the-eus-legal-u-turn-in-interpreting-article-310-tfeu/>, DOI: 10.17176/20200618-124211-0.

<sup>12</sup> The term other revenues is used in many official documents to cover revenues that are not part of the main own resources categories, namely the Traditional Own Resources, as well as the VAT and the GNI contributions to the EU budget by Member States.

<sup>13</sup> Mathis, Alexandre, "Assigned revenue in the Recovery Plan: The frog that wishes to be as big as the ox?" Briefing requested by the BUDG committee, European Parliament think tank, 16 June 2020 ([https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_BRI%282020%29654526](https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_BRI%282020%29654526))

It is conceivable that new hybrid instruments similar to the FRT, that is, instruments combining EU funding with Member States' contributions provided outside the budgetary procedure (in the form of external assigned revenues) will be more routinely preferred. The problem here is that contributions to Trust Funds are not recorded in the budget.

The over-arching concern about more extensive use of external assigned revenues is that it weakens the role of the Parliament as a budgetary authority. Due to their legal status, EARs are not voted by the EU budgetary authority under the annual budgetary procedure. For a number of EARs, the argument that they should be considered exceptional in nature and unpredictable is questionable. Even for NGEU, the set-up of the resources has taken a considerable time, the amounts to be raised have been determined and the instruments used are not obviously less predictable than other resources.

The Commission uses EARs immediately as expenditure for the assigned programme (art. 22.1 Financial Regulation), and the use of these revenues comes under the Parliament's scrutiny only at the discharge stage, when the accounts are closed (i.e. with a lag of two years). Such a lack of parliamentary involvement could be considered tolerable while the aggregate level of EAR was marginal, but becomes problematic now that they represent a large, and potentially growing, percentage of EU-level expenditure.

As part of the recent MFF/NGEU agreement, the European Parliament secured some rights to oversee the use of EARs to fund NGEU, set out in the Inter-Institutional Agreement (IIA) <sup>14</sup> agreed at the end of 2020. In particular, the Commission will provide detailed **estimates of commitment and payment appropriations for NGEU** and will attach them as an annex to the draft annual budget. It will regularly update this information over the year and will organise dedicated inter-institutional meetings at least three times per year with a view to assessing the state of play and outlook for external assigned revenues under the European Union Recovery Instrument. More importantly, the IIA includes the obligation for the Commission, in exercising its responsibility for implementing these assigned revenues, to "take due account of" the remarks made by the Parliament and the Council as regards the use of external assigned revenues. However, it is unclear whether these provisions are sufficient to secure democratic oversight. Besides, they are only valid for the NGEU and do not apply to the other forms of EAR.

### 1.3. Issues related to the use of EU borrowing instruments

Under the principle of budgetary equilibrium (art. 310.1 TFEU), "revenue and expenditure shown in the budget shall be in balance". As clarified by the Commission in 2015 in replies to parliamentary questions: "(...) the consistent interpretation over time of [art. 310 TFEU] is that the EU budget cannot be balanced by issuing public debt"<sup>15</sup>. However, the Treaty does not prohibit issuing EU debt.

This has allowed the Union to have recourse to loans insofar as they constitute off-budget operations – and thus do not alter the annual budget balance – and provided sufficient guarantees are allotted to cover the liabilities incurred. The classic form of EU borrowing has been the use of 'back-to-back lending' where a basic act authorises the Commission to contract loans on behalf of the Union with a view to on-lending to Member States or third countries on the same terms.

<sup>14</sup> Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources, OJ L 433I, 22.12.2020 Annex I of the IIA, part H, points 41-46.

<sup>15</sup> See Questions E-001662/2015 and E-005201/2015 inquiring about the possibility for the Union to issue public debt to finance the Investment Plan.

The use of back-to-back loans (for financial assistance under art. 220 FR) significantly expanded in response to the global financial crisis and the Eurozone debt crisis. This, together with a more extensive use of EU budgetary guarantees and financial instruments, convinced the EU legislature of the need to set-up a common framework to ensure the homogeneity of the principles applicable to that set of instruments. The 2018 reform of the Financial Regulation introduced a new title (title X) dedicated to budgetary guarantees, financial instruments and financial assistance. It also optimised the management of provisions to cover contingent liabilities arising from these operations, through the creation of the common provisioning fund.

However, the creation of new EU borrowing instruments in response to the Covid-19 pandemic – Support to mitigate Unemployment Risks in an Emergency (SURE) and NGEU – as well as the novel nature of such instruments poses new challenges as regards the role of the European Parliament, both as legislator and as budgetary authority. They entail in the case of NGEU the use, for the first time, of EU borrowing guaranteed by the EU budget to finance grants.

Both SURE and NGEU – as well as most existing EU borrowing and lending instruments – are set up with a legal basis that **excludes the Parliament from the legislative decision-making procedure** (art. 122 TFEU). As part of the recent MFF agreement and against the background of NGEU, the European Parliament has obtained the right to scrutinise any future setting-up of crisis mechanisms based on art. 122 TFEU<sup>16</sup>. A specific procedure for this purpose is detailed in a joint declaration of 16 December 2020 (OJ C 444, 22.12.2020, p. 5) and the 2020 IIA makes clear that this procedure shall be used any time the Commission submits a proposal for an act of the Council under art. 122 TFEU with potential appreciable budgetary implications (IIA, Annex I, part H, footnote 4).

Concerning the role of the Parliament as budgetary authority, the Financial Regulation has strengthened the Commission's reporting obligations in relation to EU borrowing and lending operations. However, **with the establishment of NGEU, the Commission's debt management strategy has become more complex and diversified**. Issues such as the debt maturity or the schedule of debt repayments become highly relevant. Moreover, the fact of using EU debt to finance non-repayable forms of support could increase the risks for the EU budget and the need to manage and assess these risks properly. Against this backdrop, it seems pertinent to discuss whether the current reporting obligations under the Financial Regulation are sufficient, whether the Parliament should also have the right to oversee the debt management strategy and whether the existing EU risk management provisions are appropriate to address potential risks to the EU budget.

#### 1.4. Objectives of the study

This study provides an updated overview of the EU budgetary galaxy, with a particular focus on the various degrees of parliamentary involvement in the governance of the different instruments and funds fully or partially placed outside the 'core' EU budget. It then focuses on two issues that pose particular challenges for the Parliament as a budgetary authority, especially in response to the Covid-19 crisis: the significant expansion of EU borrowing instruments and the much more extensive volume of External Assigned Revenues.

The study examines the governance of these two types of instruments. On the basis of this analysis and in the light of insights from other jurisdictions, it puts forward proposals for reform, especially of the Financial Regulation, aimed at reinforcing the Parliament's powers to decide and oversee the use of EU borrowing instruments and external assigned revenues.

---

<sup>16</sup> Recently activated for the HERA (Health Emergency preparedness and Response Authority) proposal COM(2021)577.

More specifically, it examines the following questions:

- To what extent does the extensive use of external assigned revenues undermine the right of the European Parliament to exert effective budgetary oversight? How do these rules compare with national rules and practices regarding the treatment of non-tax revenues and external financial support?
- Do existing EU rules and practices on EU borrowing operations undermine the right of the European Parliament to exert budgetary oversight? How do these rules compare with national rules and practices? What should be the role of the European Parliament in the oversight of EU public debt and debt management?
- Are the EU legal provisions in place adequate to address the risks to the EU budget related to the borrowing and lending operations of the Union? How do they compare with national practices?

The next chapter documents the budget galaxy and is followed by examinations of EAR (chapter 3), B&L (chapter 4) and Trust Funds (chapter 5). Chapter 6 explores insights from how other jurisdictions deal with the challenges of non-standard budgeting, then chapter 7 concludes and puts forward recommendations.

## 2. UPDATING THE EU BUDGET “GALAXY”

This chapter provides an overview of the EU budget galaxy today. The most well-known visual representation of this galaxy is a chart prepared by the European Parliament’s committee on budgets secretariat in 2016, included as Annex IV in the 2017 Monti Report<sup>17</sup>. Since then, there have been many changes to the galaxy.

### 2.1. From 2017 to 2021: Main changes in the EU budgetary galaxy

Figure 4 in Annex I presents a visual representation of the EU budgetary galaxy as of 2021. The chart uses colours to distinguish between nine different types of elements<sup>18</sup>:

- **EU budgetary guarantees** are legal commitments of the Union to support a programme of actions by taking on the budget a financial obligation that can be called upon should a specified event materialise during the implementation of the programme (art. 2.9 FR).
- **EU budgetary guarantee instruments** are specific instruments underpinned by an EU budgetary guarantee. They typically consist of instruments through which the Commission offers a EU budgetary guarantee to the EIB group or to another eligible investment partner (national or international public investment institutions) to lower the risks from some of their investment operations.
- **The Common Provisioning Fund** consists of a combination (through a specific provision on Commission autonomous transfers – art. 30.1.1.g FR) of the safety buffers (‘provisions’) to cover the contingent liabilities arising from EU budgetary guarantees and financial assistance to third countries (art. 212 FR).
- **Blending operations** arise when financial instruments and budgetary guarantees are implemented within a blending facility or platform (art. 159 FR). In those operations EU budget resources (in the form of grants, financial instruments and/or budgetary guarantees) are combined with repayable forms of support from other public finance institutions, as well as from private sector financial institutions and private sector investors.

<sup>17</sup> Monti, Mario et. al. (2016) Future financing of the European Union: Final report and recommendations of the High Level Group on Own Resources December 2016

<sup>18</sup> Financial instruments are not included, as this is a term that covers all debt and equity operations supported by the EU budget through grants, loans and guarantees which are part of the elements listed.

- **Financial assistance** refers to instruments through which the Commission is empowered to borrow from the financial markets on behalf of the EU and then use the borrowing to lend to Member States or third countries. The EU budget guarantee can be provisioned or not, and can be supported by additional national guarantees (e.g. SURE).
- **NGEU** is a new, but temporary, instrument through which the Commission is empowered to borrow from the markets on the basis of a non-provisioned EU budget guarantee. The proceeds from this borrowing are used to support Member States' recovery plans in the form of grants and loans and to reinforce some EU budget programmes. When the proceeds are used in the form of loans, the NGEU can be classified as a financial assistance instrument.
- **Hybrid instruments** is a term used in this study and in figure 4 to refer to any instrument combining EU budget funds with contributions from Member States on the basis of "ad hoc" executive decisions. This covers the EU Trust Funds for external action (art. 234 FR) and the Facility for Refugees in Turkey created in 2015. Hybrid instruments can involve all Member States (as in the case of the FRT) or only some of them, and can also include contributions from third countries or third parties.
- **EU instruments fully or partially financed by external assigned revenues** include programmes receiving contributions from third countries (i.e. EFTA countries, future UK contributions to EU programmes, candidate country contributions to the EU Neighbourhood policy, etc.), voluntary Member States contributions to specific actions (e.g. the FRT or contributions from EU-level sources other than Own Resources (notably ETS revenues in the case of the Innovation Fund, NGEU funds for various EU programmes).
- **Off-budget instruments** are instruments fully financed by Member States' contributions or other sources, having no link with the EU budget, but financing EU policies or actions.

The main changes with respect to the 2016 "budget galaxy" chart are as follows:

### 2.1.1. EU budgetary guarantee instruments

There are currently two EU budgetary guarantee instruments, one aimed at mobilising investment in third countries (the EFSD+) and the other one supporting investments within the Union (InvestEU).

The **European Fund for Sustainable Development Plus - EFSD+** is part of the new Neighbourhood, Development and International Cooperation-Global Europe Instrument (NDICI)<sup>19</sup>. It is managed by the Commission and implemented through cooperation agreements with the EIB and other international and national public financial institutions. Through these agreements, the Commission allows these implementing partners to benefit from an EU budgetary guarantee (the "**External Action Guarantee**") to de-risk some of their investment operations in third countries. The EFSD+ is structured in different **regional investment platforms**. These are established on the basis of the working methods, procedures and structures of the existing **external blending facilities** of the Union (Neighbourhood Investment Platform, Africa Investment Platform, Western Balkans Investment Framework etc.). Through these investment platforms, the eligible investment partners can also apply for an **EU budget grant contribution** to support their loans or equity operations, thus establishing a '**blending**' operation.

The **InvestEU Fund** (InvestEU Regulation<sup>20</sup>, Chapter 2) is part of the **InvestEU Programme**, an integrated financial package aimed at boosting public and private investment in the Union in line with some of the EU's strategic priorities. It comprises an instrument through which the Commission provides an EU budget guarantee (the "**InvestEU guarantee**") to the EIB and other international and

<sup>19</sup> The EFSD+ replaces the EFSD, which was created in 2017.

<sup>20</sup> Regulation (EU) 2021/523 of the European Parliament and of the Council



national public financial Institutions to de-risk some investment operations in the Union. The InvestEU Fund replaces the former European Fund for Strategic Investment (EFSI) – operational between 2015 and 2020 - and 13 centrally-managed EU financial instruments operational between 2014 and 2020, previously supported by different EU budget programmes (such as InnovFin or COSME).

As noted above, whereas the InvestEU Programme is supported by its own budgetary guarantee (the InvestEU guarantee), the EFSD+ does not have its own guarantee, as (since 2021 under the new MFF) this has been transferred to the **External Action Guarantee** (EAG). This is a new EU guarantee established by the NDICI Regulation. The EAG covers all financial liabilities stemming from the EFSD+ operations as well as from loans to third countries (Macro-Economic Financial Assistance (MFA) loans, Euratom loans to third countries). The provisioning of the EAG in the Common Provisioning Fund (see 2.1.2.) replaces the EFSD guarantee fund (which covered the EFSD investment operations between 2017 and 2020) and the Guarantee Fund for External Actions (which covered the contingent liabilities stemming from the EIB External lending Mandate, Euratom loans to third countries and MFA loans). Finally, it should be noted that the EIB no longer benefits from a dedicated EU guarantee to cover operations in third countries (the EIB External Lending Mandate). Instead, EIB lending operations in third countries are now covered by the EFSD+, which has three EIB-dedicated windows worth EUR 26.7bn in total.

### 2.1.2. Common Provisioning Fund

One of the novelties introduced by the 2018 Financial Regulation is the creation of a **Common Provisioning Fund (CPF)** holding all the safety buffers ('provisions') made to cover the contingent liabilities arising from guarantee instruments and financial assistance to third countries. The CPF is managed by the Commission<sup>21</sup>. It is structured in different compartments corresponding to the different instruments and guarantees covered by the CPF. At present, the CPF includes 3 compartments holding the provisions for 'legacy' instruments (the EFSI Guarantee Fund, the EFSD Guarantee Fund and the Guarantee Fund for external actions – GFEA) and four compartments corresponding to new instruments under the 2021-2027 MFF (InvestEU, EFSD+, the post-2020 MFA loans and the post-2020 Euratom loans). In addition to these compartments, an additional omnibus compartment is foreseen to provision the InvestEU's Member State compartments (see above) with contributions from national cohesion policy envelopes.

The resources to provision each budgetary guarantee or financial assistance instrument are booked separately within the CPF. Liabilities incurred by the underlying contributing instruments are met by drawing on the resources of the respective compartment. If these are exhausted, the Commission shall request from the budgetary authority the necessary appropriations to meet the commitments entered. However, in the exceptional case that the provisioned resources in the relevant compartment are insufficient to meet a call on the guarantee, the Commission can autonomously transfer appropriations from one compartment to another, subject to the subsequent restoring of the amount transferred (art. 30.1.g FR). The ability to do so strengthens the EU guarantee.

The Commission is also entrusted with investing the CPF resources by following a single investment strategy. Global profits or losses from the investment are allocated proportionately among the respective compartments (art. 212.2 FR). In order to maintain the value of the portfolio over time, the Commission shall respect a global "effective provisioning rate". This is defined as a rate of provision affording a level of protection equivalent to the level that would be achieved by the provisioning rates

<sup>21</sup> Communication on identity of the asset manager for the common provisioning fund in accordance with Article 212 of Financial Regulation 2018/1046, COM(2020) 130 final, 25.3.2020

established in the basic acts of the respective instruments if the resources were held and managed separately. The Commission is required to calculate this 'effective provisioning rate' which shall serve as basis for the definition of the guidelines applicable to the management of the resources in the common provisioning fund (art. 213.5 FR).

### 2.1.3. Financial assistance and other debt-based instruments

Two new EU financial mechanisms were created in 2020 in response to the Covid-19 crisis. **SURE** is a new temporary financial assistance instrument which provides emergency support to Member States to mitigate unemployment risks linked to the Covid pandemic. The **EU Recovery Instrument (EURI)**, also known as **Next Generation EU**, is a EUR 806bn (in 2020 prices) temporary EU-debt based instrument that aims to provide support to the recovery in the aftermath of the Covid-19 pandemic. Both are explained in detail in chapter 3 of this report.

### 2.1.4. Hybrid instruments

There have not been any major changes as regards the use of EU Trust Funds during the last years. The four **EU Trust Funds**<sup>22</sup> created in the 2014-2020 period are still in place and no other EUTF has been created. The budget for the **Facility for Refugees in Turkey** (EUR 6bn) has been fully committed and contracted, with more than EUR 4 billion already disbursed.<sup>23</sup> There have been suggestions for a similar type of EU mechanism to provide financial support for Afghanistan's neighbours to manage the refugee crisis at their borders<sup>24</sup>.

The model of coordinating EU funding with additional national contributions in the form of EAR has been replicated on an 'ad hoc', temporary basis for the contracting of Advance Purchase Agreements on Covid-19 vaccines<sup>25</sup>. Similar initiatives could be created: for instance, a 2021 Communication on EU humanitarian aid mentions, among other things, the possibility of "offering more systematically the option of implementing part of Member States funding in specific crises through direct contribution to EU budget instruments as external assigned revenue"<sup>26</sup>. Similarly, the recent Commission proposal for a European Health Emergency preparedness and Response Authority (HERA) foresees "that contributions could also be made by Member States (and by other public or private donors as external assigned revenue) in accordance with the Financial Regulation".<sup>27</sup>

### 2.1.5. Off-budget instruments

The **European Development Fund (EDF)** has been integrated into the EU budget. Another off-budget instrument created in 2010, the **NER300 programme**, has been included in the EU budget under the name of "EU Innovation Fund". Like the former NER300, the EU Innovation Fund is fully financed by revenues from the EU Emission Trading System (ETS). These are entered in the EU budget in the form of external assigned revenues.

<sup>22</sup> Békou Trust Fund, Madad Fund, Emergency Trust Fund for Africa, EUTF for Colombia

<sup>23</sup> The governance and accountability issues of these funds have been highlighted in study by Carrera S., den Hertog L. Núñez Ferrer J., Musmeci R. Vosyliute, L., Pilati M. (2018), 'Oversight and Management of EU Trust Funds – Democratic Accountability Challenges and Promising Practices', study for the European Parliament Budgetary Control Committee.

<sup>24</sup> "EU plans EUR 600m package for Afghanistan's neighbours to avert refugee crisis", Financial Times, august 31, 2021 ([EU plans EUR 600m package for Afghanistan's neighbours to avert refugee crisis | Financial Times \(ft.com\)](https://www.ft.com/content/1d1d1d1d-1d1d-1d1d-1d1d-1d1d1d1d1d1d))

<sup>25</sup> In particular, EUR 750m were provided by Member States to top-up the Emergency Support Instrument (ESI), activated to finance the vaccine contract

<sup>26</sup> Communication on the EU's humanitarian action: new challenges, same principles, COM(2021) 110 final, p.17-18.

<sup>27</sup> European Commission, "Introducing HERA, the European Health Emergency preparedness and Response Authority, the next step towards completing the European Health Union", COM(2021) 576 final, p.13

There is a new off-budget instrument (the **European Peace Facility**) to fund the common costs of Common Security and Defence Policy (CSDP) military operations and support military aspects of EU peace support operations. This Facility inherits the military expenditure previously financed through the EDF, which cannot be entered into the EU budget, as the Treaty forbids financing military expenditure by the EU budget.

The role of the **European Stability Mechanism (ESM)** has been expanded with the creation of a new ESM Pandemic Crisis Support credit line. From 2022 on, the ESM will also act as the common backstop for the **Single Resolution Fund (SRF)**.

## 2.2. The EU budgetary galaxy from a parliamentary perspective

The expansion of the EU budget galaxy in recent years has raised concerns about the European Parliament's capacity to decide and oversee the use of EU funds. **The last revision of the Financial Regulation in 2018 included some changes aimed at optimising the management of funds provisioned to cover contingent liabilities, streamlining the rules on financial instruments, budgetary guarantees and financial assistance and increasing the budgetary authority's control over the EU trust funds.** However, a look at the different funds and instruments shows that the type and degree of parliamentary involvement varies significantly. Figure 5 in Annex II describes these differences, distinguishing between:

- The Parliament's involvement in the adoption of the legal basis of the instrument/fund (legislative involvement)
- The Parliament's involvement in the adoption of budgetary authorisations
- The Parliament's capacity to scrutinise the use of the funds
- The Parliament's role as discharge authority (ex-post control after the implementation of the programme/fund/loan)

### 2.2.1. European Parliament's legislative involvement

As a rule, the legal bases for EU programmes are approved by the EP and the Council under the ordinary legislative procedure (OLP). This allows the EP to co-decide the priorities and eligibility conditions of the programme, as well as the procedures for implementation and monitoring.

Following this rule, **the Parliament co-decides the majority of EU programmes fully or partially financed by external assigned revenues**<sup>28</sup>. The two **EU budgetary guarantee instruments** (the EFSD+ and InvestEU) are established by co-decided regulations (OLP). However, there are differences in the degree of detail included in the regulations. InvestEU has its own regulation, which sets the maximum amount of the guarantee, the indicative allocations per policy window, and other detailed rules on governance and monitoring. By contrast, the EFSD+'s legal provisions are much shorter and are included in a broader regulation – the Neighbourhood, Development and International Cooperation Instrument Regulation – which covers all the EU's financial architecture for development cooperation. For instance, the NDICI regulation does not define EFSD+ policy windows. These can be established by the Commission at any time, upon notification to the Parliament and the Council according to art. 35.8 of the NDICI regulation<sup>29</sup>.

<sup>28</sup> An exception to this is the Facility for Refugees in Turkey, created by a Commission decision, and another is the EU Innovation Fund. The latter has its origin in arts. 10.2.a 10.2.b of the ETS directive but its detailed functioning is established by a Commission delegated regulation.

<sup>29</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (Text with EEA relevance)



In contrast, the majority of the EU **financial assistance instruments** are adopted by Council regulation, thus excluding the Parliament from shaping the instrument. An exception to this practice is the **Macro-Economic Financial Assistance** to third countries. There is no regulation setting common provisions for MFA loans. Each MFA programme is adopted by an ‘ad hoc’ legislative decision by the Parliament and the Council, based on art. 121.2 TFEU. Through this decision, the Parliament co-decides the maximum amount of the MFA loan, the conditions to fulfil and its duration.

The new **EU Recovery Instrument** is based on art. 122 TFEU and thus is adopted only by the Council. It is worth noting, however, that as part of the recent MFF agreement and against the background of NGEU, the European Parliament has obtained the right to scrutinise<sup>30</sup> any future setting-up of crisis mechanisms based on art. 122 TFEU through a specific procedure for this purpose, detailed in a joint declaration of 16 December 2020<sup>31, 32</sup>.

**Hybrid instruments** such as the Facility for Refugees in Turkey or the EU Trust Funds are adopted by ‘ad hoc’ executive decisions. The Parliament was excluded from shaping the FRT, which was regulated by a Commission decision on the basis of a Common Understanding between the Commission and the Member States. For EU Trust Funds, **the basic distinction is between thematic and emergency or post-emergency Funds**. Whereas the adoption of thematic TFs requires the approval of the Parliament and the Council, emergency or post-emergency TFs can be adopted by the Commission alone, upon consultation with the Parliament and the Council. In practice, all existing EUTFs to date have been emergency or post-emergency TFs.

## 2.2.2. The European Parliament’s involvement in budgetary authorisations

In its role as a budgetary authority, the European Parliament can adopt or reject annual commitments and payments to specific programmes or funds through the annual budgetary procedure. Financial assistance loans, however, are considered off-budget operations. Neither the amount of borrowed funds nor the annual disbursement of loans is entered into the annual EU budget. The EU annual budget only includes a budget line token entry *pro memoria* (p.m.) for each of the guaranteed loan programmes on the revenue side, to enable the Commission to record any charge having to be covered by definitive resources in case of a default by a recipient (art. 52.1.d.ii FR). This is accompanied by a document annexed to the annual budget indicating the corresponding risks of ongoing capital operations and debt management as well as the volume of capital operations and debt management in the given year (art. 52.1.d.iii FR), but this is just for information; **the Parliament cannot adopt or reject the volumes of capital borrowed or lent**.

In addition, **the European Parliament does not have any capacity to decide how to use the EU budget in case of default**. Following art. 14 of Council Regulation 609/2014<sup>33</sup>, the Commission has wide discretion to draw from available cash resources to honour the financial obligations arising from lending activities. If this is not sufficient, the Commission shall call on Member States to make available the relevant cash resources on a pro-rata basis (pro-rata to the estimated budget revenue of each Member State). Moreover, the Financial Regulation allows the Commission to apply different

<sup>30</sup> Recently activated for HERA.

<sup>31</sup> OJ C 444, 22.12.2020, p. 5

<sup>32</sup> It is interesting to note that Art. 121 and 122 TFEU are not among the texts selected to feature with the Financial Regulation in the synoptic booklet containing legal texts applicable to the EU Budget: <https://op.europa.eu/en/publication-detail/-/publication/25153ebc-2b06-11ec-bd8e-01aa75ed71a1>

<sup>33</sup> Council Regulation 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements

mechanisms for the recovery of debt, where necessary by offsetting amounts receivable and payments over time (arts. 101-105 FR)<sup>34</sup>.

The European Parliament nevertheless co-decides on the annual contributions to the **EU Common Provisioning Fund (CPF)**, which covers the financial liabilities arising from budgetary guarantee instruments (e.g. InvestEU and EFSI) and from financial assistance to third countries. Yet there are differences in the way these contributions are presented in the annual EU budget, which may ultimately affect the Parliament's capacity to assess the pertinence of the Commission's budgetary proposals. Whereas provisions for the **InvestEU guarantee** are in a separate budgetary line, those for the External Action guarantee under the NDICI instrument, covering **EFSD+ guaranteed operations, MFA and Euratom loans**, are pooled in one budgetary line. As a result, it is not possible for the European Parliament to have clear visibility of the annual EU amounts devoted to cover risks arising from EFSD+ guaranteed operations. The Commission also has the capacity to transfer resources from one compartment to another of the CPF when the provisioned resources are insufficient to meet a guarantee call, subject to the subsequent restoring of the amount transferred (art. 30.1.g FR).

As regards **hybrid instruments, for EU Trust Funds for External Action**, the Commission acts through the comitology 'examination procedure' to take decisions on funding contributions to the EUTFs (art. 234.2 FR – see Carrera et al., 2018). The Parliament has a right to scrutinise Commission decisions under the comitology rules but it is a very limited role as it can only examine the legality and conformity of the decision with the basic act<sup>35</sup>.

Finally, the European Parliament does not decide on the use of **external assigned revenues**. The EU annual budget includes lines in the statement of revenue to accommodate EAR, but these lines are token entries *pro memoria*. Estimated amounts are indicated in the budget remarks of each budget line on the expenditure side of the budget to which revenue is to be assigned. The appropriations corresponding to EAR are made available automatically when the revenue has been received, without any involvement of the budgetary authority (art. 22.2 FR).

### 2.2.3. EP's capacity to exert budgetary scrutiny

The Parliament has the right to oversee the use of EU funds or instruments financed by, or linked to, the EU budget, but the amount and quality of information received and the scrutiny procedures vary. Every year the Commission has to submit to the Parliament an **annual report on financial instruments, budgetary guarantees and financial assistance** (art. 250 FR), with aggregate data on these various funds and instruments' performance, as well as an **annual report on EU Trust Funds**<sup>36</sup> (art. 252 FR).

In addition, the Commission shall attach a **working document on budgetary guarantees and contingent liabilities** to the annual draft budget which shall include, inter alia, aggregate information on the performance of the guarantees, information on losses, returns and amounts recovered during

<sup>34</sup> It should be noted that the 2020 Own Resource Decision has further enhanced the Commission's powers to secure the servicing of the NGEU debt. Art 9 of the Decision allows the Commission to resort to active cash management or short-term capital financing if the appropriations in the budget are not sufficient to honour the financial obligations derived from the NGEU debt. If the Commission has to call on Member States to make available the relevant cash resources and one Member State fails to honour its part, the Commission is authorised on a provisional basis to make additional calls on other Member States to cover this loss.

<sup>35</sup> Art 11 of Regulation 182/2011 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

<sup>36</sup> In practice, Commission also reports to the European Parliament on a monthly basis on EUTFs and the FRT.

the preceding year and an assessment of the sustainability of the contingent liabilities arising from each of the guarantees. The draft budget shall also be accompanied by a working document with detailed information on implementation of on-going TFs (art. 41.6 FR).

Since 2018 the Commission attaches to the draft budget a working document<sup>37</sup> indicating for each budget line the assigned revenue, the estimated amount of such revenue to be received and the estimated amount carried over from preceding years (art. 41.8 FR). Nevertheless, the working document does not distinguish between the external and internal assigned revenues, nor does it explicitly state under which article of the financial regulation these revenues have been created, which would be an important piece of information. The information on external assigned revenues for the NGEU, set out in the IIA, stipulates an obligation to accompany the EU annual budget with an annex providing a full overview of all budget lines receiving amounts from this instrument<sup>38</sup>.

Apart from these reports and documents, some regulations confer reinforced powers on the Parliament to scrutinise the use of EU funds. Regarding **Invest EU**, for instance, the Parliament may request the **Chair of the InvestEU Steering Board** to report on the performance of the InvestEU Fund, including by **participating in a hearing before the EP**. The **Chair shall reply orally or in writing to questions** by the Parliament or the Council within five weeks of their receipt (art. 27 InvestEU Regulation). Twice a year, the Investment Committee shall submit to the EP and to the Council a list of all conclusions of the Investment Committee in the preceding six months (art. 24.5 *ibid.*) and commercially sensitive parts of the conclusions of the InvestEU Investment Committee can be forwarded by the Commission to the EP and to the Council upon request.

During the negotiation of the NGEU/MFF package, the Parliament succeeded in securing greater powers of scrutiny over the **EU Recovery Instrument**. Annex II of the Inter-institutional Agreement stipulates the holding of **dedicated inter-institutional meetings** at least 3 times per year and, when requested by the EP or the Council, provides for the EP (as it does for the Council) to assess the state of play and outlook for external assigned revenue under the EURI. The Commission shall take due account of any remarks and suggestions made by the EP and Council during these meetings, or at any time in the form of written observations. **In case of significant deviation** (that is, if the use of EURI expenditure deviates more than 10% from the forecast for a given financial year or programme), **the EP or Council can request a special meeting within 2 weeks** of receiving notification of the deviation. The Institutions will jointly assess the matter within three weeks of the request for a meeting. **The Commission cannot take any decision until the deliberations have been concluded or the three weeks period has expired**. In the latter case, the Commission shall duly justify its decision.

#### 2.2.4. European Parliament's role as discharge authority

The discharge procedure constitutes an EP exclusive prerogative, through which the Parliament exercises ex-post budgetary control. The amount and quality of the information received, however, determines the extent to which the EP can make detailed and pertinent observations on the functioning of EU funds and instruments. Apart from the European Court of Auditors' statement of assurance and special reports, the EP relies on annual reports and ex-post evaluations. In this respect, **a distinction can be made between EU procedures and instruments which will be subjected to an independent interim or final evaluation** (i.e. InvestEU Fund, the External Action Guarantee, the management of the Common Provisioning Fund, and the Recovery and Resilience Facility), **those for which the possibility of an independent evaluation is foreseen but not compulsory** (i.e. EFSD+),

<sup>37</sup> See Working Document Part V on "Budget implementation and assigned revenue".

<sup>38</sup> See point 41 of the 2020 Inter-Institutional Agreement of 14 December 2020

**and those for which the evaluation has to be undertaken by the Commission** ( i.e. the BoP facility, Euratom loans, MFA loans, EFSM, SURE, EURI, EU Trust Funds).

Apart from the formal discharge procedure, in some cases the EP can rely on other means of exercising ex-post democratic accountability. Thus, for EU Trust Funds for example, art. 234.5 FR enables the EP and the Council to ask the Commission to discontinue appropriations for a EUTF or revise its constitutive agreement with a view to liquidation.

### 3. EXTERNAL ASSIGNED REVENUES

The Financial Regulation allows in specific cases for the use of external assigned revenues, as well as the assignment of certain internal revenues. Art. 21 FR lists the cases in which revenues can be assigned, thereby exonerating specific revenues from the universality principle of the EU budget. EARs have been used to top-up EU programmes requiring funding which cannot be covered by the EU budget under its principles or ceilings, thus giving the budget an important flexibility to operate effectively.

Since they are external to the EU budget, assigned revenues operate partly outside the budgetary scrutiny of the European Parliament which does not have a say on their use. According to art. 22.2 of the Financial Regulation, “the appropriations corresponding to assigned revenue shall be made available automatically, both as commitment appropriations and as payment appropriations, when the revenue has been received by the Union institution”. Thus, when the Commission receives the revenue, it unilaterally decides how to allocate it for the programme assigned.

Although the level of external assigned revenues has been increasing over the years<sup>39</sup>, it remained overall relatively small<sup>40</sup>. A significant change, however, occurred in 2021. The unprecedented size, structure and distinctive governance of NGEU invite reflection on the role of the EU budget and its governance. In particular, the EARs used to fund it are not part of the ordinary annual budgetary procedure, raising questions of democratic scrutiny and accountability. The necessity for flexibility during exceptional circumstances is not in doubt, but the suitability of present rules embodied in the 2018 Financial Regulation needs to be reviewed in order to preserve the coherence and legitimacy of the budgetary governance structure. This chapter offers a general overview of EARs and focuses on those that raise concerns in terms of the capacity of the European Parliament to perform its duties as the budgetary authority<sup>41</sup>.

#### 3.1. Legal and accounting framework

The accounting practices of external assigned revenue are stated in art. 22 FR. The amounts received and disbursed have to be recorded in the accounts of the EU budget and be made automatically available at the moment the funding is received, although some procedural divergences are included in the article. A budget line to receive the EAR has to be created on the revenue side. On the

<sup>39</sup> Substantial changes occurred in 2016/2017 and 2019/2020 for the following reasons: a) 2016/2017: an increase of EUR 313m arose from contributions by third countries to Union Research programmes, EUR 190m in contributions by Member States and their public agencies to external aid programmes and a EUR 300m EDF contribution to the EFSF; b) 2019/2020: the increase stems from the start of the Innovation Fund (EUR 1.33 billion).

<sup>40</sup> External assigned revenues amounted to EUR 874 million in 2009 and progressively increased until 2019 when they reached EUR 2.206 billion.

<sup>41</sup> Internal assigned revenue (IAR), listed in art. 21.3 FR, will not be addressed. These revenues mainly consist of recoveries of irregular payments made under different programmes. They are also allocated automatically, following art. 22.2 FR, but this is not contentious in the case of IAR as the amounts do not result from political decisions and naturally come back to the respective programmes. Besides, the majority of IARs stem from the implementation of policies created under the ordinary legislative procedure and thus developed and approved by the European Parliament.

expenditure side, there should be remarks showing which budget lines may receive the appropriations corresponding to the assigned revenue. The size and timing of revenues may not be known with precision in advance, and this requires the creation of *pro memoria* entries on the revenue side, and an indication of the estimated revenue shown for information in the remarks on the expenditure side.

The different kinds of EARs are listed in art. 21.1 FR. A look at this list reveals that they originate from a variety of sources for a considerable number of possible functions. Some are less relevant in terms of size. They also raise fewer concerns in terms of Parliament's involvement, either because the revenue is generated by a programme and therefore naturally comes back to the given programme (art. 21.2.b or art. 21.2.g) or because they originate from interests on deposits or fines originating from the excessive deficit procedure which are redistributed to the Member States (art. 21.2c and art. 21.2d) <sup>42</sup>.

Conceptually, five main kinds of EARs can be identified:

- I. Contributions by third countries to participate in specific policies of the European Union.
- II. Member States' contributions to hybrid instruments (financed by EU funding and national funding)
- III. Revenues from EU external sources such as the ETS or borrowing from the financial markets assigned to finance specific EU policies through the EU budget
- IV. Payments from Member States called as guarantees to cover defaults in the reimbursement of borrowing and lending operations.
- V. Other EARs which have been created to assist the proper functioning of the EU budget when exceptional revenues, which are not part of the own resources, emerge from budgetary operations, or even donations, require to be assigned to specific headings. The size of those is quite limited.

Of the above-listed EARs, the ones of particular interest for this study are I, II, III and IV.

### 3.2. Contributions by third countries to EU programmes

Figure 1 shows the total amount between 2014 and 2019 of these contributions received from 18 non-EU countries and covering close to 30 programmes summed together in the ECA review. The rapid rise in contributions to Horizon2020 is attributable to Switzerland's increased participation with a substantial budget which reached EUR 569 million in 2019.

As a 2021 ECA report<sup>43</sup> indicates, detailed information on the contributions of non-EU Member States is not provided by the European Commission in the regular budget reports for many items. For this reason, the transparency of these EARs is limited, a finding that poses some challenges for the appropriate scrutiny by the European Parliament. Nevertheless, these funds do finance the general budget and programmes approved, and are scrutinised by the EP. The information provided by the ECA concludes with the year 2019 and detailed subdivision of such revenues is difficult to get. Some information for 2020 has been added in the subsections below.

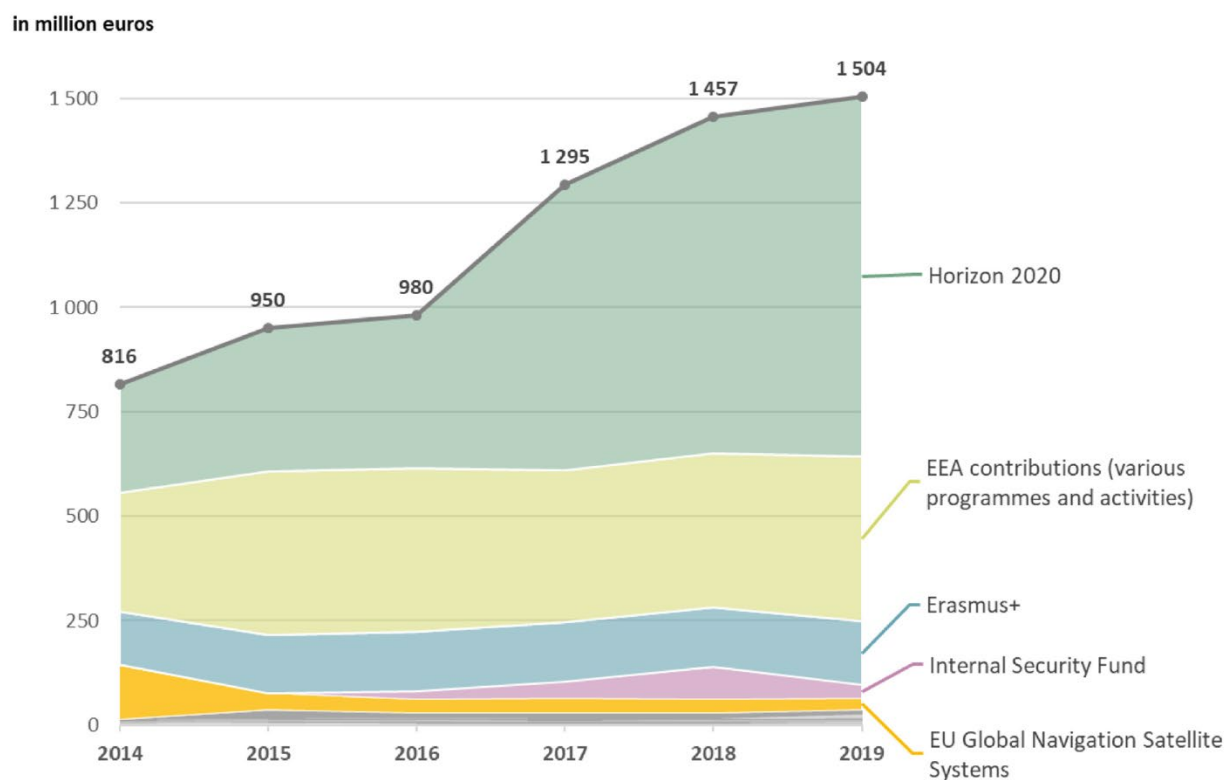
The ECA report breaks down the contributions to the Budget from 2014 to 2019 by country of origin. The relative size of the contributions by country and policy is shown graphically in Annex III. Annex IV presents the results in a Table, although the smaller contributions of candidate countries and

<sup>42</sup> Internal assigned revenue (IAR), listed in art. 21.3 FR, will not be addressed. These revenues mainly consist of recoveries of irregular payments made under different programmes. They are also allocated automatically, following art. 22.2 FR, but this is not contentious in the case of IAR as the amounts do not result from political decisions and naturally come back to the respective programmes. Besides, the majority of IAR stem from the implementation of policies created under the ordinary legislative procedure and thus developed and approved by the European Parliament.

<sup>43</sup> European Court of Auditors (2021), 'Financial Contributions from non-EU countries to the EU and Member States'

neighbourhood policy countries have been clustered into single groups, EFTA countries are presented individually.

**Figure 1. Total contributions to the EU budget from non-member countries, 2014-2019**



Source: ECA (2021), 'Financial contributions from non-EU countries to the EU and Member States', ECA Review No3, p. 13

### 3.2.1. Contributions by EFTA

Some EARs are longstanding and well integrated into the EU budget, notably those from the three EEA EFTA members (Iceland, Liechtenstein and Norway). They do not all contribute to the same programmes, as Table 1 (using information published by the EFTA secretariat) shows.

In aggregate terms, these three EEA members contribute to approximately 200 budget lines involving all headings of the MFF. The largest amount is for participating in Research and Development programmes, and they also contribute to the costs of operating the agencies which exist for the smooth operation of the single market in which they participate fully. For the 2014-2020 period, the financial envelope amounted to an average of EUR 400 million a year. The modalities for the contributions are to be found in Article 82 of the EEA Agreement<sup>44</sup>.

These three EEA countries also contribute directly to MFF programmes in poorer Member States through extra EEA Grants which, over that period, amounted to around another EUR 400 million on average, but those are not recorded in the budget and are not EARs, as those are directly managed by the EFTA countries (Switzerland also contributes in a distinctive way) in cooperation with the Commission.

<sup>44</sup> Agreement on the European Economic Area (OJ No L 1, 3.1.1994, p.3)



**Table 1. EFTA budgetary contributions to EU programmes 2014-2020 (EUR)**

<b>Programme 2014-2020</b>	<b>EEA EFTA commitments in Euro</b>	<b>EEA EFTA Participation</b>
<b>Horizon 2020</b>	1 886 409 000	Iceland, Norway
<b>Erasmus+</b>	430 318 385	Iceland, Liechtenstein, Norway
<b>Implementation and exploitation of European satellite navigation systems (EGNOS and Galileo)</b>	173 265 000	Norway
<b>Copernicus</b>	108 846 826	Iceland, Norway
<b>Creative Europe</b>	38 216 735	Iceland, Norway
<b>Connecting Europe Facility (ICT)</b>	23 074 600	Iceland, Norway
<b>Employment and Social Innovation</b>	16 578 328	Iceland, Norway
<b>Union Civil Protection Mechanism</b>	13 515 410	Iceland, Norway
<b>Health for Growth</b>	11 636 871	Iceland, Norway
<b>European Statistical Programme (ESP)</b>	8 816 380	Iceland, Liechtenstein, Norway
<b>Consumer Programme</b>	4 873 593	Iceland, Norway
<b>Interoperability solutions for public administrations, businesses and citizens (ISA<sup>2</sup>)</b>	3 213 927	Iceland, Norway
<b>COSME</b>	2 595 824	Iceland
<b>Rights Equality and Citizenship</b>	559 131	Iceland, Liechtenstein
<b>European Solidarity Corps</b>	443 934	Iceland

Source: EFTA - <https://www.efta.int/eea/eu-programmes>

The details on the way the contributions are calculated can be found in the above-mentioned dedicated ECA review report. The final contributions are based on actual costs and the budget is amended in the year n+2 once the figures are firmly established. The contributions include support for EU administrative costs (see Annex IV).

### 3.2.2. Switzerland

Switzerland also contributes to the EU budget, but because it never became part of the EEA, unlike the other members of EFTA, the agreements with the EU are all bilateral. These comprise 20 core agreements complemented by around 100 more<sup>45</sup>. Switzerland's contributions increased in recent years, reaching EUR 569m in 2019, mainly to the Horizon 2020 programme as mentioned in section 3.2. Switzerland was only partly associated to Horizon between 2014 and 2016.

Most contributions are calculated on proportionality formulae linked to Swiss GDP, as described in paragraph 32 of the ECA review report<sup>46</sup>. The four last items in Table 2 are specific agreed contributions.

<sup>45</sup> European Commission (DG TRADE), Countries and regions: Switzerland.

<sup>46</sup> European Court of Auditors (ibid.)

**Table 2. Switzerland's contributions to EU programmes 2019**

Programme/activity	Contribution in EUR million
Horizon 2020	511
EU Global Navigation Satellite System	27.1
Internal Security Fund (ISF)	22.4
Visa Information System (VIS)	0.7
Schengen Information System (SIS)	0.5
Schengen Administrative costs (committees)	0.02
Schengen Administrative costs (Schengen Secretariat)	0.7
Statistical cooperation	4.8
European Environmental Agency	1.4
CCN/CSI	0.1
<b>Total</b>	<b>568.7</b>

Source: ECA (ibid.)

### 3.2.3. Contributions by associated countries under IPA

Associated and candidate countries also contribute to the cost of the EU Neighbourhood policy under the IPA programme. However, most of their contributions are returned through the Pre-Accession Assistance (IPA II) and European Neighbourhood programme. The objective of the contribution and reimbursement is to improve the collaboration and prepare those in a pre-accession programme to cope with the mechanisms of the EU budget as Member States. For IPA II the non-EU country pays in full a contribution and applies for a partial reimbursement. In the first years, the reimbursement is of 90%, but it decreases subsequently to 50%. These pre-accession and neighbourhood programmes and their use of EARs have been developed in regulations under the Ordinary Legislative Procedure.

### 3.2.4. Contributions by the UK

Because of the timing of the UK's separation from the EU, the UK continued to contribute to the EU budget for nearly all the 2014-20 MFF. From 2021 onwards, the UK contributes to the EU budget based on art. 148 of the 'Brexit' Withdrawal Agreement. The UK will cover outstanding commitments taken by the EU until 31 December 2020, based on an estimated share of 12.6%. It will also cover the UK's share of pensions and sickness insurance of retired EU staff. The amount that the UK is liable to pay to the EU as part of its post-Brexit financial settlement is EUR 47.5 billion, starting in 2021 and continuing indefinitely until the last obligations (notably staff pensions) are met.

In 2021, the UK contribution to the EU budget is expected to be EUR 7.20 billion entering as revenue for the general budget of 2021 in Title 6 "Revenue, contributions and refunds related to Union policies", item 6602 "Contributions by the United Kingdom linked to Article 148 of the Withdrawal Agreement"<sup>47</sup>.

Other contributions from the UK may arise in future. For example, the EU and the UK signed an agreement that the latter will participate in the Horizon Europe programme as an associate country, but difficulties in the implementation of the withdrawal agreement have delayed this agreement from

<sup>47</sup> General Budget 2021 (OJ L93 of 17.03.2021, pp.153, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2021:093:TOC>)



coming into force. The exact amounts over the next years will depend on the outcomes of bilateral negotiations.

### 3.3. External assigned revenues of the Innovation fund

The EU's Emissions Trading System includes an innovation fund (a follow up to 'NER 300' in the previous MFF). The Commission has delegated its management to the EIB. To fund the operations of the Innovation Fund, part of the revenue from the sale of ETS allowances will be used.

The decision to establish the Innovation Fund was taken in a delegated regulation (EU) 2019/856 by the European Commission dated 26 February 2019, without the involvement of the European Parliament, a procedure the Commission justifies as a power conferred by Directive 2003/87/EC<sup>48</sup>. The delegated act uses EARs to finance the Innovation Fund. The fund is financed by 2% of the total allowances for 2020-2030 under the ETS and from additional allowances transferred by beneficiary Member States. The following five countries opted to increase their contributions: Croatia, Czechia, Lithuania, Romania and Slovakia.

Based on this system, EUR 900 million is expected to be raised as revenues for the Innovation Fund in 2021. The exact figure is directly affected by the carbon prices in the ETS market and thus relatively unstable. The fund supports investments by poorer Member States in the decarbonisation of their energy sectors and to increase energy efficiency. The recipients are Bulgaria, Croatia, Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia.

The regulations of the Innovation fund<sup>49</sup> leave several aspects unclear, as there seems to be no clear role for scrutiny by the European Parliament and only national audits and EIB monitoring are mentioned, while the discharge procedure does not feature. The EIB is also not directly accountable to the European Parliament, a point of contention in the many areas where the EIB is backed by EU budget guarantees.

### 3.4. The use of External Assigned Revenues for borrowing and lending

The use of EARs for borrowing and lending was introduced for SURE and NGEU B&L operations. A key justification for using EARs is the temporary nature of the instruments and the size of the annual potential liabilities, requiring a robust formal approach to address the risk exposure of the EU budget were a default to materialise.<sup>50</sup>

The function of the EARs in SURE and NGEU are different:

- a) **For SURE, EARs are used to record any payments in case of calls on Member State guarantees covering the risk of default by Member States of their scheduled SURE loan repayment when due.**
- b) **For NGEU, EARs are used to record the funding borrowed in the financial markets assigned to grants.**<sup>51</sup> This is important to reflect the fact that borrowed funds can only be used to finance specific programmes or instruments defined under NGEU: those funds do not enter the general budget under the universality principle. Amounts for NGEU loans, on the other hand, are not recorded as revenues or expenditures in the EU budget.

<sup>48</sup> This is the directive establishing a scheme for greenhouse gas emission allowance trading.

<sup>49</sup> Commission Delegated Regulation (EU) 2019/1868 of 28 August 2019 amending Regulation (EU) No 1031/2010

<sup>50</sup> The details on how the different borrowing and lending operations operate, their status and the European Parliament's role in scrutinising the funds is presented in chapter 4.

<sup>51</sup> Art 6(1)(b) of Regulation (EU) 2021/241 of the European Parliament and the Council of 12 February 2021 establishing the Recovery and Resilience Facility.

The following sections explain in more detail the function of the SURE and NGEU EARs and their budgetary implications.

### 3.4.1. External assigned revenues in the SURE programme

The operations are set up in such a manner that the borrowing matches the requested loans by Member States. The funding does not enter the EU budget as revenue. The use of EARs is linked to the mechanism set up to protect the EU budget from any default by recipient Member States.

The European Commission only activated SURE after Member States offered a guarantee of at least 25% of the EUR 100 billion value of SURE. The Member States' guarantees contributions will be recorded in the budget as external assigned revenue if called upon<sup>52</sup>. The limit of 25% was based on a statistical analysis of a probability of defaults breaching this level. Defaults themselves are deemed unlikely and, for any amount beyond 25%, even more so.<sup>53</sup> Defaulting Member States will remain liable to reimburse the amount of their default and will also be liable to reimburse any additional costs.

Drawing on this guarantee will only occur after the Commission has exhausted all options of drawing 'on the margin available under the own-resources ceiling for payment appropriations'.<sup>54</sup> The EU budget has a *pro memoria* budget line 5030 in Chapter 5 of the Commission's statement of revenue to record as EARs any amounts drawn on the guarantee.

### 3.4.2. External assigned revenues in the NGEU programme

Where the EU uses the funds borrowed under NGEU for financing grants, the amounts are entered as EAR in the EU budget. They are significant. As section 4.5.2 shows, the total borrowing using bonds amounted to EUR 71 billion by 30 December 2021, mostly to cover grant operations and thus will appear as EARs for the 2021 EU budget. We can expect for the years 2021-2023 a total amount of EARs matching the value of the annual EU budget. For every policy to which NGEU grants are allocated, a mention is made of corresponding EARs in the remarks under each respective item in the EU budget<sup>55</sup>. In addition to bonds, the EU uses short term EU-bills with 3 to 6 months maturities to raise bridging funding quickly. This financing complements the bond issuances and offers more flexibility, while helping to raise long term funding on more advantageous terms. There have been several of these operations amounting to a total value close to EUR 25 billion.

Contrary to the SURE instruments, EARs are not used for guaranteeing defaults. In case of loan default, the EU budget is fully liable and will cover the default, if necessary, through the above-mentioned headroom following a GNI key, with each Member State financing it as a share of GNI. Defaulting Member States remain liable to the EU.

## 3.5. EARs for hybrid instruments

Art. 21.2.b FR allows the EU to supplement certain research and technological development programmes, or external aid actions or programmes financed by the Union with additional financial

<sup>52</sup> Art 11 (6) (ibid.)

<sup>53</sup> See the Eurostat Methodological note 'Clarification on the treatment of guarantees provided by Member States under the SURE instrument', Directorate D – Government Finance Statistics (GFS), 11 September 2020.

<sup>54</sup> Art 11 (5) of Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak.

<sup>55</sup> On the revenue side, all funding for the EU Recovery Instrument (EURI or NGEU) is under line 5040. On the expenditure side, it is recorded by programme/instrument, in the lines under lines 611 for the Recovery and Resilience, 010202 for the Horizon programme, 01020301 for the European Innovation Council, several lines under the InvestEU programme 0202 subheadings for guarantees and advisory hub, 05010101 for REACT-EU for regional policy and its technical assistance 05010102 (ERDF) and under 070205 for REACTEU (ESF), and several lines under 0601 for related administrative expenditure, 060501 for RescEU, 070101 for ESF+ administrative expenditure, 080102 and under 0803 for the Agricultural and rural development operations, and 0903 for the Just Transition Fund grants and technical assistance.

contributions from Member States. As discussed above, in chapter 2, this article was activated in 2016 to create the EU Facility for Refugees in Turkey, which manages a total of EUR 6 billion, with the aim of providing humanitarian assistance, education, health, municipal infrastructure, and socio-economic support. The Facility was mobilised in two tranches. The first funded projects that ran until mid-2021 latest (extensions excepted). The second tranche is for projects which run until mid-2025 at the latest (most projects will finish earlier).

In 2020, national contributions were also used to complement EU funding from the Emergency Support Instrument (ESI) with national funding to finance the EU's advance purchase agreements with vaccine producers. The contributions by Member States are recorded as EAR. For both the FRT and ESI instruments, the justification for using art. 21 FR was the insufficient resources within the EU budget to finance EU action on a scale deemed appropriate, and the need to finance a targeted, specified and time limited action.

There is, however, a crucial distinction between the FRT and the financing of the vaccine contracts. Whereas Member States' contributions to the FRT were compulsory and calculated according to a GNI key, Member State contributions to the vaccine contracts were voluntary and based on their willingness to receive the additional vaccines purchased<sup>56</sup>. In 2020, EUR 750m was provided by Member States to increase the portfolio of available vaccines. This amount is presented in the ECA annual report on the implementation of the 2020 budget, but there is no detailed information on which Member States contributed to the ESI programme and the amounts provided by each of them.

### **3.6. The implications of the expansion of EARs for budgetary governance**

Overall, most EARs are important and needed to operate specific policies efficiently. EARs also provide a certain flexibility to react to unforeseen events. The challenge posed by EARs is that the European Parliament cannot intervene in their creation (unless the Commission proposes a basic act under art. 21.5 FR to be adopted under the OLP) and has difficulty in scrutinising their use. While general revenue for the EU budget is the exclusive field of the Council, the Parliament is a co-legislator in the design of the programmes financed, and it decides and scrutinises the amounts (within MFF limits) and use of expenditure as budgetary authority. For EARs, it is not only for the revenue amounts and design that the Council is exclusively competent, both as budgetary authority and, under Article 122 TFEU, as legislative authority. On the expenditure side the EARs are not part of the annual budgetary procedure (and thus of the MFF). Again, this limits the decision and scrutiny powers of the European Parliament.

The experience over the last two decades is that the EU increasingly requires more flexible financing instruments to counter common challenges in a more globalised world with a larger number of cross border threats. The expansion of 'extra-budgetary' tools reflects not only a changing global environment, but also a change in the competences of the EU and thus the financial expectations and obligations placed on it. Some EARs are multiannual and allocated to existing programmes, covering a very large part of the expenditures by the EU. Notwithstanding these imperatives, the fact that the revenues are external or assigned does not justify exempting the funds from scrutiny by the EP. The role of scrutiny is to safeguard the financial interests of the EU and this should apply to the use of all revenues, regardless of their source and allocation.

---

<sup>56</sup> The governance of the Covid 19 advance purchase agreements with vaccine manufacturers was detailed by a Commission decision of 18 June 2020 (C(2020) 4192 final). The annex of this Commission stipulates that "should financing under ESI be insufficient, Participating Member States can decide to top up ESI funding to make up the gap to finance all packages. In such a case where there are opportunities to conclude further APAs but money from ESI is no longer sufficient, Participating Member States will have the opportunity to express their interest in such opportunities. If at least four Participating Member States express interest, those Participating Member States will make use of the possibility of a voluntary contribution to ESI to the required amount allowing the Commission to proceed with signing the APA only on behalf of those Member States that have expressed interest and contributed the funds to ESI".

As a consequence, the conjunction of the present governance structure and the expansion of such tools threatens to weaken the democratic legitimacy and scrutiny of EU financial operations. If EARs are increasingly necessary, so will be the need to change the regulations governing them. This would require, *inter alia*, a watering-down of the universality principle and ensuring the European Parliament can be involved in the adoption and the effective scrutiny of the use of all such resources. Potential reforms are presented in the conclusions.

## 4. FUNCTIONING AND GOVERNANCE OF BORROWING AND LENDING OPERATIONS

Borrowing and lending operations supported by the EU budget have been expanding over many years, mostly in response to a succession of crises. One reason for preferring EU level borrowing and lending is the exceptionally low cost of borrowing due to the implicit guarantee the 27 Member States confer on the EU as a borrower. The credit rating the EU benefits from is extremely high<sup>57</sup>. Although the EU itself is not allowed to finance its own budgetary actions through borrowing due to the budgetary balance principle, it has found several ways to use borrowing and lending while legally justifying that those actions do not violate this principle.

Hitherto, this was done mainly by transferring the borrowed funds and all the costs of the operations directly to the beneficiary country without requiring the funds to be recorded in the EU budget. In addition, the EU has exploited the difference between the maximum amount of funds that the EU can request from Member States to cover its financial obligations (own resources maximum ceiling) and the payment appropriations in any given year as ‘headroom’ to allow EU outlays to expand.

B&L operations have expanded considerably due to the growing demands on the EU to intervene in areas of common interests, such as reacting to common challenges and risks. This chapter will address the functioning of B&L and the implications for the budget in terms of liabilities and risks. It also examines the position of the European Parliament with regards to this source of financing. Box 2 presents the categories of B&L in existence. This chapter examines their operations and the appropriateness of the present governance system.

### Box 1. Classification of EU B&L operations

We can classify the EU’s borrowing and lending operations into three categories:

- a) Borrowing and lending operations where the risks are largely covered by actual funds in the budget.
- b) Borrowing and lending operations on behalf of a Member State and guaranteed by the EU budget margin between the ceiling for payments and the own resources ceiling (e.g. Balance of Payments loans, EFSM loans, SURE, NGEU loans).
- c) Borrowing to be repaid through EU own resources and borrowing to fund NGEU disbursements for non-repayable forms of support)

Source: own elaboration

The Union’s borrowing and lending operations are presented in Table 3, highlighting the European Parliament’s role as a legislative and budgetary authority in the second column. As explained in chapter 2, the majority of the B&L programmes are adopted by Council regulation, thus excluding the Parliament from shaping the instrument. Only for Macro-Financial Assistance for third countries is the

<sup>57</sup> AAA (outlook stable) by Fitch, Moody’s, DBRS and Scope and AA (outlook positive) by Standard & Poor’s in [https://ec.europa.eu/info/strategy/eu-budget/eu-borrower-investor-relations/eus-credit-rating\\_en](https://ec.europa.eu/info/strategy/eu-budget/eu-borrower-investor-relations/eus-credit-rating_en) (accessed 1 November 2021)

European Parliament fully involved. There is no regulation setting common provisions for MFA loans and each MFA programme is adopted by an 'ad hoc' legislative decision by the Parliament and the Council.

**Table 3. Overview of the Union's borrowing and lending operations**

Financial assistance instrument*	EP involvement	Outstanding balance 31.12.2021 EUR billion (est.)	Role of the EU budget	Recipients
MFA (case a)	OLP, design, approvals, scrutiny, and discharge	8.18	Guaranteed by the EU budget headroom (with provisioning in the CPF under External Action Guarantee)	Third countries
Euratom loans (case a)	Informed	0.25	Guaranteed by the EU budget headroom (with provisioning in the CPF under the External Action Guarantee for third countries)	Member States and third countries
BoP (case b)	Informed, discharge	0.2	Guaranteed by the EU budget headroom	Member States
EFSM (case b)	Informed, discharge	48.0	Guaranteed by the EU budget headroom	Member States
SURE (case b)	Informed, discharge	89.6	Guaranteed by the EU budget headroom and partial guarantees by Member States	Member States
NGEU grants (case c)	Informed, scrutiny and discharge	71.0	Financed by the EU budget headroom.	Member States
NGEU loans (case b)	Informed, scrutiny and discharge	0	Guaranteed by the EU budget headroom.	Member States

\* The 'cases' refer to the categories above.

Source: EU legal framework, Consolidated annual accounts of the European Union until the financial year 2020 and estimations by the authors for 2021

The history of the MFA, BOP and EFSM has been described in detail in reports for the European Parliament by Casale et al. (2012)<sup>58</sup> and Gros et al. (2017)<sup>59</sup>; this chapter summarises, expands and updates this work. It also draws from the regular reports the European Commission publishes yearly on the different B&L operations, the latest of which was released on 5 November 2021<sup>60</sup> and other documents recording progress.

#### 4.1. The fundamental logic of borrowing and lending operations

An EU Member State or a third country requiring financial assistance in the form of a loan requests support from the European Union to raise funds in the financial markets, following the rules of the lending instrument in question. The European Commission, after assessing the request and ensuring that the country fulfils the necessary requirements and after obtaining approval by the Council of the European Union, will raise funds in the financial markets by issuing EU backed securities<sup>61</sup>. The funding is then transferred to the beneficiary country 'back-to-back', i.e. with identical borrowing and lending

<sup>58</sup> Casale A., Giovannini A., Núñez Ferrer J., Ivan P., Gros D., Pierce F. (2012), 'The implications for the EU and national budgets of the use of EU instruments for macro-financial stability', Study for the European Parliament, Directorate General for Internal Policies

<sup>59</sup> Gros D., Alcidi C. Núñez Ferrer, J., Rinaldi D. (2017). 'The Instruments Providing Financial Support to Member States', In-depth analysis', study for the Policy Department on Budgetary Affairs, European Parliament.

<sup>60</sup> Report from the Commission, to the European parliament and the Council on financial instruments, budgetary guarantees, financial assistance and contingent liabilities. Situation at 31 December 2020. 5.11.2021.

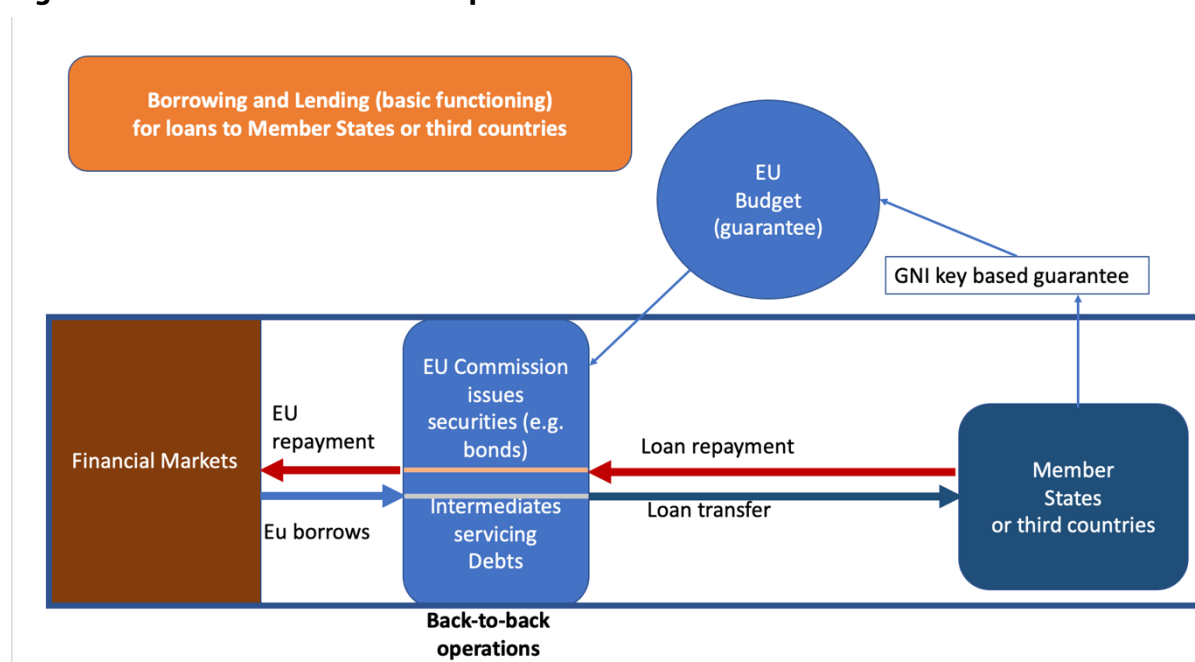
<sup>61</sup> Depending on the operation's size and objective the EU may use bonds or EU-Bills (short term maturity below one year) through syndications (placement with investors through group of banks) or auctions (transactions through financial institutions). [https://ec.europa.eu/info/sites/default/files/about\\_the\\_european\\_commission/eu\\_budget/factsheet\\_1\\_funding\\_strategy\\_20.04.pdf](https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/factsheet_1_funding_strategy_20.04.pdf)

interest rates. Hence the terms the European Commission secures in the financial markets are transmitted to the beneficiary country in full.<sup>62</sup>

The favourable rates are the result of the EU's capacity to guarantee the repayment of the amount borrowed. Normally, the repayment is spread over several years and the way the EU raises the funds is designed to ensure the EU's finances can cope in case of a default in any given year. It avoids the risk of breaching the EU own resources ceiling. *Pro-memoria* (pm) entries in the EU budget are presented with an explanatory note specifying the size of the potential liability, as described in section 2.2.2. The exercise is not devoid of some uncertainties, as a large number of repayments from the different instruments are expected to occur well into the future, stretching into MFFs yet to be negotiated.

Figure 2 depicts the general principles of B&L operations by the EU. A Member State (or third country) requests support from the European Union. If granted, the Union issues a number of securities (e.g. bonds) to raise funding in the financial markets of the size negotiated with the beneficiary country. The funds raised are transferred to the beneficiary country and do not enter the EU budget. In the years where the interest and/or repayments are due, the beneficiary Member State or third country repays the required funding and any associated costs through the European Commission. The EU budget operates as guarantor of the sums borrowed in the financial market.

**Figure 2. Basic mechanism of B&L operations**



Source: Authors' own elaboration

Because B&L operations may involve different kinds of guarantees or mixes of loans and guarantees, particular mechanisms may deviate from this generic description. In the case of EU loans to third countries, such as MFA (section 4.4.1), the liability is partly covered by a reserve of cash within the EU budget (CPF/EAG), thus – in principle – avoiding the need to raise funding from the Member States to cover defaults.

<sup>62</sup> For NGEU loans, the 'back-to-back' principle is followed with an 'indirect method' described in section 4.5



## 4.2. The evolution of borrowing and lending operations

Table 4 provides an overview of the borrowing and lending operations using the outstanding balances per year over the period 2014 – 2020 and an estimate for 2021. The information is based on the Consolidated annual accounts of the European Union<sup>63</sup> (notes to the balance sheet) and the annual reports on the instruments for 2019<sup>64</sup> and 2020<sup>65</sup>. Table 4 shows that no further assistance was given for BoP and EFSM, with BoP diminishing as most beneficiary Member States repaid the funding. Two items have been growing: the MFA to support third countries in difficulties and the significant borrowing activity in 2020 following the introduction of the SURE instrument. NGEU has not been included in the table as it started in the second half of 2021, but will come to dominate the table in future years. All the activities in 2021 are described in the individual sections dedicated to the different instruments in section 4.4 and in annex V.

**Table 4. The overview of the outstanding balances of EU B&L operations 2013-2021, EUR million**

Financial assistance instrument	Euratom	SURE	EFSM	BoP	MFA	Total
Outstanding balance 31.12.2013	387	0	44.668	11.623	568	56.859
Outstanding balance 31.12.2014	349	0	47.507	8.590	1.842	57.939
Outstanding balance 31.12.2015	301	0	47.509	5.811	3.024	56.344
Outstanding balance 31.12.2016	252	0	47.456	4.272	2.964	54.692
Outstanding balance 31.12.2017	250	0	47.456	3.114	3.924	54.494
Outstanding balance 31.12.2018	254	0	47.400	1.734	4.388	53.522
Outstanding balance 31.12.2019	214	0	47.394	200	4.754	52.349
Outstanding balance 31.12.2020	279	39.503	47.396	201	5.813	92.913
Outstanding balance 31.12.2021 (est.)	250 <sup>1</sup>	89.613 <sup>2</sup>	47.998 <sup>3</sup>	202 <sup>4</sup>	8.178 <sup>5</sup>	146.241

Source: Own elaboration, Consolidated annual accounts of the European Union

<sup>1</sup> Based on the estimated repayment in the 2021 annual report. The final amount might differ.

<sup>2</sup> Based on the new recorded payments in 2021 deducting an estimated interest payment of EUR 23,9 million in the 2021 EC annual report for 2020.

<sup>3</sup> The expected repayment by Ireland and Portugal of EUR 10,8 billion has been rescheduled. This is an estimate of the outstanding principal plus interest.

<sup>4</sup> This figure assumes no principal repayments in 2021.

<sup>5</sup> Estimation based on scheduled new lending

<sup>63</sup> The Commission webpage including Annual accounts [https://ec.europa.eu/info/publications/annual-accounts\\_en](https://ec.europa.eu/info/publications/annual-accounts_en)

<sup>64</sup> Commission staff working (SWD (2020) 241 final document accompanying the document Report from the Commission to the European Parliament and the Council on financial instruments, budgetary guarantees, financial assistance and contingent liabilities, situation at 31 December 2020 (COM(2020) 677 final)

<sup>65</sup> Report from the Commission to the European Parliament and the Council on financial instruments, budgetary guarantees, financial assistance and contingent liabilities, situation at 31 December 2020 (COM(2021) 676 final)



### 4.3. Pre-pandemic borrowing and lending

The relatively moderate use of B&L prior to the pandemic had a number of specific purposes, described in this sub-section, with more details on amounts and procedures in annex V.

#### 4.3.1. Macro-financial assistance

Macro-financial assistance (MFA)<sup>66</sup> is a financial support to immediate neighbours or countries geographically close to the EU, mainly in the form of loans and sometimes also grants, or a combination, and is typically offered in response to serious short-term balance-of-payments or budget difficulties. It has been active since the 1990s and the support is conditional on the implementation of reform programmes and on them having support under an International Monetary Fund (IMF) adjustment programme.

The legal basis is articles 209, 212 and 213 TFEU, governing economic and financial cooperation with third countries. MFA loans are guaranteed by the EU budget through the External Action Guarantee (EAG) created as part of the new Neighbourhood, Development and International Cooperation Instrument, the official programme name of Global Europe. The EAG can reach a total capacity of EUR 53.4bn and covers the risks stemming from all EU external actions (MFA loans, Euratom loans as well as investment operations under EFSD+). The guarantees are backed by the Common Provisioning Fund which keeps all the provisions made to cover financial liabilities borne by the EU budget. The NDICI regulation stipulates that the provisioning of the EAG shall be set at 9% of total MFA outstanding loans, as a cash reserve to cover possible MFA loan losses.

The European Commission publishes detailed annual reports<sup>67</sup> to the EP and Council on the implementation of the MFA and any new lending planned. The outstanding balances are available in Annex V.

#### 4.3.2. Euratom loans

Euratom loan operations started in 1977 (Decision 77/270/Euratom<sup>68</sup>) as part of the Euratom Treaty to support the development and implementation of safe nuclear energy technologies. Initially operating exclusively for Member States, it was expanded in 1994 to include third countries<sup>69</sup>. The loans finance investment projects in the areas of nuclear power generation, nuclear power cycle, safety and decommissioning of power stations. The governments of the countries where the investments take place guarantee the loan reimbursement. However, since 2009 the EU covers in addition the loans in the same manner as for the MFA (previously through the Guarantee Fund for External action, now through the EAG for third countries) in case they renege on their obligations, even though the Euratom Treaty is independent of the EU and outside the competences of the European Parliament. As such, it is subject to the discharge procedure if the guarantee were to be activated. On the loan issuance and use by the beneficiary country, there is no scrutiny power by the European Parliament.

<sup>66</sup> The Commission web page [https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/international-economic-relations/macro-financial-assistance-mfa-non-eu-partner-countries\\_en](https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/international-economic-relations/macro-financial-assistance-mfa-non-eu-partner-countries_en)

<sup>67</sup> All annual reports are listed and can be downloaded from the following link: [https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/international-economic-relations/macro-financial-assistance-mfa-non-eu-partner-countries\\_en#documents](https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/international-economic-relations/macro-financial-assistance-mfa-non-eu-partner-countries_en#documents)

<sup>68</sup> Decision 77/270/Euratom

<sup>69</sup> 94/179/Euratom: Council Decision of 21 March 1994 amending Decision 77/270/Euratom, to authorize the Commission to contract Euratom borrowings in order to contribute to the financing required for improving the degree of safety and efficiency of nuclear power stations in certain non- member countries

The present outstanding loans for programmes in Romania, Bulgaria and Ukraine amount to EUR 214 million. Ukraine still has the option to draw another EUR 100 million loan from this instrument.

#### 4.3.3. Balance of Payments facility

The Balance of Payments (BoP) assistance facility is a back-to-back B&L facility set up under Council Regulation (EC) No 332/2002<sup>70</sup>, providing medium-term financial assistance for Member States that are not members of the Eurozone, and face balance of payments difficulties. The maximum lending capacity is EUR 50 billion.

A non-Eurozone Member State facing financial difficulties may apply for BoP assistance to the EU. To do so, it will submit a request for support to the European Commission which will assess it after consulting the Economic and Financial Committee (EFC). Based on this assessment, the Council<sup>71</sup> will decide by a qualified majority whether to grant the loan. The implementation will require the creation of a Memorandum of Understanding with the Member State, containing the conditions for the loan and prepared with the European Commission in collaboration with the EFC and other programme partners, such as the IMF. The European Commission is empowered by Council Regulation (EC) No 332/2002 art. 1 to borrow funds on the capital markets or from financial institutions.

The EP was not involved in the decision to create the BoP facility, and it is also not involved in the process of approving the lending, but the European Commission is obliged to keep the Parliament informed. The borrowing and lending operations expose the EU budget to a potential default risk when loans mature, as the EU budget operates as the guarantor. The budget is not exposed to exchange rate risks as those are borne by the borrowing Member State, and because the loans are Euro denominated.

Nevertheless, the regulation makes no mention of any procedure in case of default. The Member State defaulting would remain liable for the outstanding balance and costs incurred, but no mention is made of how to raise the funding. As mentioned in section 2.2.2, the Commission in case of default has a wide discretion to find the funding necessary, drawing from cash resources or calling on Member States to cover the default on a pro-rata basis. In all cases, *pro memoria* entries are included in the budget for the year in which the risk arises; these remarks clarify the risks for the year.

The risk exposure to the BoP facility is rather limited, as its use has not been extensive. The only operations during the 2014-2020 MFF were repayments by the beneficiary countries, as scheduled, for three outstanding loans to Latvia (EUR 3.1 billion in 2009), Hungary (EUR 5.5 billion in 2009) and Romania (EUR 5 billion in 2009 and EUR 2 billion in 2013). The amounts have been repaid and only EUR 200 million by Latvia remains outstanding for 2021.

#### 4.3.4. The European Financial Stabilisation Mechanism

The EFSM was created in 2010 as a back-to-back lending facility with a very similar structure to the BoP facility. It was launched to tackle the problems associated with the sovereign debt crisis following the financial crisis of the late 2000s. It provides medium-term financial assistance for Eurozone Member States and has a maximum lending capacity of EUR 60 billion. The rules are detailed in Council Regulation (EU) No 407/2010<sup>72</sup> establishing a European financial stabilisation mechanism to provide

<sup>70</sup> Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balance of payments <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02002R0332-20090528>

<sup>71</sup> The Council on Economic and Financial Affairs (ECOFIN)

<sup>72</sup> Council Regulation (EU) 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1484663483987&uri=CELEX:32010R0407>

assistance to the Member States in the form of a loan or a credit line. As for the BoP facility, the European Parliament was not consulted in the creation of the EFSM and is only informed on the decisions and operations.

The process starts with the Member State sending a request to the European Commission which will consult the ECOFIN Council and in particular the Eurogroup Working Group (EWG) (a body composed of representatives of the Eurozone Member States) and the ECB<sup>73</sup>. The European Parliament is not involved in the lending decisions for EFSM. It is also absent from the six-monthly meetings to decide on the future maintenance of the instrument. Loans are conditional on reform programmes and are coordinated with any other support, such as assistance by the IMF. The EFSM continues to be active, despite repeated attempts to close its operations, although the expectation is that the European Stability Mechanism (ESM) should now be the primary source of lending for this purpose

80% of the EFSM was quickly activated for Ireland with a EUR 22.5 billion loan in 2010 and for Portugal in 2011 worth EUR 26 billion. The maturity of the loans was initially of 19.5 years, but they were extended to 30 years in 2013<sup>74</sup>, which means that repayments could continue until the year 2041. The EFSM loans outstanding still are the full EUR 22.5 billion support for Ireland and EUR 24.3 billion for Portugal. It was also used to provide a short-term loan to Greece in the summer of 2015, with a maturity of just three months.

The complexity of following the risk exposure for B&L operations is well reflected in the EFSM reporting. The reports published near the end of the year, present the situation at 31 December of the previous year. This makes it difficult to follow up developments.

The European Commission Working Document<sup>75</sup> (SWD(2020) 241 final) accompanying the report on liabilities from borrowing and lending operations and financial instruments<sup>76</sup> presents in detail the state of all guarantees and risks for the EU budget for the 2021-2027 MFF and beyond, based on the amortization plans of the loans including the principal and interest as of 31 December 2019. This is presented in Table 5, showing that the exposure exceeded EUR 10 billion for 2021.

**Table 5. Risk borne by the Budget from EFSM loans (2021-2029), EUR million**

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030-2049
Ireland	7334.3	3085.5	1811.3	2101.9	268.1	2268.1	2208.1	158.1	558.1	8571.5
Portugal	3515.6	410.6	2410.6	1198.1	2783.1	2371.7	1311.1	2586.1	1220.0	9290.0

Source: Extract from European Commission (SWD(2020) 241 final), p9

<sup>73</sup> It is interesting to highlight that the actual process and the one described in the regulation differ, as the Eurogroup, for example, is an informal body.

<sup>74</sup> 2013/313/EU: Council Implementing Decision of 21 June 2013 amending Implementing Decision 2011/77/EU on granting Union financial assistance to Ireland; 2013/323/EU Council implementing decision of 21 June 2013 amending Implementing Decision 2011/344/EU on granting Union financial assistance to Portugal

<sup>75</sup> Commission staff working document accompanying the document Report from the Commission to the European Parliament and the Council on guarantees covered by the general budget, Situation at 31 December 2019

<sup>76</sup> Report from the Commission to the European Parliament and the Council on guarantees covered by the general budget, Situation at 31 December 2019

The annual report in 2021 (COM 2021 676 final) is not accompanied by a working document with such level of detail and no change is announced. Only the Post-Programme Surveillance Reports for Ireland<sup>77</sup> and Portugal<sup>78</sup> offer clues about a potential change. For Ireland, the document mentions that the EFSM maturities can be extended, but no new schedule is provided. For Portugal, no change is mentioned, but a graph on debt redemption dates shows the next (unconfirmed) maturities starting in 2026 without explanation. No press releases on this rescheduling could be found, although the Quarterly Bulletin - Q4 2021 - of the Irish Central Bank makes clear that no maturities under the EFSM are due until 2023, adding that they could be delayed until 2025. Thus, both countries have extended the maturity of the EFSM loans, changing the risk profile and, possibly, adding additional liabilities.

For EFSM, no special guarantees by Member States or other coverage is in place, similarly to BoP. In case of default (considered highly unlikely), the Commission will seek to cover it by using surplus cash balances and, if necessary, raise the funds from the Member States pro rata (see section 2.2.2).

#### **4.4. European instrument for temporary Support to mitigate Unemployment Risks in an Emergency – SURE**

The European instrument for temporary Support to mitigate Unemployment Risks in an Emergency was formally adopted as Council Regulation 2020/672 on 19 May 2020. It provides a second line of defence to support Member States' actual or planned expenditure for short-time work schemes (STW) and similar measures, including health-related ones.

From a legal perspective, SURE is based on art. 122 of the TFEU, which allows the European Union to provide, 'in a spirit of solidarity', temporary financial assistance to Member States in difficulty due to exceptional circumstances beyond their control. The SURE regulation allows the Commission to borrow up to a maximum of EUR 100 billion on behalf of the Union. Such borrowing is guaranteed by irrevocable Member States guarantees<sup>79</sup> covering (at least) EUR 25 billion, in line with their respective shares in the total Gross National Income of the European Union<sup>80</sup>. The mechanism was described in section 3.4.1.

The Commission is in charge of assessing whether the Member States' request for assistance is compliant with the conditionality of SURE to cover actual or planned public expenditure due to the deployment of short-term work schemes and similar measures. Based on this assessment, the Commission presents a proposal for the financial assistance and its conditions to the Council, which then adopts them by implementing act. The Commission is mandated to borrow and agree a Loan Agreement with the requesting Member States and possible refinancing or restructuring financial conditions.

According to the SURE Regulation (art. 14), the Commission is obliged to report to the European Parliament, the Council, the Economic and Financial Committee (EFC) and the Employment Committee, on the use of financial assistance, including outstanding amounts and the applicable repayment schedule. The power of scrutiny of the European Parliament is limited and it has no other formal roles apart from issuing opinions on the national policies financed by SURE loans. The state of SURE implementation is presented in Annex VI.

<sup>77</sup> European Commission (2021), Post Programme Surveillance Report – Ireland, Autumn 2021, Institutional Paper 166, 24 November 2021

<sup>78</sup> European Commission (2021), Post Programme Surveillance Report – Portugal, Autumn 2021, Institutional Paper 165, 24 November 2021

<sup>79</sup> This is an irrevocable guarantee signed by the Member States which, if called upon, will be recorded as EAR in the EU budget.

<sup>80</sup> As stressed in the Consolidated annual accounts of the European Union 2020 (Commission [2021](#), p. 21), back-to-back loans are recorded as assets and liabilities with equal amounts and the same interest rates. Bond premiums related to the SURE instrument are considered EU financial revenues

#### 4.5. The European Union Recovery Instrument

On 27 May 2020 the European Commission launched the European Union Recovery Plan, widely known as Next Generation EU, to address the negative consequences of the Covid-19 pandemic. As part of the same package, the Commission proposed the establishment of a European Union Recovery instrument (EURI) and an amendment to the Own Resources Decision (ORD), which were both adopted on 14 December 2020, the former as a Council Regulation (2020/2094) and the latter as a Council Decision (2020/2053).

EURI defines the scope of the NGEU support and the procedure for allocating funds, as well as the financing of the Instrument, which amounts to EUR 750 billion in 2018 prices, of which EUR 384.4 billion in grants<sup>81</sup>, EUR 360 billion in loans and EUR 5.6 billion in provisioning for budgetary guarantees to support investment operations in the field of the Union's internal policies (art. 2.2). As for SURE, EURI is based on article 122 TFEU. Article 3 of its regulation specifies the rules for budgetary implementation, defining the timeline for commitments for grants (60% by December 2022 and the remaining 40% by December 2023) and loans (by December 2023), as well as for payments to Member States (no later than 31<sup>st</sup> December 2026). The same article explicitly establishes that the amounts allocated under NGEU for grants are to be considered external assigned revenue.

The figure below shows this mechanism through the split flows from the financial markets through the Commission **towards the EU budget for grants or to Member States for loans** and the separate pipelines.<sup>82</sup> From the EU budget, the grants for the RRF, REACT-EU, JTF, Rural Development, REScEU and Horizon will then be paid under the programmes to the Member States. These amounts will be paid back through subsequent Member State contributions to the current own resources and any other new own resource(s).

The loans will work similarly to the other B&L operations and defaults are directly guaranteed by the budget, first based on the margin for payments and cash reserves available, and then by increasing the contributions of Member States based on GNI under the ceiling defined in the ORD art. 6 (specific headroom for EURI), as stated in the ORD art. 9.5. A defaulting Member State remains liable and the contributing Member States will have their payments reimbursed as soon as the liability is honoured. A notable difference is that the loans will not necessarily be directly linked to the amounts borrowed. However, the terms of the loans will have to reflect the conditions the European Commission obtained in terms of rates and costs, but the European Commission could, for example, raise the funds for a number of loans at once, deviating from past back-to-back practices but preserving the principle of transmitting the favourable terms and rates of the borrowed amounts to the beneficiary countries. The reason for this is the level of borrowing needed to cover requests from all member states and not to cater to a few requests by specific Member States.

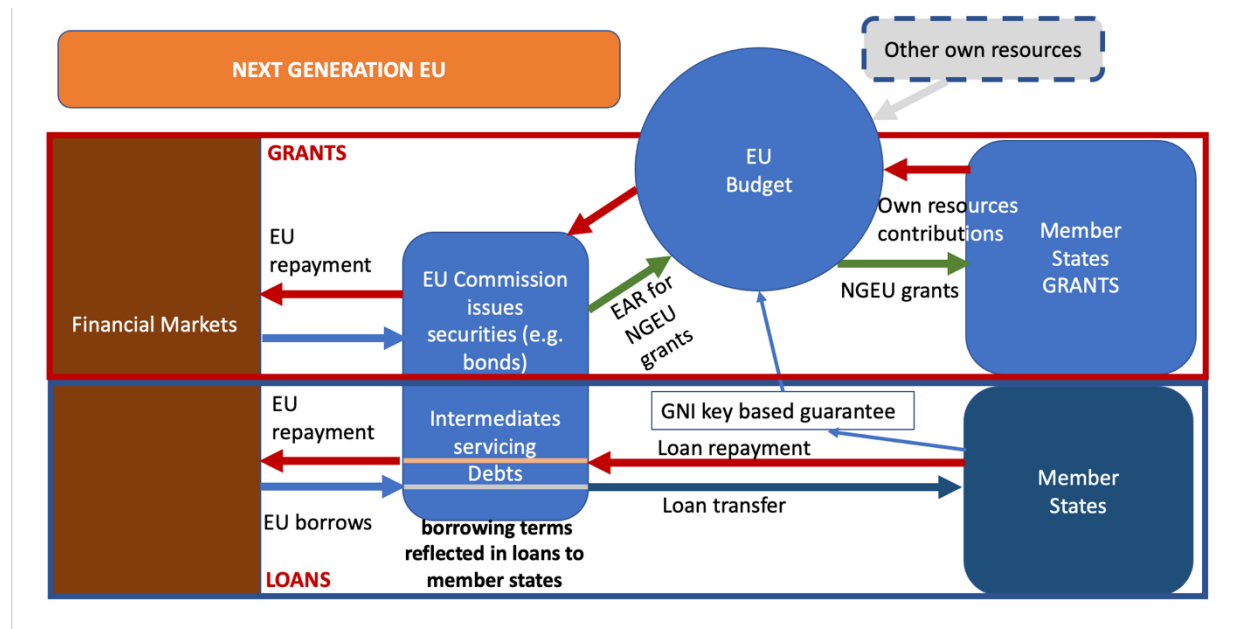
Art. 5 of the amended ORD states that the repayments of the principal of the funds shall start before the end of the MFF 2021-2027 period and end no later than 31<sup>st</sup> December 2058. Art. 5.3 further specifies that the Commission is responsible for the administration of the borrowing operations, and

<sup>81</sup> Grants include: i) Up to EUR 312.5 billion in 2018 prices for the Recovery and Resilience Facility; ii) Up to EUR 47.5 billion in 2018 prices for structural and cohesion programmes of the multiannual financial framework 2014-2020 as reinforced until 2022, including support through financial instruments; iii) Up to EUR 7.5 billion in 2018 prices for development in rural areas; iv) Up to EUR 10 billion in 2018 prices for programmes supporting territories in their transition towards a climate-neutral economy; v) Up to EUR 5 billion in 2018 prices for programmes related to research and innovation, including support through financial instruments; vi) Up to EUR 1.9 billion in 2018 prices for programmes related to civil protection.

<sup>82</sup> A small amount will be channelled to financial instruments, but for simplicity this is not included. In any case it flows into the EU budget.

'shall regularly and comprehensively inform the Parliament and the Council about all aspects of its debt management strategy' (Council Decision 2020/2053).

**Figure 3. NGEU B&L activities for grants and loans**



Source: Own rendering

In line with the requirements of the ORD, the Commission presented a package in April 2021, consisting of a Communication on a new funding strategy to finance NGEU (COM(2021)250 final)<sup>83</sup>, a Decision on specific internal rules on the implementation of borrowing, debt management and lending operations and of the primary dealer network (C(2021)2501 final)<sup>84</sup>, an Implementing Decision on the arrangements for the administration of the borrowing and lending operations (C(2021)2502 final)<sup>85</sup>, and a Decision on the establishment of the Primary Dealers network (2021/625)<sup>86</sup>.

Unlike for SURE, the borrowing for which was done solely through syndicated transactions, the Commission has prepared a diversified strategy for NGEU explained in an in-depth analysis for the European Parliament by Christie et al. (2021)<sup>87</sup>.

#### 4.5.1. The involvement of the EP in NGEU governance

While, due to the legal basis chosen (art. 122 TFEU) the influence of the European Parliament is limited, the European Parliament is required to discharge the NGEU grants, including for the RRF. The use of

<sup>83</sup> Communication from the Commission to the European Parliament and the Council on a new funding strategy to finance NextGenerationEU, COM/2021/250 final.

<sup>84</sup> European Commission (2021), Decision on specific internal rules on the implementation of borrowing, debt management and lending operations and of the primary dealer network established by Commission Decision C(2021) 2500. C/2021/2501 final, 14.4.2021. Available at: [https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=PI\\_COM:C\(2021\)2501&qid=1621607427328](https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=PI_COM:C(2021)2501&qid=1621607427328)

<sup>85</sup> Commission Decision on specific internal rules on the implementation of borrowing, debt management and lending operations and of the primary dealer network established by Commission Decision C(2021) 2500, C/2021/2501 final

<sup>86</sup> Commission Implementing Decision establishing the necessary arrangements for the administration of the borrowing operations under Council Decision (EU, Euratom) 2020/2053 and for the lending operations related to loans granted in accordance with Article 15 of Regulation (EU) 2021/241 of the European Parliament and of the Council, C/2021/2502 final

<sup>87</sup> Christie, R., G Claeys and P. Weil (2021), 'Next Generation EU borrowing: a first assessment', In-depth report for the Policy Department for Budgetary Affairs, Directorate-General for Internal Policies, October 2021, [https://www.europarl.europa.eu/RegData/etudes/IDAN/2021/699811/IPOL\\_IDA%282021%29699811\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2021/699811/IPOL_IDA%282021%29699811_EN.pdf)



borrowed funds to finance grants led to a demand for greater scrutiny of national actions by all institutions and on 16 December 2020, the Commission, the EP and the Council approved an Interinstitutional Agreement (L 433 I/28), which provides a procedure that ensures the provision of regular, updated and detailed information, as well the organization of dedicated inter-institutional meetings, at least three times a year (IIA Annex I part H). Furthermore, the IIA ensures that the Commission will provide detailed information about loans provided to Member States under the European Union Recovery Instrument, while paying particular attention to sensitive information, which is protected. The Institutions also agreed on the introduction of standardised measures to collect, compare and aggregate information and figures on the final recipients and beneficiaries of EU funding, to enhance the protection of the EURI against fraud and irregularities (Dias et al. 2021<sup>88</sup>).

In addition to the provisions of the IIA, further details on the involvement of the European Parliament in scrutinising NGEU are provided in the specific regulation of each instrument. An example is the Recovery and Resilience Facility, the main instrument under NGEU. The RRF Regulation refers to various instances where Parliament is to receive information, to allow it to exercise its scrutiny mandate. Art. 26.1 of this regulation establishes the Recovery and Resilience Dialogue (RRD), which requires that the competent committee of the European Parliament may invite the Commission every two months to discuss various matters, including – for instance – payment, suspension and termination procedures (see art. 25 and 26.1(a-g), and the *“Commission shall take into account any elements arising from the views expressed through the recovery and resilience dialogue, including the resolutions from the European Parliament if provided”* (art. 26.3). The Parliament has held four RRDs with the European Commission, respectively on [10 May 2021](#), [14 July 2021](#), [1 September 2021](#) and [13 December 2021](#).

Art. 31 of the RRF regulation further specifies that the Commission shall provide an annual report to the European Parliament and the Council on the implementation of the Facility. Furthermore, by 20 February 2024, the Commission shall provide the European Parliament with an independent evaluation report, and by 31 December 2028 with an independent ex-post evaluation report (art. 32). The Parliament also plays a role with respect to the delegated acts. Indeed, the delegations of power referred to the Commission may be revoked at any time by the European Parliament or by the Council (art. 33). According to the RRF Regulation, the European Parliament will scrutinise the spending through the normal discharge procedure, and the European Court of Auditors (ECA) will also produce a report for the discharge.

It is worth noting that the European Parliament has typically relied on the assurances of the European Court of Auditors that material errors in the way funding has been managed remain minimal, but this is no longer possible. Now, with the management approach to NGEU, the ECA will encounter distinctive challenges in seeking to scrutinise the financial procedures. Inevitably this will lead to changes in the way the funding is monitored and assessed: ‘milestone monitoring’ alone cannot guarantee due process in financial management. All this will make it difficult for the Parliament to perform its duties of budgetary control until alternative methods for the ECA are clarified.

#### 4.5.2. NGEU implementation

Following the approval of the Own Resources Decision, the European Commission announced in the funding plan published in June 2021 and updated on 29 October 2021<sup>89</sup> its intention to issue around EUR 71 billion of long-term bonds in 2021, to be topped up by tens of billions of euros of short-term EU-Bills to cover the remaining financing requirements. The first bond issuance, raising EUR 20 billion

<sup>88</sup> Dias, C., Zoppè, A. and Segall, R. (2021), The main building block of the Recovery and Resilience Facility, EP In-Depth Analysis. Available at: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2021/659656/IPOL\\_IDA\(2021\)659656\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2021/659656/IPOL_IDA(2021)659656_EN.pdf)

<sup>89</sup> [https://ec.europa.eu/info/news/update-funding-needs-2021-2021-oct-29\\_en](https://ec.europa.eu/info/news/update-funding-needs-2021-2021-oct-29_en)



via a ten-year bond due in 2031, took place on 15 June 2021 via a syndication and was organised with the institutions included in the Commission's Primary Dealer Network. The second NGEU debt issuance was a dual-tranche transaction, consisting of a EUR 9 billion 5-year bond due on 6 July 2026 and a EUR 6 billion 30-year bond due on 6 July 2051.

Three more transactions took place on 13 July 2021, 14 September 2021 and 12 October 2021. The 12 October operation was the first Next Generation EU green bond issuance to be used exclusively for green and sustainable investments across the EU, which also represents the world's largest ever green bond issuance. Table 6 summarizes the six syndicated transactions carried out under Next Generation EU in 2021. In total EUR 68.5 billion in 2021. The Commission has also issued close to EUR 25 billion of EU-Bills following the start of the EU-Bills auctions from mid-September until 31 December 2021.

The European Commission announced on 14 December its intention to issue another EUR 50 billion in bonds in the first half of 2022.<sup>90</sup>

**Table 6. Key statistics of the NGEU borrowing transactions, up to 31 December 2021**

Transaction	Tranche	Size of the bond	Yield	Total investor demand (EUR )	Repayment
<a href="#">15.06.2021</a>	10 years	20 billion	0.086%	142 billion	4 July 2031
<a href="#">29.06.2021</a>	5 years	9 billion	-0.335%	97 billion	6 July 2026
	30 years	6 billion	0.732%	89 billion	6 July 2051
<a href="#">13.07.2021</a>	20 years	10 billion	0.471%	100 billion	4 July 2041
<a href="#">14.09.2021</a>	7 years	9 billion	-0.28%	103 billion	4 October 2028
<a href="#">27.9.2021</a>	5 years	2.5 billion	-0.487%	5.8 billion	6 July 2026
<a href="#">12.10.2021</a>	15 years	12 billion	0.453%	135 billion	4 February 2037
<a href="#">25.10.2021</a>	7 years	2.5 billion	-0.117%	4 billion	4 October 2028

Source: Authors own elaboration

On 28 June 2021, the Commission disbursed the first EUR 800 million in payments under Next Generation EU. The payments went to 41 national and regional programmes in 16 Member States<sup>91</sup> under the Recovery Assistance for Cohesion and the Territories of Europe initiative (REACT-EU), the initiative which helps Member States finance crisis response and recovery measures following the coronavirus pandemic. The funds under the REACT-EU programme constitute additional resources for existing Cohesion policy programmes.

The first NGEU disbursement for the Recovery and Resilience Facility took place on 3 August 2021 and was made to cover the pre-financing of recovery plans, equivalent to 13% of the grant and loan component of each country's financial allocation. The first countries to receive the pre-financing were Portugal (EUR 2.2 billion), Luxembourg (EUR 0.012 billion) and Belgium (EUR 0.77 billion). The Commission further disbursed in pre-financing EUR 4 billion to Greece on 9 August, EUR 24.9 billion to Italy on 13 August, EUR 0.29 billion to Lithuania, EUR 9 billion to Spain on 17 August, EUR 5.1 billion to France on 19 August, EUR 2.25 billion to Germany on 26 August, EUR 0.201 billion to Denmark on 2

<sup>90</sup> Press release by the European Commission 'NextGenerationEU: European Commission to issue EUR 50 billion in long-term bonds by June 2022 to finance the recovery' on 14 December 2021, [https://ec.europa.eu/commission/presscorner/detail/en/mex\\_21\\_6884](https://ec.europa.eu/commission/presscorner/detail/en/mex_21_6884)

<sup>91</sup> Austria, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Lithuania, Netherlands, Poland, Portugal, Slovak Republic, and Sweden

September, EUR 0.16 billion to Cyprus on 9 September, EUR 0.24 to Latvia on 10 September, EUR 0.23 billion to Slovenia on 17 September, EUR 0.82 billion to Croatia, EUR 0.92 billion to Czechia and EUR 0.45 billion on 28 September and EUR 0.82 billion to Slovakia on 13 October.

The Commission has already paid EUR 54.5 billion in prefinancing under the RRF and is expected to release another EUR 10 billion to Spain after a positive assessment of the achievement of the first milestones. A further EUR 17 billion has been allocated to other EU NGEU programmes.

#### **4.6. Conclusions and preliminary recommendations on B&L**

Borrowing and lending operations have been expanding in the EU to counterbalance the inability of the EU budget to react to large shocks. Until the advent of NGEU, B&L operations operated as back-to-back systems and did not entail the recording of revenues in the budget. The European Parliament's powers to shape the operations or scrutinise them has been limited. With NGEU, however, the level of information provided to the EP and its involvement has improved.

Faced with the unprecedented economic shock from the pandemic, the Council decided that rather than lifting the ceilings for commitments and payments in the MFF, it would accommodate an unprecedented de facto increase in the EU budget resources through borrowing not only for lending operations, but also for grants. To avoid being at odds with Treaty and Financial Regulation principles and legal restrictions, EARs have been used to record the resources from borrowing. For lending under NGEU, the existing practice of operating off-budget has been retained. The funds for grants are questionably labelled as off-budget, as these funds are recorded in the annual accounts of the EU and have to be repaid by own resources (old or new). The existence of this large off-budget balance sheet is difficult to justify in terms of the budget representing the financial activities of the EU, because they are evidently outside the normal governance procedures of the EU budget. It leads to the questionable situation where, in the annual budgetary procedure, grants under NGEU are not addressed, and they fall outside the MFF, while costs of repayments and interests of the recovery debt are included under the MFF ceilings for the 2021-2027 period (without prejudice to future MFFs from 2028).

Given the nature of the expenditures, monitoring NGEU (particularly grants) requires appropriate reforms. The sheer size and multiannual features of NGEU create not only a significant challenge for the EP (and also the ECA) in terms of ensuring scrutiny, but also raises a number of issues regarding the legitimacy of the process. One of the aspects that could be reconsidered is how the MFF, temporary requirements and potential borrowing are handled. The MFF is composed of a multiannual, investment focused set of programmes; other actions could be handled with a different governance structure but within the EU budget.

It is likely that further borrowing and lending operations will be required to meet the numerous challenges the EU will face in the future, accentuating the legitimacy difficulties if the Council can again bypass the EP to create a parallel multiannual instrument. It also has to be highlighted that the recovery plan may be legally temporary and assigned according to the principle of specificity, but is in fact neither short-term nor specific. It has de facto long term budgetary implications because of the lengthy period (up to 2058) for repayments from future own resources. On specification, it covers numerous expenditures addressing several structural weaknesses in Member States, while also supporting the achievement of various EU objectives. In all this, the principle of transparency of the budget has been further eroded.

## 5. MEMBER STATES' CONTRIBUTIONS TO TRUST FUNDS

In the area of external action, there are a number of EU Trust Funds (EUTFs) which receive additional financing from EU Member States, but these are not recorded as revenues accruing to the EU budget. These contributions were scrutinised by the EP in a resolution on 7 October 2021 on the implementation report on the EU Trust Funds and the FRT<sup>92</sup>. While the EP recognises the importance of the Trust Funds and the Facility, it deplores the way those Trust Funds have been established, the lack of involvement of the European Parliament and the inability to scrutinise the funds properly.

The Trust Funds in place are:

- EU Trust Fund for Colombia;
- EU Emergency Trust Fund for stability and addressing the root causes of irregular migration and displaced persons in Africa (EU Trust Fund for Africa);
- EU Trust Fund in Response to the Syrian Crisis (the 'Madad' Trust Fund);
- EU Trust Fund for the Central African Republic (the 'Békou' Trust Fund);

Trust Funds are adopted by Commission decisions. While adoption of thematic EUTFs requires the approval of the EP and the Council, emergency or post-emergency EUTFs can be adopted by the Commission alone (art. 234 FR). Several were created to reinforce actions in the target regions due to an emergency. For the emergency and post-emergency needs, the Commission submits its draft decisions concerning the financing of an EUTF to the competent Council committee designated in the basic act under which the Union contribution to the EUTF is provided (art. 234.2 FR). In practice, this means that the Commission acts solely through the comitology examination procedure to take decisions on funding contributions to the EUTFs from the existing EU funding instrument. The EP is not involved.

The EP is not a member of the Boards and the Operational Committees of the EUTFs, but has been accorded observer status to the Boards. The EP has expressed its dismay about this limited involvement which considerably restricts its capacity to scrutinise the activities of EUTFs (Carrera et. al. 2018). Also, the financial operations of the EUTFs use accounts outside the EU budget (art. 235 FR). However, the EU annual draft budgets include a working document with detailed information and the EP receives monthly reports on the implementation of EUTFs. Annual reports and accounts are submitted to the EP in the context of the discharge procedure. The EP also has the power, based on the information received, to request to discontinue an EUTF or revise the constitutive agreement with a view to their liquidation (art. 234.5 FR). However, as Carrera et al. (ibid.) indicate (recommendation 7, p.90), the accountability mechanisms are meagre and the actions should include a right of information and a right of scrutiny by the EP, as is the case under the comitology procedure.

The Importance and positive impacts of the Funds are not in doubt, but the approach taken by the Member States to create extra-budgetary tools and de facto extra-Treaty tools diminishes the coherence of EU action and reinforces 'intergovernmentalism' in areas where the opposite was supposed to occur after the Lisbon Treaty (ibid.). The financial position of the Trust Funds and the Facility for Refugees in Turkey is presented in table 7.

<sup>92</sup> European Parliament (2020), 'Implementation report on the EU Trust Funds and the Facility for Refugees in Turkey', 2020/2045(INI)

**Table 7. Overview of EU trust funds and the Facility for Refugees in Turkey**

Instrument/ Mechanism	Aim	Type	Geographical Scope	Amount Pledged (EUR billion)	Amount disbursed (EUR billion)	Year set up/end
<b>EU Trust Fund for Colombia</b>	Supporting implementation of the Peace Agreement	Post-Emergency/ extra-EU budget	One country (Colombia)	0.13 (0.09 EU budget and 0.04 Member States) by 31/12/2020	0.11 by 31/12/2020	2016 ongoing until 12/2021
<b>EU Emergency Trust Fund for stability and addressing the root causes of irregular migration and displaced persons in Africa</b>	Supporting goals set by the EU-Africa Valetta Summit	Emergency/ extra-EU budget/ European Development Fund based	Regional (North Africa, the Horn of Africa, Sahel/ Chad Lake)	5 (4.4 EU budget and EDF and 0.6 Member States) by 31/12/2020	3 by 31/12/2020	2015 Extended in 2020 for 12 months until 31/12/2021
<b>EU Trust Fund in Response to the Syrian Crisis – ‘Madad’ Trust Fund</b>	Linked to the ongoing conflict in Syria	Emergency/ extra-EU budget	Regional (Syria, Iraq, Western Balkans, Turkey, Jordan and Lebanon)	2.4 (2.1 EU budget, 0.24 Member States) by 31/12/2020	1.5 by 31/12/2020	2014 Extended in 2020 for 12 months until 14/12/2021
<b>EU Trust Fund for the Central African Republic – ‘Bêkou’ Trust Fund</b>	Linked to the ongoing conflict in the Central African Republic	Emergency/ extra-EU budget/ European Development Fund based	One country (Central African Republic)	0.3 (0.07 EU budget, 0.09 Member States, 0.15 EDF) by 31/12/2020	0.2 by 31/12/2020	2014, end 2020
<b>Facility for Refugees in Turkey</b>	Supporting implementation linked to the EU-Turkey Statement	Emergency/ within the EU budget	One country (Turkey)	6	4.4 by 30/11/2021	2011

Sources: Table from Carrera et al. 2018, updated based on information available from the official sites of the funds (last checked in December 2021), and the In-depth analysis by the EP Policy department for budgetary affairs (2021), ‘Implementation of the EU Trust Funds and the Facility for Refugees in Turkey’.

Of a different nature, but showing some similarities, are the blending facilities of the EU. These work in much the same way as Trust Funds even if legally they are not treated as such in the Financial Regulation. There are several instances where financial instruments create trust funds that are not governed by the FR under this term. Blending instruments have also attracted the attention of the EP Budgets Committee and have been the subject of several studies and Parliament opinions<sup>93</sup>. The EU budget (through the EAG) provides guarantees to the participating financial institutions. The guarantee from the EU budget can be complemented by additional voluntary contributions by EU Member States to the different regional instruments.

<sup>93</sup> The latest In-Depth Analysis by the EPRS ‘Understanding Financing for External Action’ from February 2021 provides review of all studies and parliament opinions, before identifying a number of weaknesses in the instruments for external action. The difficulties faced by the EP to scrutinise the operations of Trust Funds is described in the reports.

The funds are used to support the lending operations of the EIB and development banks, as well as institutions in developing countries under the oversight of the European Commission. While their legal status is different from that of the trust funds discussed above, they again represent a case where Member States are *de facto* financially expanding the size and reach of EU budget instruments, without those contributions being recorded in the budget. The European Parliament has deplored the complexity of the facilities and the lack of sufficient information to enable it to scrutinise the functioning of the instruments adequately.<sup>94</sup> There may be a case, for reasons of transparency and unity of the budget, for the additional contributions to the funds to be included in the budget, so as to give an accurate picture of the full EU public expenditure allocated to EU level policies.

## 6. EXPERIENCE FROM OTHER JURISDICTIONS

Although the EU's finances are so distinctive that direct parallels with arrangements elsewhere tend to be elusive, some insights relevant to reform of the financial regulation can nevertheless be gleaned. Such insights can be separated into two categories: those which illustrate how the national arrangements might be adapted for the EU; and those which highlight how much the EU is out of step with practice elsewhere.

The latter are the easiest, but also have to be understood in the context of the unique 'fiscal constitution' of the EU. The dominance of the Member States in fiscal and budgetary policy means they are reluctant to delegate autonomous powers to the supranational level. The arithmetic of the inter-governmental relations in the EU is also important, with large shares of aggregate public spending split between the national and sub-national levels in Member States, but only a small proportion at the EU level.

In a comprehensive study of budgeting and public expenditure, the OECD<sup>95</sup> asserts that there has been a recent 'trend towards stronger engagement of the parliament across the full budget cycle, with more countries reporting an ex-ante role'. However, because public finances are often a matter of confidence for governments, parliaments tend to be reluctant to use the 'wide-ranging powers to amend the budget' with which they are endowed. Nevertheless, in an earlier OECD report (2015) cited in this later study, there is a recommendation on the governance of budgeting stating 'parliament has a fundamental role in authorising budget decisions and holding government to account'.

A further key point made in relation to unexpected events, for which flexibility is called for in budgeting, is to stress the importance of parliaments: 'when such flexibility is provided, supplementary budgets, in-year and year-end reports have become a core means through which parliaments can hold governments accountable for decisions'. The clear message is that although governments will, at times, have an obligation to act quickly and decisively, they need to work with parliaments. It could be argued that much the same reasoning could apply to even as extreme an unexpected event as the pandemic and, by extension, to the role of the European Parliament in the Community level responses to Covid-19.

Beyond this generic point, can lessons be learned from practice in other jurisdictions about EAR and B&L in the EU? This chapter of the study examines the evidence, drawing in particular on the responses to a questionnaire sent by the European Parliament to other parliaments in the ECPRD network. Other evidence cited includes submissions to an inquiry by the Parliament of Australia and examination of

---

<sup>94</sup> European Parliament (2020), 'Report on control of the financial activities of the European Investment Bank - annual report 2018', Committee on Budgetary Control, July 2020.

<sup>95</sup> OECD (2019), 'Budgeting and Public Expenditures in OECD Countries 2019', [Budgeting and Public Expenditures in OECD Countries 2019 | READ online \(oecd-ilibrary.org\)](#)

the financial regulation of the United Nations. For simplicity, the term ‘parliament’ is generally used rather than the national name, such as Bundestag (Germany) or Saeima (Latvia).

### 6.1. Assigned revenue

Arrangements in countries with federal systems might be expected to be the most likely to offer insights for the EU, but the lessons appear to be limited and there are examples from both federal and unitary states that illustrate the point. For instance, in Canada, revenue can be raised and money can be spent or borrowed by the federal government only with the authority of Parliament. The mechanism is through what is known as the Consolidated Revenue Fund which receives all the money accruing to the federal government and from which all disbursements come. This includes spending on operations, for loans, investments and advances, and for the redemption of matured debt, all of which must be authorized by Parliament, through annual appropriation acts and other statutes. The position is similar in the UK at central government level, as there is a consolidated fund, but there are some exceptions to it, notably the National Insurance Fund with its link (albeit only partial) to contributory benefits. Moreover, the rules governing different exceptions are not uniform.

The simple inference is that the concept of EAR – that is revenue assigned by another jurisdiction – as applied in the EU does not exist in Canada or the UK. The Canadian Parliament can, nevertheless, vote for a revenue source to be hypothecated to a particular purpose. The possibility to earmark revenue for a specific purpose is also provided for in several EU countries, for example the Czech Republic, Estonia, Greece and Austria, but only with the consent of Parliament and typically through the passing of a Law. Generally, limited earmarking is authorised as an exception to the principle of universality applicable to revenues and is subject to the same procedure as the general budget, such as the annual budget law (Slovenia) or formal constitutional mechanisms. The parallel is more with *internal* assigned revenue in the EU.

Several countries in Europe simply do not allow earmarking because of the over-arching universality principle, such as Cyprus, Sweden, Georgia and Luxembourg, and these provisions can have constitutional status. Thus, as documented by the OECD report (p. 213) referred to above, non-earmarking is one of five principles of budgeting (along with annuality, unity, universality and specificity) set out in the Luxembourg constitution.

According to the same source (p. 247), Switzerland has several earmarked contingency ‘reserves’ aimed at assuring fiscal sustainability, including for health and pensions; these can perhaps be compared with the EU’s CPF. In Belgium, the parliament is somewhat restricted in its ability to amend budgets by imposing conditions such as the use of earmarks. For many, more limited earmarking occurs, but mostly only relatively small proportions of aggregate public spending. The assigned revenue is, again, internal, rather than external.

There are also cases where a revenue source is assigned to a very specific use, such as the compulsory television licence in the UK (used to fund the BBC and the Welsh S4C channel) and in Finland where the YLE tax similarly funds Finnish broadcasting. In the UK, the TV license is set by a vote in Parliament for several years and with specific conditions imposed, but there is always the opportunity for Parliament to amend the terms. Hungarian law designates some types of revenue from which only certain types of expenditure can be financed, yet according to the response to the survey of ECPRD members, assigned revenue is not a term used in its budgetary law. It is, nevertheless, a moot point whether different terminology matters: what is clear is that assigning/earmarking/hypothecating revenue is not unusual, but only with oversight by national legislatures and not in the ‘external’ form of EARs as defined in art. 21 FR.



## 6.2. Switzerland and Australia

Given its decentralized model of governance, Switzerland is distinctive. It has a relatively small federal government and has inter-governmental arrangements governing how revenues and spending responsibilities are split between the federal, cantonal and local levels. These arrangements derive from constitutional provisions, but conceptually, it is hard directly to equate the system to EAR as covered in this report. Several revenue streams are divided between different policies or levels of government. In total, 29.2% of the Confederation's revenue is earmarked. This limits adjustment possibilities when the budget is prepared and therefore reduces the ability of the federal government and parliament to determine spending.

There are examples of proceeds from taxes assigned to specific purposes, such as the requirement to earmark 20% of VAT receipts to pensions, rebates on citizens' health insurance and rail projects. As noted above, in EU terminology, this sort of earmarking is internal assigned revenue. Although the federal parliament has to approve the budget, including earmarked spending, it cannot alter the terms of earmarking, because they are set in law. A particularity of the Swiss system is that although parliament has to pass the budget, it does not have the status of a law, because any law is potentially subject to a referendum.

In Australia, a short answer is that governments cannot engage in spending (or, indeed, borrowing and lending operations) without the approval of parliaments – in the plural because both the federal and state parliaments are involved. However, an inquiry (launched in mid-July, 2021) is in progress at the Parliament of Australia into alternative means of raising revenue. While it is again tricky to equate to EAR as understood in the EU, the terms of the reference for the inquiry are of interest for the present study. They include:

- the reasons for and effects of governments funding programs through alternative approaches;
- the costs associated with different policies; and
- the reporting in Budget papers of programs funded through alternative approaches.

As explained by Stein Helgeby, the head of the Parliamentary Budget Office, in his August 2021 introductory remarks to the Committee conducting the inquiry, challenges for transparency and accountability arise from a trend towards increased resort by the Australian government to loans, equity injections and guarantees. He stresses that these actions are not 'off-budget', but they show up in the government balance sheet, rather than the operating statements. Consequently, looking only at the direct expenditure (and revenue) of the government will tell only part of the story about the overall impact of the budget. He argues 'that, unless further information is made available, parliament would find it difficult to fully assess the financial impact of policies such as loans, equity injections and guarantees'.

## 6.3. Borrowing and lending

Governments borrow large amounts and use this borrowing to finance public services and investment in public goods, and (as has been evident during the pandemic) loans to different stakeholders. Practice on parliamentary oversight of borrowing and lending varies in a number of ways. The US has a debt ceiling dating from laws passed in 1917 and 1939, aimed at setting a limit on the total amount of money that the federal government is authorized to borrow to meet its spending commitments. It bites when, as is usually the case, there is a public deficit. When the ceiling is hit, either Congress agrees to raise it or disbursements (whether for grants, payments for services or loans) have to stop, typically involving a form of brinkmanship between the executive and the legislature. A federal shutdown has



occurred several times in recent years, but is usually resolved by the horse-trading customary in US politics.

Across Europe, there is a range of mechanisms to limit debt. Austria has a debt ceiling set by the directly-elected 'lower' chamber of the Parliament, and in Slovenia it is set by the Parliament, as it is in Latvia and several other countries. A distinctive feature in Finland relating to debt management, is that the government also has to seek a mandate from parliament about how much of the debt is short term (less than 12 months). Bulgaria's Budget Act requires the parliament to set the maximum amount of new government debt and the maximum amount of the government debt at the end of the budget year.

Relatively tough controls apply in some countries, such as Poland (60% of GDP for general government debt) and Slovakia (also 60%, but with growing restrictions if the figure exceeds 50%) where the ceiling is written into the constitution. By contrast, Denmark, too has a debt ceiling, albeit set at a level well beyond the current level of debt and thus not a de facto constraint. In the UK, the government has been granted the power to borrow by Acts of Parliament passed long ago, but there is no provision in the annual Finance Act, the legal means by which the annual budget is adopted, on borrowing.

Germany's debt brake (*Schuldenbremse*) is, in fact, a limit on the budget deficit intended to bring down debt. It was suspended in 2020 in response to the pandemic, but remains in the constitution and is expected to be restored in 2023. The option to suspend the rule is provided for in art. 115 of the German constitution and the process is for a resolution of the Parliament, by simple majority, to trigger the escape clause in circumstances of severe economic crisis. This is what happened in 2020 and an interesting feature is the parallel requirement for a repayment plan to be adopted.

As Clemens Fuest explains<sup>96</sup>, the decision to spread the repayments over 20 years from 2023 is debatable, but it debunks the claim that such a mechanism means 'the state is incapable of acting during the crisis'. Noting the decisive fiscal responses by the Federal government to the pandemic, he adds: 'the debt rule has passed this test'. Turkey, too, has an upper limit on borrowing, although if there are exceptional circumstances, such as the pandemic, the parliament may authorize the government to exceed this borrowing limit.

Debt rules serve a number of purposes and it is worth exploring whether they could become part of a response to the growth of B&L in the EU, as part of a wider recasting of EU and national fiscal rules and governance. The response from Iceland to the survey of ECPRD members suggests such debt rules can be binding on the executive. An evident, primary aim is to promote the sustainability of public finances. Indebtedness also affects the inter-generational distribution of meeting the costs of public expenditure, be it for current services or for public investment. Having a debt limit can, in addition, give flexibility to the executive, rather than having to negotiate every new accretion of debt. A ceiling decided upon by the parliament is, however, a means of monitoring the executive and offers a channel of democratic legitimation.

The management of public debt is a dimension of B&L that could give rise to concerns from legislatures, but the scope for parliaments to influence treasury operations is generally limited. For example, in Spain, the government is only obliged to provide the parliament with quarterly reports on the detailed balance of the financial operations entered into. By contrast, under Article 29 of the Swiss Federal Budget Act introduced in 2017, Parliament can exert influence on the operational activities of the Federal treasury as part of the budget process (setting maximum refinancing and interest rate risks and

---

<sup>96</sup> IFO Viewpoint 223: Abolishing the Debt Brake Is Not Worth It | Statement | ifo Institute, <https://www.ifo.de/en/node/62204>

minimum liquidity holdings). However, the Parliament has not made use of this possibility so far, perhaps suggesting it is a power parliaments will only need in exceptional circumstances

#### 6.4. The United Nations

International organisations are an alternative source of lessons for the EU, particularly the United Nations. Its sovereign body – the General Assembly – is, in practice, a body similar to the EU Council of Ministers, rather than the European Parliament. But in its interactions with the executive, an issue similar to EAR has arisen. Like the EU, the UN has a financial regulation<sup>97</sup>, section C of which refers to voluntary contributions. The key articles state:

‘Regulation 3.11. Voluntary contributions, whether or not in cash, may be accepted by the Secretary-General provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Organization and provided that the acceptance of such contributions that directly or indirectly involve additional financial liability for the Organization shall require the consent of the appropriate authority.

Regulation 3.12. Moneys accepted for purposes specified by the donor shall be treated as trust funds or special accounts under regulations 4.13 and 4.14’.

The second sub-clause of the accompanying rule, assigning a role to the UN’s sovereign body, states that:

‘Voluntary contributions, gifts or donations which directly or indirectly involve additional financial liability for the Organization may be accepted only with the approval of the General Assembly’

What is more significant and gives rise to political concerns (articulated in the early 2000s) is the high share of these voluntary contributions in the total – arguably with echoes of the EU experience of NGEU. According to a 2007 note<sup>98</sup> from the UN inspection unit, non-core funding for several UN programmes was well in excess of 50%, reaching 99.3% in 2005 for the World Food Programme. Moreover, the trend was for more of the funding to come from non-core sources and the latest data, over a decade later in 2019/20, show some 55% of UN contributions were voluntary and earmarked, with a further 10% voluntary and un-earmarked. Of the balance, just 28% came from assessed contributions (arguably similar to EU own resources) and a further 7% from other sources.

For poorer countries, the political concerns included the lack of predictability, the imposition of conditions and the narrow range of sources. As a Council on Foreign Relations note<sup>99</sup> shows, (un)predictability can be especially important when the US (the largest contributor), as it did during the Trump administration, imposes sharp cuts for political reasons. There is also a suggestion that where a small number of (mainly richer) donors dominate the funding, programme, priorities become distorted towards their preferences (one senior official in a multilateral organisation, consulted for this study, referred to it as ‘donor diktat’), rather than those of the General Assembly. The simple wording of the financial regulation does not capture these worries.

<sup>97</sup> United Nations (2013) Financial Regulations and Rules of the United Nations, Secretary-General’s bulletin, T/SGB/2013/4 1, July 2013, <https://www.wider.unu.edu/sites/default/files/Procurement/PDF/UN-financial-regulations-and-rules-2013.pdf>

<sup>98</sup> United Nations (2007), ‘Voluntary Contributions in United Nations System Organisations, Impact on programme delivery and resource mobilization strategies’, [https://www.unjiu.org/sites/www.unjiu.org/files/jiu\\_document\\_files/products/en/reports-notes/JIU%20Products/JIU\\_REP\\_2007\\_1\\_English.pdf](https://www.unjiu.org/sites/www.unjiu.org/files/jiu_document_files/products/en/reports-notes/JIU%20Products/JIU_REP_2007_1_English.pdf)

<sup>99</sup> Shendruk A. and Zachary R. (2014), ‘Funding the United Nations: What Impact Do U.S. Contributions Have on UN Agencies and Programs?’, Council on Foreign Relations, No 100, <https://www.cfr.org/article/funding-united-nations-what-impact-do-us-contributions-have-un-agencies-and-programs>

However, a counter-argument is that the voluntary contributions can be mobilised more rapidly and effectively in times of pressing need. Here, too, a parallel with NGEU might be drawn insofar as the donor voice (net contributors) competes with that of the General Assembly in determining spending. Yet it is also noteworthy that no obvious solution has been found, despite the issue having been raised many years ago. An implication with resonance for the European Parliament could be that when non-standard financing is both entrenched and substantial, it becomes institutionalised in a manner inimical to reform

## 6.5. Implications for the Financial Regulation

The inquiry in Australia was based on a definition in which alternative financing arrangements usually involve the government providing the financial resources for a policy and receiving a financial asset in return. Summing up a hearing involving witnesses from the Australian Audit Office, one of the Committee members drew the conclusion that the concerns about alternative finance were mainly ‘a budget reporting issue,’ adding ‘not particularly to do with the Audit Office’.

The main inference to draw from experience in other jurisdiction is that the EU is out of step with practice elsewhere, and has become more so as a consequence of recent developments in how its policies are funded. Much the most significant, is the extent to which EAR and B&L shift practice away from the principle of universality. Other relevant points which could feed into the reform of the FR are summarised in Box 2.

### Box 2. Overview of findings from practice in other jurisdictions and implications for reform

- The concept of external assigned revenue in the sense of revenue from outside the jurisdiction is hard to find in other governmental systems and, as the responses to the survey of ECPRD members show, is not necessarily understood.
- By contrast, *internal* assignment of revenue, to be understood (in a similar manner to the EU’s IAR) as funds generated within the jurisdiction, is commonplace. Many national systems earmark a proportion of revenues for specific policy purposes. It is usually small and is the result of either constitutionally determined uses of a particular revenue source, or of a connection between what are perceived as contributory payments into welfare systems and benefits payable.
- Where such earmarking occurs, the national parliament will either have been involved in establishing the law giving rise to the earmarking or has a role in maintaining it in the annual budget. There is no indication of arrangements similar to those in the EU discussed in this study.
- Parliaments, sometimes including those of sub-national jurisdictions, shape both assigned revenue and B&L (to the extent they can be identified), either through procedures related to the annual budget or through passing legislation setting limits to which governments are obliged to adhere
- A noteworthy, if rather obvious, form of external assigned revenue for many countries is inflows from EU programmes (notably Cohesion Policy) and the various international bodies providing development assistance. These inflows do, typically, have to be directed to agreed purposes and could be considered to be difficult for the national parliament to hold to account.
- Many parliaments are involved in limiting the scale of government borrowing through debt ceilings. In certain jurisdictions, the debt limit is constitutional.
- Based on the Australian inquiry, an issue with alternative means of financing is how the relevant information is presented in budgetary reporting, requiring a sharper focus on the balance sheet, in addition to the income and expenditure flows.
- A possible reform of the FR, although it might first require treaty change, would be to include parliamentary oversight of the aggregate public debt of the EU.
- Debt management is generally left to national treasuries, albeit with regular and comprehensive reporting to parliaments, but one possibility, in view of the risks associated with B&L at levels capable of leading to risks for the EU annual budget, would be for the European Parliament to have a say on the maturity profile of debt.

## 7. CONCLUSIONS AND PROPOSALS FOR REFORM OF THE FINANCIAL REGULATION

In recent decades, the EU's budget has grown increasingly complex. It has been able to cover more policy areas by being extended outside the core (or formal) budget through the creation of a 'galaxy' of funds and instruments around the budget which can be classified into three main groups. These are: instruments that use an EU budgetary guarantee to partially de-risk investment operations carried out by public investment banks (InvestEU, European Fund for Strategic Investments plus); borrowing and lending (B&L) programmes supported by a guarantee from the EU budget – the largest and most significant of which is NGEU) – and hybrid instruments that combine EU budget funds with contributions from Member States (such as the Facility for Refugees in Turkey or the EU Trust Funds).

Previous chapters have documented the expansion of external assigned revenue and borrowing & lending activities as the means by which EU policies are pursued. EAR is an accepted and arguably necessary component of EU budgetary arrangements and is explicitly provided for in Title II, Chapter 5 of the current (2018) *Financial Regulation*, and there are articles covering borrowing and lending under Title X of the FR. However, the increasing resort to both EAR and B&L in recent years has changed their nature and there are differences in how they are implemented. These changes have arisen largely, but not only, because of how the EU has chosen to construct budgetary responses to the series of crises afflicting it since the global financial crisis of the late 2000s, often reflecting the urgency of action.

These changes have occurred both rapidly and without taking sufficiently into account the importance of revisiting how new instruments are decided upon, monitored and controlled. The use of B&L and EARs has also resulted in a large expansion of funding under management by the European Commission, but recorded as off-budget. This violates the principle of unity of the budget and affects the transparency, governance and democratic scrutiny of public funds channelled through EU instruments. A large share of EU funding is now raised by borrowing and channelled to grant operations in parallel to the annual EU budget stemming from the MFF. For these off-budget transactions, the role of the European Parliament as legislator and budgetary and discharge authority is limited compared with its obligations around the core budget.

This outcome raises problems of legitimisation where key EU policies are accorded more funding, as is partly the case with NGEU. The diversity identified in earlier sections of this study in how both EARs and B&L are used also poses questions of whether better-harmonised regulations are needed. This concluding chapter focuses on potential changes to the FR aimed at enhancing the governance of EAR and B&L. It draws on the findings discussed in earlier chapters and puts forward detailed proposals for changes, particularly in the FR.

Some of the most substantial developments in EAR and B&L are the result of mechanisms formally expected to be temporary, principally NGEU and SURE. In addition, EAR from the UK 'divorce' settlement is also expected to tail off rapidly, but some elements are expected to be more enduring, such as funding to participate in Horizon programmes. Other developments, such as the anticipated assumption into the EU legal order of the European Stability Mechanism will bring in new elements of B&L. It is also conceivable that new hybrid instruments will be sought for specific purposes, combining EU funding with Member States' contributions in forms of EAR, as recently proposed by the Commission to expand the EU's actions in the areas of humanitarian aid or health. As potential new instruments evolve, so too must the regulatory framework and there may need to be a rethink of how the European Parliament can properly perform its obligations as a budgetary authorisation and control body. The current patchwork of partial roles in relation to different budgetary instruments is both confusing and unsatisfactory.

Although the EU has had to raise funding from financial markets for other reasons over several decades, the scale of NGEU will require not just a step-change in the amounts the Commission has to raise, but also developing a new funding strategy, as explained in chapter 4 of this study. What this entails is explained in a Commission Communication on ‘a new funding to finance NextGenerationEU’.<sup>100</sup> The document mentions some of the challenges, notably the need for care in matching repayments with the availability of own resources: ‘the maturity profile of the bonds issued must be aligned with the ability of the Union budget to repay investors when the bonds mature’.

The document observes that ‘the implementation of NGEU will be of interest to the European Parliament and Council given the dimensions of the activities and their importance for the realisation of the economic and social objectives of the NextGenerationEU’. The Commission communication recalls that ‘the Commission shall regularly and comprehensively inform the European Parliament and the Council about all aspects of its debt management strategy’ and that ‘Annual updates on borrowing and lending activities will be provided to the European Parliament and Council’. While this is in line with the Inter-Institutional Agreement and the Own Resources Decision, it implies little for the Parliament to do other than receive the reports.

In addition, it requires novel monitoring and scrutiny approaches, as addressed by the guidelines published by the European Commission for the different kind of support offered by NGEU, particularly the Recovery and Resilience Facility<sup>101</sup>. The role of the parliament in scrutinising and monitoring the use of funds and implementation of NGEU has been incorporated into different regulations in an ad-hoc manner. It is important that the role of the EP as budgetary authority is formalised for EARs and B&L operations, and that the governance system handles the needs of NGEU correctly. This is important for the future, as it has become quite clear in the last two decades that EU competences are increasingly expanding into areas covering short term shocks and needs. These include developments affecting the single currency, the single market and other areas of common interest for EU citizens, such as health and the impacts of climate change. In future, the EU budget will require significantly greater flexibility, than it is afforded by the present rigidity of the FR in determining what is part of the annual budget and what is not.

### 7.1. Shortcomings identified in the research and approach to correcting them

As has been emphasised above, the huge expansion in EAR would be enough on its own to justify a fresh look at the Financial Regulation, if only because existing provisions were intended to cover flows of income and expenditure qualitatively different in form and in scale from those now being adopted. In the same vein, EU borrowing and lending predominantly used for back-to-back lending to sovereigns (be it third countries or Member States) is not the same as borrowing for the purpose of funding grants, as for NGEU. In addition to the issue of scale, other points of contention are:

- The visibility of EAR and B&L from the perspective of ease of understanding and, in consequence, transparency. Those familiar with the EU budget are generally well-versed in understanding the income and expenditure flows, but will often be less so in looking at the balance sheet. In part, it is lack of familiarity, but it also has to do with how the accounts are presented and explained in notes.
- More precisely, while a balance sheet will offset loans against the expectation that borrowers will repay them, the risks of non-repayment need to be highlighted. Plainly, more extensive and diverse B&L amplifies the challenge.

<sup>100</sup> [COM\\_COM\(2021\)0250\\_EN.pdf\(europa.eu\)](https://ec.europa.eu/commission/presscorner/detail/en/COM_COM(2021)0250)

<sup>101</sup> The guidelines are published at [https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility\\_en](https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en).



- Because future revenues from own resources may be required to repay loans (and will be in the case of NGEU grants), the time profiles of loan maturities will be relevant and should be reported better. The maturities and risks from BoP and EFSM are not reported in an accessible way.
- There also needs to be more clarity about what proportion of the guarantees would be met by Member States – both individually and collectively – and the order in which guarantees would be called in the event of any default.
- Management of debt becomes a bigger task for the Commission as the amount borrowed grows, yet its obligation currently is that it shall – as stated by the Commission – ‘regularly and comprehensively inform the European Parliament and the Council about all aspects of its debt management strategy’. The Parliament might, reasonably, want a say in the maturity mix.
- In many other jurisdictions, parliaments set and monitor an aggregate debt limit – the periodic disputes between the US Congress and the Executive branch over raising the debt ceiling before the federal government has to shut down are an obvious example. Yet for now, there is no equivalent in the EU.
- More broadly, a longer-term challenge is the balance between core and non-core funding. In the United Nations, what are known as ‘voluntary contributions’ have expanded relative to their equivalent of own resources over which the UN General Assembly has control. For various reasons, there has been disquiet among many, largely poorer, UN Member States about this trend. Even if it is accepted that the circumstance are different, there remains a question about how far the EU would want to go along the same road.
- With respect to EAR, the main reform proposal is to empower the budgetary authority (Parliament and Council) to adopt jointly the rules on commitments and payments for certain categories of EAR and to include those in the EU budget. In addition, we discuss reforms aimed at further improving the transparency of the presentation of EARs in the EU budget, which should improve accountability and the quality of oversight by the EP.
- With respect to Trust Funds, the reform proposal is to consider presenting and accounting for additional funding provided by Member States as revenue accruing to the EU budget, and recording it for transparency as part of the specific programmes, as is the case for assigned revenues.
- Given that the competences of the EU increasingly include emergency actions, such as stabilisation of economic shocks, as well as the growing prospect of unpredictable potential natural shocks due for example to climate change, keeping temporary measures outside the core budget is highly questionable. Instead, most EARs should be an integral part of the EU budget under its governance and scrutiny procedures in the annual budgetary procedure, even if the “specific” nature of the action and the assigned nature of revenues (including contributions to Trust Funds) would need to be taken into account. This study therefore advocates largely eliminating budgetary measures outside the annual budget and the established means of governance of the EU budget, entailing substantial reform of the FR.

For B&L operations, we set out two scenarios: a moderate and a more ambitious one. The moderate scenario would give the Parliament powers of consent over the creation of new B&L programmes, enhance the transparency and accuracy of the information on B&L operations guaranteed by the EU budget and strengthen the Parliament’s capacity to monitor the risks to the EU budget arising from B&L operations. This would require changes in the Financial Regulation.

A more ambitious scenario envisages full integration of B&L operations into the EU budget. This would imply that annual loan disbursements and repayments are itemised in the budget and thus subject to budgetary authorisation and control. This would be possible through revisions to the FR. A

complementary, ambitious reform would be the establishment of an annual debt ceiling similar to those in many national budgetary arrangements, but this would be likely to require treaty change.

Beyond the issue of the governance of EAR and B&L operations, a more general question is whether the size and number of EU-level off-budget elements can be justified. The EU budget has ceilings that do not adequately reflect the size of EU operations and thus provide incomplete information on the EU's financial operations. The potential remedy is a substantial increase in the ceilings and a recasting of the EU budget to include all instruments and guarantees created under an 'EU' label. This much more radical a change is not discussed further in this study.

Although an issue for understanding of the financing 'galaxy' and thus not directly about EAR or B&L, there is also a case for reviewing the wording of articles of the FR relating to blending operations (art. 159 FR) to provide greater clarity. Indeed, there is something of a plea in this regard in recital 95 of the current Financial Regulation which states that 'it is important to recognise the specific nature of blending facilities or platforms where the Commission blends its contribution with that of finance institutions and to clarify the application of the provisions on financial instruments and budgetary guarantees'. 'Blending' is also mentioned in recital 48 FR, in the definitions of terms in art. 2.6 FR, in relation to financing decisions in art. 110.3.g FR and concerning time commitments in art. 114.2.b FR). The study team notes a potential source of confusion arising from the terminology, with references to 'operations', 'facilities' and 'platforms'.

## **7.2. Reforms of the governance of EAR and trust funds**

As shown in previous chapters, the extended use of external assigned revenues weakens the role of the EU parliament as a budgetary authority. This is because, assigned revenues are not voted by the EU budgetary authority under the annual budgetary procedure. In line with art. 22.1 FR, the appropriations corresponding to assigned revenue are made available automatically, both as commitment appropriations and as payment appropriations, when the revenue is received by the Union. The European Parliament is not involved in the decision to establish an EAR or defining the main objectives of the instruments, nevertheless the implementing legislation generally requires the approval of the EP under the ordinary legislative procedure. Finally, scrutiny and discharge are not automatically assured, given their off-budget nature. It is difficult to conceive of maintaining the present interpretation of the universality principle of the EU budget if EARs are to be fully integrated into the EU budget. The EU budget, being of limited size and consisting of specified programmes is not well placed to address the ever-growing demands for it to react to shocks in a rapidly evolving environment. An approach that allows the full budgetisation of assigned of revenues should be envisaged.

The lack of parliamentary involvement is to some extent justifiable and logical for some categories of EAR. This is the case for third countries' contributions to EU programmes – art. 21.2. e FR – or for profits generated by the activities of certain EU bodies or institutions such as the Research Fund for Coal and Steel or the Joint Research Centre – art. 21.2.d and art. 21.1.g FR-- which flow back to the same institutions. An illustration of how the use of assigned revenues for agencies becomes particularly questionable is the present use of a share of ETS revenues to finance the innovation fund outside the budget, while envisaging that another share of the same ETS revenues should become a full own resource.

However, other cases give cause for concern. One is when Member States' contributions are used to supplement research and technological development programmes or external aid actions financed by the Union and managed by the Commission (art. 21.2.a FR). When these contributions are made by all Member States – as for the Facility for Refugees in Turkey – EAR can be used as a substitute for an increase of Own Resources to reinforce EU programmes, by-passing parliamentary control. Even when



the contributions are made by only a subset of Member States one can argue that, by analogy with the procedure of enhanced cooperation<sup>102</sup>, the European Parliament must have at least a say on the establishment of the hybrid instrument.

Another issue of concern is art. 21.5 FR which allows the creation by a basic act of new categories of assigned revenue financing specific items of expenditure, without specifying under which procedure the basic act should be adopted. The adoption of a basic act does not necessarily require the EP's approval (depending on its legal basis). A basic act under Article 122 TFEU was used to create and launch NGEU, excluding the EP. It opens the door to a large discretion to create assigned revenues outside the ordinary legislative procedure and, thus, the sphere of the EP's decision-making.

Finally, there is no justification for leaving the EP out of decisions on how to use the proceeds from joint EU borrowing to reinforce EU budget programmes, as with NGEU. Whereas the EP has secured some rights to oversee the use of EAR under NGEU, it is important to ensure this will not happen again if a future NGEU-like instrument is adopted.

A solution would be to empower the budgetary authority (Parliament and Council) to adopt annual commitments and payments when EARs are used to supplement EU programmes with contributions from all Member States or with joint EU borrowing. This would require an additional point in art. 22 FR (which describes the structure to accommodate assigned revenue in the budget and the way commitment and payments are entered) detailing specific arrangements for the accommodation and authorisation of EAR coming from joint EU borrowing involving all Member States. The main advantage of this reform would be to end, or at least diminish, the anomaly of policies funded by EARs being treated differently, particularly in the area of budgetary oversight, from those funded through the core budget.

There would also be a benefit from clarifying when it makes sense, or not, for a distinctive funding pathway to be taken for a limited range of actions. There could be some disadvantages from rendering procedures more complex, but they could be made manageable. Art. 21.2.a FR could also be amended to include an additional paragraph inspired by the fourth paragraph of art. 234.1 FR (adoption of thematic EU Trust Funds), establishing that the activation of art. 21.2.a FR shall be subject to the approval of the European Parliament and of the Council.

Along with this reform, to enhance the EP's capacity to exert budgetary scrutiny, the Budgetary Authority could take a more significant role in monitoring all commitments and payments from EAR. The working document attached to the draft budget could provide more detailed estimates of the amounts per category of EAR to be received, including the contributions per Member State to hybrid programmes (art. 41.8 FR). It would also be good to have a comprehensive annex in the EU budget, providing a full overview of third countries' contributions to EU programmes across all EAR budgetary lines and categories of revenues (at present there is only an annex presenting the EFTA contributions to the different budgetary lines and another one with the contributions made by NGEU). This could be done via a small change to art. 52.1 FR. Finally, greater powers of scrutiny over the use of EAR could be granted to the Parliament, modelled on the provisions of the interinstitutional agreement for the scrutiny of EAR resources from NGEU.

Another area of potential reform is for Trust Funds and other instruments which add Member State (or third country) contributions to enhance the financial capacity of the EU budget. For emergency or post-emergency Trust Funds, a special procedure based on Commission delegated acts, allowed by art.

---

<sup>102</sup> Enhanced Cooperation is a mechanism regulated by the TFEU that allows a group of Member States to pursue an integration project within the EU's framework that is binding only on the participating States. Enhanced cooperation proposals are adopted by the Council but shall receive the consent of the European Parliament (art 333.2 TFEU).

290.2.a TFEU could be considered. This would allow urgent funds to be released subject to either the EP or Council choosing to revoke the Commission's act if their concerns were not satisfied. The funds in question effectively expand the financial capacity of the EU budget. Indeed, a change along these lines should apply to any other contribution for temporary or emergency support to bolster EU instruments for reasons of transparency, legitimacy and scrutiny. Nevertheless, given their nature as additional and clearly assigned contributions to an instrument, such funds will not be amendable in the annual budgetary procedure.

### **7.3. Reforms of the governance of B&L: moderate scenario**

The moderate reforms proposed are summarised in the first part of Table 9. Starting with the EP's role as a legislator, some alteration of balance in favour of the EP could redress the exclusion of the EP where it cannot approve Council legislative acts passed on the basis of Articles 122 and 143 TFEU that address economic or energy crises. Examples include NGEU, SURE, EFSM and BoP. Here an amendment to the FR could introduce a right for the EP to approve not the legislative acts, but the actions under those legislative acts passed on the basis of Articles 122 and 143 TFEU. The right could be extended to provide the EP also with a right to approve certain actions under legislative acts passed in accordance with the ordinary legislative procedure on the basis of art. 175(3) TFEU. This latter article provides the legal base for establishing EFSI+, InvestEU, and the Recovery and Resilience Facility.

Greater accountability will be achieved if an annex to EU budget reports in detail all the revenue and expenditure generated through B&L instruments, including by further amending art. 52.1 FR regarding the risks to the EU budget of the maturities and the calling of guarantees referred to above. This would require an amendment to art. 46 FR. Moderate reforms would also enhance the scrutiny and discharge powers of the EP and the ECA. Although a reform to art. 261.1 FR could allow for the EP's votes on discharge explicitly to include all B&L operations, this could also be achieved by the EP alone, by amending rules 99 and 100 of its Rules of Procedure.

The advantage of these changes is that they would improve the accountability and transparency of B&L, would increase the oversight powers of the EP (and the ECA) not only through discharge, but also through the publication of annexes, and would increase the approval powers of the EP. The disadvantages could be to increase the time taken to reach decisions and to prepare evaluations of complex instruments. It could also add to the burden on Member States and other agencies in complying with greater conditions, and challenge the discretion of Member States in providing and managing this type of finance.

### **7.4. More ambitious B&L reform scenario**

More ambitious changes concerning B&L are summarised in the second half of Table 9. A first such reform would be to enhance the EP's legislative role by amending articles 122 and 143 TFEU. As noted above, these two articles have been used to set up many of the existing B&L mechanisms (NGEU, SURE, EFSM and BoP). A treaty reform would replace the existing method for adopting these legislative acts with a new Special Legislative Procedure, where the Council decides and the EP consents. Member States may accept this treaty change when treaties are revised if a further condition is inserted: if time is lacking, the Council by the enhanced majority of 72% of the Member States established under art. 238 TFEU may adopt regulations without the EP's consent, but the EP would then have the opportunity to reverse the decision if the Council did not respond to the EP's objections. This model of conditional post-hoc veto from either the EP or the Council already exists for delegated acts of the European Commission as specified by art. 290.1 TFEU and by Rule 111 of the EP's Rules of Procedure. This would be a matter of turning that model into a Special Legislative Procedure to provide authorisation power

to the EP, but which for the Member States would not carry the risks of the Ordinary Legislative Procedure.

Another ambitious reform would be to integrate B&L operations explicitly into the core EU budget. This would enhance accountability and ensure EP's involvement in budgetary authorisations related to the use of lending instruments. Budgetisation of B&L operations would require redefinition or reinterpretation of the concept of budgetary balance laid down in the third subparagraph of art. 310.1 TFEU, which is already not applicable as originally intended (i.e. annual budgetary balance). There may not be a need to amend the treaty in this case, as, the article does not specify the annual nature of the balance, maybe allowing for an interpretation of it as a balance over time in art 17.1 FR. Article 17.1 FR should clarify that debt instruments have to be balanced over the whole liability period and not annually, by the identification of the resources that will cover the liabilities and any potential financial risk, including guarantees linked to the instrument.

Moreover, a detailed analysis by Vitsentzatos (2014)<sup>103</sup> on loans and guarantees in the European Union budget draws attention to the absence of a formal prohibition on borrowing in the TFEU. The implication is that secondary legislation can be the basis for ensuring 'budget balance' through methods already being applied to ensure the recovery of funds. The issue is thus technical and political and not a fundamental legal barrier deriving from the treaty. This seems to be vindicated by the use of borrowing for NGEU grants.

The limitations lie in the Financial Regulation and particularly art. 17.2 FR stating: 'The Union [...] shall not raise loans within the framework of the budget'); this would have to be deleted. For EAR, budgetisation would require amending the principles and rules and art. 20 FR (universality) and to allow the incorporation of assigned revenues into the EU budget if duly justified. This would include temporary measures for large shocks such as the Covid pandemic. Such a change would also permit the introduction of Pigouvian taxes at the EU level, targeting sectors producing negative environmental objectives which are then used to finance actions to reduce the negative externalities (e.g. the existing ETS revenues to finance the Innovation fund).

In terms of presentation, the budget could be divided into two parts: Part I as the core budget, and Part II covering B&L operations. The second part of the EU budget would include classic B&L operations, but not EU borrowing used to provide non-repayable support (such as the NGEU resources used to provide grants to Member States or enhance existing EU budget programmes). The latter has to be included in part I of the EU budget, in order to avoid parallel grant pipelines to Member States and different control mechanisms for the same kind of expenditures.

This re-organisation would require an amendment to art. 46 FR. It is also necessary that the FR introduces a clear distinction between borrowing to pay for normal EU expenditure and borrowing to provide back-to-back loans. This also calls for the inclusion of an additional section in chapter 2 of Title X ("specific provisions") providing specific rules for EU borrowing used to provide non-repayable support, after the sections regulating financial instruments (art. 215-217), budgetary guarantees (arts. 218-219) and financial assistance (art. 220).

The effect of these changes to articles 17 and 46 FR would be to make the presence of B&L within the budget absolutely explicit, allowing for annual loan disbursements and payments to be authorised by the Budgetary Authority with control mechanisms where appropriate. Article 83.1 FR would also be

<sup>103</sup> Vitsentzatos M. (2014), 'Loans and guarantees in the European Union budget', ERA Forum (2014) 15:131–144, DOI 10.1007/s12027-014-0340-5

updated to take account of these changes to the EP's budgetary authorisation powers with regard to B&L.

Finally, the Own Resources Decision 2020 (arts. 4, 5, and 6) allows for borrowing on capital markets to be guaranteed by Own Resources. A treaty change could allow the EP to exercise a power of consent similar to its consent to the multiannual financial framework under art. 312 TFEU. This would provide the EP with a role, together with the Member States, in setting an annual debt ceiling for the EU's budget along the same lines that apply at national level. To achieve this latter objective, amendment to art. 311 TFEU would be required. Member States should be reassured that the EP would gain the power to approve and not the power to enforce anything that the Member States did not accept unanimously.

These more ambitious proposals extend the work of the more moderate reforms proposed earlier. They explicitly budgetise many B&L (and, as a corollary, EAR) operations, and provide for their approval, monitoring, and audit, extending the influence of the EP within this network of accountability. Through treaty reform the EP would also gain a consent power in relation to legislative acts entailing financial liabilities for the EU budget passed during financial emergencies (or other crises with budgetary ramifications) and in approval of Own Resources, which are exposed to risk. The advantages are to increase accountability and parliamentary power, allowing for these measures to gain a wider range of support. The disadvantages are to add to the time taken for decisions to be made – though our proposals would also allow the adoption of decisions before the EP consents – and that a system that checks on finances that arrive from Member States and other contributors could be placed at risk if the Member States do not approve.

**Table 8. Reforms of the governance of EAR and Trust Funds**

Reference	Status Quo	Change
Article 20 FR	The principle of universality in Article 20 FR states that apart from other forms of revenue in Article 21, 'total revenue shall cover total payment appropriations'. And that 'all revenue and expenditure shall be entered in the budget in full without any adjustment against each other'.	This article excludes the possibility of earmarking revenues and is at the root of several items remaining off-budget (e.g. B&L amounts and guarantees, NGEU loans and grants financed by EAR, etc.) The amounts are recorded in the financial accounts of the EU. Fully integrating these into the EU budget, the governance and scrutiny procedures and thus also into the annual budgetary procedures does not require treaty change, but will face Member States' resistance to 'formalising' off budget operations.
Art 21.2 FR	At present the EAR definition in the Financial regulation is very vague.	Given the importance of EARs to cover payments on guarantees received for B&L operations and, now, to generate substantial grant amounts for the recovery programme, the various forms of EAR should be listed separately in the FR with detailed clarification and transparency (e.g. borrowed funds, Member State contributions, third country contributions). Consider recording as EAR all cases where the Member States transfer funds to instruments under European Commission control, to account properly for actions coming from art. 234 FR initiatives involving all Member States, i.e. Trust Funds to which Member States contribute. This should be done at least in those cases where Member States are formally required to contribute based on a GNI key. In addition, a distinction should be made between external and internal assigned revenues in all reports and financial accounts.
Art 21.2.a FR	Art 21.2.a FR refers to EAR coming from specific additional financial contributions from Member States to certain supplementary research and technological development programmes or certain external aid actions or programmes financed by the Union and managed by the Commission.	Inclusion of an additional paragraph inspired by the fourth paragraph of art. 234.1 FR (adoption of thematic EU Trust Funds), establishing that the activation of art. 21.2.a FR shall be subject to the approval of the European Parliament and of the Council.
Article 21.5	This article states that 'a basic act may assign the revenue for which it provides to specific items of expenditure. Unless otherwise specified in the basic act, such revenue shall constitute internal assigned revenue'.	Based on the principle that assigned revenues have proven to be capable of modifying very significantly the EU budget, both on the revenue and on the expenditure side, the EP should co-decide the creation of new assigned revenues: art. 21.5 should be

Reference	Status Quo	Change
	The article gives a lot of discretion in the creation of assigned revenues, internal or external bypassing the EP, as has been the case for NGEU.	amended to require that the basic act be adopted by OLP.
Art. 22 FR	Art. 22 FR sets out rules on how to accommodate assigned revenue.	This article only covers assigned revenues, but similar rules should apply for other de facto revenue and to record B&L more thoroughly.
Art 41.8 FR	Art 41 (8) requests the Commission to accompany the draft budget with “a working document indicating, for each budget line receiving internal or external assigned revenue: (a) the estimated amount of such revenue to be received; (b) the estimated amount of such revenue carried over from preceding years”	Specify that the working document shall provide detailed estimates of the amounts per category of EAR, to hybrid programmes set up according to art. 21(2) (FR).
Art. 52.1 FR	Art. 52.1 FR details all the information to be shown in the annual budget, including through annexes	Inclusion of a comprehensive annex in the EU budget, providing a full overview differentiating between internal and external assigned revenues. It should also include contributions of all ‘third countries’ to EU programmes (at present there is only an annex presenting solely the EFTA contributions to the different budgetary lines).
Art. 250 FR	Commission reports annually to the Council and the Parliament on financial instruments, guarantees, and financial assistance.	Reinforced provisions to be modelled on those in the inter-institutional agreement for the scrutiny of NGEU expenditure for example for borrowing and lending operations.
Arts. 234 and 235 FR and Commission Decisions for each EUTF	The Commission reports to the EP on the trust fund operations. The establishment of thematic trust funds is subject to the approval of the EP and the Council, whereas for the establishment of emergency and post-emergency trust funds the obligation is only to consult the EP and the Council.	Article 234.1 FR should be amended to introduce a special procedure for the approval of emergency and post-emergency trust funds by delegated act (under art. 290.2.a TFEU). Where time is lacking, the Commission may, by delegated act establish an emergency or post-emergency trust fund. Within time periods set by the delegated act, the EP or the Council may revoke the delegation.  Amendments could also include a right of scrutiny and information on the Operational Committee’s decision-making procedures.



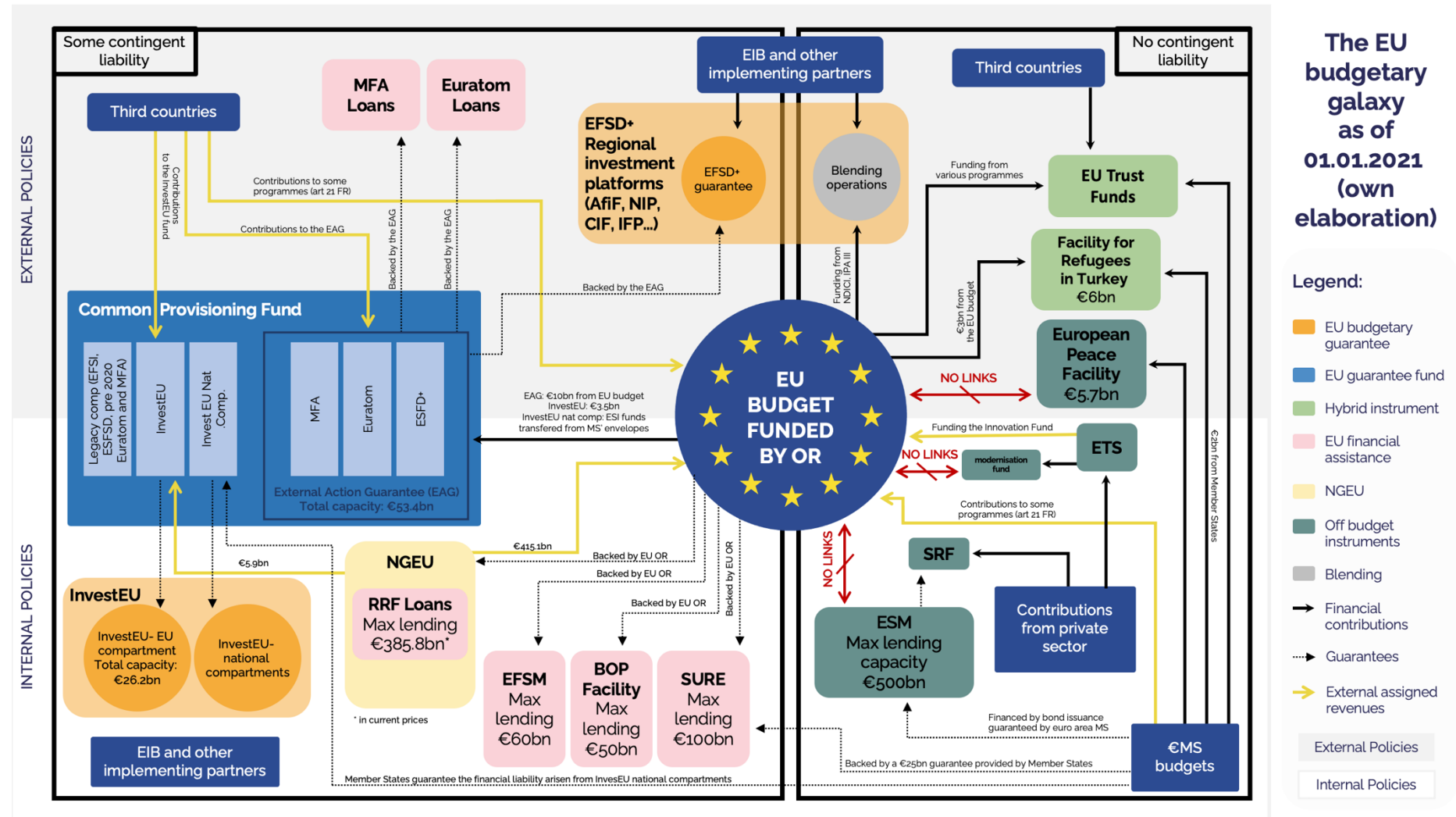
**Table 9. Reforms of the governance of B&L**

Reference	Status Quo	Change
<b>Moderate Reforms</b>		
New FR article	Articles 122 and 143 TFEU provide for the Council to take measures without involvement of the EP in the field of emergency intervention in economic or energy crises. Article 175 TFEU foresees the Ordinary Legislative Procedure involving the EP in Regulations of the EP and the Council for agreeing emergency budgetary measures in the field of cohesion. The treaty provides no details about the EP's involvement after the adoption of such regulation.	Introduction of a right for the EP to approve actions under legislative acts passed on the basis of Arts. 122, 143 or art. 175.3 TFEU. If decisions are urgent, the Commission could adopt them using a procedure similar to that for deciding delegated acts under art. 290.2.a TFEU, which confers on the EP or the Council the right to reverse such decisions.
Art 52.1.d FR	Art 52.1.d.iii states that the EU budget shall contain a document annexed with information of ongoing capital operations and debt management and capital operations and debt management for year 'n' indicating also corresponding risks.	Specify that this annex shall provide detailed estimations of maturities and any interest due each year, thereby identifying the risks to the EU budget in case the guarantees were to be activated. These should be referred to in the annex.
Art 261 FR	Art 261. regulates the discharge procedure	Make explicit that the EP's vote on the discharge includes all B&L operations (this could also be achieved by amending rules 99 and 100 of the EP Rules of Procedure)
<b>Ambitious Reforms</b>		
Arts. 122 and 143 TFEU	Arts. 122 and 143 TFEU provide for the Council to take measures without the involvement of the EP in the field of emergency intervention in economic or energy crises.	Amendment of arts. 122 and 143 to provide EP consent for all legislative acts having implications for the EU budget. The reform could allow for a bypass of the EP in the case of urgency, subject to a Special Legislative Procedure. In the case of adequate time, all new legislative acts under arts. 122 and 143 TFEU will require the EP's consent. Where time is lacking, Council may decide to adopt measures using a 72% qualified majority of Member States (Article 238.3b TFEU). In response to such a decision, the EP may within 'x' months raise objections. If within 'y' months, the Council has not addressed those objections to the satisfaction of the EP, the EP by a majority of its component members may vote to reverse the decision. The Commission

		will implement such a reversal within 'z' months. [This is the model of post-hoc veto for the EP and the Council with regard to Commission delegated acts that exists under art. 290.2.a TFEU.]
Art. 310.1 TFEU	Art. 310.1.3 TFEU states the principle of budgetary balance	A very ambitious reform would be to delete this sub-paragraph. The need for the EU to ensure that it has the means to cover its liabilities is already a Treaty requirement in Article 311.
Art. 17.2 FR	Art. 17.2. FR explicitly excludes loans from the EU budget ("The Union (...) shall not raise loans within the framework of the budget").	Paragraph 2 to be deleted.
Art. 46 FR	Art. 46 FR presents the structure of the EU budget	Amendment to organise the EU budget in two parts: Part I as the core budget, and Part II covering B&L operations (except EU borrowing used to provide non-repayable support which would enter Part I).
Title X	Title X regulating financial instruments, budgetary guarantees and financial assistance	Inclusion of an additional section 4 in chapter 2 of Title X ("specific provisions") providing specific rules for EU borrowing used to provide non-repayable support, after the sections regulating financial instruments (arts. 215-217), budgetary guarantees (arts. 218-219) and financial assistance (art. 220).
Art. 311 TFEU; Arts. 4, 5, 6 of ORD (2020)	ORD adopted unanimously by Council then ratified in every Member State; EP is only consulted; ORD (2020) allows for borrowing on capital markets	ORD to require the consent of the EP.

## ANNEX I. THE GALAXY OF THE EU BUDGET

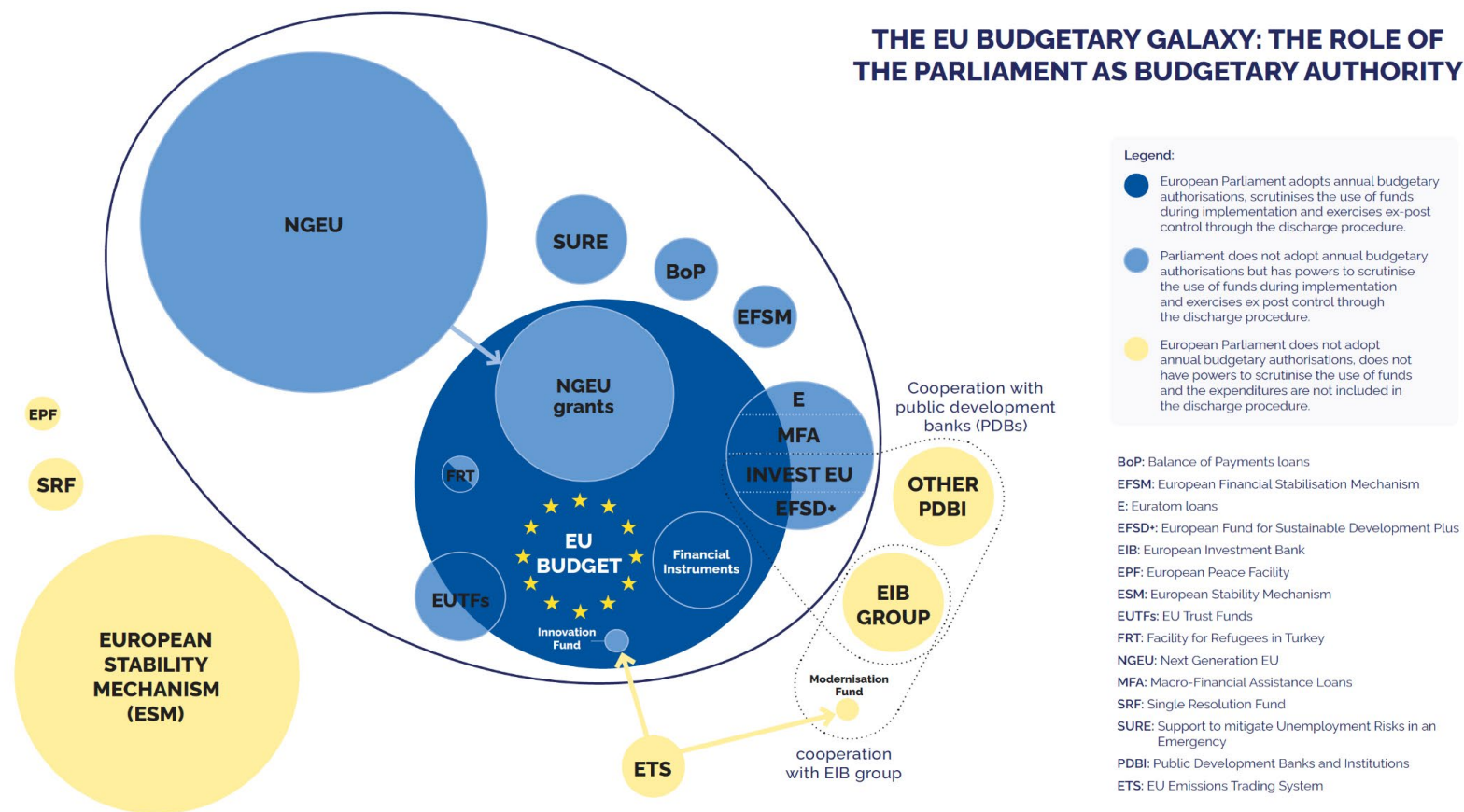
Figure 4. The Galaxy of the EU Budget



Source: Own elaboration; Note: The national compartment of InvestEU is guaranteed by MS guarantees, but only after the contingent liability has been covered by the EU.

## ANNEX II. THE ROLE OF THE PARLIAMENT AS BUDGETARY AUTHORITY

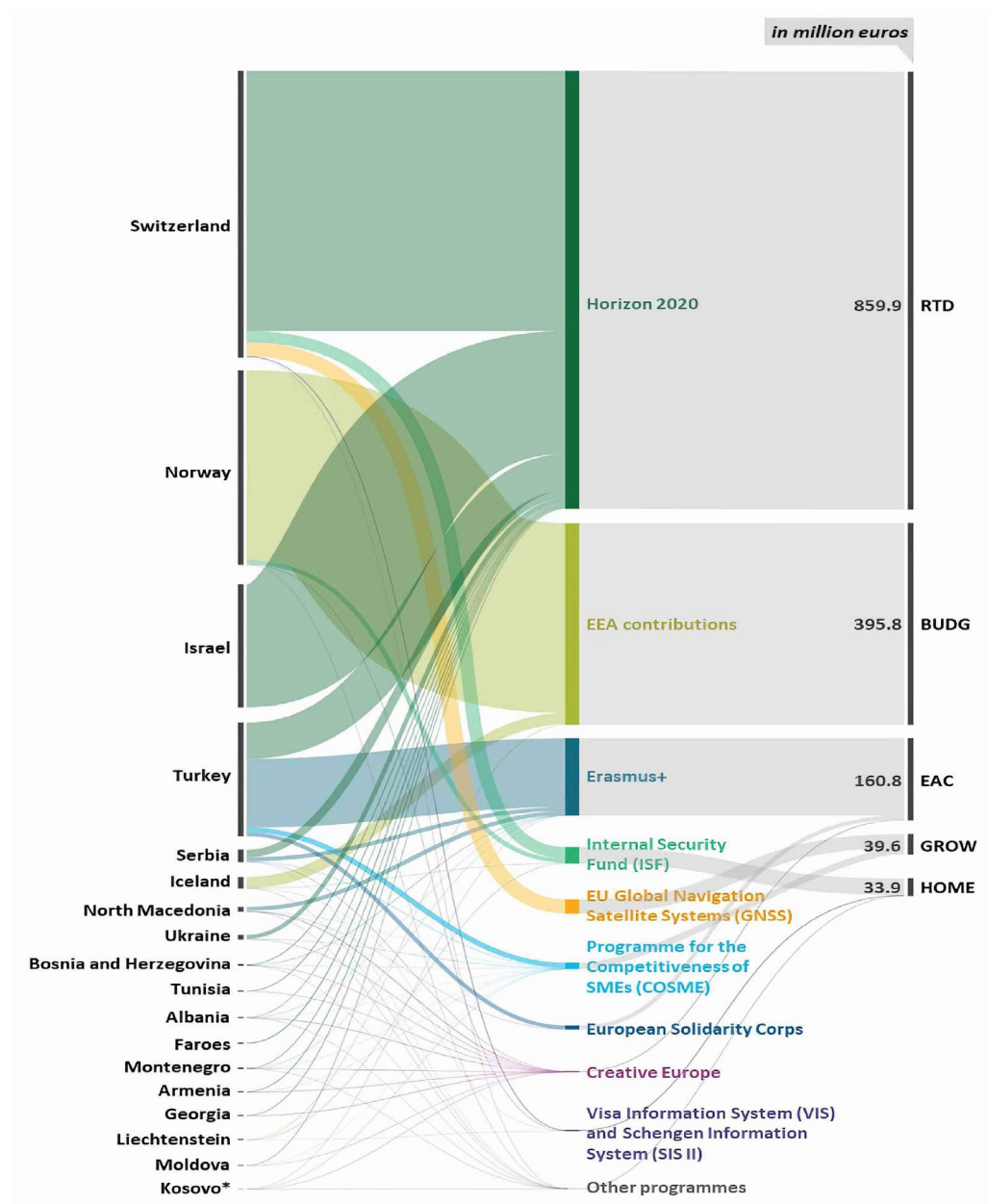
Figure 5. The role of the parliament as budgetary authority



Source: Own elaboration

## ANNEX III. NON MEMBER CONTRIBUTIONS TO THE EU BUDGET

**Figure 6. Overview of main contributions to the EU budget in 2019 by country, programme and responsible DG**



Source: ECA (2021), Financial contributions from non-EU countries to the EU and Member States, Review No3, p.15

## ANNEX IV. NON-MEMBER CONTRIBUTIONS TO THE EU BUDGET

**Table 10. Overview of non-member contributions to the EU budget in €, 2014 - 2019**

DG/institution	Programme/Country	Candidates and Potential Candidates	Switzerland	Iceland	Lichtenstein	Norway	EU Neighbourhood Policy	Totals
BUDG	EEA contributions (1)			84 311 292	10 338 370	2 107 264 274		<b>2 201 913 936</b>
RTD	Horizon 2020	472 977 420	1 757 373 350				1 086 467 480	<b>3 316 818 250</b>
EAC	Erasmus+	842 805 000						842 805 000
EAC	Creative Europe	10 230 000					1 967 003	<b>12 197 003</b>
EAC	European Solidarity Corps	7 400 000						<b>7 400 000</b>
HOME	Visa Information System (VIS)		2 498 529	70 725	32 058	1 605 426		<b>4 206 738</b>
HOME	Schengen Information System (SIS II)		2 174 988	58 999	29 360	1 463 963		<b>3 727 310</b>
HOME	Eurodac		27 897	263	272	19 125		<b>47 557</b>
HOME	Internal Security Fund (ISF)		97 741 841	2 539 436	888 919	67 654 787		<b>168 824 983</b>
HOME	Schengen administrative costs		113 149	3 171	1 004	72 028		<b>189 352</b>
Council			4 023 385	59 697	36 769	3 050 094		<b>7 169 945</b>
HOME	Europe for Citizens	700 000						<b>700 000</b>
HOME	Drugs chapter	24 000						<b>24 000</b>
GROW	EU Global Navigation Satellite Systems		299 091 663					299 091 663
GROW	COSME	66 858 614					3 170 022	<b>70 028 636</b>
ESTAT	Statistical cooperation		25 472 386					<b>25 472 386</b>



DG/institution	Programme/Country	Candidates and Potential Candidates	Switzerland	Iceland	Lichtenstein	Norway	EU Neighbourhood Policy	Totals
ENV	European Environment Agency	18 762 000	7 769 542					<b>26 531 542</b>
TAXUD	Customs 2020	4 335 000						4 335 000
TAXUD	Fiscalis 2020	1 830 000						<b>1 830 000</b>
TAXUD	CCN/CSI		578 053			592 553		<b>1 170 606</b>
TAXUD	VAT cooperation					40 000		<b>40 000</b>
EMPL	Employment and Social Innovation (EaSI)	3 800 000						<b>3 800 000</b>
ECHO	Civil Protection Mechanism	1 810 236						<b>1 810 236</b>
JUST	Justice Programme	138 993						<b>138 993</b>
JUST	Rights, Equality and Citizenship	227 570						<b>227 570</b>
JUST	Agency for Fundamental Rights	614 250						<b>614 250</b>
SANTE	Health Programme	665 689					94 648	<b>760 337</b>
DIGIT	ISA2 Programme	10 373						<b>10 373</b>
	<b>Totals per country</b>	<b>1 433 189 325</b>	<b>2 196 864 781</b>	<b>87 043 582</b>	<b>11 326 752</b>	<b>2 181 762 249</b>	<b>1 091 699 153</b>	<b>7 001 885 843</b>
Source: Data from European Court of Auditors (2021), 'Financial Contributions from non-EU countries to the EU and Member States', ECA Review No3 (1) Non-assigned contribution to the general budget								

## ANNEX V. MFA BALANCES AND NEW OPERATIONS

The MFA was very active in response to the pandemic and several new lending programmes were proposed in April 2020, approved by European Parliament and the Council in May 2020 and disbursed over 2020-2021. Lending in 2019 reached EUR 420 million, rising to EUR 1,675 million in 2020 and the expectation for 2021 is to reach another EUR 2,365 million as presented in Table 11. The process is described in detail in the annual report for 2020<sup>104</sup>.

According to the Consolidated annual accounts of the European Union, financial year 2020<sup>105</sup> (page 22) the total outstanding balance was EUR 5.8 billion, including loans to Ukraine of EUR 3.8 billion, Tunisia EUR 0.8 billion, Jordan EUR 0.6 billion and, for all others, EUR 0.6 billion. The outstanding balance by the end of 2021 is expected to reach EUR 8.178 billion.

**Table 11. MFA loans disbursements 2019 to 2021(expected) in EUR**

	2019	2020	2021 (expected)
Georgia II		20 000 000	
Moldova	20 000 000	20 000 000	
Ukraine IV		500 000 000	
Jordan II	100 000 000		
Jordan III		100 000 000	400 000 000
Tunisia II	300 000 000		

### Covid-19 MFA loan operations

Georgia		75 000 000	75 000 000
Moldova		50 000 000	50 000 000
Ukraine		600 000 000	600 000 000
Jordan		150 000 000	50 000 000
Tunisia			600 000 000
Albania			180 000 000
Bosnia and Herzegovina			250 000 000
Kosovo		50 000 000	50 000 000
Montenegro		30 000 000	30 000 000
North Macedonia		80 000 000	80 000 000
<b>Total</b>	<b>420 000 000</b>	<b>1 675 000 000</b>	<b>2 365 000 000</b>

Source: European Commission (2021), Report from the Commission to the European Parliament and the Council on the implementation of macro-financial assistance to third countries in 2020, COM(2021)0375

<sup>104</sup> Report from the commission to the European parliament and the council on the implementation of macro-financial assistance to third countries in 2020 (COM(2021)0375)

<sup>105</sup> Consolidated annual accounts of the European Union, financial year 2020

## ANNEX VI. SURE IMPLEMENTATION

SURE became formally available on 22 September 2020. 16 Member States<sup>106</sup> initially submitted their requests for a loan and the Commission formally presented the Council implementing decisions in August, for a total financial support of EUR 87.3 billion, which was granted. Three additional countries requested and obtained access to SURE loans for an additional EUR 3.3 billion.<sup>107</sup> Subsequently, in March 2021, the Commission proposed to the Council to grant an additional EUR 3.7 billion of financial assistance to six Member States.<sup>108</sup> The adoption of these implementing decisions increased the total SURE loans granted to EUR 94.3 billion.

SURE bonds were issued as social bonds, under a specific 'SURE social bond framework'. This framework enables SURE bonds to be 'an ESG (Environment, Social, and Governance) debt instrument allowing the investor community to allocate their funds towards the social needs of EU Member States hit by the pandemic crisis'<sup>109</sup>. The first transaction of EUR 17 billion was executed successfully on 20 October 2020, in two tranches. The transaction generated strong investor demand on both maturities (10- and 20-year), with an oversubscription of over 13 times, showing a significant market interest and trust towards the SURE social bond framework. At the end of May 2021, the Commission issued seven transactions for a total amount of EUR 89.637 billion (95% of the total granted amount), which have already been disbursed to Member States as back-to-back loans. Overall, the SURE social bonds have maturities ranging from 5 to 30 years<sup>110</sup>, resulting in disbursements to Member States with an average maturity of 14.5 years (see details in tables 10 and 11).

<sup>106</sup> Belgium, Bulgaria, Cyprus, Czech Republic, Greece, Spain, Croatia, Italy, Lithuania, Latvia, Malta, Poland, Portugal, Romania, Slovenia, and Slovakia

<sup>107</sup> Hungary (EUR 504 million, formally granted on 23 October 2020), Ireland (EUR 2.5 billion formally granted on 4 December 2020) and Estonia (EUR 230 million formally granted on 24 March 2021)

<sup>108</sup> After formal requests submitted by Belgium, Cyprus, Greece, Latvia, Lithuania and Malta

<sup>109</sup> European Commission (2020), EU SURE Social Bond Framework, October 2020. Available at: [https://ec.europa.eu/info/sites/default/files/about\\_the\\_european\\_commission/eu\\_budget/eu\\_sure\\_social\\_bond\\_framework.pdf](https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/eu_sure_social_bond_framework.pdf)

<sup>110</sup> As of 31 May 2021, only Poland, Romania and Portugal are waiting to receive the full granted amount. For an overview of the loan decisions and disbursements under SURE, see Dias, C. and Cunha, I. (2021), SURE Implementation, EP briefing. Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/659638/IPOL\\_BRI\(2021\)659638\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/659638/IPOL_BRI(2021)659638_EN.pdf)

**Table 12 Key statistics of the SURE borrowing transactions**

Transaction	Tranche	Size of the bond (EUR)	Yield	Total investor demand	Beneficiaries
<a href="#">20.10.2020</a>	20 years	7 billion	0.131%	88 billion	IT, PL, ES
	10 years	10 billion	-0.238%	145 billion	
<a href="#">10.11.2020</a>	5 years	8 billion	-0.509%	105 billion	HR, CY, EL, IT, LV, LT, MT, SI, ES
	30 years	6 billion	0.317%	70 billion	
<a href="#">24.11.2020</a>	15 years	8.5 billion	-0.102%	114 billion	BE, HU, PT, RO, SK
<a href="#">26.01.2021</a>	7 years	10 billion	-0.497%	83 billion	BE, CY, HU, LV, PL, SI, ES, EL, IT
	30 years	4 billion	0.134%	49 billion	
<a href="#">10.03.2021</a>	15 years	9 billion	0.228%	86 billion	CZ, ES, HR, IT, LT, MT, SK
<a href="#">23.03.2021</a>	5 years	8 billion	-0.488%	54.5 billion	CZ, BE, ES, IE, IT, PL
	25 years	5 billion	0.476%	55 billion	
<a href="#">18.05.2021</a>	8 years	8.137 billion	0.019%	59.3 billion	BE, BG, CY, EL, ES, IT, LT, LV, MT, PT, EE
	25 years	6 billion	0.757%	43.5 billion	

Source: Corti and Alcidì (2021)<sup>111</sup>

Reporting on the repayment schedule for principal and interest payments is presented in the table below.

<sup>111</sup> Corti, F. and Alcidì, C. (2021), The time is ripe to make SURE a permanent instrument, CEPS Policy Insights. Available at: <https://www.ceps.eu/ceps-publications/the-time-is-ripe-to-make-sure-a-permanent-instrument/>

**Table 13. Repayment Schedule of EU' SURE Outstanding Loans (EUR billion)**

Calendar year	Principal	Interest	SURE Total	Calendar year	Principal	Interest	SURE Total
2021		0.03548	0.03548	2036	9	0.1225	9.1225
2022		0.11111	0.11111	2037		0.1045	0.1045
2023		0.1225	0.1225	2038		0.1045	0.1045
2024		0.1225	0.1225	2039		0.1045	0.1045
2025	8	0.1225	8.1225	2040	7	0.1045	7.1045
2026	8	0.1225	8.1225	2041		0.0975	0.0975
2027		0.1225	0.1225	2042		0.0975	0.0975
2028	10	0.1225	10.1225	2043		0.0975	0.0975
2029	8.137	0.1225	8.2595	2044		0.0975	0.0975
2030	10	0.1225	10.1225	2045		0.0975	0.0975
2031		0.1225	0.1225	2046	5	0.0975	5.0975
2032		0.1225	0.1225	2047	6	0.075	6.075
2033		0.1225	0.1225	2048		0.03	0.03
2034		0.1225	0.1225	2049		0.03	0.03
2035	8.5	0.1225	8.6225	2050	10	0.03	10.03
Total					89,637	3.02959	92.66659

Source: European Commission (2021)<sup>112</sup>

<sup>112</sup> European Commission (2021), Report on the European instrument for Temporary Support to mitigate Unemployment Risks in an Emergency (SURE) following the COVID-19 outbreak pursuant to Article 14 of Council Regulation (EU) 2020/672, COM(2021)0596, Brussels, 22.9.2021. Available at: [https://ec.europa.eu/info/sites/default/files/economy-finance/sure\\_one\\_year\\_on.pdf](https://ec.europa.eu/info/sites/default/files/economy-finance/sure_one_year_on.pdf)

---

Over the last two decades, the combined effect of multiple crises and low Multi-Annual Financial Framework (MFF) ceilings has led to the emergence of a 'galaxy' of EU funds and instruments with variable participation of Member States and a diverse range of decision-making and accountability procedures. This study analyses the impacts on the EU governance and the ability of the European Parliament to fulfil its duties and considers that reforms are needed to ensure the EU budget and financial rules reflect the realities the EU faces

---

PE 721.500

Print ISBN 978-92-846-8989-7 | doi: 10.2861/444349 | QA-05-22-040-EN-C

PDF ISBN 978-92-846-8990-3 | doi: 10.2861/934396 | QA-05-22-040-EN-N