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# **EU legitimacy during the Covid-19 Pandemic: Case of NextGenerationEU**



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## **1. Introduction**

The question of the legitimacy of the European Union (EU) has been discussed since the establishment of the European Coal and Steel Community in 1951. During the 1970s, this led to the introduction of direct elections for the European Parliament (EP) and the institution gaining budgetary powers (Hodson & Peterson, 2017). Since then, the European Parliament has increased its powers with every Treaty resulting in it having the power to supervise the Commission and reject or approve a new Commission, as well as budgetary powers and legislative power through the ‘ordinary legislative procedure’ (Follesdal & Hix, 2006; Hodson & Peterson, 2017). Additionally, the EU has attempted to raise the legitimacy of the Union via other channels as well, for example, the introduction of a Transparency Register for lobbyists, live broadcasts of Council debates, enhancing the access to EU documents, and several rulings by the Court of Justice of the European Union (CoJ). But even though these attempts to increase the legitimacy of the Union, many voices have been raised against it – calling the EU an undemocratic, illegitimate, and distant elite-driven project (Hurrelmann, 2018).

This view has been preserved during the last decade, which was marked by crises. One of which is the current Covid-19 pandemic. First detected in late 2019, the Covid-19 (or Corona) virus has spread all over the world, impacting every nation. Over the past year, governments have been trying to get a grasp of the virus and reduce the risk for their citizens, by decreasing the flow of people and limiting mobility. One measure taken is the lockdown of countries, each according to their own pleasing, but all included closing businesses and asking their citizens to stay inside and not visit others (Ladi, & Wolff, 2020; European Commission, 2020d, May 27). By providing financial assistance to businesses during these lockdowns, governments had to cut their budgets and expand their treasury. European Union member states have been doing this for more than a year now and differences between nations have become visible. Just as during the Euro Crisis, the difference between Northern member states and Southern member states has become visible and voices asking for solidarity were raised. In May 2020, the European Commission proposed to include a fund into the Multiannual Financial Framework (MFF) 2021-2027 or European Union Budget for 2021-2027 (European Commission, 2020a, May 27). This fund – called NextGenerationEU (NGEU) – would be a stimulus package designed to help member states boost the recovery of their economies during and after the Corona pandemic. Its focus is on ensuring that if future unforeseeable events happen, flexible mechanisms are in place to counter these. To achieve this, the Commission proposed to focus on the modernization of infrastructure by promoting greener and digital ideals (European

Commission, 2020b, May 27). On the 17th of December 2020, the recovery instrument NextGenerationEU was adopted, and the main mechanism was implemented on the 19th of February 2021 (European Commission, 2021b).

As mentioned earlier, the European Union is sometimes seen as an undemocratic, illegitimate, and distant elite-driven project (Hurrelmann, 2018). Based on this view, when the Union presents a new mechanism, this instrument should be seen as illegitimate, because the initiator – the European Union – is not understood as being a legitimate actor. However, when the EU is seen as a legitimate actor, the new instrument it presents should be seen as legitimate as well. And even when it is understood as a legitimate proposal, there are differences in assessments about which aspects are more or less legitimate or to what degree something is legitimate. Currently, such a newly presented mechanism is the NGEU. Therefore, the question if the NextGenerationEU is legitimate or not could be raised. But since European Union laws and procedures are highly complex (Hodson & Peterson, 2017), a simple dichotomous question does not cover the subject. Thus, the research question of this thesis is as followed: to what extent is the NextGenerationEU fund legitimate?

To conduct this analysis, I will be using the concepts of input and output legitimacy (Scharpf, 1999) and the concept of throughput legitimacy, which was introduced by Vivien Schmidt (2013), allowing me to not only consider the political (input) and performance (output) aspects of the fund but focus on the procedural (throughput) features as well. These aspects will then be built into a legitimacy index, with which it will be possible to determine to what extent NGEU is legitimate. Based on this index, the paper concludes that NextGenerationEU is not ‘fully legitimate’, but it is neither ‘not legitimate’. The political dimension can be labelled ‘fully legitimate’, the procedural dimension can be labelled ‘partially legitimate’, and the performance dimension is nearly ‘not legitimate’. Though, overall, as an instrument it positively contributes to the legitimacy of the European Union.

Continuing, this paper is organized as follows: the next section covers the main literature on the concept of legitimacy, conceptualizes it, examines the main debates, and discusses if there is a legitimacy deficit in the European Union. Section 3 establishes the research design and the theoretical framework, which includes the explanation of the index used and outlines the expectations. Afterward, section 4 discusses the background of the NextGenerationEU fund, its components, and the financing of the fund. The analysis and discussion of outcomes will be shown in section 5. Last, section 6 will conclude this paper.

## **2. Literature Review**

Over the past three decades, crises have dominated everyday life and, according to scholars, these crises have highlighted or identified the spheres where the legitimacy of the EU can be questioned (Auer & Scicluna, 2015; Hodson & Peterson, 2017; Hurrelmann, 2018, Newsome et al., 2020). Scholars speak of the democratic or legitimacy deficit (from now on legitimacy deficit) of the European Union and have established different views on how the legitimacy deficit has impacted the Union and how it can be measured. Two main strands can be identified in the literature on the issue: on the one side are the scholars arguing that there is a legitimacy deficit, therefore a legitimacy crisis can be established (Auer & Scicluna, 2015; Follesdal & Hix, 2006; Hurrelmann, 2018; Schmidt, 2013; Stie, 2020; White, 2015), and on the other side, scholars argue that there is no legitimacy deficit, and the EU is as legitimate as it is intended to be (Majone, 1998; Moravcsik, 2002). Before diving into this debate, the concept of legitimacy will be introduced and explained in the following section.

### **2.1. The concept of Legitimacy**

Legitimacy is an often-used concept in literature. In political science, there are two identified branches: the empirical/deliberative branch and the normative branch. The empirical branch focuses on the empirical determination; if a political system is recognized as just and right by its citizens and deserves their loyalty (Holzacker, 2007; Robertson, 1993). Normative theory shapes the second branch. It explores if and on what scale a political system covers a specific set of pre-defined normative criteria and can therefore be used as a potential standard on which a government or state will be judged (Holzacker, 2007; Lord, 2021, Robertson, 1993).

Furthermore, David Robertson states in *The Penguin Dictionary of Politics*, that legitimacy, in political science, is usually seen as the recognition and acceptance by the public of a government or as to whether a political system, government or state, “is entitled to be obeyed” (1993, p. 183). The scholar identifies that, in order for democracies to be accepted as legitimate, they have to be able to provide the public with what they require and want (Robertson, 1993, p. 184). This notion of delivering the requested goods/services can be identified in the categorization of legitimacy by Fritz Scharpf as well. By dividing the concept into two categories – input and output legitimacy (Scharpf, 1999) – the scholar paved a way for future research. He identified input legitimacy as the quality of participation by the people (Newsome et al., 2021; Scharpf, 2009; Schimdt 2013). Thus, citizens should be able to express their concerns, and institutions are judged on their capability of how they respond to these concerns.

Here, the expression of concerns is done via elections (Schmidt, 2013). Furthermore, Scharpf (1999) identified output legitimacy as being based on the effectiveness of policy outcomes for the people (Newsome et al., 2021; Schmidt, 2013). Important here is, that the resulting policy does not clash with the values and identities that citizens share (Schmidt, 2013). Vivian Schmidt (2013) has added a third categorization, namely ‘throughput’ legitimacy, which covers the space of the decision-making process between input and output. By being process-oriented and focusing on the procedure, the concept of throughput legitimacy brings forward criteria to judge the “governance process with the people” (Schmidt, 2013, p. 2) and concentrates on the quality of the process. The scholar identifies four criteria to do so: efficacy, accountability, transparency, and inclusiveness and openness to interest consultations (Schmidt, 2013). According to Schmidt (2013), if an institution has positive throughput legitimacy, the citizens will not know of it. But if throughput legitimacy is negative, there will be backlash and the institution will be seen in a negative light by its citizens.

## 2.2. Is there a legitimacy crisis?

In the context of the European Union, all three – input, output, and throughput legitimacy – have been deliberated. Overall, the consensus between scholars is that input legitimacy lacks in the Union and that it heavily relies on output legitimacy (Auer & Scicluna, 2019; Hodson & Peterson, 2017; Schmidt, 2013; Stie, 2020). The main debate in the literature on the issue of a legitimacy deficit centers around this point. As identified in the first paragraph, there are two strands in the literature: those who argue that the European Union does not have a legitimacy deficit (Lord, 2021, p. 22; Majone, 1998; Moravcsik, 2002) versus those who argue that the Union is suffering from a legitimacy deficit (Auer & Scicluna, 2015; Follesdal & Hix, 2006; Hurrelmann, 2018; Schmidt, 2013; Stie, 2020; White, 2015).

The main proponents of the argument that there is no legitimacy deficit in the European Union are Giandomenico Majone and Andrew Moravcsik. Both scholars argue that since the Union is not a self-sufficient entity, it is dependent on the legitimization by and through the member states (Majone, 1998; Moravcsik, 2002). Therefore, the EU ‘borrows’ (Lord, 2021) the legitimacy of its member states and relies heavily on their decision and consent to participate in the system as an entity. Moreover, the incentive to work together and providing the EU with member state legitimacy is based on the idea that by coming together in one system, it becomes easier for nations to manage transnational problems (Auer & Scicluna, 2019; Lord, 2021). Additionally, both scholars focus on the process of delegation. For Moravcsik (2002), the delegation of issues that are less politically important and more technocratic to the EU level

strengthens the position of the national government. It allows them to gain information on a domestic and European level. But salient core state powers are functions of the nation-state alone (Moravcsik, 2002). Majone (1998), focuses more on the delegation of regulatory powers to the EU level, specifically non-majoritarian bodies, which are insulated from politics and independent. Majone and Moravcsik both argue that by delegating powers to another institution output legitimacy is increased, because that specific institution is only allowed to work within a pre-set framework established by national governments, insulated from the electoral realm and politicians, and creating policies for a specific given set of issues. As a result, these bodies are able to work efficiently and create effective policy solutions for problems, hence increasing the output legitimacy of institutions (Majone, 1998; Moravcsik, 2002).

On the other side of the debate are scholars who argue that the European Union has a legitimacy deficit (Auer & Scicluna, 2015; Follesdal & Hix, 2006; Hurrelmann, 2018; Schmidt, 2013; Stie, 2020; White, 2015). The main opponents of the claims made by Majone and Moravcsik are Andreas Follesdal and Simon Hix. They argue that an essential element of democratic theories, which includes legitimacy, is the capability of the public to scrutinize and contest political authority and governments and their respective policies (Follesdal & Hix, 2006). Thus, it is important that institutions ensure that they are responsive to the preferences of their citizens and incorporate them since they are judged on their capability of doing so. In short, securing input legitimacy is important. Moreover, the scholars claim that the level of input legitimacy has increased in the European Union, but that it still lacks important aspects, such as a diverse party competition in the European Parliament or better electoral access to supranational institutions (Follesdal & Hix, 2006, p. 557). Another aspect that is often criticized is Majone's and Moravcsik's reliance on the principal-agent concept (Stie, 2020). A prominent example is the Commission, which has increased its powers since it was established and can cast decisions in its own interests and against member states' interests (Hodson & Peterson, 2017). Establishing input legitimacy of the Commission is difficult because it is a non-elected non-majoritarian body and can not be scrutinized by the European public (Hodson & Peterson, 2017; Follesdal & Hix, 2006; Newsome et al, 2020; Stie, 2020).

Even though the debate on the question of whether there is a legitimacy deficit in the European Union or not is divided, both sides bring forward important aspects or as Follesdal & Hix stated, it brings about a new level for political science research and illustrates different solutions (2006, p. 557). Going forward, I will argue that there is a legitimacy deficit in the European Union, but that new mechanisms, such as NextGenerationEU, can decrease the deficit.

### **3. Legitimacy index & Research design**

This paper contains a single case study on European Union legitimacy, incorporating the new NGEU. I argue it to be a critical case, because of it being an entirely new mechanism breaking with current-day practices, introducing extensive EU grants and loans, and allowing the Commission to borrow money on the capital market on behalf of the European Union (European Council, 2020, July 21). By allowing the Commission to borrow funds on the capital market on behalf of the EU, the Union developed the first fiscal capacity and allowed for the issuance of common EU debt (European Commission, 2020d, May 27; De la Porte & Jensen, 2021). Therefore, shifting a core state power – fiscal power – away from member states and towards the Commission for the first time. In short, NextGenerationEU establishes the first fiscal system on the Union level.

Furthermore, for this research, I will work with an index to measure the extent of legitimacy covered by the recovery fund. As indicated earlier the three aspects of input, output and throughput are included and will represent the dimensions covered during this research. Each dimension will be operationalized, and criteria will be identified. These criteria are then used to create expectations, which will identify if a condition is or is not fulfilled. Overall, the two dimensions – input and output legitimacy – will each present three expectations, throughput legitimacy on the other side will present 4 expectations based on the criteria identified by Vivien Schmidt (2013). To be able to measure the extent of legitimacy, each expectation falling under input or output will either receive 1 point or 0 points, the expectations falling under throughput will each receive either 0.75 or 0 points. This difference guarantees that the three dimensions end up with a total of 3 points each, ensuring the three dimensions to be equally balanced in the final sum. If a condition is fulfilled, the expectation will be understood as fulfilled as well and will be allocated the point. If it is not fulfilled, the expectation will receive 0 points. Therefore, if all expectations of a dimension can be identified, this dimension will receive 3 points; if only two expectations can be identified, it will receive fewer points, and so on. In the end, the points of the three dimensions will be added up and receive a final point on the scale between 0-9, with 0 representing ‘not legitimate’ and 9 representing ‘fully legitimate’. This design allows to evaluate if the recovery fund can be seen as legitimate overall and provides the possibility to distinguish between the different dimensions of legitimacy and to what extent the case covers these.

Starting with input legitimacy, it is important to remember that it covers the political dimension of the concept (Schmidt & Wood, 2019). In the context of the European Union, it can be argued



that the Union receives input legitimacy through the participation of member states (Moravcsik, 2002). This is based on the idea that coming together as one group increases the efficiency to manage transnational problems (Auer & Scicluna, 2019; Lord, 2021). Another important aspect is citizen participation (Scharpf, 1999; Schmidt, 2013). Considering the EU, the European Parliament is the only directly elected institution (Hodson & Peterson, 2017). Therefore, its role as the single direct representation of EU citizens and their interests is of importance to increase the perceived legitimacy of the Union (Holzhacker, 2007; Hurrelmann, 2018). Applying this to the NextGenerationEU indicates that to increase the legitimacy of the fund, the European Parliament has to be involved in some way. Based on this, the expectations for input legitimacy in the case of NGEU are:

1. There is an official mandate from member state governments, which states that they want to work together and create a recovery fund.
2. There is legal authorization for an EU institution to initiate and execute the process of creating the new instrument.
3. The European Parliament plays a role in the process as the single elected EU institution.

Next is output legitimacy, which covers the performance dimension (Schmidt & Wood, 2019). Here, it is based on the effectiveness of a policy outcome for citizens (Scharpf, 1999; Newsome et al., 2021; Schmidt, 2013). Important aspects are the capacity of the EU to solve problems, the Unions capacity to succeed in solving these problems and in doing what its sets out to achieve, and the underlying notion of providing peace and prosperity for EU citizens with a new policy (Holzacker, 2007; Schmidt, 2013; Schmidt & Wood, 2019; Stie, 2020). Continuing, the expectations for output legitimacy in the case of NGEU are:

4. The EU institutions are capable of providing a solution on the EU level and member states do not have to act independently.
5. The mechanism delivers what the European Union promised.
6. NextGenerationEU creates economic opportunities for all citizens.

The third dimension covers throughput legitimacy, alternatively called procedural legitimacy (Schmidt & Wood, 2019). By encompassing the decision-making space between input and output legitimacy, it is process-oriented and focuses on the quality of the interactions between institutions during the process. The four criteria identified for assessment are efficacy, accountability, transparency, and inclusiveness and openness to interest consultations. Efficacy concerns itself with the many different EU governing processes and the question of how

adequate negotiators follow the rules in policy-making. Second, accountability deals with the possibility of scrutinizing European Union institutions by other actors. Third, transparency contains the ability to access information about the final decision and the decision-making process. Last, inclusiveness and openness measure the accessibility for organized interest groups to present their interests at the EU level (Schmidt, 2013). Applying these short definitions to the NGEU fund, four expectations arise:

7. The negotiations on the NextGenerationEU fund go smooth, meaning they follow the precise procedure, without negotiations stagnating or going back and forth without results.
8. The European Parliament, as the representation of the European citizens, is capable of scrutinizing the Commission and the (European) Council.
9. All institutions involved in the negotiations allow for access to the documents and information about the process of establishing the fund.
10. Organized interest groups have the opportunity to present their interests to the EU institutions involved and their contribution is taken into account.

In order to evaluate these expectations, the following data will be used. I will draw on primary sources such as Commission proposals, communications, statements, Parliament speeches, working papers, and European Council documents. In addition, secondary sources such as think tank analyses, academic articles and newspaper articles will be used to complete the analysis.

#### **4. NextGenerationEU**

On the 27<sup>th</sup> of May 2020, the European Commission presented a proposal for a recovery fund to support the member states with their economic recovery during and after the Covid-19 crisis (European Commission, 2020a, May 27). This recovery fund – called NextGenerationEU (€750 billion) – would be coupled with the EU’s Multiannual Financial Framework (MFF) for 2021-27 of €1.074 trillion, resulting in the biggest stimulus package ever, adding up to €1.8 trillion (European Commission, 2020d, May 27; European Commission 2021e). It will be a one-time emergency mechanism for a temporary period and can only be used to respond to a crisis and install measures for recovery (European Commission, 2021b). With its emphasis on a more digital, greener, and more resilient Europe, NextGenerationEU pushes the Union to modernize and become more flexible when facing future challenges and uncertainties (European Commission, 2020b, May 27; European Commission, 2020d, May 27). Breaking down the €750 billion NGEU, it consists of two main mechanisms: the first one is the Recovery and

Resilience Facility (RRF) and the second one is the Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU) (European Commission, 2021b; European Commission, 2021e).

The Recovery and Resilience Facility is the centerpiece of NextGenerationEU and accounts for €672.5 billion, of which €360 billion will be distributed in loans and €312.5 billion will be distributed in grants (De la Porte & Jensen, 2021; European Commission, 2021c; European Commission, 2021e). Aiming to soften the social and economic impact of Covid-19, the money will be distributed to help member states reform their economies and increase investments. For member states to access this facility they must prepare and hand in their recovery and resilience plans. Going hand in hand with the European Semester and the Commissions Annual Sustainable Growth Strategy for 2021, the governments have to present effective measures based on their country-specific recommendations by the Council (European Commission, 2021b; European Commission, 2021d), which allow them to address future challenges and transition their economies towards a green and digital system (European Commission, 2020b). At the time of writing, member state governments are submitting their official recovery and resilience plans to the Commission (European Commission, 2021c).

REACT-EU is the second initiative included in NGEU with a budget of €47.5 billion (European Commission, 2021b). The initiative continues and extends crisis support delivered by earlier initiatives during the pandemic. As well as the RRF, REACT-EU will push for a resilient, digital, and green recovery of the European economy (European Commission, 2020b, May 27). Whereas the funds of the RRF are directly available for member states, REACT-EU will make its funds available to the European Regional Development Fund (ERDF), the European Social Fund (ESF), and the European Fund for Aid to the Most Deprived (FEAD) (European Commission, 2021b).

The last €20 billion of NGEU will be distributed to other European funds and programs, namely Horizon Europe (€5 billion), InvestEU (€5.6 billion), Rural Development (€7.5 billion), Just Transition Funds (€10 billion), and RescEU (€1.9 billion) (European Commission, 2021b; European Commission, 2021e).

#### 4.1. Financing NextGenerationEU

As mentioned earlier, NGEU allows the Commission to borrow funds on capital markets in the name of the EU (European Commission, 2021b, European Commission, 2021d, European Commission, 2021, April 14). Because of the EU's high credit rating, it is less difficult for the

Union to receive favorable terms while borrowing funds (European Commission, 2021e). Though, this time the difference is the amount of capital borrowed, the frequency, and the complexity of NGEU borrowing. The intention of borrowing roughly €150 billion per year until the end of 2026, will turn the European Union into one of the biggest dispensers in Euros. Starting in 2027, the Commission intends to begin the process of repaying the funds until 2058 (European Commission, 2021, April 14). To ensure, that its high credit rating is protected, the EU budget headroom will be used as a guarantee (European Commission, 2021e). The gap between the maximum sum of capital the European Union can collect from the member states and the actual sum of capital it can spend is called the headroom (Fleming, 2020, April 8). By increasing this headroom by 0.6% points in contrast to the standard one, the EU creates a financial safety buffer to overcome future negative economic situations, showing that it will be capable to pay back the funds even if there should be economic difficulties (European Commission, 2021, April 14; European Commission, 2021e). Another revenue source was already installed, the contribution based on the non-recycled plastic packaging waste (European Commission, 2021a), and for other sources, the Commission will come up with a proposal over the next few years.

Additionally, the Commission stated that for the purpose of transparency and open communications with other market participants, it would issue communications on its annual borrowing plans, support open relations with banks and use a multitude of funding instruments (European Commission, 2020, April 14). However, there is one last step that needs to be taken before the Commission can legally borrow under NGEU: the Own Resources Decision must be approved by all member states. As soon as, it is approved the first fund will be disbursed by the Commission to the member states (European Commission, 2021a).

## **5. Analysis of Expectations**

The following section analyzes the expectations presented earlier. Expectations 1-3 cover the dimension of input legitimacy, which each receives 1 point when the criterion is fulfilled, and if not, it will receive 0 points. The dimension of output legitimacy is covered by expectations 4-6 and the same applies here as for the criteria under input legitimacy, they either receive 1 or 0 points. Expectations 7-10 cover the dimension of throughput legitimacy and will either receive 0.75 or 0 points. The reason for this difference is, that for the three dimensions to weigh equally and there being four important principles under throughput legitimacy, the allocated points had to differ. Each expectation will be assessed individually and allocated a score. Afterward, these scores will be added up in the discussion of the results.

1. There is an official mandate from member state governments, which states that they want to work together and create a recovery fund.

Based on Moravcsik's (2002) claim that member states provide the European Union with input legitimacy because they are elected representatives pushing the interests of their electorate, this expectation examines if member states officially declared that there is a need for a European wide recovery mechanism. The important institution here is the European Council. It brings together the Heads of State or Government of each member state, the European Council President, the Commission President and the High Representative of the Union for Foreign Affairs and Security Policy (Hodson & Peterson, 2017; Article 15, Treaty on European Union, February 7, 1992). Additionally, Article 15 TEU defines that the European Council "shall define the general and political directions and priorities" (Article 15, Treaty on European Union, February 7, 1992) of the Union and that decisions taken by member states in the European Council should be taken by consensus, except if defined otherwise. Therefore, if the European Council issued a statement on behalf of all member states urging the Commission to create a recovery fund, this expectation will be fulfilled. In the case of NGEU, this decision was taken by consensus on April 23, 2020. After a video conference by the members of the European Council on April 23, 2020, Charles Michel – the President of the European Council – issued a statement covering the Conclusions and agreements of the conference. In this statement, the President remarks that there was an agreement among the members to institute a recovery fund and that the Commission was tasked to come up with a proposal (European Council, 2020, April 23). This was reiterated in his speech to the European Parliament, where Charles Michel again underlined the "strong commitment to work together to launch a recovery fund" (European Council, 2020, May 13) by the member states. In conclusion, this expectation is fulfilled, because of the European Council agreeing on the establishment of a fund and tasking the Commission to propose a strategy. Thus, it receives 1 point.

2. There is legal authorization for an EU institution to initiate and execute the process of creating the new instrument.

According to Article 17 in the Treaty on European Union, the legal authority to initiate the creation of a new instrument is with the Commission. Additionally, the Commission is the institution that executes the budget and manages the programs of the EU (Article 17, Treaty on European Union, February 7, 1992). After the European Council tasked the Commission to present a proposal regarding a recovery fund (European Council, 2020, April 23), the Commission issued a proposal on the 27<sup>th</sup> of May, 2020 (European Commission, 2020a, May

27; European Commission, 2020c, May 27; European Commission, 2020d, May 27). In which it clearly links NextGenerationEU to the Multiannual Financial Framework 21-27, hence linking the instrument with Article 312 of the Treaty on the Functioning of the European Union (December 13, 2007). Therefore, NGEU was put under the special legislative procedure (Article 289(2), Treaty on the Functioning of the European Union, December 13, 2007). Furthermore, under the special legislative procedure, the Commission has the sole right of legislative initiative (Council of the European Union, 2018, October 1). Thus, fulfilling this expectation and receiving 1 point.

3. The European Parliament plays a role in the process as the single elected EU institution.

As stated in the paragraph above, the procedure for the establishment of NextGenerationEU was the special legislative procedure (European Commission, 2020b, May 27; European Parliament, 2020a, July 23). There are two different types of this procedure: the consent procedure and the consultation procedure. NextGenerationEU was processed under the consent procedure, in which the European Parliament (EP) can either accept a legislative proposal or reject it by an absolute majority vote. But it cannot amend it, this power belongs to the Council as the sole legislator (Council of the European Union, 2018, October 1). During the negotiation process of NGEU, the European Parliament actively used its power to either accept or veto the agreement to steer NGEU negotiations into a more favorable direction (European Parliament, 2020, July 21; European Parliament, 2020b, July 23). For example, after the European Council found a conclusion during their special meeting from 17-21 July 2020, the European Parliament welcomed their agreements and conclusions, but remained critical of a few points; mainly the question of new resources for the EU, the role of the EP in future discussions about NextGenerationEU, and the additional cuts to EU programs (European Parliament, 2020, July 21). These points were too valuable for the EP, therefore the institution stated, that it cannot accept the agreement of the European Council as it was at the time (European Parliament, 2020b, July 23). Afterward, it was able to find an agreement on the question of new resources.; the Commission will propose other options in the Summer of 2021 (European Parliament, 2020, December 16). Further, the European Parliament was able to secure itself a seat at the table for future negotiations on NextGenerationEU by pushing for ‘constructive dialogues’, and it was able to obtain more funds for important EU programs than it was initially intended by the European Council in July (European Parliament, 2020, November 10; Fleming & Khan, 2020, November 10). Overall, the EP was able to push some of its most important issues into NGEU by withholding their consent (European Parliament, 2020, December 16), even though during

the negotiation process it was not an equal co-legislator to the Council. Therefore, this expectation will receive 1 point.

4. The EU institutions are capable of providing a solution on the EU level and member states do not have to act independently.

At the beginning of the pandemic, the member states reacted independently but were looking for a supranational solution very early on (European Council, 2020, March 25). Two and a half months after the World Health Organization had declared Covid-19 a pandemic (World Health Organization, 2020, March 11), the European Commission comes forward with a proposal for a Union-wide recovery fund on May 27, 2020 (European Commission, 2020a, May 27). On July 21, 2020, the Heads of State or Government agree within the European Council on the long-term budget and the recovery plan, and on November 10, 2020, the Council and the European Parliament reach an agreement (European Commission, 2020, November 10; European Parliament, 2020, November 10). In the end, NGEU was adopted together with the Multiannual Financial Framework 21-27 on December 17, 2020. Within a year the European Union could produce a mechanism, which will help the member states' economies recover. But before the funds can be distributed, the Commission has to establish which member receives how much. This is currently ongoing and will be finished within the following year (European Commission, 2021c). The allocation of the funds will take some time; therefore, it is not possible to evaluate the quality of the solution yet. But all in all, the Union was able to find a solution at the EU level. Thus, this expectation receives 1 point.

5. The mechanism delivers what the European Union promised.

As written in the paragraph above, the mechanism was adopted on December 17, 2020 (Council of the European Union, 2020, December 17; European Parliament, 2020, December 16) and at the time of writing, the member states are handing in their recovery and resilient plans (European Commission, 2021c). These are specific plans, in which member state governments provide information on how the money would be invested and the number of funds needed for them to transition their economies towards more digital, greener, sustainable, and resilient economies (European Commission, 2021c). For this reason, this expectation cannot be evaluated yet and receives 0 points.

6. NextGenerationEU creates economic opportunities for all citizens.

In brief, on paper NextGenerationEU creates and pushes for economic opportunities for every citizen (European Commission, 2021e), but in reality, it cannot be measured yet. The argument put forward is that, by investing in the economy of a member state and starting the transition to a more digital and greener economy, job opportunities will be created (European Commission, 2020d, May 27; European Commission, 2020, November 10; European Council & Council of the European Union, 2021, April 23). But because it is not yet visible, this expectation receives 0 points.

7. The negotiations on the NextGenerationEU fund go smooth, meaning they follow the precise procedure, without negotiations stagnating or going back and forth without results.

These negotiations were conducted under the special legislative procedure (European Parliament, 2020a, July 23). Here, the Commission has the sole right to initiate legislation, but then the Council is the only legislator. Thus, the European Parliament can only consent to a proposal or take on a consulting position. Moreover, the Treaties do not provide a narrow explanation on how the special legislative procedure works, as a result, the rules are decided upon ad hoc, based on the appropriate treaty articles (Council of the European Union, 2018, October 1). Therefore, by linking the NextGenerationEU fund with the Multiannual Financial Framework 21-27, the rules of procedure according to Article 312 TFEU applied and the European Parliament received the right to consent. According to these rules, the Commission proposes, the Council negotiates an agreement, presents this to the EP and then the Parliament either consents or not (Article 312, Treaty on the Functioning of the European Union, December 13, 2007). But nothing can enter into force until the member states approved the agreement in the European Council (Article 310, Treaty on the Functioning of the European Union, December 13, 2007).

In the case of NGEU, the Commission issued a proposal after the European Council urged the institution to provide a plan for the recovery of the Union (European Council, 2020, April 23). After the proposal, the European Council organized a Special meeting discussing an agreeable deal between the member states (European Council, 2020, July 21). Though, the EP threatened to not accept this deal (European Parliament, 2020b, July 23), which meant that the Council had to find an appropriate deal for the member states and the EP. This deal was established on the 10<sup>th</sup> of November 2020 (European Parliament, 2020, November 10). In order to move further towards the adoption of the deal, the member states had to agree to the deal, which was done in the European Council meeting from 10-11 December 2020. The European Council



asked the EP and Council to prepare everything for the adoption of the whole package (European Council, 2020, December 11). In the end, the instrument was adopted on December 17, 2020, together with the Multiannual Financial Framework 21-27 (Council of the European Union, 2020, December 17).

Keeping the expectation in mind there was one moment where the negotiations were threatened to not proceed smoothly; when the EP stated that it would not accept the deal of the European Council. But the issues were resolved quickly because both parties were open for further negotiations and there was no constant going back and forth without finding a deal. Thus, I argue that this expectation is fulfilled and that it receives 0.75 points.

8. The European Parliament, as the representation of the European citizens, is capable of scrutinizing the Commission and the (European) Council.

During the negotiation process, the Parliament was allowed to ask clarification questions and because of it having to consent to the final agreement, it was able to push its agenda a bit (European Parliament, 2020, December 16). Additionally, there was a constant exchange between the Presidents of the institutions and the different working groups on an inter-institutional basis, but the European Parliament was not allowed to hold the other two institutions accountable (De la Porte & Jensen, 2021). But for the future, the Parliament ensured that the three institutions would have regular meetings to assess the distribution of the funds. With these ‘constructive dialogues’ between the Council and the EP, the institution increased its own power because according to the treaty article on which NGEU is based (Article 122 TFEU) the European Parliament has no role in checking deviations in the spending of exceptional funds (European Parliament, 2020, December 16). Altogether, the European Parliament was not able to hold the other institutions accountable during the procedure but could establish an accountability mechanism for future discussions on NGEU. Based on this, the expectation is partially fulfilled and receives 0.375 points.

9. All institutions involved in the negotiations allow for access to the documents and information about the process of establishing the fund.

Statements, transcript of speeches, conclusion papers, communications, and regulations are available on the website of the respective institution or in the database EUR-Lex. But there is a difference in institutions. According to theory, the European Parliament is the most transparent and the European Council the least, and the Commission and the Council are somewhere in between (Hodson & Peterson, 2017). This difference was observable while researching the

topic. Even though most information was provided to the public, there is no information on what the exact deals included that were made, or which member state held what view. Additionally, the Union is sometimes criticized for being too transparent and burying information in information (Hodson & Peterson, 2017; Hurrelmann 2018). Concerning NGEU information, this is not the case. The important information can be found on the respective institutions' website and for further clarifications, there are links to the different databases containing information. Therefore, I argue that this expectation is fulfilled and receives 0.75 points.

10. Organized interest groups have the opportunity to present their interests to the EU institutions involved and their contribution is taken into account.

NGEU is part of the Multiannual Financial Framework 21-27 but was initiated during the negotiations for the MFF. In the beginning, before the initial proposal in 2018, the Commission was open for public consultations and meetings with interest representatives. These meetings and public consultations did not happen when NextGenerationEU was introduced, because of the urgency of the topic and the Covid-19 pandemic complicated the otherwise day in day out lobby process in Brussels. Therefore, presenting public opinion towards the Commission before it proposed the new mechanism was nearly impossible. Hence, it was very difficult for the Commission to take public interests into account when formulating the proposal. Thus, I argue that this expectation is not fulfilled and will receive 0 points.

### 5.1. Discussion of results

Analyzing the legitimacy of NextGenerationEU by dividing it into three dimensions – input, output, and throughput – allows one to identify areas that need to be improved (Blanco-González & Prado-Román, 2017). As can be seen in Table 1 NGEU has a final score of 5.875 on the legitimacy index. Therefore, the fund cannot be seen as 'fully legitimate', but neither as 'not legitimate'. But because of the score being above the median, it can be argued that NextGenerationEU positively contributes to the overall legitimacy perception of the European Union.

Starting with input legitimacy, as can be seen in Table 1 NGEU fulfills all three expectations, thus scoring 3 points. The member states' decision to work together and create a new fund, the legal basis to do so, and the role of the European Parliament during the process, allow the NGEU to be seen as politically legitimate.

Next is output legitimacy. This dimension fulfills only one of the three expectations, thus scoring 1 point, as shown in Table 1 below. But, as stated earlier in this paper, it is difficult to assess the performance of NGEU currently, because of the instrument just being implemented. Furthermore, member states are evaluating their own positions and needs at the time of writing and have not established and implemented instruments to execute NGEU, yet. Consequently, there is no official data on the impact of NextGenerationEU, yet. However, the European Union expects the instrument to have a positive impact on economic opportunities and further the Union's transition towards a sustainable, more digital, and more resilient market (European Council & Council of the European Union, 2021, April 23). If these measures succeed, output legitimacy could increase, therefore increasing the legitimacy of NGEU and the EU.

Last, throughput legitimacy fulfilled 2.5 expectations out of four, scoring 1.875 points out of 3. This score can be explained by the official procedure that was used to establish NextGenerationEU and the aggravating circumstances because of the Covid-19 pandemic. In the case of the seventh expectation, representing 'efficacy', the feeling of urgency and demand for solidarity, increased the speed with which the institutions searched for a possible agreement to provide assistance to the member states. Nevertheless, procedural limitations such as the limited power of the European Parliament to hold the other institutions accountable and the non-existent public consultations, reduce the throughput legitimacy of NextGenerationEU.

Table 1. Legitimacy Index of NextGenerationEU based on evaluation of expectations

	Fulfilled	Not Fulfilled	Partially Fulfilled	Total
<b>Input legitimacy*</b>				
Expectation 1	X			1
Expectation 2	X			1
Expectation 3	X			1
<b>Output legitimacy**</b>				
Expectation 4	X			1
Expectation 5		X		0
Expectation 6		X		0
<b>Throughput legitimacy***</b>				
Expectation 7	X			0.75
Expectation 8			X	0.375
Expectation 9	X			0.75
Expectation 10		X		0
<b>Total</b>	<b>5,5</b>	<b>0</b>	<b>0.375</b>	<b>5,875</b>

\*Input legitimacy (Fulfilled = 1/Not Fulfilled = 0/ Partially Fulfilled = 0.5)

\*\*Output Legitimacy (Fulfilled = 1/Not Fulfilled = 0/Partially Fulfilled = 0.5)

\*\*\*Throughput Legitimacy (Fulfilled = 0.75/Not Fulfilled = 0/ Partially Fulfilled = 0.375)

## **6. Conclusion**

This paper set out to evaluate the legitimacy of the newest fiscal instrument of the European Union – NextGenerationEU. By dividing the concept into the three dimensions input, output, and throughput, it was possible to define expectations for each dimension and test NextGenerationEU against them. This way it was possible to differentiate between the dimensions and see to what extent the new mechanism covers them. All in all, NGEU is politically legitimate but procedural and performance legitimacy lack behind. But at the time of writing, it is difficult to correctly judge output (performance) legitimacy, because NextGenerationEU was adopted only a while ago on December 17, 2020. Equally important are the extraordinary circumstances surrounding the initiation of NextGenerationEU, which is the situation of the Covid-19 pandemic. Because of the pandemic business as usual was not possible, which is reflected in the outcome of throughput legitimacy. Despite these shortcomings, NextGenerationEU has the possibility to positively impact the legitimacy deficit of the European Union, if the Union can hold its promise of transitioning the Single Market to a more resilient, more digital, and greener economy and creating job opportunities in the process. Additionally, an interesting aspect is provided by the role of the European Parliament. Even though it “only” had the right to consent, it was able to push its agenda and increase the power of the Parliament by having constructive dialogues implemented, to which, based on the Treaties, the institution has no right.

Though by focusing on three aspects per dimension, others had to be excluded, which could have resulted in another conclusion. The concept of legitimacy is multifaceted and there are other important indicators, such as party competition in the EP or the role of Euroscepticism, that influence a decision made by political officials. By leaving out these indicators it was possible to focus and dive deeper into the topic, instead of only looking at the surface. Correspondingly, the overall topic of European Union Studies provides a multitude of methods and theories that could have been used instead. But by focusing on three main dimensions and producing an index to evaluate these, the problem of concept stretching could be countered and it was possible to provide some insights that can contribute to the legitimacy debates surrounding the European Union.

At last, it would be interesting to see how or if NextGenerationEU will impact the Single Market and individual member state economies. Future research focusing on the performance of NGEU could establish if the mechanism will have a positive or negative impact on the legitimacy of the EU. Furthermore, the European Parliament can be an interesting institution to observe in

the future, to see if it is possible for them to increase their power further concerning future funds. Finally, the new fiscal mechanism established for the funding of NGEU by letting the Commission borrow capital on the market on behalf of the member states will impact future negotiations concerning fiscal and monetary discussions.

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