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Marcin Tyniewicki
University of Bialystok
Poland
tyniewicki@uwb.edu.pl
ORCID ID: 0000–0003–2993–3982

The Eu Economic Policy Coordination in the Context of Mitigating the Effects of Covid-19 Pandemic

Abstract: Economic policy of the European Union demonstrates significant specificity in relation to the classic understanding of economic policy implemented by a state. It results from the fact that in the EU economic policy participate states which at the same time retained competences to implement their own policies, however in specific areas these competences are limited, sometimes significantly. This complex structure means that the EU policy requires coordination.

EU economic policy coordination was significant during the fight against COVID-19 pandemic and mitigating its effects. In this scope, the European Commission suggested several solutions (financial instruments).

The subject of this paper is, on the one hand, the analysis of a theoretical model of the EU economic policy coordination resulting from the Treaty provisions, and on the other hand, legal evaluation of financial actions proposed by the EU and aimed at combating the effects of COVID-19 pandemic. This assessment is not unequivocally positive, because the Author has made a thesis that a part of the initiatives raises doubt regarding their compliance with the provisions of the Treaties.

Keywords: EU budget, economic policy, public debt, European Union Recovery Instrument

Introduction

When analysing the substance and the content of the EU economic policy it needs to be stated that it shows significant specificity in relation to the classic understanding of economic policy implemented by a state. This specificity is mainly determined by two elements. Firstly, the EU as an autonomous international organisation, having a legal personality and its own institutions, accumulating financial resources, among others, in its general budget, makes specific financial actions (decisions). This also proves its financial autonomy, despite the fact that it is the Member States who transfer to the EU budget the major part of the means accumulated in it. Secondly, the Member States still implement their own economic policies, however, in particular fields their competences have been limited, sometimes significantly, e.g. in the scope of monetary or customs policies.

This complex structure means that the economic policy requires coordination, i.e. proper management with the participation of the Member States. It will allow achieving assumed objectives, and the lack of such coordination will make the EU economic policy ineffective and taking a colliding course with the Member States' policies. Coordination actions should stay adequate to the defined economic objectives and should include the division of competences in the implementation jointly with the Member States, and this, in turn, requires selecting proper financial instruments.

COVID-19 pandemic has negatively impacted the economic situation of the Member States (and not only their situation). The need to dedicate significant public means within the aid effort, in particular to public health or by allocating the public support to entrepreneurs affected by lock-down, also strained public finance of these states, what has also impacted the whole Union economy. At the same time, severe effects of the pandemic have forced the EU to make particular actions aimed at enhancing their public finance or at introducing investment programmes (instruments) in particular fields of life, which may, on the one hand, encourage socio-economic development, and on the other hand, strengthen against the effects of possible future pandemics.

In this context, the aim of this paper is to determine what is the specificity of the EU economic policy coordination, and on the other hand, to make a legal assessment of the financial solutions suggested by the EU and aimed at combating the effects of COVID-19 pandemic. Despite important actions of the EU in this scope, the evaluation is not unambiguously positive. A thesis needs to be made that a part of these actions raises doubts regarding their compliance with the provisions of the Treaties.

This paper uses the so-called nonreactive research based on the analysis of publications and legal regulations key from the perspective of the problem and the objectives of the article.

Economic aims of the EU and the division of the competences in their implementation between the EU and the Member States

When addressing the problem of the EU economic policy coordination, firstly general EU aims in this sphere should be discussed. In the light of the whole Art. 3 of the Treaty on European Union (TEU) they include in particular: 1) establishing an internal market implemented by the free movement of goods, persons and capital; 2) obtaining permanent development of Europe based on sustainable economic growth, price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment; 3) monetary integration within the economic and monetary union. However, it does not mean that these aims are only assigned to the

Union itself as a separate organisation but their implementation is also conducted by the Member States. Thereby, they are also actors of the economic policy of the whole EU, what thus requires applying coordination mechanisms.

Such communitarisation of aims determines the need to set certain rules for the allocation of competences, which have been determined in the Treaties. In this scope, there is a competence dichotomy, according to with there are conferred and not conferred competences. The former indicate the fields and scope in which the EU has the right to act, what is specified in the principle of conferral of powers arising from Art. 5 of TEU. On its basis, the Union has the right to act only within the limits of competences conferred upon it by the Member States in the Treaties and necessary to achieve objectives defined in these Treaties, in particular in the aforementioned Art. 3 of TEU. However, powers not conferred remain with the Member States pursuant to art. 4(1) and Art. 5(2) of the Treaty. Such duality of competence is described as a vertical division of competence between the Union and the Member States[1] [Barcz, Górka, Wyrozumska 2012, p. 81].

Even within the conferred powers, the Union does not have full freedom in taking initiatives excluding Member States, for two reasons. Firstly, from the Treaties, and directly from Art. 2 of the Treaty on the Functioning of the European Union (TFEU) arises the division of competences granted to the Union, which is made differently in the literature and what will be discussed below. However, it may be assumed for certain generalisation that there are exclusive and non-exclusive competences [Mik 2000, p. 280; Schutze 2012, pp. 162–163][2]. The latter are exercised jointly with the Member States or with their participation. Also in the case of exclusive competences the Member States may show initiative - on the one hand, by issuing binding acts, if the EU authorises them to do so, and on the other hand, they may adopt legal acts to execute acts established by the Union.

Secondly, freedom in implementing the EU actions based on the principle of conferral of powers has been limited by the principle of proportionality and the principle of subsidiarity which result from the principle of conferral. The first one, set forth in Art. 5(4) of TEU, is applied to all competences conferred to the Union (exclusive and non-exclusive) [Barcz, Górka, Wyrozumska 2012, p. 95]. It states that the scope and form of the EU action do not exceed what is necessary to attain the objectives under the Treaties.

1 However, horizontal division of competences defines the way in which the Union is to use its competences, i.e. through which institution, instrument, procedure.

2 Such division was in the doctrine and was formulated in the context of historical development of the Union and on the basis of the content of the Treaties in the versions before changes made by the Lisbon Treaty. However, the duality of competences was not stated there *expressis verbis* but, what is more important, appeared in judicial rulings.

The second principle – the principle of subsidiarity, whose legal basis is Art. 5(3) of TEU, is applied in the fields in which the Union has non-exclusive competences jointly with the Member States [Barcz, Górka, Wyrozumska 2012, p. 91]. Pursuant to this rule, the Union can act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, but can rather, due to the scale or effects of the proposed action, be better achieved by the Union level.

Overall, according to the principle of conferral of competences, there are competences conferred to the Union, and other competences are not conferred competences and remain with the Member States. Within the conferred competences, the provisions of the Treaties specify which fields of action (also economic) are implemented by the EU alone (exclusive competences – Art. 2(1) and Art. 3 of TFEU) and which jointly with the Member States (non-exclusive competences).

Non-exclusive competences are differently classified, depending on the views of the doctrine and on the basis of the indicated regulations of the Treaties. For example, within this category are distinguished: shared competence (Art. 2(2) and Art. 4 of TFEU), coordination competences in relation to economy and employment (Art. 2(3) and Art. 5 of TFEU), complementary competences (Art. 2(5) and Art. 6 of TFEU) and additionally a separate type of competence in the scope of common foreign policy and security (Art. 2(4) of the TFEU) [Schutze 2012, pp. 162–168]. According to a different view, there are two types of competences – shared and complementary. In this case, the group of shared competences covers the indicated fields of coordination as well as common foreign policy and security, because they are not included in the regulation of Art. 3 and Art. 6 of TFEU [Lenaerts, Van Nuffel, 2011, p. 128].

Moreover, the need to coordinate economic and employment policies may be interpreted from the Art. 4 of TFEU, which determines the fields in which shared competences appear. A part of these fields concerns economic and employment policies and the fact of the division of competences needs coordination.

Besides the abovementioned generic groups of competences, the TFEU specifies fields that one of these groups covers. Pursuant to Art. 3, the Union has exclusive competence in such fields as e.g., customs union, competition on the internal market, monetary policy, common commercial policy. Next, in the light of Art.4, shared competences are in the fields such as: internal market, social policy (but only in relation to the aspects included in the Treaty), economic, social and territorial cohesion, environment, consumer protection, and transportation. According to Art. 6 complementary competence in particular refers to: protection and improvement of life, industry, culture, tourism, education and vocational training.

Forms and nature of the EU economic policy coordination

The fact of categorisation of competence, and in particular specifying the competences shared between the Union and the Member States to achieve the objectives under the Treaties, enforces taking coordination actions so that the implemented economic policy (and within it -financial policy) of the Union as an organisation of 27 members could be characterised by coherence. Moreover, decision-making centres should be designated and they will be responsible for conducting such coordination.

It should be noted that two notions need to be made distinct, and they will appear further in this paper, i.e. economic policy and financial policy, which are connected with each other but cannot be equated. The former is defined as deliberate impact of state authorities as well as institutions and international organisations on the economy – its dynamics, structure, functioning and economic relations [Winiarski, Polityka gospodarcza 2006, p. 19]. On the other hand, financial policy means deliberate actions of people and institutions consisting in setting objectives and financial means of their implementation [Ruskowski 2018, p. 41], in which case, if the actors of this policy are public authorities then a more precise term should be public financial policy.

On the basis of the abovementioned definitions, it seems clear that as far as the economic policy focuses on all actions regarding the economic sphere, financial policy emphasises more financial character of the used instruments. However, economic policy cannot be implemented without financial instruments (moves) and even in this scope, there is a connection between these policies.

Returning to the EU economic policy coordination, its character and forms mainly arise from the Treaties. Not without significance is the historical context of economic integration, also monetary, taking place within European Economic Community and then European Community and the Union itself [Lenaerts, Van Nuffel 2011, pp. 379–381]. In fact, historical processes have determined the currently binding legal solutions, not only of a Treaty nature.

The forms of the EU economic policy coordination are indirectly determined by the mentioned principle of conferral of powers and separation of exclusive and shared competences in particular fields. The consequences of such division are the Treaty regulations which directly indicate the obligation to coordinate the EU economic policy.

Firstly, attention should be given to Art. 5, Art. 120–121 and Art. 175 of TFEU which determine general frameworks of the economic policy coordination of the Member States within the Council, having regard to the objectives stated in Art. 3 of the Treaty.

In turn, Art. 119 of TFEU refers to specific forms of coordination, in particular:

- Art. 119(1) provides close coordination of the Member States' economic policies having regard to the objectives set out in Art. 3 of the Treaty,
- Art. 119(2) introduces the obligation of coordination in relation to monetary policy and exchange-rate policy, which are to be implemented in a unified manner, i.e. as a single monetary policy and a single exchange-rate policy.

The mentioned provisions indicate the fields of the EU and the Member States' coordination actions. However, on the basis of the general obligation to coordinate economic policies, a special focus is on monetary integration within one currency – the Euro. Coordination actions in this field are more intensive than in other fields, as a result of which monetary policy and exchange-rate policy are unified for all Member States[3], and their main aim is to sustain the stability of prices. An additional objective of these policies is to support overall economic policies in the Union but without prejudice to the stability of prices, which is the priority. Such wording of Art. 119(2) of TFEU corresponds to Art. 127(1) determining the overriding objective of the European System of Central Banks which is to maintain the stability of prices, as well as the complementary objective – supporting economic policies in the EU but without the prejudice to the overriding objective.

Regardless of the separation of the monetary policy and exchange-rate policy subjected to tougher coordination from the overall EU economic policies, all policies should be implemented with the application of the following rules: open economic policy with free competition, stability of prices, sound public finance and monetary condition as well as sustainable balance of payments.

Having regard to the abovementioned regulations of the Treaties, economic policy coordination in the EU takes place in three forms: single policy, close coordination and weak coordination [European Commission 2002, p.4; Szeląg 2003, pp. 16–18][4].

Within a single policy, the Union has exclusive competences, which means that it acts autonomously and independently. The decision-making centre of the policy implemented in this form has been placed on the supranational level. A specially designated EU body (institution) is responsible for the directions of this policy and the manner of their execution. The role of the Member States is mainly to adopt the directions and participate in the implementation of the policy on the established rules. As a single policy are also implemented other policies, namely: monetary, currency, customs, competition and budgetary, whose main instrument is the general budget

3 The Member States with derogation, i.e. which are in the second stage of the economic and monetary union, are not subject to a single monetary and exchange-rate policy (See Art. 139–144 of TFEU).

4 The presented division includes fields which involve pubic finance and regulations which are classified as financial law (the law of public finance). In the quoted literature also other fields are indicated, e.g. labour market, commodity market, capital market.

of the EU. The provisions of the Treaty directly indicate that this form is proper for monetary and currency policies but on the basis of other provisions of the Treaties and secondary legislation it may be considered that also other policies are coordinated as single policies.

Close coordination is based on the division of competences between the Union and the Member States. The basic objectives which are to be achieved are determined by the Union, and the Member States are free to select instruments used to achieve these aims. Examples of policies coordinated in this form are: tax policy (by tax harmonisation), structural policy connected with the functioning of internal market, policy in the scope of a single financial market, budgetary policy regarding budget balance and public debt of the Member States as well as in the scope of exercising budget supervision in relation to them.

Weak coordination has a very general and broad nature, however, it is non-legally binding. Therefore, it is implemented by soft instruments such as guidelines, opinions or recommendations, and the Member States exercise them on a voluntary basis, e.g. budgetary policy with respect to the quality of public finance.

Selected instruments of the EU financial policy helping mitigate the effects of COVID-19 pandemic

Due to the negative effects of the pandemic in the form of increased public expenditure from the budgets of the Member States dedicated to public healthcare as well as the decrease in revenues caused by lockdown, the EU has decided to apply a general escape clause within the excessive deficit procedure. Generally, this procedure is initiated towards a Member State which exceeds referential values of the deficit and the debt of the general government sector in relation to GDP, amounting to 3% and 60%, respectively, as was determined in Art. 126(1) and the Protocol 12 of TFEU. Pursuant to Art. 126(1)(a) of the Treaty, in the situation of exceeding the reference value of the deficit of the general government sector, European Commission and the EU Council examine whether the excess is only exceptional and temporary and whether it remains close to the reference value. Additionally, in the Stability and Growth Pact, which develops excessive debt procedure, the general escape clause, mentioned above, is included and is precisely regulated by Art. 5(1), Art. 6(3), Art. 9(1) and Art. 10(3) of the Council Regulation (EC) No. 1466/97 (the so-called preventive part of the Pact) and Art. 3(5) and Art. 5(2) of the Council Regulation (EC) No. 1467/97 (the co-called preventive part of the Pact).

The indicated Treaty provisions regarding the reference values and excessive debt procedure as well as provisions regulating the Stability and Growth Pact are only aimed at the Member States. Therefore, there is close coordination of budgetary policy.

First of all, this clause allows a temporary derogation of a Member State from the adjustment path leading to the medium-term budgetary objective in case of an event which is extraordinary and independent from the state and which has a significant impact on the balance of government and local government institutions or in the periods of significant deterioration of the economic situation. Secondly, in the times of significant deterioration of the economic situation in the Eurozone or in the whole EU, the Council on the basis of the Commission's recommendation may decide to change the direction of fiscal policy. Generally, it is about mitigating restrictions arising from keeping a proper level of public expenditure which conditions maintaining deficit within the reference value.

General escape clause was applied on a motion of the European Commission (EC) as a result of the worsening of the economic situation which follows COVID-19 pandemic. It is important that it does not suspend the excessive debt procedure but it will allow making a coordinated budgetary policy within the Stability and Growth Pact and will allow omitting budget commitments which would be applied to a Member State in a normal situation[5]. With this regard, the application of the escape clause should be assessed positively. Although it decreases budget discipline of the Member States in the scope of deficit and debt but due to the negative effects of the pandemic on public finance in the form of increased budget expenditure, which could not have been avoided, strict application of the excessive debt procedure would be pointless and would further burden the finance of the Member States.

Having regard to the fact of mitigating the effects of COVID-19 pandemic, two key programmes need to be indicated, namely Multiannual Financial Frameworks (MFFs) and European Union Recovery Instrument (EURI). Both are instruments of a single budgetary policy, what means that the funds are obtained by European institutions, in this case by the EC, and are allocated by them to particular fields of the EU activity. Basically, it may be stated that these funds have budgetary nature but in the case of the second instrument it is not quite correct, what will be discussed later in this paper.

When describing in detail the first instrument, it is worth noticing that MFFs in its substance are not *sensu stricto* targeted at combating the effects of COVID-19 pandemic but in the case of the framework for 2021–2027 they will serve this purpose due to the extraordinary post-pandemic economic situation.

In the current legal and factual state, MFFs are a medium-term financial planning instrument. They are also a medium-term – seven-year financial plan of the EU, which is to ensure making the EU expenditure in an organised manner and within the limits of its resources pursuant to Art. 312(1) of TFEU [Tyniewicki 2014, p. 35]. This plan includes essential and key objectives (tasks) which will be financed in the

5 See more: Communication from the Commission to the Council on the activation of the general escape clause of the Stability and Growth Pact (COM/2020/123 final of 20.03.2020).

projection period. It is presented in the form of a table which is divided into seven subsequent years with ceilings (amounts) assigned to particular objectives and which is an attachment to the Council Regulation adopted according to a special legislative procedure (Art. 312(2) of TFEU).

Therefore, MFFs have a cyclical nature – they are adopted every seven years (although TFEU sets a minimal 5-year period) and the EU objectives and tasks which are to be financed are determined depending on the key priorities for the functioning of the Union in the projection period. It is important that the frameworks do not replace the Union's subsequent annual budgets, since the latter specify general amounts included in multiannual frameworks and at the same time allow making real expenditure. Therefore, every year a budgetary procedure must be started to adopt the annual EU budget, which is made by the Council and the European Parliament [Tyniewicki 2014, pp. 40–41]. Because of this reason, the funds included in the MFFs have a budgetary character.

Due to the fact that the effects of COVID-19 for the Member States have been significant and diverse, in 2020 EC presented an amendment to the MFF draft for 2021–2027 and precisely to its priorities. It was justified by presenting by the Commission a kind of recovery plan for Europe after the pandemic, and it generally concerned recovery and strengthening of the Union's economy. At the same time, the Commission proposed establishing EURI, also called "Next Generation EU", as an additional and temporary instrument[6]. Its role is to financially strengthen the EU budget by obtaining debt funds on financial markets which then will be allocated to the Member States, similarly as budgetary funds, to implement particular projects within priorities resulting from MFFs. As the Commission indicated, it was about creating a financial package to eliminate the effects of the pandemic and to restore the economy of total value EUR 1 824 bn in 2018 prices (EUR 2 018 bn in 2021 prices), and within MFF the financial envelope amounts to EUR 1 1074 bn in 2018 prices (EUR 1 211 bn in 2021 prices) and from EURI is to be obtained EUR 750 bn in 2018 prices (EUR 806, 9 bn in 2021 prices)[7].

The above proposals were accepted by the Council by adopting Regulation No. 2020/2093 of 17 December 2020 laying down Multiannual Financial Framework for the years 2021–2027 and Regulation N.o 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis.

6 See more: Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions (COM/2020/442 final of 27.05.2020).

7 See more: European Commission, Directorate-General for Budget (2021), *The EU's 2021–2027 long-term budget and NextGenerationEU: facts and figures*, Publications Office of the European Union, Luxembourg, https://data.europa.eu/doi/10.2761/808559, p. 6. Amounts arising from MFF and EURI are subject to annual growth according to deflator of 2% per year.

Having regard to the legal and financial context, EURI in comparison to MFFs and EU annual budgets has a special nature. The financial structure of this instrument was precisely regulated in the Council Decision No. 2020/2053 of 14 December 2020 on the system of own resources of the EU. Pursuant to Art. 5(1) of this decision the Commission is empowered on behalf of the Union to borrow funds on the capital market, especially by issuing bonds, up to the amount of EUR 750 bn. It needs to be indicated here that the Recovery and Resilience Facility (RRF) is the biggest component of EURI and according to the Regulation of the European Parliament and the Council No. 2021/241 of 12 February 2021 its role is to finance six fields of the EU policy: green transition; digital transformation; smart, sustainable and inclusive economic growth; social and territorial cohesion; health, and economic, social and institutional resilience; policies for the next generation, children and the youth. Under RRF will be accumulated EUR 672.5 bn in 2018 prices (EUR 723.8 bn in 2021 prices).

The manner of obtaining funds to EURI undoubtedly indicates that they will mainly be of debt nature, provided that they will be used "solely to address the consequences of COVID-19 crisis", and the Commission will manage the borrowing till 2026. Next, the borrowing will be transformed to the Member States to implement particular programmes, where EUR 360 bn will be in the form of loans (the loan part of EURI), and EUR 390 bn as grants (the grant part of EURI). In the quoted provision of Art. 5 of the Council Decision No. 2020/2053 also the repayment rules of the funds borrowed by the EC were regulated. Namely, the funds transferred as grants and the related interest will be repaid by the Union expenditure and the part of the borrowing which will be transferred as loans will be repaid from the reimbursement of these loans made by the Member States. At the same time, Art. 6 of the Council Decision introduces security to repay the borrowing made by the Commission. In particular, it consists in increasing by 0.6% the ceiling of own resources, and thus the value of the revenues transferred by the Member States to the EU budget. Therefore, it is they who will bear the real burden of the liabilities incurred by the EU. Of course, these additional resources may not be used to cover any other liabilities of the Union.

Despite the important aims which may be financed from the EURI funds, its legal structure raises two key questions of legal nature.

Firstly, the funds obtained from the borrowing do supplement the financing of tasks and programmes determined in MFF for 2021–2027, and thus in the EU annual budgets, however as revenues they are outside the structure of these frameworks and budgets. They will not be strictly budgetary and therefore they will not be subject to the annual budgetary procedure implemented jointly by the European Parliament and the Council on the basis of Art. 314 of TFEU. The grant part of the Instrument, discussed above, will be subject to this procedure when it will be repaid as budget expenditure.

The above manner of financial transfers within EURI causes a situation in which there is, at least at the time of borrowing by the Commission, a kind of debudgetisation, which means that funds earmarked to finance the Union's tasks and programmes remain outside MFF and the Union's budget. This raises doubts in the context of compliance with Art. 311 and Art. 312 of TFEU which indicate the principle of concentration of revenue obtained by the Union within multiannual frameworks and annual budgets. Moreover, in the light of Art. 311 of TFEU, the EU objectives and policies should be wholly financed from own resources, i.e. from the revenues allocated by the Member States. These legal doubts may be justified by the extraordinary character of the EURI funds, which are obtained to support the recovery in the aftermath of COVID-19 pandemic and they do not constitute budgetary revenues. However, it must not be forgotten that they serve to finance EU policies.

Second concern relates to the issue of the possibility to incur debt by the EU to implement its tasks. Art. 311 of TFEU, quoted above, introduced the principle of the total funding of the Union's budget from the obtained revenues, i.e. by the system of own resources. The consequence of this regulation is the obligation to balance revenues and expenditure sides of the Union's budget in such a sense that the existence of a budget deficit and its financing from debt instruments is prohibited. This thesis is justified in Art. 17(1) of the Regulation of the European Parliament and the Council No. 2018/1046 of 18 July 2018. From the provisions of Art. 17(1) arises the principle of balance, and from Art. 17(2) – prohibition to raise loans within the budget by the Union or its bodies.

When relating the above regulations to EURI funds it may be stated that directly they do not constitute neither budgetary revenues, nor are they included in the Union's budget when they are obtained. Therefore, it may appear that there is no violation of the principle of balance and financing expenditure with debt. It is not so obvious when taking into consideration the fact that debt generated and constituting a grant part of EURI will be financed from the budget expenditure. This mechanism raises suspicion about indirect debt reimbursement of the EU expenses but without an official nominal budget deficit. If it is assumed that the tasks connected with mitigating COVID-19 are to be financed directly from the budget, i.e. are on the expenditure side, what relates to the grant part of EURI, then, in such a case, would not there be a negative balance in the budget which is legally inadmissible? Taking into consideration all these doubts, one basic question may be formulated: does the presented mechanism of obtaining and repaying borrowings within EURI lead to the violation of Art. 311 and Art. 312 of TFEU, and in particular does it indirectly and covertly allow the financing of the EU budget expenditure from debt sources? This problem needs deeper legal analysis, exceeding the aims and framework of this paper, and will certainly be a subject matter of a separate elaboration.

Conclusion

On the basis of the content of this paper, it needs to be stated that the Union economic policy is characterised by a specific nature in relation to a classic form of economic policy implemented by the states. This specific nature consists mainly in the need to coordinate the economic policy of the Union, since many "actors" participate in it., i.e. the Union as an autonomous international organisation and its Member States. This also expresses its complicated nature, because it requires managing contradictory interests and achieving compromise. This causes situations when particular decisions cannot be made quickly in order to be more effective and efficient.

Having regard to this nature of the EU economic policy, the initiative proposed by the EC to eliminate the effects of COVID-19 should be assessed positively, the more so that the Member States achieved compromise in this scope. As a result, particular investment programmes to develop the EU and strengthen its economy have been covered by the EU legal regulations and therefore may be implemented. However, not all adopted solutions may be unambiguously evaluated positively in the legal context. The mechanism of obtaining loans and their repayment within EURI raises doubts regarding their compliance with the Treaty provisions. This especially concerns the situation in which a part of the obtained funds remains outside MFF and the EU budget as well as the issue of debt financing of the Union activity, which should not take place in the light of the TFEU regulations.

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