Brexit Institute

REBUILD
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Event Report – 2024 REBUILD Annual Conference

Post-Pandemic Economic Governance

& Next Generation EU

Thursday 11th and Friday 12th January 2024 Europe House, Mount Street, Dublin

Post-Pandemic Economic Governance and Next Generation EU – Event Report

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Introduction

On the 11th and 12th of January 2024, the DCU Brexit Institute held the Jean Monnet Centre of Excellence REBUILD Annual Conference on ***Post-Pandemic Economic Governance and Next Generation EU*** in person, very kindly hosted by the European Parliament Liaison Office in Ireland. Speakers presented on the issue from different perspectives across four panels, which were concluded by a final keynote address by Philip Lane, the Chief Economist of the European Central Bank. The participants of the Conference critically and actively engaged during the two days on the legal, economic, and political features of EU Economic Governance and the Next Generation EU (NGEU) implementation after the pandemic. Several academics joined from various Universities abroad, members of EU institutions, and colleagues from Dublin City University (DCU).

Thursday 11 January

Professor **Federico Fabbrini** (Full Professor of EU Law at DCU and Founding Director of the Brexit Institute) opened the event. He thanked the European Commission (EC), the European

Parliament Liaison Office in Ireland, Dr. Christy Ann Petit (DCU & Deputy Director of the DCU Brexit Institute), and the entire team of the Brexit Institute.

The **first panel** on **EU Economic Law beyond NGEU** was chaired by **Fionnuala Crocker** (European Parliament Liaison Office acting Head). Professor **Federico Fabbrini** (DCU) presented his paper on the war in Ukraine and the slow rise of EU fiscal capacity. He examined the impact of the war in Ukraine on EU fiscal capacity. Professor Fabbrini explained how the war in Ukraine was financed. First, in 2021, the European Peace Facility (EPF) was established as a Common Foreign Security Policy (CFSP) tool, and it was based on Member States' contributions. Later, in 2023, the Macro-Financial Assistance (MFA) for Ukraine was approved, a one-year funding through EU common debt. In this case, only 26 Member States guaranteed the MFA, excluding Hungary. Currently, the Ukraine Facility is under discussion, but it has not been approved, as Hungary vetoed it in December 2023. This new instrument would be funded through EU common debt and follow the Recovery and Resilience Fund (RRF) model in terms of supranational governance. Professor Fabbrini's main argument was that the financing of the war in Ukraine consolidated the post COVID-19 trend of fiscal integration, in using EU common debt and the RRF legal technology. However, the rise of EU fiscal capacity must face some structural challenges, such as constitutional constraints like art. 41 (2) of the Treaty on the European Union and art. 311 of the Treaty on the Functioning of the EU, and governance problems like the Hungarian veto.

The second panelist, Mr. **Lucio Pench** (Bruegel fellow, and formerly European Commission), presented his work on NGEU and the New Stability and Growth Pact. First, Mr. Pench explained the mechanisms of coordination and control of national budgetary policies, focusing on the lack of veto from the EU. On these premises Mr. Pench described the Stability and Growth Pact (SGP), in the light of the COVID-19 crisis. He emphasized how the COVID-19 emergency encouraged bolder reform ideas, setting up a rare example of horizontal coordination by exception of Member States' fiscal policies. At the same time, he illustrated the limits of the horizontal economic policy coordination, as the suspension of SGP via 'general escape clause' was an extraordinary measure. In describing the SGP latest reform, Mr. Pench underlined how the legal simplification promised by the European Commission in its initial proposal was partially sacrificed. He saw visible instances of complexification in the SGP's reform, both in the preventive arm and the Excessive Deficit Procedure context. Those additional layers of complexity have in common the intent of re-introducing elements of the old in the new SGP, such as uniform numerical rules and benchmarks. He added a few points on the reform that might, however, contribute to simplification in implementing the SGP. In particular, he referred to the substantive requirements applying to low-debt Member States, which are drastically relaxed by the reform. Consequently, he expects that the surveillance procedures are likely to become lighter. In addition, he considers that the enforcement of corrective action has been simplified as well. In his concluding remarks, Mr. Pench described the EU fiscal rules as a form of peer-pressure decision-making rather than a supranational decision-making system. This is due to the special nature of EU fiscal rules, particularly the fact that the EU cannot interfere with national budgetary policies and cannot enforce those rules through the Court of Justice of the EU. In his view, the limitations of EU fiscal governance are likely to persist and stand in the way of the federalization of EU fiscal policies despite the experience of the NGEU.

The **second panel** was chaired by Prof. **Derek Hand**, Dean of the Faculty of Humanities and Social Sciences, DCU, and focused on the **Implementation of NGEU and Conditionality**.

The first panelist, **Niels Kirst** (DCU), presented his paper on rule of law and conditionality. First, he compared the rule of law conditionality with conditionality in the context of Next Generation EU. Then, he delved into the Hungarian case. He recalled the first application of the Conditionality Regulation against Hungary in April 2022, which led to the suspension of 55% of cohesion funds. In December 2022, the European Commission requested 27 super-milestones before payout. Finally, in December 2023, the EU Commission released 10.2 billion euros under the Common Provisions Regulation as the conditions were fulfilled. In his view, due to the failure of legal mechanisms and lack of political will, the EU has shifted the rule of law protection to the budgetary realm. With the Conditionality Regulation, the EU walks a fine line by protecting fundamental values via budgetary means. He underlined the rise of spending conditionality, even though it has not reduced the polarization around the rule of law. He concluded that rule of law conditionality will become a permanent feature of EU economic policy.

The second panelist, Prof. **Jonathan Zeitlin** (University of Amsterdam), presented an article on National Recovery and Resilience Plans (NRRPs), written together with **David Bokhorst** (EUI) and **Edgars Eihmanis** (University of Wroclaw). Their work is a comparative study of NRRPs. It analyzes the drafting, implementation, and monitoring of NRRPs to assess the strengths and weaknesses of the Recovery and Resilience Fund governance model and its implications for future EU policy. The RRF model has already been extended to the REPower EU and the Social Climate Fund. He underlined the differences between several countries in the NRRPs drafting process, especially regarding their level of ambition. Later, he focused on the role of the Commission in the drafting process in ensuring coherence and balance of plans and effectiveness in monitoring arrangements, milestones, and targets. In terms of implementation, he underlined how the NRRFs reinforced centralized decision-making within the national governments. He also observed how stakeholders' low inclusion led to mixed results in implementing NRRFs. He concluded with the strengths and weaknesses of the RRF governance model. On the one hand, the innovative governance design of the Recovery Resilience Fund has inspired widespread debate about its potential application to other EU policies, such as fiscal rules, the economic governance framework, and the cohesion policy funds. On the other hand, the inflexibility of a performance-based financing system makes it challenging to adjust milestones and targets to unforeseen circumstances.

In conclusion of the first day of the conference, the activities of DCU students of the Jean Monnet Module were presented. **Jack Flynn** (DCU Student) illustrated the main points of the Irish National Recovery and Resilience Plan (NRRP). The Irish NRRP is based on three goals: the green transition, digital reforms and transformation, and recovery and job creation. Jack Flynn explained that the priority is advancing the green transition through decarbonizing the enterprise sector and specific projects such as the electrification of Cork Commuter Rail or the Irish Water Management Plan. The Irish NRRP's second priority is accelerating and expanding digital reforms and transformation through the development of a shared government data center, supporting the digital transition of the Irish enterprises, and addressing the digital divide. Finally, Jack concluded with the third priority of the Irish NRRP, which is the social and economic recovery job creation. This is realized through several projects supporting healthcare, pensions, and work placement programs.

Friday 12th January

The event continued with **Panel 3** moderated by Dr. **Ken McDonagh** (Head of the School of Law and Government, DCU) on **NGEU: Funding and Financial Union**. The first panellist, **Carlo Garbarino** (Bocconi University) discussed the Global minimum tax. He explained the two-pillar approach to global taxation, where Pillar One protects the prerogatives of market jurisdictions through a complex multilateral convention. On the other hand, Pillar Two, with a different approach, aims to combat tax avoidance through the reallocation of taxing rights. He argued that despite Pillar One being seen as the initial step, it is Pillar Two that is now being implemented. Thus, he examined how Pillar Two has surpassed Pillar One in terms of its focus on profit allocation. He also compared the global minimum tax to the use of countervailing measures at the World Trade Organization, arguing that these measures should be considered to be a last resort. Finally, he explored how the new EU own resources share common features such as being taxes with a regulatory aim that aims to counteract the opportunistic behaviour of Multinational enterprises.

The second speaker, Dr. **Maria Kendrick** (City, University of London) presented her paper on Emissions Trading System (ETS) and Carbon Border Adjustment Mechanism (CBAM). She highlighted the financial challenges that the European Union faces in managing the Next Generation EU debt. In the absence of new resources in the form of taxes, such as environmental measures or corporate and financial taxes, she argued that the change in the EU's fiscal capacity created by the Next Generation EU, at the moment, consists of a debt. In addition, she said that this debt is not only substantial but also costly due to high interest rates. Thus, she stressed that the current fiscal strategy, which largely depends on Member States' contributions, is unsustainable for building a strong Financial Union within the EU. Finally, she mentioned the European Parliament's concerns regarding the slow progress in adopting new EU own resources measures. She also warned about the issues surrounding the ability of the ETS and CBAM to assist in repaying the debt, pointing out that there is a risk that the burden of debt repayment could fall on next generations.

Afterwards, Dr. **Christy Petit** (DCU) delivered her presentation on the Financial Union after the pandemic. She emphasized that the EU will soon become the fifth largest debt issuer in the EU by 2026. However, investors still demand a premium when investing in EU bonds. Thus, she stressed the importance of developing and deepening secondary markets to improve the liquidity of EU bonds and attract investors. She discussed major institutional reforms, such as the European System of Financial Supervision. She also noted that the Banking Union, launched in 2014, remains incomplete due to the absence of its third pillar and the blocked common backstop at the European Stability Mechanism (ESM). This incompleteness has led to debates, as highlighted by the recent Italian Parliament's decision to vote against the ratification of the revised ESM Treaty. She listed some key measures adopted during the pandemic to ensure the banking sector provides support to the real economy. She continued with the ongoing legislative work to build and develop a Capital Markets Union (CMU) – which still relies on a patchwork of EU secondary legal acts. In her conclusion, she stated that a Financial Union could achieve several objectives: the integration of banking and financial markets within the EU, smoother movement of investments and savings across the EU, and better channeling of public and private funding, leading to more efficient availability and allocation of resources, and the financing of key EU Policies, including those stemming from NGEU. Additionally, it would enhance the EU's attractiveness as an investment location and enhance its competitiveness and growth.

Panel 4, chaired by Dr. Niels Kirst (DCU), was on the **Additional Safety Nets: Pandemic-Related Developments**. Dr. **Ian Cooper** (DCU) focused on the SURE program and unemployment insurance. SURE, standing for "European Instrument for Temporary Support to Mitigate Unemployment Risks in an Emergency," was a response to the surge in unemployment during the pandemic, providing 100 billion euros in emergency loans to support Member States' job retention schemes. This initiative gained momentum after the 2019 European Parliament elections, leading to a rapid legislative process between April and May 2020. Notably, there was political division regarding SURE's permanence, with countries like the Netherlands preferring a temporary program, while Spain advocated for a permanent solution. Legally based on Article 122 TFEU, the emergency clause, SURE was operational until December 2022, with the majority of funds distributed by May 2021. Its flexibility also enabled support for nonstandard workers. He concluded that SURE marked a significant shift in EU social policy, albeit temporary and more focused on job retention than employment creation. The future of SURE, including discussions about its permanence, remains a topic on the Commission's agenda.

Subsequently, Dr. **Jorge Piernas Lopez** (University of Murcia) gave a presentation on **State aid law after the COVID-19 outbreak and the new architecture of economic governance**. He identified three key aspects that reflect the European Union's strategic response to economic crises, such as the COVID-19 and the Ukraine crisis, through State aid. First, the adaptation of State aid rules after the COVID-19 outbreak. He focused on the introduction of the Temporary Framework after COVID-19 and the subsequent Temporary Framework adopted to cope with the crisis brought about by the war in Ukraine. Second, the interplay between State aid rules and the Next Generation EU Recovery Fund. And third, the interaction of State aid regime with the new EU architecture of economic governance. Delving into each of these three aspects, he argued why it is fundamental to reflect on them for the preservation and cohesion of the EU single market. In his conclusions, he suggested that the new architecture of EU economic governance should include more EU funding mechanisms to mitigate the impact of national State aid on competition and cohesion within the Single Market.

The third speaker, **Tomi Tuominen** (University of Lapland), provided an analysis of the reformed European Stability Mechanism (ESM). He explained that the ESM was created by the euro area Member States in 2012 as a reaction to the Eurozone financial debt and crisis. The ESM was indeed the result of political necessity and legal constraint, both stemming from the asymmetrical structure of the Economic and Monetary Union. He added that the ESM is deeply interconnected with the other economic governance measures that the EU and the Member States took due to the euro area financial and debt crisis. Thus, he highlighted that the ESM, and the other crisis response measures as well, were deemed 'incomplete' in many respects. He proceeded by focusing on what might be the possible consequences of reforms to the ESM within the framework of economic governance in the European Union. In particular, he pointed out the difficulties in achieving unanimous ratification among the Member States and the potential consequences of the proposed changes on the conditionality requirement for ESM support.

The event concluded with a high-level final keynote speech given by Prof. **Philip Lane** (ECB Executive Board Member and Chief Economist). This session was chaired by **Christy Petit** (DCU). He began by saying that the Next Generation EU represents a novel and innovative policy approach, particularly through its core instrument, the Recovery and Resilience Facility. He stressed the fact that the EU-level debt issuance means a prominent solidarity dimension among Member States. Moreover, he added that this initiative has been a game-changer in restoring confidence during the COVID-19 pandemic crisis, significantly boosting the green and digital transitions on the one hand, and providing incentives for investments and structural reforms (with funds being allocated upon reaching specific milestones and targets) on the other. He continued by explaining that according to ECB staff simulations published in 2022, if fully implemented, NGEU could increase the euro area's GDP by approximately 1.5% by 2026, and possibly beyond. However, there have been some implementation shortfalls so far. Governments will need to intensify their efforts between 2024 and 2026 to ensure the realization of these positive effects.

He argued that there are two main risks involved: first, the possibility of insufficient or inefficient absorption of EU funds; second, the risk of rush in RRF-funded spending towards the end of the programme. Both these scenarios would result in a sub-optimal macroeconomic impact in the euro area. In conclusion he highlighted the need for maintaining and ensuring a close monitoring of NGEU under the established surveillance mechanisms.

The slides of Philip Lane's presentation are available on this link.

The views expressed in this report are the position of the author and not necessarily those of the REBUILD Center.

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