

Preface

Based on its unique system of Own Resources (Art. 311 TFEU), the European Union has always yielded tax revenue, yet mostly indirectly via the budgets of the Member States. At the same time, the EU budget as such (unlike certain para-fiscal budgets) had never been fed by EU loans.

The last couple of years have challenged the traditional fiscal concepts on the level of the Union. Rescue and stability mechanisms have been established, the EU has negotiated compensation payments with the UK upon Brexit, finalized a new Multiannual Financial Framework, decided on huge extra spending under the paramount Next Generation EU program, and stimulated debates about the introduction of a truly European tax. Next to political and economic uncertainties, each of these steps triggers intricate legal questions.

Some of the most eminent questions are presented and discussed in this new volume of the *Heidelberger Beiträge*. All contributions are based on lectures and input statements during the 2020 Annual Symposium of the Institute of Public Finance and Tax Law.

We wish to thank the *Steuerrechtswissenschaftliche Vereinigung Heidelberg e. V.* for invaluable help preparing this symposium both financially and intellectually. We thank the distinguished speakers and authors for their contributions. We extend our sincere gratitude to *Susanne Röth, Daniel Drescher, Johannes Klamet, Daniel Reich, Moritz Teichmann* and all members of the Institute for the smooth and successful organization of the online conference as well as the publication of this book.

May it enrich, inspire and objectify the debate on the financial future of Europe.

Heidelberg, October 2021

*Hanno Kube
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§ 1 Introduction

Hanno Kube

Guten Morgen, meine Damen und Herren,
Good Morning, Ladies and Gentlemen,

Just as the Vice-Rector for International Affairs, Professor *Marc-Philippe Weller*, the Institute for Public Finance and Tax Law of Heidelberg University warmly welcomes you to our annual conference. We are very happy to see you here in this virtual conference room, even though it would have been an even greater pleasure to be able to personally welcome you here in Heidelberg – which is, unfortunately, not possible these days. Nevertheless, we are looking forward to a fruitful symposium on a highly important topic: The future financing of the European Union. We will talk about the budget of the Union, but also and primarily about the revenue side; about reform options for the own resources system, about the perspectives for introducing EU taxes, about the possible scope of debt-financing of the Union and about the future role of the European Central Bank. Our topic is a truly European topic, which is also reflected by our high-ranking speakers and discussants. Therefore, we decided to use English as our working language today.

The timing of our conference could not be better. The institutions of the European Union are still intensely negotiating about the future financing of the Union. In July, the European Council agreed on a new Multiannual Financial Framework for 2021 to 2027 of just over 1,000 billion euros and on an additional massive recovery package called ‘Next Generation EU’ (NGEU), which aims at providing the Union with the necessary means to address the challenges posed by the COVID-19 pandemic. Under NGEU, the European Union will be able to borrow up to 750 billion euros on the markets that will then be allocated to a number of programs. The biggest one is the Recovery and Resilience Facility (RRF), providing more than 670 billion euros in loans and grants. In September this year, the Commission set out further strategic guidance for the implementation of the Recovery and Resilience Facility in its 2021 Annual Sustainable Growth Strategy.

However, already in the end of July 2020, the European Parliament adopted a resolution criticizing the European Council conclusions for a number of

reasons. First, Parliament deplores the cuts made to future-oriented programs as originally proposed by the Commission and requires substantive budget increases, in particular with regard to the Green Deal and the Digital Agenda. Secondly, Parliament demands the implementation of a meaningful rule of law mechanism in the framework of MFF and NGEU. Thirdly, Parliament criticizes the governance of the Recovery and Resilience Facility, which moves away from the Community method and endorses an intergovernmental approach. And forth and finally – and this will be a major focus of our conference – the European Parliament emphasizes that it will not give its consent to the MFF without an agreement on a substantive reform of the EU's own resources system, which plays a certain role in the European Council conclusions, but not a very big one. Therefore, Parliament calls for a binding agreement on the introduction of a basket of new own resources by the end of the MFF period, which should aim to cover at least the costs related to NGEU and which should also aim to reduce the share of the gross national income-based contributions.

The German Council Presidency has recently come up with a proposal for a compromise between the European Council conclusions and the position of the European Parliament, but a solution is not yet in sight.

And just a few days ago, the President of the European Central Bank, *Christine Lagarde*, announced that the ECB will look at whether its massive asset purchase programs should abandon market neutrality in order to foster the transition towards a greener economic model. Furthermore, she proposed that EU governments should consider the possibility of making EU debt a permanent fixture of the Union's economic response to crises. She suggests that the Union or the Euro-zone might set up a permanent debt-financed program for stimulating the economy.

To sum up, we can say that the European Union finds itself in a very difficult situation, in which big revenue- and budget-related decisions have to be taken. Decisions that will be crucial for the future path and shape of the Union and also for the Union's capabilities to cope with the enormous challenges that undoubtedly lie ahead. To name just a few of these challenges that the Union – and only the Union – can effectively tackle (in full compliance with the principle of subsidiarity): climate change and energy, migration and a policy for Africa, elements of a common economic policy complementing the common monetary policy, defining the relations to the US and China, a framework for the digitalization of the economy, society and government and effective health management.

In today's conference, we want to concentrate on the legal and policy questions related to generating the financial means that will enable the European Union to face these challenges, i.e. on questions related to the revenue side. How can the own resources system be reformed in order to make it fit for the future – either under the existing Treaties or by amending the Treaties? What are the perspectives for the GNI-based and the VAT-based contributions? Are truly European taxes conceivable and desirable in the framework of the own resources system? Can they promote a new Union-wide solidarity? To what extent are provisions like Art. 113, 115 or 192 TFEU sufficiently solid foundations for genuine EU taxes, or do we need – and do we want – new EU competences for levying EU taxes? Should we change from unanimity to majority voting in the area of taxation, as proposed by the Commission in 2019? Can the passerelle clause in Art. 48(7) TEU be used to this end – and is this compatible with the constitutional law of the Member States? What are possible candidates for EU taxes and how should they be designed? Can we draw from the Final Report of the Monti Group from 2016 in this respect, or from the recent Commission Proposal for a Council Decision on the system of own resources?

Then, an additional topic of similar significance and urgency: Is the European Union actually allowed to borrow money on the markets? How should the complicated construction of NGEU be assessed in light of the general provisions of the Treaties? And are perennial debts of the Union a good idea in economic and political terms?

And finally: What is the future role of the ECB and its massive asset purchase programs in the context of the asymmetry between the EU competences in the field of monetary policy and the largely lacking EU competences in the field of economic policy? Are the NGEU program and similar debt-financed programs suitable means to reduce the burden, which right now rests on the ECB with regard to the aim of economically rescuing Member States?

These are many challenges with big legal and political question marks.

Therefore, we are extremely happy to have excellent speakers and discussants with us today, who will share their insights and assessments of the current situation with us. In the morning, we will hear a lecture by Professor *Martin Nettesheim*, who will introduce us to the own resources system, the MFF and the debt-financed NGEU in particular. Afterwards, Professor *Edoardo Traversa* will focus on the legal bases, constitutional requirements and design proposals for possible EU taxes. In the afternoon, we will then turn to the perspectives for the German Council Presidency. To this end, we have invited outstanding representatives of the institutions involved

and additionally an equally outstanding economist. We will have with us: *Jakob von Weizsäcker*, Director-General for Economic and Fiscal Policy and Global Economy at the German Federal Ministry of Finance; *Marco Buti*, Head of Cabinet of the Commissioner for Economic and Financial Affairs at the European Commission; Dr. *Franziska Brantner*, Member of the German Federal Parliament and its Committee on European Union Affairs and Professor *Clemens Fuest*, President of the ifo Institute in Munich.

I am extremely confident that this will be a great and rich day on a topic of crucial importance for the future of Europe.