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Policy Brief Series

***The European Council's Financial Mega Deal:
An unprecedented challenge for the political and
academic world***

Part 2

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TRACK Teaching and Researching
the European Council



More than ever before, the activities and actions of the European Council (EUCO) in July 2020 and over the following months up to their December meeting have demonstrated that studying the role of this key institution is of vital importance for understanding the European Union's (EU) fundamental

trends and also the future evolution of Member States. For our academic agenda, we face a considerable and perhaps even an unprecedented challenge in studying a moving target of major significance. This TRACK policy brief series provides an in-depth analysis of the European Council's actions during its management of the corona crisis. While the first policy brief gives an overview of key decisions taken by the EU institutions and in particular the European Council as well as the related academic and political discourse, the second policy brief will shed some light on the road to and from the July summit, thus, assessing the decision-making process within the European Council and among the EU institutions. Our third and final policy brief elaborates on the governance mechanisms of the Recovery and Resilience Facility (RRF). Overall, this threefold analysis aims to provide a comprehensive starting point for researching and teaching about the European Council. Further studies will deal with: internal decision making (e.g. cleavages and coalitions inside the European Council and its club spirit); the roles and powers of the European Council revisited (including its impact on the inter-institutional balance of power within the Union's constitutional architecture), the crisis management and its results/products as tests for academic approaches, short term and long term perspectives including speculation about possible scenarios.



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The history-making agreement on the Multiannual Financial Framework and Recovery and Resilience Facility: Studying the Roads to and from the July 2020 meeting of the European Council¹

Box 1: Key Takeaways observations and assessments analysis

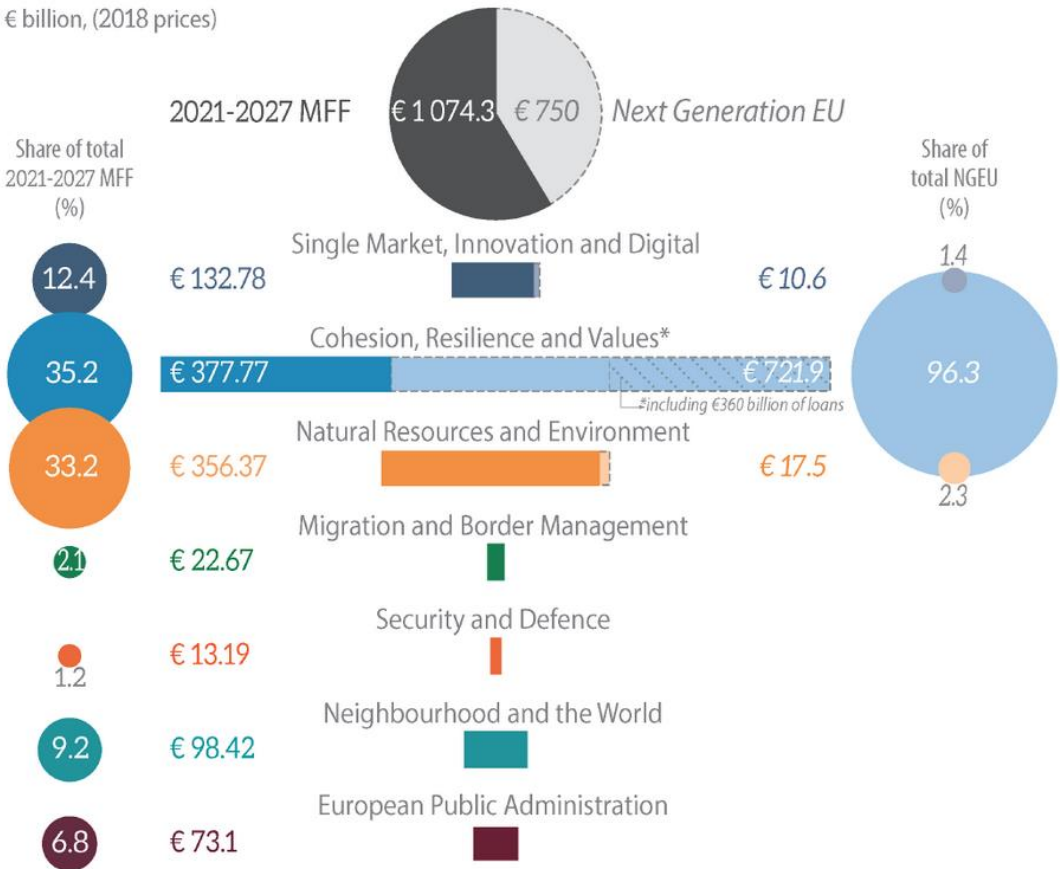
- *The long road to the new MFF: path dependency with few changes*
- *Continuity and discontinuity of budget categories for income and expenditure*
- *The fast track to the RFF: crisis challenges as accelerator*
- *A stressful marathon session: old and new cleavages and coalitions*
- *Decision-making inside the EUCO: traditional patterns with some variations*
- *Dynamics and constraints: driving and blocking forces*
- *A bumpy road from the July summit: obstacles to get to the legal text*
- *Ambitious roadmaps for future short- and long-term actions*
- *The key role of the EUCO: via crisis management to a driver for more integration*

Looking at major events in 2020 the academic and political communities are faced with considerable challenges: in its July 2020 meeting, the European Council (EUCO) agreed on an “ambitious and comprehensive package” for pursuing an “unprecedented effort and an innovative approach” (European Council 10/20 A29²). This financial mega deal created the Next Generation EU (NGEU) with the Recovery and Resilience Facility (RRF) as the key instrument and adopted the next Multiannual Financial Framework (MFF) (see overview 1)

after a stressful five days and four nights negotiation. The figures of the financial package look staggering. Whereas the amount of €1.7074 billion for the MFF 2021-2027 is approximately the size of the former (2014-2020), the €750 billion for the NGEU is the taboo-breaking novelty: “EUR360 000 million [...] may be used for providing loans” and “EUR390 000 million [...] may be used for expenditure” (Council Decision 2020 /2053 Art. 5 (1)³).



Overview 1: MFF 2021-2027



Source: See Endnote⁴

The novelties of the leaders’ agreement are not only concerning the expenditure side of the Union’s budget. The members of the EUCO also broke with dearly cherished taboos for the income side. The conclusions and subsequent legal acts document unexpected and for long time unthinkable steps for financing the Union’s budget: The Member States empowered the Commission “to borrow funds on the capital market on behalf of the Union” (Decision 2020/2053 Recital 16, Art.5(1)). Against the long and firmly defended position, member states also agreed to an “extraordinary and temporary increase in the

own resource ceilings for the allocation of the resources necessary for addressing the consequences of the COVID 19 crisis” (Decision 2020/2053 Art.6). The prospective roadmap for reforming the Union’s funding through the introduction of new own resources in the coming years also represents a revolution (EUCO 10/20 A29). For teaching and research, it is essential to carefully examine the way in which the EUCO and later other EU institutions have formulated and established the Union’s history-making legal acts. Not only the politicians of the European Union and its Member States, but

also comments from the academic world refer to the July agreement as a ground-breaking moment in the history of the Union⁵.

In early 2021 it is not yet possible to foresee whether or not these funds are sufficient in terms of their goal to stabilize and modernize national economies and thus contribute to the “rescue of the nation state”⁶, or if they will fail due to shortcomings in the governance mechanisms for preparing, deciding, implementing and controlling the payments.⁷ Some of the initial claims may be due to a short-lived *Zeitgeist* and will be reduced when hitting national realities. To understand the opportunities and risks of this comprehensive and ambitious package, it is of high academic relevance to trace several intertwined processes to and from the July meeting 2020.⁸

In order to reduce the complexity, this policy brief aims to analyse and assess the history of the MFF since the 1980s in a longer-term perspective. Moreover, it will examine the run-up to the MFF 2021-2027 in a shorter-term perspective from 2018 until early 2020. Herein special attention will be paid to the fast-track process towards the MFF and the creation of the revolutionary RFF at the core of the NGEU, comprising the loan portfolio and 80% of the grants, from March 2020 to July 2020 in response to the outbreak of the coronavirus pandemic. To get a complete picture we also need to study the roads from the July meeting to the adoption of the necessary legal acts at the end of 2020 and until February 2021. As methodological approach this policy brief will

use a traditional process tracing method by identifying milestones and game changing events. Such a tool can help to discover significant patterns in the empirical evidence - at least as far as we as outsiders can observe them. To illustrate and explain the process of constructing and taking all these roads, this policy brief will point at driving and mobilising as well as constraining and blocking forces and dynamics. Not at least we will analyse cleavages and coalitions within the EUCO.

The long road and the historical record: The EUCO exercising the power of the purse

As for other policy fields, a look into the history of the Union’s trajectory for making and reforming its budget is highly useful.⁹ The examination of the road to the July 2020 conclusions shows a high degree of path dependency of the package – at least concerning the MFF. Most commentators stress and highlight “the continuity of the MFF”¹⁰, “continuity and path dependencies”¹¹ and that “the MFF structure will remain rooted in the past”¹². Still, some argue that this “could lead to fundamental changes in the European budgeted system”¹³. Compared to the “immobility of the EU budget”, the RRF is highly evaluated as “opening the way for true revolution [...] on three major points: the own resources ceiling, the borrowing ability of the EU and, last but not least, opening the Pandora’s box of new own resources.”¹⁴

Budgetary issues and respective inbuilt conflicts are a central element in the



construction of the European Community and the Union. The issue of a budget for the European Economic Community (EEC) and especially its redistributive effects in favour of the Common Agricultural Policy (CAP) have already been high on the political agenda of the six founding members. Hence budgetary issues are already part of the Rome Treaty in 1957 (at least as an implicit part of the political agreement). As in other cases of issues with high national relevance, the heads of state or

government had to take responsibility for agreeing on these distributive topics not later than 1969 at the Hague summit. Given the political sensitivity, national leaders have used the EUCO since its inception in 1975 to exercise the role of a “master of the purse”¹⁵ by conciliating final agreements (see overview 2). From the Delors Package onwards the members of the EUCO agreed on procedures for taking a decision on a multi-annual budgetary framework¹⁶.

Overview 2: The EUCO and the EU Budget: Main Agreements 1969-2020

Year and Place	Topic
December 1969 The Hague Summit	Agreement on the Community’s own resources
October 1972, December 1974 Paris Summits	Creation of the regional fund
June 1984 Fontainebleau	Mechanism for British rebate
February 1988 Brussels	Delors I Package on: ‘Budgetary discipline and budget management’ (1988-1992)
November 1993 Maastricht Treaty	Agreement on the cohesion fund
December 1992 Edinburgh	Delors II Package on: ‘Future financing of the Community’ (1993-1999)
March 1999 Berlin	‘The new financial Perspective’ (Agenda 2000) (2000-2006)
December 2005 Brussels	‘Financial Perspective 2007-2013’ (Agenda 2007)
December 2009 Lisbon Treaty	TFEU: Financial Provisions (Art. 312-319 TFEU)
February and June 2013	Multiannual financial framework 2014-2020
July 2020	Multiannual financial framework 2021-2027

Source: Own compilation, See Endnote¹⁷.

As key part of its historic agreement, the summit in The Hague in 1969 agreed “to lay down a definitive financial arrangement for the common agricultural policy”¹⁸. The Treaty of

Luxembourg in 1970 and the Treaty of Brussels in 1975 stipulated rules for the Union's financial constitution. The main expenditure (74% in 1985) was allocated to the Common



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Agricultural Policy (CAP), which in political terms was seen as a compensation to France for German profits stemming from free access to the markets for industrial products through the Customs Union.

In the 1970s and 1980s, the members of the EUCO in name of their States de facto on a number of specific features which explain some main characteristics of the EUCO's conclusions in July 2020.

As a more fundamental starting point for assessing the EU budget as created and stabilized by the EUCO, we can compare the structure and tasks of the EU budget with conventional functions of states' public budgets.¹⁹ The Union's expenditure categories (see overview 3) are not comparable with those of nation states: typical national

expenditures for e.g., welfare expenditures and defense and debt repayment are not part of the Union's budget. Nor did the heads of state and government envisage using the funds to stabilize the economy in a Keynesian sense – not even when creating the Economic and Monetary Union. Some commentators raise the question if and how far the EU budget has financed European public goods and whether the EUCO has created “a budget for the Union and [or] a budget for the Member States”²⁰. Finally: what is the “European added value”²¹

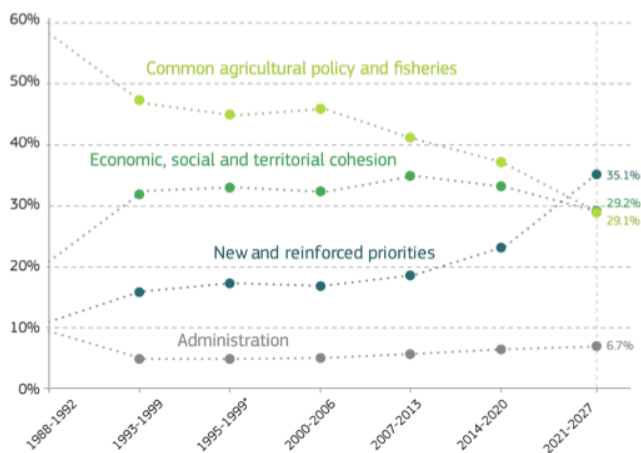
A look at the development of the main policy areas in the EU budget (see overview 3) outlines which interests dominated within the EUCO and how the body shifted its priorities.

Overview 3: Evolution of main policy areas in the EU budget



MATCHING PRIORITIES WITH RESOURCES

Evolution of main policy areas in the EU budget



*Adjusted for 1995 enlargement
Source: European Commission



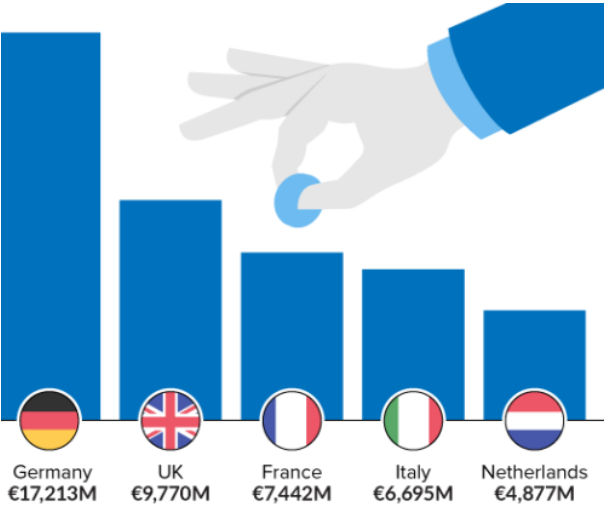
Source: See Endnote²²



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With the unwritten – albeit dominant – principle of ‘juste retour’, distributional effects remained the central topic of the political agenda. The heads of state and government discussed the budget primarily in terms of its

Overview 4: Contributors and Beneficiaries to EU Budget



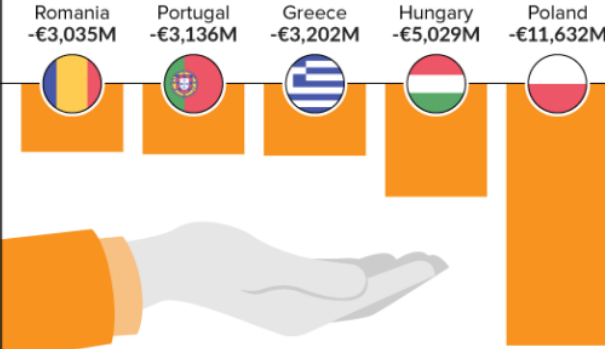
Top 5 Net Contributors to EU Budget (2018)

The UK is the 2nd largest net contributor, and they received €5B in reimbursements designed to correct excessive financial contributions.

size and the (re)distributional effects between the member states. A traditional cleavage between net recipients and net contributors became entrenched (see overview 4).

Top 5 Net Beneficiaries to the EU Budget

Poland primarily invested in growth and jobs, which likely contributed to the country's rising GDP and employment rate.



Source: See Endnote²³

After the general agreement in The Hague, the debate on relative gains and losses became even more controversial with the first, northern enlargement. British governments in particular, with the historic role of Margaret Thatcher in the early 1980s, fought for a ‘juste retour’ and were successful in getting and keeping ‘rebates’ for net contributors.

With Ireland's accession to the European Union, the Regional Development Fund and, with subsequent accessions, the Cohesion Fund became a significant part of the package for countries with below-average GNP per

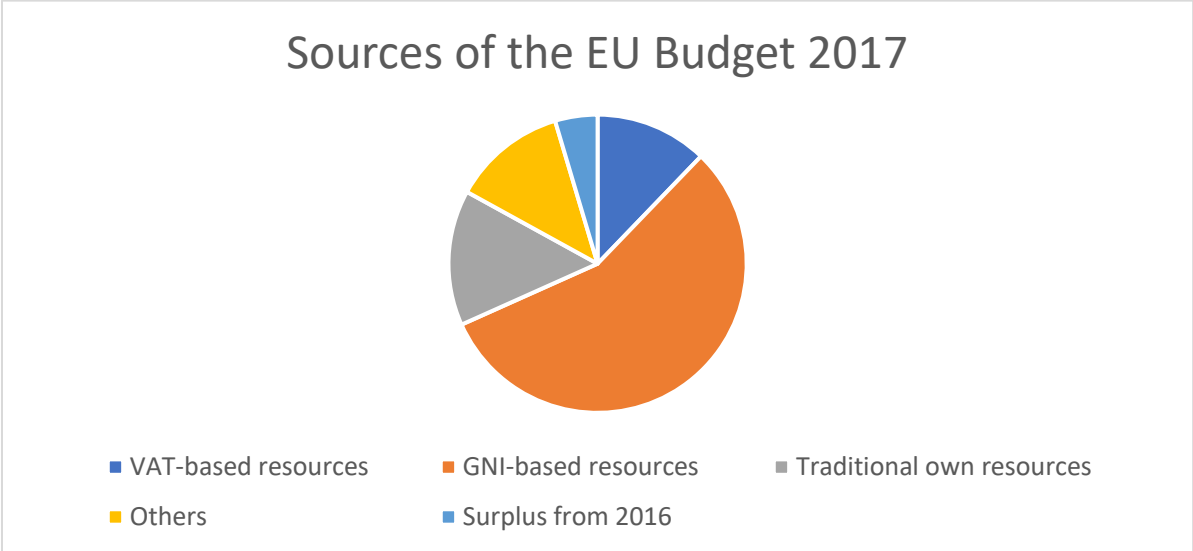
capita. Since the Delors package from 1988²⁴ the EUCO has decided– in each case after lengthy negotiations²⁵ – on the size of own resources, e.g. revenue, and in the MFF on the categories of expenditures and their respective amounts.

The size was kept close to 1% of the economic wealth produced by Member States using gross national income (GNI) as an indicator. In relation to overall public spending in Europe it amounts to only 2,5%.

Even more atypical for public budgets are the sources of revenue: neither taxes nor loans are

used, but the so-called ‘own resources’ which are mainly transfers from the Member States (see overview 5).

Overview 5: Sources of the EU Budget 2017



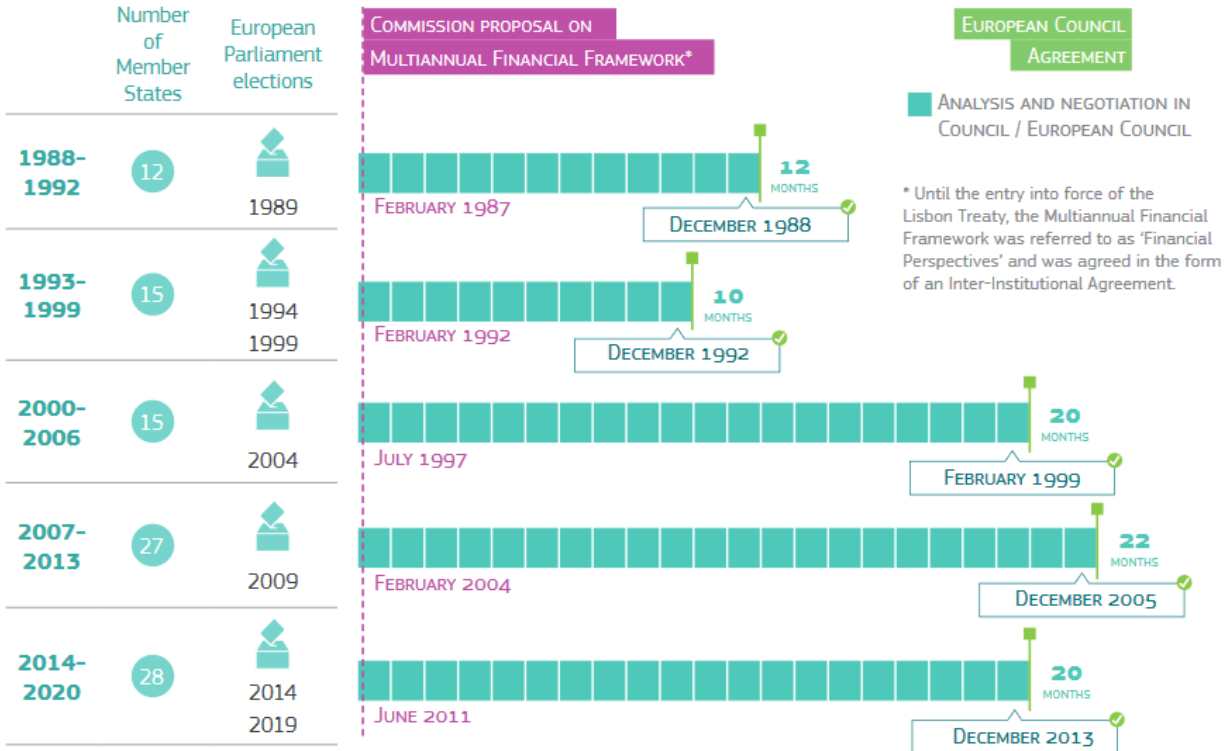
Source: Own compilation based on European Commission (2017)²⁶

As a constitutional architect, the EUCO has also shaped decisions on the respective rules: in the Lisbon Treaty, most de facto practices were put into legal words of the relevant treaty provisions (see especially Art. 310 to 312 TFEU). Oddly, the relevant treaty provisions have not assigned strong legal power to the EUCO itself. Its members, however, continued

to play the de facto role of the ultimate decision maker – mastering the ‘power of the purse’ at the institutional apex of the EU’s institutional architecture. ²⁷

Given the political significance, the EUCO usually took a considerable amount of time to reach consensus on the complex packages (see overview 6).

Overview 6: Multiannual Financial Framework. Durations of the EUCO agreements.



Source: See endnote²⁸

The slow road towards the 2021-2027 MFF: the usual business of postponing divisive issues

The preparations for the MFF 2021-2027 followed traditional patterns. As in former cases (see overview 6) it was a slow and cumbersome process.²⁹ After two years of consultations with stakeholders and with reference to relevant declarations of the 27 political leaders after the Brexit referendum in Bratislava 2016³⁰ and Rome 2017³¹, the European Commission published its first proposal in May 2018³². The European Parliament adopted a related position in November 2018.³³ In the same month the Austrian presidency and in December 2019 the Finnish presidency submitted a ‘Negotiating

Box’ that put forward tentative figures and proposed a budget representing 1.07% of EU GNI.³⁴ One major issue was how to close the gap in the budget caused by the withdrawal of the United Kingdom as the second largest net contributor. We see some traditional positions which were put on the overview early: the group of net contributors coordinated their defensive attitude; similarly, the so called ‘Friends of Cohesion’ argued for a larger budget and the continuation of financing the CAP and the cohesion funds.³⁵ However, absorbed by the Brexit negotiations as well as the elections of the European Parliament 2019 and the negotiations to nominate persons to key positions in the EU institutions, the political leaders did not invest the necessary time in

budget discussions and thus no real political negotiations started.

To energize the process, the newly elected President of the EUCO, Charles Michel, convened a special summit in February 2020 – before the outbreak of the coronavirus pandemic in Europe – to identify main elements for an agreement. However, no

tangible result was achieved during this meeting and Michel did not even announce a date for a next session on the MFF. At this point, expectations to reach an agreement before the end of the year were low. In retrospect, however, the February conclusions helped to “constitute the basis for the global compromise”³⁶ during the July summit.

Overview 7: EUCO meetings with MFF/RRF on the agenda since 2018

EUCO meeting	MFF as part of the debate?
23 February 2018	Major debate
22 - 23 March 2018	Not mentioned
02 May 2018	<i>Publication of the Commission’s proposal</i>
28 - 29 June 2018	Mentioned
17 - 18 October 2018	Not mentioned
13 -14 December 2018	Mentioned
21 – 22 March 2019	Not mentioned
20 – 21 June 2019	Mentioned
17 – 18 October 2019	Major debate
12 – 13 December 2019	Mentioned
20 – 22 February 2020	Sole topic
10 March 2020 (video)	Not mentioned
17 March 2020 (video)	Not mentioned
26 March 2020 (video)	Not mentioned
23 April 2020 (video)	Mentioned
19 June 2020 (video)	Major debate
17 – 21 July 2020	Sole topic
19 August 2020 (video)	Not mentioned
15 – 15 October 2020	Not mentioned
29 October 2020 (video)	Mentioned
19 November 2020 (video)	Mentioned
10 – 11 December 2020	Major debate

Source: Own compilation. See endnote³⁷



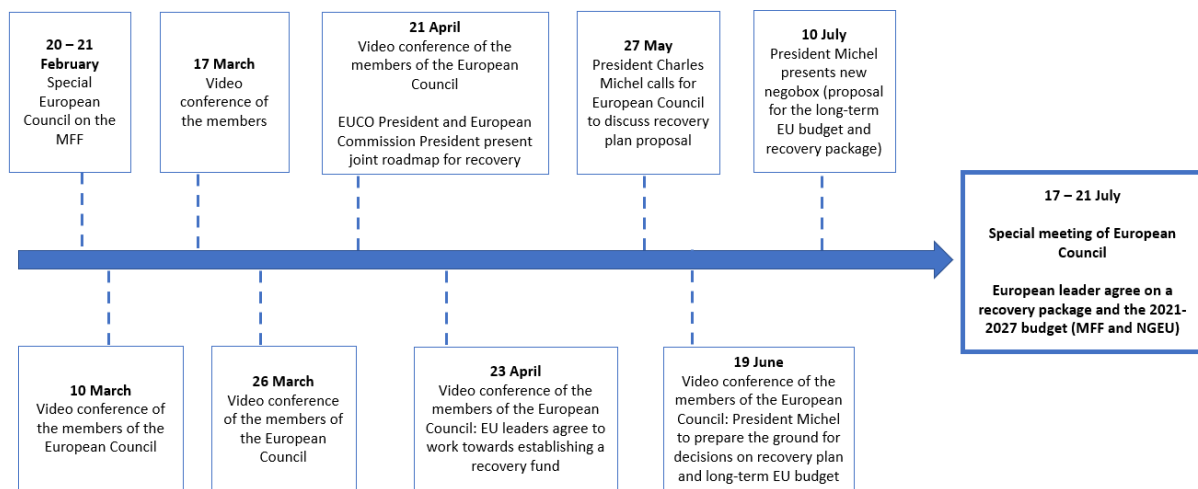
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The fast track: the EUCO in a crisis driven mood

The coronavirus pandemic fundamentally changed the context and conditions to find an agreement on the MFF as the demands and pressures for a recovery package for Europe's damaged economy became apparent. The outbreak of the coronavirus pandemic and its consequences drastically changed the economic and political situation throughout the EU and unveiled the need for a much larger financial mechanism in order to support the recovery from the economic and social

consequences of the pandemic. In comparison to expectations and historical experiences for agreeing on earlier MFFs (see overview 6), the speed of finding a consensus was considerable. From the unsuccessful meeting in early February, it took only five months to strike the deal with unprecedented features. The results of the July meeting can be seen as the end of a path that started in early March onwards (see overview 8). A fairly typical policy cycle for the EUCO can be discerned, in which European leaders followed a step-by-step strategy to elaborate, prepare and decide on both MFF and NGEU.

Overview 8: Timeline: The road to the July 2020 Meeting



Source: Own compilation. See endnote³⁸

The corona crisis hit Europe unprepared. The first rapid reactions that could be observed, were the reflex to use national instruments without regard to negative effects on the Union. Key principles of the Union such as the free movement of goods and persons were disregarded. The most affected member states also complained about deficits in providing

concrete medical support. The claim of a lack of solidarity among the states became a highly sensitive issue in domestic debates, in particular in Italy.³⁹

From early March onwards, however the members of the EUCO followed their problem-solving instinct to use EU-instruments and procedures to deal with this war-like scenario⁴⁰



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and “most serious crisis since the Second World War”⁴¹. The impact of the pandemic also led to a major change in the way the members of the EUCO met for their deliberations. Instead of holding face to face meetings in Brussels, EU leaders had to use virtual conferences to work through their agenda (see overview 7).

The EUCO dealt with all burning issues of fighting the pandemic (see overview 9). On 10 and 17 March, the members of the EUCO focussed on tackling the public health crisis by “limiting the spread of the virus”, “providing medical equipment”, “promoting research”, “tackling socio-economic consequences”⁴² and repatriating EU citizens from third countries. The challenges of having sufficient pharmaceutical resources prompted the members to claim, that “it is of utmost importance to increase the strategic autonomy

of the Union and produce essential goods in Europe”⁴³. The term ‘strategic autonomy’ has been launched and promoted for years by the French government, in particular in relation with defence issues. In later statements the members stressed that “the EU must pursue an ambitious industrial policy to make its industry more sustainable, more green, more competitive globally and more resilient”⁴⁴. Furthermore, the EUCO called upon the Commission “to identify strategic dependencies, particularly in the most sensitive industrial ecosystems such as for health”⁴⁵. The issue of strategic autonomy – with all its ambiguities – will remain high on the agenda for a wide range of the Union’s actions and policies. The debate will revolve around the extent to which measures can improve resilience without having negative protectionist effects on economic growth.⁴⁶

Overview 9: Key topics in the EUCO on the coronavirus pandemic

	10 Mar	17 Mar	26 Mar	23 Apr	19 Jun	21 Jul	19 Aug	02 Oct	16 Oct	29 Oct	19 Nov	10 Dec
Limiting the spread of the virus	X	X	X					X	X			X
Restrict Access to EU for non-essential travel	X	X	X						X			
Access to medical supplies	X	X	X									
Support vaccine research	X	X	X									
Tackling immediate socio-economic consequences	X	X	X	X						X		
Helping stranded citizens		X	X									

Lifting containment measures				X							X	
Roadmap to recovery				X								
Recovery Fund linked to MFF				X	X	X				X	X	X
Potential distribution of vaccine								X	X	X	X	X
Strategic autonomy			X	X		X		X				

Source: Own compilation. See Endnote⁴⁷

In addition to these issues, as the economic and thus the social and political consequences of this unprecedented crisis dominated the public debate, the focus of the heads of state and government quickly shifted to the socio-economic consequences and their management through EU funding. The EU leaders agreed on a variety of measures and endorsed an agreement by the Eurogroup

which provides “three important safety nets for workers, businesses and sovereigns” worth €540 billion⁴⁸ (see overview 10). When the President of the European Central Bank (ECB) briefed the leaders on the economic situation⁴⁹, the members also supported the ECB’s Pandemic emergency purchase programme (PEPP)⁵⁰.

Overview 10: Measures to tackle the economic consequences of the coronavirus pandemic

Measure	Responsible institution	Sum
Pandemic emergency purchase programme (PEPP)	European Central Bank (ECB)	€ 1 850 billion <i>(initially € 750 billion)</i>
Support to mitigate unemployment risks in an emergency (SURE)	European Commission	€ 100 billion
Pan-European guarantee fund for loans to companies	European Investment Bank	€ 200 billion
Pandemic crisis support for Member States	European Stability Mechanism (ESM)	€ 240 billion

Source: Own compilation. See Endnote⁵¹

The members of the EUCO soon realized that these funds were not sufficient to support the national efforts of the most affected Member States and thus fell short to ultimately stabilise

the single market as a whole. Concern for preserving the Union’s economic acquis motivated all European leaders to engage in the controversies over the optimal strategy for



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the Union. In different ways and with variations, all leaders showed a strong self-interest combined with a spirit of solidarity.

One driving initiative was the letter from nine member states (Belgium, France, Greece, Ireland, Italy, Luxembourg, Portugal, Slovenia, Spain), all of which are members of the Eurozone, on 25 March⁵². They demanded “a common debt instrument issued by a European institution to raise funds on the market on the same basis and to the benefits of all Member State”⁵³. It is often neglected that these governments proposed to “explore other tools like a specific funding for Corona-related spending in the EU budget”⁵⁴. As this proposal looked like a new version of the idea of Eurobonds, German and Dutch politicians reacted negatively⁵⁵.

In the video conference of 23 April, the members of the EUCO jointly initiated a process by framing some main elements for further actions: “We [...] agreed to work towards establishing a recovery fund, which is needed and urgent. This fund shall be of a sufficient magnitude, targeted towards the sectors and geographical parts of Europe most affected, and be dedicated to dealing with this unprecedented crisis”⁵⁶. They also defined key strategic elements for the follow up procedure as they “tasked the Commission to analyse the exact needs and to urgently come up with a proposal that is commensurate with the challenge we are facing”⁵⁷. The carefully drafted conclusions, signed only by the President of the EUCO (and not by all members

of the EUCO as usual) could not hide deep and significant controversies about the concept to be agreed upon.

A major mobilizing and driving step towards the final agreement was the “French-German Initiative for the European Recovery from the Coronavirus Crisis”⁵⁸. Macron and Merkel proposed an EU “Health strategy”, “speeding up the green and digital transitions”, and “enhancing EU economic and industrial resilience and sovereignty”⁵⁹. In order “to allow the European Commission to finance a Recovery fund of 500 billion Euro by borrowing on markets on behalf of the EU”⁶⁰, it was their concept to open the debate for the subsequent package.

This initiative was referred to by many observers as “a Franco-German revolution”⁶¹. The term, often used today for this kind of turn-around decisions, characterizes this bilateral initiative as ‘game changer’. The proposal signalled a major change in the German position towards shared borrowing. In particular, the role of the chancellor herself was characterized: “[She] has bestowed her political legacy on the summit”⁶². The ECB President assessed that „[t]his transformation [of Germany’s support for the recovery plan by shared borrowing] came at just the right moment”⁶³. However, we could also observe changes in the French position and its vision and mission on Europe. In his Sorbonne speech in 2017 Macron had argued in favour of “a stronger budget within Europe”, emphasising, however, to apply the budget “at the heart of



the Eurozone⁶⁴. Since the Franco-German proposal aimed at creating a Recovery Fund for the entire Union, this plan might also be seen as a move away from the trend towards an extended form of differentiation by allocating funds only to the members of the Eurozone. The creation of legal instruments like the European Stability Mechanism and the Fiscal Compact outside of the framework of the Lisbon treaty, as was done in the sovereign debt crisis of the Eurozone, was thus excluded. As immediate impact of this game changing step, we can observe that both the President of the EUCO and of the Commission adopted fundamental concepts of the Franco-German initiative for their follow-up proposals.

As usual, we also see constraining forces: in view of what they perceive as an abrupt shift in the German position away from its traditional role as defender of fiscal discipline, a new group labelled as 'frugal four' formulated a critical position on 16 June⁶⁵. The group, that consisted of Sweden, Denmark, the Netherlands and Austria (later also joined by Finland), showed their consent on the one side: "We fully support the creation of a time-limited emergency recovery fund. We want it to target those that have been hit hardest by the COVID-19 crisis". On the other hand, they formulated their preconditions: "We believe that when we borrow money together in the EU, the fundamentally sound way to use that money is to convert it into loans for those who really need them, on the best possible terms"⁶⁶. The group's rejection of grants and its

proposal to convert the additional income into loans, was a major difference to the Franco-German proposal. The distribution of the RRF between loans and grants consequently became a major issue of controversy in the negotiations during the special meeting in July 2020.

The July marathon meeting: tracing the drama

These fundamental controversies were not overcome or even reduced before the July meeting so that – as usual in the Union's decision making on sensitive and dividing issues – the EUCO had to find a consensus. Observations about the stressful and conflictual bargaining confirm the characterisation of these kinds of dramatic negotiations of the EUCO as "nights of long knives"⁶⁷ or "end game"⁶⁸.

By all accounts, this marathon meeting went through several difficult phases⁶⁹ over the five days from 17 to 21 July, including four nights, until the final agreement was reached at 05.40. on Tuesday morning, 21 July. Following a more traditional cleavage, the 'frugal five' (including Germany) of the North defended their position of using the additional facility for loans, thus not as a 'gift', as the recipient states would have to repay their debts. This was contrasted by the demand of the member states of the South to receive non-repayable grants without major conditions. As the most affected countries, they claimed to be in need of quick, unbureaucratic aid that would not further increase their high national debt levels.



A second and more recent division pitted some Eastern countries against the remaining member states, over the conditionality of the rule of law. Consequently, severe confrontations over major issues made an easy consensus-building difficult. As stated in his job description, the President of the EUCO had to use all his diplomatic skills as an honest broker

“to facilitate cohesion and consensus within the EUCO” (Art. 15 6c TEU). To drive the process towards an agreement, he especially used the so called “confessional procedures”⁷⁰ to get small groups with controversial positions around the overview, sometimes on the terrace of the Palais de L’ Europe.



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From left to right: Mr Sebastian KURZ, Austrian Federal Chancellor; Mr Mark RUTTE, Dutch Prime Minister; Mr Stefan LOFVEN, Swedish Prime Minister; Ms Mette FREDERIKSEN, Danish Prime Minister; Mr Charles MICHEL, President of the EUCO; Ms Ursula VON DER LEYEN, President of the European Commission

On Friday, 17 July, after a friendly morning session, the atmosphere got tense over dinner, which lasted nearly until midnight. On Saturday, 18 July the President put forward variations of the negotiation box. The dinner lasted until 23.00. The president claimed: “je ne prends pas la responsabilité de stopper la

négociation”⁷¹. The consultations continued through the night and throughout Sunday, 19 July. At dinner on Sunday, it became apparent that the deep controversies may lead to a failure of the negotiations. One EU-diplomat described the negotiations at that stage as “very difficult” as the “[f]rugals continue to



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block. Kurz (the Austrian chancellor) is not listening”⁷². On Monday, 20 July, a short plenary took place shortly before 6.00. The president worked on his negotiation boxes the whole day. At dinner from 21.30 to 23.00 leaders got more optimistic. On Tuesday (21 July) morning at 4.40 a revised negotiation box was presented, which members agreed on at the plenary from 5.25 to 5.40.

As usual after such long negotiations, members showed signs of relief and even euphoria (see box 2). In Brussels a general feeling was present that the EUCO and thus the EU had for once not reacted too slowly and with too little resources and ambition.

Box 2: Reactions to the agreement on the MFF and NGEU⁷³

“We did it: Europe is strong, Europe is robust, and above all, Europe is united”

Charles Michel, President of the EUCO

“This is a remarkable moment of unity for our Union. This is an achievement that we should take collective pride in”

Ursula von der Leyen, President of the European Commission

“We are satisfied, we approved an ambitious recovery plan, adequate to the needs we are experiencing, which will allow us to face this crisis with strength, with effectiveness. It’s a historic moment for Europe, it’s a historic moment for Italy”

- Giuseppe Conte, Prime Minister of Italy

“It was not easy that we needed so many days, it showed also that we came from different directions. But what counts for me is that we ended up getting it together and that we are now all convinced of what we decided to do.”

- Angela Merkel, German chancellor

At the end of this marathon meeting, the Union’s political leaders adopted a text which was 20 pages longer than the respective conclusions of the last budget cycle in 2013/2014. Following long established general patterns in its practices, the EUCO did not just

agree on “general political directions” (Art 15(1) TEU), but took concrete decisions on the major tasks and procedures. The conclusions with 33 points and the annex with 153 points document the aims and ways the members of the EUCO plan to finance and spend the



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Union’s budget for the next years, specifically via the RRF, the centrepiece of the NGEU as well as through the programmes foreseen in the MFF (see overview 1). The conclusions tell us that European leaders have used their institution to act in a strong (pre-)legislative way although Art. 15(1) TEU excludes a legislative function of the EUCO.

The length of this marathon session once again raises the question of whether the fate of the European Union, or indeed of Europe as a whole, should be placed in the hands of an institution that finds it so difficult to reach

consensus. As one former MEP put it even more provocatively: “Custodians of national sovereignty, the heads of State and government are confiscating ‘European sovereignty’ as European power for the benefit of their collective club. And the Union finds itself headless for too many crowns”⁷⁴. This statement echoes a frequently made negative assessment by leading personalities from the EP; such as the former President Schulz, who assumed “the public [view] the political decisions taken by their leaders as nothing more than a series of dictates from Brussels”⁷⁵.

Overview 11: Timeline of the road from the July 2020 meeting

19 August 2020	Video conference of the members of the EUCO
1 – 2 October 2020	Special meeting of EUCO: MFF negotiations with the European Parliament
9 October 2020	Council agrees its position on the Recovery and Resilience Facility: The proposal can now be negotiated between EP and Council.
15 October 2020	EUCO meeting
29 October 2020	Video conference of the members of the EUCO
10 November 2020	MFF: Council presidency reaches political agreement with the European Parliament
19 November 2020	Video conference of the members of the EUCO
10 – 11 December 2020	EUCO meeting: Long-term EU budget 2021-2027 and Recovery package
14 December 2020	Council moves to finalise adoption of MFF and recovery package: EU institutions can now finalise the procedures for the adoption of the MFF and Recovery package.
16 December 2020	European Parliament gives its formal consent on the MFF
17 December 2020	MFF for 2021-2027 adopted by the Council (all Member States agreed)



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18 December 2020	Council and Parliament reach provisional agreement on the Recovery and Resilience Facility
10 February 2021	Decision by the European Parliament on the RRF Regulation 2020/0104
10 February 2021	Council approves Recovery and Resilience Facility unanimously
18 February 2021	Publication of the official Regulation (EU) 2021/241

Source: Own compilation. See Endnote⁷⁶

The bumpy Road from the July to the December meeting

EUCO Conclusions are political commitments that still need to be transformed into legal texts. For an appropriate analysis therefore, we need to dive into the procedures that allow for multiple legal acts to be adopted under the Treaty provisions and an additional interinstitutional agreement.

Of high relevance are the competences of the EP: According to the Treaty provisions, the EP has to give its “consent by a majority of its component members” (Art. 311(2) TFEU) to the expenditure side of the budget – the MFF in a narrow sense. On the income side, regarding own resources (Art. 311 TFEU) and the RRF (Art. 122 TFEU (2)), the EP has weaker powers as it is consulted (Art.311FEU) or only informed (Art. 122 (2)TFEU). Thus, the MEPs have a veto power for a large part of the package, which they also tried to use to extend their influence on the shaping of other provisions of the agreement as well – albeit with varying effects. In its resolution of 23 July, immediately after the special meeting of the EUCO, the MEPs formulated “priorities in view of an overall agreement [with the Council].”⁷⁷

- An effective rule of law mechanism
- a reform of the EU’s own resources system
- increased funding for the *EU flagship programmes*
- inclusion of horizontal principles e.g. climate related and biodiversity spending
- Following democratic principles: full involvement in the recovery instrument both in borrowing and lending operations

Lengthy negotiations between the Council and the EP took place in the autumn. As usual, the so-called triadialogue was used: in order to reach an agreement more quickly, this informal procedure allows for confidential negotiations behind closed doors in a restricted setting between the Council Presidency (which was held by the German permanent representative in autumn 2020), key persons delegated by the EP and the Commission.⁷⁸ Controversies between the Council and the EP revolved around a shift in the expenditure towards what the EP considers to be the EU’s “flagship programmes”– such as health, research, Erasmus exchange program, climate, gender.



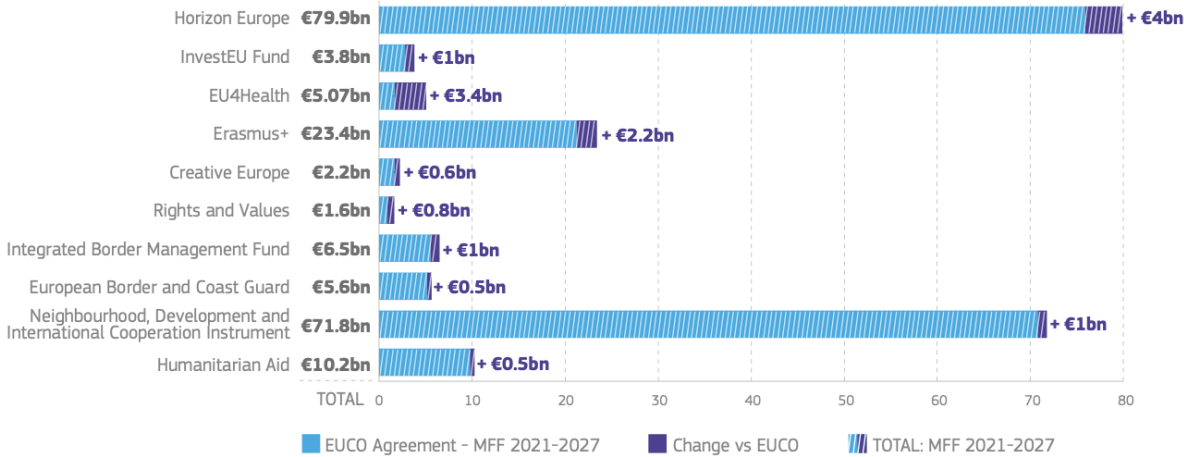
With some flexibility regarding the categories of expenditure agreed upon by the EUCO, the Council and the EP could reach a compromise (see Overview 12) on 10 November. The EP gave its formal consent on 16 December with a large majority of around 78% in favour (548 votes). Following the EP’s formal consent, the Council adopted the regulation laying down the

EU’s MFF on 17 December in agreement with all member states⁷⁹.

Given that no major change to the budget was necessary, one could get the impression that the members of the EUCO had already anticipated this kind of offer to the EP during their negotiations in July.

Overview 12: EU flagship programmes

Within the long-term budget 2021-2027, **ten programmes received top-ups** compared to the European Council agreement from 21 July 2020.



All amounts in EUR billion, 2018 prices. Source: European Commission.

Source: See Endnote⁸⁰

The process leading to the RRF regulation was also of great importance: the EP and the Council reached a preliminary agreement on the RRF in the triilogue on 18 December. The EP adopted this regulation in February 2021 with a large majority of 582 votes (=84%). The Council adopted the regulation 11 February⁸¹. The 148-page regulation establishing the RRF sets binding rules for the financing of the facility as well as for its objectives, allocation process and payments modalities. With regard to the governance mechanism, the regulation

provides for a "dialogue on recovery and resilience" (Art. 26) between the relevant EU institutions, which, however, does not grant strong co-decision powers for the EP.

Of political and academic relevance is also the Inter-Institutional agreement of 16 December in which the EP, the Commission and the Council agreed on concrete and detailed steps of “cooperation in budgetary matters” (see Inter Institutional Agreement Annex)⁸² including the “cooperation as regards the European Union Recovery instrument” (IIA Part

H Annex I) and “on a roadmap towards the introduction of new own resources” (IIA Annex II).

In the post July process, however, the most controversial issue was “a regime of conditionality to protect the budget and Next Generation EU” (EUCO 10/20 Annex 22). The main point of contention concerned the rules on the suspension of payments for a member state that fails to comply with the rule of law. The conflict between what is inadequately labelled as “East against West” blocked the ratification process for several months. Hungary and Poland did not accept the rule of law procedures in the corresponding regulation (Regulation 2020 /2092), which the Council adopted against the votes of Hungary and Poland. Both then threatened to veto the own resource decisions, which require unanimity of all Member States, and thus to scupper the entire package. The threat of a blockade even led members of the EP and the Commission to come up with a plan B, e.g. by using Treaty rules on “enhanced cooperation”, which allow for legal acts that are applied by some member states only.⁸³ However, this was not necessary in the end, as the members of the EUCO finally reached a consensus to deal with this issue at their meeting on 10 and 11 December. In a long part of their conclusion, they agreed on a set of formulations which

offer a specific reading of the legally binding regulation.⁸⁴ In addition, they reiterated the possibility to refer to the EUCO if such a request is made by an affected Member State.⁸⁵ A role is also assigned to the judgment of the Court of Justice on the guidelines for annulment.⁸⁶ On 17 December 2020, the EP referred to the content of the EUCO conclusions on the regulation of the conditionality for the protection of the Union budget as “superfluous”, since the matter is already “clearly defined in the legal text of the said Regulation”. Furthermore, the statement by the EP recalls on the EUCO to “not exercise legislative functions” and “therefore, that any political declaration of the EUCO cannot be deemed to represent an interpretation of legislation as interpretation is vested with the European Court of Justice”⁸⁷.

To explain this last-minute compromise, many actors involved give high credit to the role of the German Chancellor. With her personal reputation and as the Head of Government of the rotating Council Presidency, Angela Merkel was apparently an important driving force for the adaption of the EUCO conclusions against the blocking veto powers.

With the agreement between the Council and the EP and the EUCO conclusions on the rule of law, the EU institutions adopted a list of formal acts (see box 3).



Box 3: Documents to study

European Council Documents

Special meeting of the European Council (17, 18, 19, 20 and 21 July 2020) – [Conclusions](#)

European Council meeting (10 and 11 December 2020) – [Conclusions](#)

Council/ European Parliament Documents

Regulation 2020/0104 of the European Parliament and of the Council establishing the Recovery and Resilience Facility. 10 February 2021

Council [Regulation](#) (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027

[Regulation](#) (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget.

Council [Regulation](#) (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis

Council [Decision](#) (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources for the European Union and repealing Decision 2014/335/EU, Euratom

Council [Decision](#) on the system of own resources for the European Union and repealing Decision 2014/335/EU, Euratom

European Parliament [Resolution](#) of 23 July 2020 on the conclusions of the extraordinary European Council meeting of 17-21 July 2020 (2020/2732(RSP))

[Interinstitutional Agreement](#) 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

In retrospect, based on the July conclusions of the EUCO, EU actors were able to find a broad consensus among themselves and within the legislative institutions at the end of the road towards the RFF in February 2021.

The road map after ratification on the EU level

Following the Treaty provisions the agreement on the MFF needs national ratification: the decisions must be “approved by Member



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States in accordance with their respective constitutional requirements.” (Art. 311 TFEU). As of January 2021, no major blockage on the national roads can be discovered.

submission of national plans and for the disbursement of grants and loans is quite strict (see overview 13).

Of great importance will be the roadmap for the use of the RFF: the timetable for the

Overview 13: Resilience and Recovery Facility Timetable

From 15 October 2020 onwards	Member states submit draft recovery and resilience plans from 15 October 2020 to Commission.
	European Commission discusses plans with each member states.
30 April 2021	Member states are expected to submit the final version of national plans of investment and reforms, with clear milestones and targets by 30 April 2021.
	Within two months of receipt: Commission assesses plans based on eleven transparent criteria set out in the regulation. Commission then transmits the plans to EP and Council.
	Within one month: Council approves national plans on a case-by-case basis by qualified majority.
Starting from mid-2021	Within two months: The EU pays 13% of the total support upfront to kick-start the recovery.
By December 2021	Finalization of Recovery and Resilience Scoreboard as a basis for the recovery and resilience dialogue (updated by Commission on a biannual basis).
Up to twice a year	Member States request further disbursements upon reaching agreed milestones and targets.
	Within two months: The commission prepares preliminary assessment of the request.
31 December 2023	Recovery and Resilience resources for member states can be committed until end 2023.
2024	Independent evaluations.
2026 (31 December)	Reforms and investments must be implemented.
2028	Ex post independent evaluations.

Source: Own compilation



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Of high relevance is also the indicative roadmap for agreeing on new own resources (see overview 14).

The road to get to new income will be full of obstacles as unanimity is demanded. Already the RRF is under a sun - set clause: any prolongation needs new unanimous decision.

For a look into the future process from

Overview 14: New resources timetable

1 January 2021	Revenue source based on non-recycled plastic packaging waste
By June 2021	Commission will put forward proposals on sources of revenue linked to carbon border adjustment mechanism, digital levy, Emissions Trading System (ETS)
By January 2023	Introduction of the carbon border adjustment mechanism
By June 2024	Commission will propose new sources of revenue, such as: Financial Transaction Tax, financial contribution linked to the corporate sector, a new common corporate tax base
By December 2058	Latest date until which debt has to be paid off (The amounts of the own resources ceilings shall be temporarily increased by 0.6 percentage points for the sole purpose of covering all liabilities)

Source: Own compilation. See endnote⁸⁹

Suggestions for the academic agenda: widening and deepening a multi-level analysis

The process tracing of several historical roads offers considerable insights and empirical evidence for an extended analysis and a reflected assessment.

But as a first task for the academic agenda, empirical evidence needs to be widened: given the character of the EU as a multilevel system, further research needs to add to this process tracing in the Brussels arena by studying the

February 2021 onwards, changes in the context need to be taken into account: thus, the EUCO also has to deal with other aspects of fighting the COVID-19 pandemic, such as the principles for distributing vaccines and the promotion of a reinforced international cooperation with the World Health Organization⁸⁸.

national roads to and from the July 2020 meeting. How have national governments dealt with the pressures from above? We might take up categories and reflections from the broad and differentiated literature on Europeanisation (for further reading see endnote⁹⁰).

Do the challenges of reacting to the unprecedented crisis and of finding collective answers lead to greater convergence between the domestic structures of the EU 27, or have



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the shocks even exacerbated separate national routes to and from the Brussels arena?

Turning back to the Brussels arena leads to a second task: Which analytical lessons can we draw for studying the processes for the inter-institutional balance? Which conventional conceptions, of how the EU reaches agreements, can be confirmed or falsified? To deepen our analysis and assessment, revisiting the role of the EUCO itself could be helpful: did this key institution (re-)gain or reinforce a dominant role at the apex of the Union's institutional set up, especially vis-à-vis the EP? Can the EUCO's role in other crises confirm or refute the leading 'grand theories'⁹¹? To stress one angle in particular: Do we observe proof for pure intergovernmentalism when tracing the process?

For further research, it would be particularly relevant to examine the role of the Commission and the EP in more detail. Perhaps the two institutions have taken on a more significant role than conventional observers have suggested.

As a further task, I would like to suggest using the observation of process tracking also as an empirical test for an explanation according to the Monnet method⁹². Are the patterns we observed on the roads to and from the July meeting typical cases of an incremental process that leads to more integration with limited but real steps without defining a clear finalité? To deepen such an assessment: we might raise the question why the European leaders took the roads leading to and from the

July meeting? Is that another proof that the Member States as *Masters of the Treaty*⁹³ have again realized the need to solve problems on the EU-level for the very own sake of their national interest? Perhaps even to be able to "rescue the nation state"⁹⁴?

Assessing the process as an indicator for the ways the EU acts in a multi-level system, it can be useful to discuss features which could be characterized as a 'vertical and horizontal fusion'⁹⁵.

As an added value, we might use this very analysis of the role of the EUCO in the Corona crisis to shed light on patterns of the crisis management of the EU in a broader and more general sense⁹⁶. Compared to the EUCO's handling of earlier crises with different forms and gravity - such as digesting the German reunification process, dealing with the Balkan wars, overcoming the failure of the constitutional Treaty, saving the Euro in the sovereign debt crisis, the migration crisis and Brexit⁹⁷ – do we observe traditional, well established patterns in the steps taken by the EU leaders or do we now identify some remarkable changes and innovations? In a broader, long term perspective: From assessing the capacity to react to this fundamental crisis, including weak and strong points, which overall conclusions can the academic world draw for the future of the EU's stability and resilience to possible forthcoming crises? Based on the research, which advice and recommendations can be given to policy makers for improving the crisis machinery.



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¹ I would like to thank Marius Korte and Denise Ersoy for their contribution.

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<https://www.consilium.europa.eu/media/45109/210720-euco-final-conclusions-en.pdf>
In the following, the document is referred to as EUCO 10/20. In the following, the document is referred to as EUCO 10/20.

³ Council Decision 2020/2053, 14 December 2020, Decisions on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom, online available at:
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020D2053&from=EN>. In the following, the document is referred to as Decision 2020/2053.

⁴ Graph taken from European Parliamentary Research Service Blog (2021): 2021-2027 multiannual financial framework, online available at: <https://epthinktank.eu/2021/01/29/economic-and-budgetary-outlook-for-the-european-union-2021/2021-2027-multiannual-financial-framework/>

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¹⁰ Ibid, p.13.

¹¹ Becker, P. (2020). Die Verhandlungen über den Haushalt der Europäischen Union – zwischen Kontinuität und Pandemie-Zäsur., p.257.

¹² Pilati, M. & Zuleeg, F. (2020). A Relevant MFF in the Long Term: Innovative Yet Feasible Reforms, p.231.

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