Österreichische Gesellschaft
für Europapolitik

**Österreichische Gesellschaft
für Europapolitik (ÖGfE)**
Rotenhausgasse 6/8-9, A-1090 Wien

europa@oegfe.at
www.oegfe.at
+43 1 533 4999

ÖGfE Policy Brief 11 2023

By Georg Vobruba
Vienna, 25 May 2023
ISSN 2305-2635

The prospect for a permanent debt competence of the European Commission

Policy Recommendations

1. Since a single country can only marginally influence the general development of the EU, it is politically advisable to ask not only about the economic and political desirability of a debt competence of the European Commission but also about the likelihood that it will develop.

2. Both when one examines this probability in social science terms and when one wants to exert political influence on it, a wide range of interests must be taken into account. In addition, there is more interest in the continuation of debt competence than in its introduction, as some effects only become manifest after its implementation.

3. There is much to be said for the continuation of the European Commission's debt competence. Community debt should not, however, be presented as a panacea for every new problem.

Abstract

NextGenerationEU (NGEU) is not the first EU bond programme of the European Commission, but it differs significantly from all its predecessors. This concerns its volume, earmarking, and issuance technique. The reactions on the capital market show great interest in bonds issued by the European Union (EU). This speaks for the continuation of the European Commission's debt competence as well as the formation of new institutions for the management of NGEU. The expectation that NGEU offers an instrument against problematic developments in individual EU member states might work in the same sense. Nevertheless, EU community debt is not a panacea for all kinds of problems. This should be borne in mind, above all, in the context of the reconstruction of Ukraine.

**Österreichische Gesellschaft
für Europapolitik (ÖGfE)**
Rotenhausgasse 6/8-9, A-1090 Wien
europa@oegfe.at
www.oegfe.at
+43 1 533 4999

The prospect for a permanent debt competence of the European Commission

I. Extraordinary …

The proposal for an EU common debt prevailed surprisingly quickly[1] in the Corona pandemic after a brief public debate. Germany's then Federal Finance Minister Olaf Scholz tweeted at the 2021 digital launch: "In just six months, we have achieved a fiscal breakthrough in the EU – a European Hamilton moment." The then German Chancellor Angela Merkel, on the other hand, saw it as an "extraordinary, one-off effort" (ARD, Tagesschau 18.05.2020), to which Germany and France in particular joined forces. Is the "NextGenerationEU" (NGEU) community debt a one-off action or an important step towards a permanent debt competence of the European Commission? Please note: The question here is not whether this is desirable according to economic or other criteria. The question is whether a permanent debt competence of the European Commission is to be expected.

II. … or nothing new?

On 27 May 2020, the President of the European Commission Ursula von der Leyen proposed a reconstruction fund with a financial volume of €750 billion, 250 billion for lending, and 500 billion as grants for individual EU members. On 21 June 2020, the 27 EU members agreed on the NextGenerationEU (NGEU) programme with the proposed volume of €750 billion. The opposition of the "frugal four" has been worked down by extending the credit portion to 360 billion and reducing the subsidies to 390 billion. The NGEU programme is financed by joint borrowing by the European Commission on behalf of all member countries. The NGEU bonds are placed in tranches between 2021 and 2026, using different techniques. The bonds have maturities of between three and thirty years, so repayments will be made earliest in 2028 and latest in 2058.

It is often overlooked that NextGenerationEU (NGEU) is by no means the European Commission's first EU bond programme.[2] Nevertheless, it contains some remarkable innovations. In the earlier programmes, the European Commission borrowed for a specific country with a corresponding guarantee and repayment obligation. The borrowing was support in case of general budget difficulties, and the volumes were comparatively small. During the Corona pandemic, there was already a precursor of NGEU, namely "The European instrument for temporary Support to mitigate Unem-

1 An offer for an explanation: Jenny Preunkert, Georg Vobruba, Eurokrise und Corona-Krise im Vergleich. Warum in der Corona-Pandemie Gemeinschaftsanleihen eingeführt wurden, in: Johannes Kiess et al., (Hg.), Krisen und Soziologie, Weinheim, Basel 2023: Beltz Juventa, S. 163-182.

2 Sebastian Horn, Josefine Meyer, Christoph Trebesch, Europäische Gemeinschaftsanleihen seit der Ölkrise: Lehren für heute? Kiel Policy Brief, No. 136/2020, Kiel: Institut für Weltwirtschaft.

Österreichische Gesellschaft für Europapolitik (ÖGfE)
Rotenhausgasse 6/8–9, A-1090 Wien

europa@oegfe.at
www.oegfe.at
+43 1 533 4999

ployment Risks in an Emergency" (SURE 19.05.2020) with a volume of €100 billion, financed partly by member states' contributions and partly by community debt.

III. A decisive decision

The NGEU programme had to be pushed through both against resistance from individual countries and within the countries. Perhaps most important: On 15 April 2021, the German Constitutional Court rejected the "Eilantrag" (urgent application) claiming the unconstitutionality of the "Eigenmittelbeschluss-Ratifizierungsgesetz" (Own Resources Ratification Act), which translated NGEU into German law. The core argument of the complainants was that the joint debt for Germany entailed a default liability for other EU members and thus potential payment obligations that undermined the budgetary sovereignty of parliament. On 6 December 2022, the court finally rejected the constitutional complaints against the law. These are the main points of the justification for the constitutionality of the "unionalen Kreditaufnahme" (borrowing by the European Union), as the Court calls it. First, the funds are strictly earmarked (no general budget financing); second, the community borrowing is for an "individual historical case", so that the rule-exception relationship is preserved. And third, it is "not an assumption of liability for arbitrary decisions of other states or even of the European Commission". Rather, "the European Commission may, if other options are insufficient, as a last resort, require member states to make the shortfall provisionally available in proportion to their contribution to the European Union budget."[3] The possibility of the insolvency of all EU members involved, with the exception of Germany, which would then be left sitting on the entire debt, was obviously considered completely unrealistic by the court. On the question of whether NGEU is a step towards the permanent debt competence of the European Commission, it is advisable to read the reasoning of the judgement carefully. It does not say that NGEU must remain the only case. It is only a question of preserving the rule-exception relationship, i.e. that the exceptional cases (plural!) do not get out of hand.

> ***The NGEU programme had to be pushed through both against resistance from individual countries and within the countries.***

It can be left open here which actors involved anticipated which effects of NGEU, considered them to be in their interest, and therefore committed themselves to them. In any case, in general, there is more interest in the continuation of debt competence than in its introduction, as some effects only become apparent after its implementation. What interests are working towards a stabilisation of debt competence?

> ***In any case, in general, there is more interest in the continuation of debt competence than in its introduction, as some effects only become apparent after its implementation.***

---

3 All quotations from: Bundesverfassungsgericht, Verfassungsbeschwerden gegen das Eigenmittelbeschluss-Ratifizierungsgesetz („EU-Wiederaufbaufonds – NGEU") erfolglos, (Pressemitteilung Nr. 103/2022 vom 6. Dezember 2022; my translation), https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2022/bvg22-103.html.

**Österreichische Gesellschaft
für Europapolitik (ÖGfE)**
Rotenhausgasse 6/8-9, A-1090 Wien

europa@oegfe.at
www.oegfe.at
+43 1 533 4999

IV. Investors interests

On 15 June 2021, a first tranche of €20 billion was issued. It was seven times oversubscribed, indicating a lot of interest in investing in these kinds of bonds. Reuters, a news agency, reports: "The new EU bond, due July 4 2031, was priced to yield 0.086%, according to the lead managers. It rallied in the 'grey' market pre-issuance, market participants said - further evidence of strong demand."[4] In addition, "the bond rallied sharply in the secondary market in further evidence of strong demand", Reuters[5] added the next day. On 2 July 2021, it dropped for the first time beyond zero.[6] This is usually called "negative interest", but it is actually a fee for a service, namely the value-preserving storage of capital. The willingness of investors to pay such a fee shows their need for (as safe as possible) investment opportunities that go beyond the generation of interest income. Of course, this interest also exists in the case of positive interest rates, but the storage fee becomes invisible as a deduction from the interest income.

> ***On the side of the providers of capital, there is obviously a strong interest in the community debt of the EU that goes beyond the time limit of the NGEU programme until the year 2058.***

As is well known, the interest rate situation has changed markedly since 2021. Of course, NGEU bonds are now also in positive interest rate territory. However, their relative position compared with government bonds with similar conditions has not changed.[7] "EU bonds have traded at tight yield spreads relative to German Bunds, and below the GDP-weighted average of euro area sovereign yields, suggesting that the high credit quality of EU bonds is well understood by market participants."[8] The finding of continued attractiveness is supported by two other indicators of creditor confidence. Firstly, the yield curve of NGEU bonds by maturity shows the standard pattern, namely modestly higher yields at the long end. This indicates long-term creditor confidence in NGEU bonds.[9] Secondly, at the same time, the difference between

---

4 Yoruk Bahceli, EU launches landmark new program to near record demand-bankers, Reuters, 15 June 2021, https://www.reuters.com/article/us-eu-recovery-bonds-idUSKCN2DR0SB.

5 Yoruk Bahceli, Debut EU recovery fund bond rallies sharply, investors await Fed, Reuters, https://www.reuters.com/article/us-eurozone-bonds-idUSKCN2DS0PZ.

6 Dhara Ranasinghe, Yield on 10-year EU recovery fund bond drops below 0%, Reuters, 2 July 2021, https://www.nasdaq.com/articles/yield-on-10-year-eu-recovery-fund-bond-drops-below-0-2021-07-02.

7 European Bond Spreads: https://www.mtsmarkets.com/european-bond-spreads.

8 Tilman Bletzinger, William Greif, Bernd Schwaab, The safe asset potential of EU-issued bonds. European Central Bank, Research Bulletin 103, 16 January 2023, https://www.ecb.europa.eu/pub/economic-research/resbull/2023/html/ecb.rb230116~e55fb14a74.en.html. Cf. figure 2 in Tilman Bletzinger, William Greif, Bernd Schwaab, Can EU bonds serve as euro-denominated safe assets? European Central Bank, Working Paper Series No. 2712, August 2022, https://www.ecb.europa.eu/pub/pdf/scpwps/ecb.wp2712~6f023a5df2.en.pdf.

9 Karl Pichelmann, Returning to a "new normal", Revising the EU fiscal rulebook, ÖGFE Policy Brief, No. 02, 28 January 2022, https://www.oegfe.at/policy-briefs/returning-to-a-new-normal-revising-the-eu-fiscal-rulebook/?lang=en.

Österreichische Gesellschaft für Europapolitik (ÖGfE)
Rotenhausgasse 6/8–9, A-1090 Wien
europa@oegfe.at
www.oegfe.at
+43 1 533 4999

the selling and buying price (bid-ask spread), a measure of the liquidity risk perceived by market participants, has decreased. It is therefore possible to convert EU bonds into liquidity at relatively low transaction costs. However, they are still significantly higher than the bid-ask spreads of the 10-year bonds of important EU members. "EU bonds' prospects for becoming a genuine euro-denominated safe asset could potentially be hampered by the fact that both temporary Support to mitigate Unemployment Risks in an Emergency (SURE) and the NGEU programme are foreseen to be one-off, time-limited pandemic emergency responses. … This finite maturity may deter investors from establishing a long-term investment strategy in which EU bonds would be considered a permanent part of their portfolios."[10] For several years, the share of the euro in the world's currency reserves has stagnated at around 20% (US dollar at around 60%). The stabilisation of EU bonds could mean a push in this respect. In summary: On the side of the providers of capital, there is obviously a strong interest in the community debt of the EU that goes beyond the time limit of the NGEU programme until the year 2058.

V. The interest of the institution in itself

> ***The special features of the NGEU bonds favour the consolidation of the European Commission's debt management.***

Issuing NGEU bonds requires a specific organisation, hence to build new institutions.[11] "The setting up of an EU issuance service is a natural step in the development of the EU as an issuer. It will deliver a number of benefits for all market participants, and in particular the investors in EU bonds."[12] The special features of the NGEU bonds favour the consolidation of the European Commission's debt management. To name but a few: The long maturity of some of the bonds (until 2058) is important; the European Commission's own debt service requires a self-managed liquidity reserve; the repayment of the funds granted as a grant requires new resources from the European Commission; and finally, the repayment of maturing bonds through the issuance of new debt is not excluded.

For the institutionalisation of debt competence, the shift from "back-to-back funding" to a "diversified funding strategy" makes the crucial difference. Without going into too many technical details, this shift has the effect of creating a dedicated issuance network. In essence, it connects the European Commission with potential creditors via selected banks ("Primary Dealer Network"). This requires the development of additional institutions within the European Commission. Their tasks are al-

---

10 Tilman Bletzinger, William Greif, Bernd Schwaab, The safe asset potential of EU-issued bonds. European Central Bank, Research Bulletin 103, 16 January 2023, https://www.ecb.europa.eu/pub/economic-research/resbull/2023/html/ecb.rb230116~e55fb14a74.en.html.

11 Georg Vobruba, European Integration as Complementary Institution-Building. The impact of the COVID- Pandemic, in: Stefanie Börner, Martin Seeleib-Kaiser (eds.): European Social Policy and the Covid-19 Pandemic, New York and Oxford 2023: Oxford University Press.

12 European Commission, NextGenerationEU: European Commission to transfer its bond issuance settlement to a Eurosystem-based infrastructure, 12 July 2022, https://ec.europa.eu/commission/presscorner/detail/en/QANDA_22_4470.

Österreichische Gesellschaft für Europapolitik (ÖGfE)
Rotenhausgasse 6/8-9, A-1090 Wien

europa@oegfe.at
www.oegfe.at
+43 1 533 4999

ready described in the decision of the European Commission "on the establishment of the Primary Dealer Network",[13] which specifies the duties of all participants, the inclusion of financial institutions in the Primary Dealer Network, the control of the qualifications of the Primary Dealers, the rules for exclusion, etc. All in all, "the borrowing operations will be encoded in a robust governance framework, which will ensure coherent and consistent execution. In its work, the Commission will continue to coordinate with other issuers, including the EU Member States and supranational."[14] For liquidity reasons, it is necessary for the European Commission to manage a cash reserve – another facet of institution building within the European Commission, driven by NGEU. The effect of all these technical innovations is crucial. NGEU institutionalises public finance management as an EU competence and increases the European Commission's autonomy vis-à-vis the member states. "Given the volume, frequency and complexity of the borrowing, the Commission will have to undertake the debt management policy similar to those of large sovereigns".[15]

> ***For the institutionalisation of debt competence, the shift from "back-to-back funding" to a "diversified funding strategy" makes the crucial difference.***

Generally speaking, with the emergence of new institutions, a self-interest in their existence and expansion develops at the same time. Such an "interest of the institution in itself" is very conducive to the perpetuation of the European Commission's debt competence, especially since it is supported by highly professional and excellently networked staff.

VI. Additional political interests

It looks as if it were obvious that the common funding of the NGEU represents advantages for less creditworthy debtors among EU member states. But their interests are ambivalent. On the one hand, EU members with unfavourable rankings on the financial markets are interested in participating in the privileged status of common debt. But on the other hand, they cannot be interested in the constraints that come with it. The case of the European Stability Mechanism (ESM) and Italy has shown that this can go so far that loans are not taken up. What is the situation in the case of the NGEU?

> ***On 10-11 December 2020 the European Council adopted the so-called rule of law mechanism, which explicitly aims to protect the EU budget.***

As the volume of transfers from the European Commission to individual member countries increases, so does the risk of misuse and the interest in controlling the use of the funds. Therefore, on 10-11 December 2020 the European Council adopted

---

13 COMMISSION DECISION (EU, Euratom) 2021/625 of 14 April 2021, Art 6, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021D0625.

14 European Commission, NexGenerationEU diversified funding strategy in a nutshell, https://commission.europa.eu/strategy-and-policy/eu-budget/eu-borrower-investor-relations/how-eu-issuance-works_en (access on 31 August 2021).

15 European Commission 2021, Borrowing to finance the recovery: EU's upcoming issuance under NGEU, Brussels, 8 June 2021, mimeo.

Österreichische Gesellschaft für Europapolitik (ÖGfE)
Rotenhausgasse 6/8–9, A-1090 Wien

europa@oegfe.at
www.oegfe.at
+43 1 533 4999

the so-called rule of law mechanism, which explicitly aims to protect the EU budget. It allows the European Commission to withhold funding from NGEU if rule of law deficiencies in a member country jeopardise the proper use of funds. Thus, with the expansion of its debt competence, the European Commission's possibility to withhold funds provides it with an effective interventionist instrument in order to reverse problematic developments in single member states. This is particularly the case if financial transfers to single member states are not given as general support for their national budgets but for well-defined purposes. The earmarking of funds linked to the community debt combined with the rule of law mechanism enables control and offers a lever to act on serious undesirable developments in individual member countries, or it provides at least a new frame for thematise of such developments.[16]

> ***But in principle, the dilemma remains: payments from the NGEU, be they loans or grants, are only a political lever for the EU if they are actually used.***

There are striking differences between the ESM and the NGEU. The members of the Eurozone have access to ESM funds; the loans and guarantees serve to support them in the event of public over-indebtedness and are linked to a permanent control accompanying the process. NGEUs, on the other hand, can be applied for by all EU members; the financial resources are dedicated to specific purposes; the plans for these are reviewed in advance, and the investment of the funds is carried out autonomously. This may make it easier to apply since the external permanent control, which is perceived as humiliating, no longer applies. But in principle, the dilemma remains: payments from the NGEU, be they loans or grants, are only a political lever for the EU if they are actually used. Therefore, there is always the possibility that individual EU members do not want to expose themselves to this leverage and prefer to do without NGEU funds. However, it is precisely those governments that are suspected of violating the rule of law that tend to rely heavily on EU funds to buy approval in elections. So it only applies with restrictions: Beyond its economic effects, the NGEU opens up new possibilities in general political EU affairs. This is a political advantage associated with debt competence that is not easily given up.

> ***However, it is precisely those governments that are suspected of violating the rule of law that tend to rely heavily on EU funds to buy approval in elections.***

VII. Russia's war against Ukraine: the next "historical exception"?

After the introduction of NGEU, it quickly became common practice to react to extraordinary problems with proposals for further community debt. The climate crisis or the new protectionist policy of the United States of America are cases in point. The most serious and shocking case, of course, is the Russian invasion of Ukraine. "The devastating war of Russia against Ukraine has triggered a discussion among EU heads of state whether to cushion some of the war's detrimental impact by means of an ad-

16 Laurent Pech, 7 Years Later: Poland as a Legal Black Hole, Verfassungsblog, 17 January 2023, https://verfassungsblog.de/7-years-later-poland-as-a-legal-black-hole/, DOI: 10.17176/20230118-001918-0.

**Österreichische Gesellschaft
für Europapolitik (ÖGfE)**
Rotenhausgasse 6/8–9, A-1090 Wien

europa@oegfe.at
www.oegfe.at
+43 1 533 4999

ditional bond-financed EU budget. If realised, such a programme could improve the safe asset status of EU bonds for two reasons. First, even-higher outstanding volumes would almost mechanically contribute to a further improvement of market liquidity, in line with our assessment above. Second, responding to a new crisis again with additional EU bonds may signal an erosion in the political resistance against a permanently bond-financed EU budget."[17] Is Russia's invasion of Ukraine the next "historical exception" and thus the next opportunity for community debt? These are two questions. It is certainly an exceptional historical case, but that alone is not the issue here. The decisive question is: Will this result in a new round of community debt? One can doubt that.

> ***It is certainly an exceptional historical case, but that alone is not the issue here.***

There are two open questions. First, is community debt for the reconstruction of Ukraine possible in the current legal framework for community debt as developed on the occasion of the NGEU? Second, is community debt the appropriate mode of financing for the reconstruction of Ukraine?

First, the possibility: If one assumes that the German BVG will be decisive in the question of community debt for the time being, one must note the following: In its reasoning for rejecting the constitutional complaint against the "Eigenmittelbeschluss-Ratifizierungsgesetz", the court defines as a decisive criterion for constitutional conformity that the funds raised for the "historical special case" are actually spent for a related purpose. The wording in Art. 122 (1) TFEU (Treaty on the Functioning of the European Union) that measures may generally be adopted "in a spirit of solidarity between Member States" indicates that the addressees of aid are to be understood as the EU members. This at least raises doubts as to whether the intended purpose of community debt can lie outside the EU. This is precisely what would be the case with a community debt to finance a programme for the reconstruction of Ukraine. In order to fit such a EU bond programme into the existing legal framework, an ambitious argument would have to be developed: Ukraine's war-related problems spill over and become problems for the EU itself, so that EU aid for Ukraine benefits the EU member states themselves in a roundabout way. This is classic "self-interested aid".

Second, the appropriateness: Internationally, the possibilities and problems of Ukraine's reconstruction are widely discussed. There is an overwhelming consensus that financial aid for Ukraine must be provided primarily in the form of debt relief and grants, and that loans only make sense when Ukraine is economically able to actually service debts. Accordingly, the current lending to Ukraine is viewed very critically. However, if the European Commission uses new community debt to support Ukraine through grants, it will have to generate additional own resources to service this debt. At the end of the day, this can only be contributions from the member states or the EU's own direct taxes. This would be a decisive step beyond debt competence.

17 Tilman Bletzinger, William Greif, Bernd Schwaab, Can EU bonds serve as euro-denominated safe assets? European Central Bank, Working Paper Series, No 2712, August 2022, p. 17, https://www.ecb.europa.eu/pub/pdf/scpwps/ecb.wp2712~6f023a5df2.en.pdf.

Österreichische Gesellschaft für Europapolitik (ÖGfE)
Rotenhausgasse 6/8-9, A-1090 Wien
europa@oegfe.at
www.oegfe.at
+43 1 533 4999

About the author

Georg Vobruba is professor at the Institute for Sociology at the University of Leipzig.

Contact: vobruba@rz.uni-leipzig.de

About ÖGfE

The Austrian Society for European Politics (Österreichische Gesellschaft für Europapolitik, ÖGfE) is a non-governmental and non-partisan platform mainly constituted by the Austrian Social Partners. We inform about European integration and stand for open dialogue about topical issues of European politics and policies and their relevance for Austria. ÖGfE has a long-standing experience in promoting European debate and acts as a catalyst for disseminating information on European affairs.

ISSN 2305-2635
The views expressed in this publication are those of the author and not necessarily those of the Austrian Society for European Politics or the organisation the author is working.

Keywords
European Commission, dept competence, NextGenerationEU, community dept, EU bonds, Ukraine

Citation
Vobruba, G. (2023). The prospect for a permanent debt competence of the European Commission. Vienna. ÖGfE Policy Brief, 11'2023

Imprint
Austrian Society for European Politics (ÖGfE)
Rotenhausgasse 6/8–9
A-1090 Vienna
Austria

Secretary General: Paul Schmidt

Responsible: Susan Milford-Faber

Tel: +43 1 533 4999
E-Mail: policybriefs@oegfe.at

Website: ÖGfE Policy Briefs