Legal Review of the Draft 2021-2027 EU Budget

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Following a careful reading of the report prepared by Catherine Dez and presented by Jean-Pierre Eudier of LNPLV, I note a number of key debatable legal elements with respect to European treaties and, more generally, political ideology and the democratic transparency of the European project itself.

# I – Introduction and background

In general terms, the Covid-19 related pandemic seems to be serving as a springboard for achieving the federalisation of European institutions. This European federalisation project is not new, but it is now showing a clear acceleration both in the significantly enhanced competence of the EU’s various entities and in that of its financial institutions. These financial institutions have not only increased in number and in financial capacity, but are now integrated into the globalist project by providing resources with no real limits to UN-related international bodies.

From the financial point of view, the European project is showing itself increasingly for what it really is: providing access as it pleases to the financial capacity of European taxpayers in terms of both volume and duration of financial resources, without any control by those taxpayers either of the amounts allocated or of the actual beneficiaries of these massive transfers of wealth. As a result the various financial entities of the European Union, which act as intermediaries between taxpayers and creditors, together with the Commission and the two Councils, have discretionary power to allocate financial resources ultimately raised from taxpayers. At the same time, those taxpayers have no power of control or direction over, or indeed any simple means of acting in relation to, the European Union’s financial entities in return for this discretionary power to allocate their resources.

Since the devil is often in the detail, it should also be pointed out that the relevant taxpayers are mainly those in countries which are large net contributors to the EU, namely Germany, France and Italy. On this point, for the purpose of painting the full picture, it should be noted that the net contribution to the EU budget by German, French and Italian households is set to increase structurally by significant amounts over the coming years and decades due to the United Kingdom’s exit from the European project, as currently in progress.

Note also that repayment of borrowings is not included in this net contribution to the EU budget, since it only relates to the states’ official budget contribution. To the already substantial burden of contributing to the EU budget should therefore be added the repayment of loans taken out by the European Union’s various financial bodies. This new financial cost will therefore be borne generally by European taxpayers, but more specifically by taxpayers in those countries which are the main contributors to the various financial organisations, such as the ESM (European Stability Mechanism), which act as intermediaries between taxpayers and creditors.

Against this background, and following the precedent of the ESM, which has forced its way into the European institutional and legal framework, the European recovery plan made necessary by the pandemic can be seen as creating a new source of debt-based European funding. To be clear, this consists of a massive transfer of both economic authority and the economic capacity of households and individuals in the EU’s member states to private creditor organisations (in passing, the institutions and individuals acting as intermediaries between these two major entities being duly paid for their services to varying degrees directly and officially). This transfer is being conducted on a discretionary basis via the European Union’s multiple financial entities by allocating funds made available by the EU’s political bodies, led by the European Council and Commission.

The so-called Covid-19 pandemic is also making possible a big step forward in financial terms in the federalist project through the creation of a European corporate tax. To be precise, implementation of the CCCTB (Common Consolidated Corporate Tax Base) project is targeted thanks to Covid-19. Since the 2000s, this has been prepared behind the scenes by European institutions in partnership with the Big Four legal and accounting firms (KPMG, PwC, EY and Deloitte Touche Tohmatsu), which operate internationally and represent the interests of multinational corporations, particularly in finance.

This observation is already overwhelming on its own but, on top of that, a review of the draft European budget also shows that the EU’s financial entities are being put at the service of global bodies led by the UN and its array of agencies specialising to a greater or lesser degree in the fields of healthcare and culture.

In fact, under cover of a public-private partnership and with the active collaboration of European institutions and international organisations such as the WHO and UNESCO, financial resources from the European Union are being made available to the world. These European financial resources come from public finances, meaning the finances of Europe’s people, both directly through taxes and indirectly by repaying debts taken on by ground-breaking EU financial organisations. By contrast, a complete absence of balance means that European and international bodies making investment decisions will face no control over those investment decisions by the populations that will have to fund them.

Finally, another major step towards European federalism made possible by the 2020 pandemic should not be allowed to pass in silence. This consists of an increase in the competences of:

* The European Commission, contravening or at the limit of its competences under the Treaty on the Functioning of the European Union (TFEU);
* The European Council itself, possibly contravening the internal constitutional law of the various member states as well as, as above, contravening its competences in the EU’s constitutive treaties.

# II – Various legal and political problems

Various levels of legal, institutional and political problems arise both directly and indirectly from the current development of European institutions.

## Problematic increase in competences of EU bodies

A first category of legal issues arises from how the development of these institutions complies with the texts currently in force, which govern the European Union. We include in this point the problems relating to the increased competences of the institutions at the apex of the European hierarchy, namely the European Council and the European Commission, in matters which, under the constitutive treaties, do not fall under their exclusive jurisdiction.

In my view, it is also worth checking that healthcare really is a European Council competence as laid out in Article 22 of the Treaty on European Union (TEU), which gives the framework for setting the European Union’s strategic objectives.

## Legal and political issues surrounding the problematic lack of taxpayer control over the allocation of resources in both quantitative and qualitative terms

A second category of issues relates to the question of finance: in particular, the lack of control by taxpayers over to whom and how their own financial resources are allocated, both in quantitative terms (the amount of funding available) and in qualitative terms (the use or uses to which the funding is put).

This issue is related to the previous one inasmuch as decisions have been made about the European recovery plan by the European Council – whose decisions, it should be borne in mind, must be unanimous. In other words, decisions have been made by the various heads of state in spite of their own constitutional requirements, in the case of France, and in spite of the financial competences granted by European treaties themselves.

In our view therefore, legal actions could be possible under domestic law, as appropriate, for breach of member states’ constitutions by political decision-makers in European bodies.

We also believe that cases could be brought under European law by virtue of the problematic decisions to increase the scale of contributions from European citizens by creating a direct European corporate tax, which exceeds the limits to fiscal competence established by current treaties. In any event, a new European tax could only be created and come into force once approved by member states in accordance with their own legal processes (Article 311 TFEU).

This issue also doubles up as another profoundly political one relating to the choice of constitutive treaties for the exclusively debt-based funding of political bodies (Article 123 TFEU). We refer here to the issue of the independence of the ECB (European Central Bank) and the ESCB (European System of Central Banks; Article 127 *et seq* TFEU) in relation to the public funding requirements inherent in any political entity.

## Improper provision of European public funds for policies decided internationally rather than at the European level

A third category of issues is more political than strictly legal. These have to do with the improper provision of funds from European households to international organisations linked to varying degrees to the UN. There seems to be no legal basis, and above all no political basis, for funds to be provided in this way, since the taxpayers in question are not aware of and certainly have not given their consent to such a transfer of funds. This involves questioning the competence of European Union bodies to engage in what might be called a form of ‘delegation of power’.

This gives rise to a final category of legal problems relating to the ability of the various European entities (Commission and financial institutions) under current European treaties to act jointly with international bodies to determine policies that will be followed in the EU. This ability should be examined in two respects.

First, in our view the actual ability of the EU’s decision-making bodies to form political and economic relationships with international healthcare organisations should be checked (Article 168, complying with procedures laid down in Articles 207 – 4 b) and 218 of TFEU). Assuming that these bodies have no negotiating ability under the requirements of the constitutive European treaties, what would be required would be either modification of the constitutive treaties (under the terms of Article 48 of TEU) or the establishment of an ad hoc treaty between the EU and the international organisation to justify these negotiations. Informed observers should monitor compliance with the terms of the European treaties with respect to negotiation of such a treaty.

On a related point, your attention is drawn to the specific fact that negotiations about healthcare problems do not seem to fit in any clear way into the framework established by Articles 21 *et seq* of TEU relating to external EU action.

Second, concerning the compliance of contracts between the various European bodies and private or semi-private (public-private partnership) companies. In our view, European bodies’ compliance with the requirements of constitutive EU treaties relating to the awarding of public contracts should be checked.

# III - Conclusion

The provision of European taxpayers’ resources by various European bodies, including at the highest level (European Council and European Commission) in the draft 2021-2027 budget reveals the identity of the real ultimate beneficiaries of both the artificial European project, under whose yoke Europeans now live, and of UN-related international organisations. These are financial organisations, creditors on the one hand and intermediaries between individuals and creditors on the other, whose role it is to allocate public resources to private creditors. More generally, they are multinational organisations linked directly to the financial organisations above.

This draft budget also makes it possible to position publicly European institutions in relation to the UN and its related organisations. In this plan, the EU appears for what it really is: a political project aiming to be the drive belt in Europe of decisions made at the global level by private personalities hiding behind the façade of international organisations which they control or guide directly or indirectly.