

WORKSHOP REPORT: *THE FUTURE OF EUROPEAN INTEGRATION: NEW PATHS OF FLEXIBLE INTEGRATION*
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INTRODUCTION

On 11 March 2026, the Faculty of Law, Charles University in Prague hosted a workshop entitled *The Future of European Integration: New Paths of Flexible Integration*. The event was organized together with the University of Heidelberg, a partner institution within the 4EU+ Alliance, as part of the joint project “From Climate Change to Fiscal Innovation: Transforming the EU Budget for Sustainability with CBAM, Climate Tax and ETS” (project number: MA/25/F4/0/014 4EU+). The aim of the workshop was to provide a scholarly platform to discussing current issues of the European Integration and further direction of this field. The European Union is currently facing many challenges and with regard to the necessity for a flexible response to them is confronted with its internal incoherence, which weakens and limits its capacity for action and its ability to respond effectively and flexibly at dynamically emerging new challenges, both in the field of external aspects relating to the unstable geopolitical situation and internal structural challenges and tensions relating to the need to create new Own Resources for the EU budget, moreover under pressure arising from the obligation to repay the common debt and the associated interest. From this reasons is the European Union becoming increasingly fragile and vulnerable. The EU currently needs to find a legal pathways that will enable establishment of a stable and robust fiscal foundation not only for achieving the Union’s objectives, enshrined in the EU primary law, but also to prevent promptly the risk of the triggering of the debt spiral associated with the common EU debt. Thus, under pressure arising from the necessity to act and to make

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a progress in addressing these matters, it is important to consider the legal pathways for eliminating the inability to act and to look for the legal solutions for situations, in which is highly complicated or almost impossible to reach agreement between the EU Member States on the substantive solutions at the EU-level and the adoption of the necessary legislative changes. This situation of the European Union thus implies an urgent need for an increase of the flexibility of the European Integration. At the same time, it is necessary to emphasize the debate, and the continuing relevance of the discussion about a higher degree of harmonization in both tax and civil and insolvency law proceedings and a pursuit of EU to make a progress in this area, which is still repeatedly coming at the forefront and to the centre of attention. Achieving unanimity in deciding these crucial issues, as required by the EU's primary legal framework, is becoming an increasing problem and could in some extent represent a threat for the EU future. The workshop's contributions have thus attempted to highlight some possible pathways for flexible integration within the current EU legal framework. They aimed at identifying and naming the potential risks that the insufficient flexibility in lawmaking in the current EU poses. On this basis, the speakers presented their innovative legal perspectives and approaches to more flexible European integration.

OPENING REMARKS

The workshop was opened by introductory remarks delivered by **Prof. JUDr. Radim Boháč, Ph.D.**, Dean of the Faculty of Law of Charles University. Prof. Boháč emphasised the current difficult situation of the European Union, the timely relevance of the topic in light of EU's current geopolitical, economic and fiscal pressures, the ongoing economic and green transitions and the increasingly differentiated expectations of individual Member States. Professor Boháč identified the topic of finding new forms of flexible integration as one of the most pressing and significant issues of the present European debate and highlighting its relevance for the future direction of Europe itself. Prof. Boháč further raised the central question "*Where is Europe heading?*" and underlined tensions within the EU in the sphere of the economic governance, legal regulation, fiscal burden and perceived advantages and disadvantages of the EU membership, and pointed out at the UK's example that integration cannot be taken for granted. The prioritisation of economic arguments may lead either to strengthening of the integration or, conversely, to weakening and lead them to distance themselves from joint integration projects. Prof. Boháč mentioned that into the discussion on flexible integration it is necessary to incorporate the topic of the importance and the role of closer economic and tax integration and to explain the need for strengthen the public finance foundation for the European Union's future stability and resilience, as one of the essential aspects if the EU wants to remain competitive and politically resilient. Prof. Boháč reflected on possible alternatives of further developments in the EU. He identified the option of the deeper federalization to allow the EU to respond effectively to rising global competition and to build a stronger position to face geopolitical pressure as one possible path. For deeper federalisation, however, the EU would need to become more cohesive, united and capable of acting collectively, and presenting itself as a strong and coherent entity.

As the second possible option, Prof. Boháč outlined a multi-speed Europe, possibly a more differentiated model of flexible integration, which would not create such pressure on the EU Member states and allows to some Member states to advance at the stable, or slow pace, but instead it would provide the possibility to some states to move quickly to deeper integration. The pressure arising from different perspectives of the EU Member states on deeper integration could thus be considerably reduced. From the third perspective, however, Prof. Boháč warned against some centrifugal tendencies and, in a worst-case scenario, it is necessary to prepare for the situation, that a gradual disintegration, which may not be obvious and dramatic but, on the contrary, could take place slowly, quietly and imperceptibly, starting with subtle, selective exceptions and, over time, gradually weakening the EU's ability to act and disrupt the common project that the EU Member States had been building over the decades. At the conclusion, Prof. Boháč highlighted the urgent need for serious discussion on the future of European integration must include topics of future of taxation and the public finances of the European Union, but also to address topics as solidarity, and the social foundations of democracy.

KEY CONTRIBUTIONS

Prof. Dr. Andreas Piekenbrock, Dean of the Faculty of Law, Heidelberg University, presented the contribution entitled *“The Harmonisation of Insolvency Law Within the EU – The Second Step”*, to outline the EU's legal foundations and limits of the EU's competence under Articles 81(1), which provides only for measures aimed at harmonising the law with regard to the judicial cooperation in civil matters having cross-border implications, under which the European Insolvency Regulation (EIR) was adopted. In this context, Professor Piekenbrock drew attention to the fact that the EU does not have the explicit legislative competence to harmonise Insolvency Law, and identified the fundamental difference in this competence as opposed to the US (Article I para. 8 c. 4 of the US Constitution). Prof. Piekenbrock further noted Article 114 TFEU, which serves to achieve the objectives set out in Article 26, which are intended to establish and ensure the proper functioning of the internal market, with regard to the principles of subsidiarity and proportionality under Articles 5(3) and (4) TEU, Professor Piekenbrock at the same time emphasised an important corrective, namely that the harmonisation of insolvency law must be regarded as indispensable to the proper functioning of the internal market in general and of a functioning Capital Markets Union in particular. Furthermore Professor Piekenbrock analysed the steps already taken, identifying as the most significant recent progress the Commission's proposal of 7.12.2022 for a Directive of the European Parliament and of the Council on the harmonization of certain aspects of insolvency law, COM(2022) 702 final (Insolvency III), which was approved by the European Parliament on 10.3.2026, with the Czech Republic announcing that it would abstain from voting in the Council, citing the lack of protection of creditors against debtor misconduct in pre-pack proceedings.

In the next part of his presentation, Prof. Piekenbrock analysed the contents of the directive in detail, focusing on the Avoidance Actions, (General, the Scope of

Application, General prerequisites and Preferences). In the analysis of Preferences Prof. Piekenbrock made a comparison to the Czech Insolvency Act, especially of the section 241(2), which only allows avoiding legal action on the part of the debtor. Prof. Piekenbrock cautioned that this restriction is not in line with the future directive. Furthermore, section 241(2) of the Czech Insolvency Act makes no distinction between congruent and incongruent coverage. Prof. Piekenbrock further mentioned the Avoidance Actions regarding Legal acts in exchange for no or manifestly inadequate consideration, Legal acts intentionally detrimental to creditors, and Consequences of avoidance actions. In the asset monitoring part, Prof. Piekenbrock dealt with access for designated courts and administrations to bank account information in other Member States, as well as access for insolvency practitioners to information on beneficial ownership, to national registers and databases. In conclusion Prof. Piekenbrock addressed the issue of how the directive regulates the field of Pre-pack proceedings, the Duty of directors to submit and request for the opening of insolvency proceedings and Creditors' committees.

Prof. Dr. Ekkehart Reimer, Director of the Institute of Public Finance and Tax Law, Heidelberg University at the beginning of his contribution entitled "*A Plea for More Flexible Law-Making: The Case of European Fiscal Law*" structured the notion of flexibility of law-making into three tiers. At the first tier, he noted that historically, flexibility of law is a relatively young concept. Unlike contracts, the notion of "common law" implied a high degree of stability. During ancient and medieval times, the law was given, engraved in stones, claiming for eternity, unchangeable. It is only in modern statelihood and most notably, under the paradigm of democracy that flexibility of law has been admitted and acknowledged as a strength. The second tier focused on European integration. Prof. Reimer analysed the promise by the member states which expressed their "*determination to lay the foundations of an ever closer union among the peoples of Europe*"¹ already in the Preamble to the 1957 EEC Treaty. A very similar formulation is laid down in the Preamble to the TFEU, in Article 1(2) TEU Treaty on European Union and the Preamble to the EU Charter of Fundamental Rights. Here, flexibility started to affect not only substantive law (first tier) but the vertical dimension between the Union and the Member States. The second layer is characterized by incremental broadening of EU legislation in more and more subject areas. On a third tier, rules of competence became flexible themselves. E.g., essential requirements like unanimity for approximation under Article 115 TFEU can be overcome on the basis of the general passerelle clause under Article 48, para. 7 TEU. While the passerelle flexibility concerns the vertical dimension (shift of legislation from the Member States to the EU), flexibility can also be extended to the horizontal layer. The notion of "flexible integration" (earlier referred to as *Europe à deux vitesses*) bid farewell to the idea that all Member States are, and remain, on the same level of EU integration. It acknowledges flexible participation in various dimensions – ranging from Schengen and the EMU to Enhanced Cooperation in the technical sense of Article 20 TEU and Article 329 et seq. TFEU.

¹ Preamble to the Treaty establishing the European Economic Community (Treaty of Rome), 25 March 1957.

Yet, this third tier (in both its vertical and horizontal dimension) has remained a one-way road. Prof. Reimer's core question challenges the promise of an "ever close Union" and discussed possible legal pathways for differentiated, but no longer one-way progress in the European Fiscal Law. His plea for bi-directional shifts of competences included cultivated de-integration as a useful amendment to the rules on Enhanced Cooperation. Unlike the possibility of voluntary withdrawal of states from the European Union under Article 50 TEU, which constitutes a highly detrimental "nuclear option", Prof. Reimer suggested to consider more flexible law-making in particular to support resilient EU fiscal governance. Such flexibility includes the right of each participating Member State to terminate its participation in a field of Enhanced Cooperation, yet subject to financial compensations vis-à-vis the other participating States. Likewise, fiscal resilience of the EU makes it indispensable to amend Article 50 TEU correspondingly. Without clear, operable and enforceable rules on compensations payments that become due upon the use of any rules on flexible integration, the EU might run into a situation of instability – in particular with a view to its new (voluminous) debts.

Assoc. Prof. JUDr. Miroslav Sedláček, Ph.D., LL.M. (Elte) spoke on "*Procedural Equality Under Flexible Integration: Challenges for European Civil Justice*". He opened his presentation with the question whether two EU citizens are involved in a cross-border civil dispute should enjoy the same procedural guarantees in every Member State. He recalled the foundations of European civil justice, which are built on three key principles: mutual recognition, mutual trust and effective judicial protection.

He further analysed procedural equality as an essential component of effective judicial protection, referring in this context the Article 47 of the Charter of Fundamental Rights of the European Union. He identified three core elements of this principle, including access to courts as a fundamental prerequisite for the exercise of civil rights, and fair procedural conditions as a key factor ensuring the effective enforcement of EU law. At the same time, he emphasised that the system of European civil justice continues to rely on national procedural autonomy. Associate Professor Sedláček then addressed the problem of the so-called "hidden assumption" underlying the current system, namely the presumption of functional equivalence of national procedural systems. While differences are acceptable as long as they ensure comparable judicial protection, he argued that flexible integration may challenge this assumption. At the core of his analysis was the idea that flexible integration may create unequal procedural opportunities. He illustrated this with an example of a cross-border dispute in which the parties face different procedural conditions depending on the jurisdiction involved, as some systems provide more advanced procedural tools than others. He further reflected on European judicial cooperation, which is based on the principle of mutual trust between courts. Judicial decisions from other Member States are recognised with subject only to a limited review, which presupposes confidence in the comparability of procedural standards. However, he pointed out that excessive differentiation may undermine such trust.

In his concluding remarks, Associate Professor Sedláček emphasised that flexible integration should not be seen as inherently problematic, as it may create space for experimentation and gradual convergence. At the same time, he stressed that its limits

lie in the requirement that it must not undermine procedural equality, effective judicial protection or mutual trust. He concluded that flexible integration is becoming a structural feature of the European Union, and that key challenge lies not in eliminating it, but in ensuring its compatibility with these fundamental principles.

In the following presentation, **JUDr. Miroslava Večeř, Ph.D., LL.M.**, explained research conducted within the 4EU+ Alliance project “From Climate Change to Fiscal Innovation Transforming the EU Budget for Sustainability with CBAM, Climate Tax and ETS”, of which Assistant Professor Večeř was the principal investigator. Further Assistant Professor Večeř presented her innovative legal solutions arising from her ongoing habilitation research in the contribution titled “*Stability vs. Flexibility in the EU Budget Law: New Own Resources and Constitutional Limits at EU and National Level*”. In the introduction to her presentation, the Assistant Professor Večeř first outlined the historical roots of European integration and mentioned important historical integration projects that originate in the Middle Ages, of which she particularly highlighted the integration efforts of the King George of Poděbrady around the year 1464, which created a distinctive proposal for a peaceful union of European Christian monarchs, which pursued a strategy both the prevention of wars and the establishment of peace in Europe. The establishment of this peace oriented European project also included a plan to create a joint council of states, a common defence, but also the fiscal integration, the creating of the common budget to finance the functioning of this union. Assistant Professor Večeř further analysed various perspectives on flexibility in the European integration, and she framed her contribution from both a legal and budgetary perspective. Assistant Professor Večeř mentioned legal limitations of the EU flexible integration and emphasized that the limits of flexibility go beyond the sphere of law, but also arise from the factors of national identity and specific constitutional structures of the EU Member States, as well as from their interest in protection of their own budgetary sovereignty as a constitutionally highly sensitive domain. She further explored the role of the EU budget as a key instrument of the EU integration. Assistant Professor Večeř questioned how the European Commission, aware of the EU budget’s rigidity, approaches the necessity for its reform and whether it is adequate to view the EU budget as merely an “investment” budget. Assistant Professor Večeř further examined the substance of the general passerelle clause, as well as the advantages, disadvantages and risks associated with a shift from unanimity to qualified majority voting. She explained the constitutional limits both at the EU level and the level of Member States and advanced the idea that budgetary principles function as guarantees of stability. In the conclusion Assistant Professor Večeř outlined her idea of the EU Fiscal Flexible Theory Module she developed within the framework of her habilitation research, which is based at completely new and innovative legal solutions from a *de lege ferenda* perspective. The Module is based on combining stability and flexibility aspect and has considerable potential not only to create a stable foundation for the EU budget’s own resources, but also to provide a strong basis for the repayment of the EU’s common debt. As a final point Assistant Professor Večeř put forward the importance of creating a robust fiscal platform at the EU level, because only a strong foundation of public finances will enable the European

Union to stand on its own feet in the future. The European Union needs to strengthen its position at the global level, which however it can achieve if the EU will create the future without the need for further borrowing and if it frees itself from the burden of the common debt. Strong EU Budget will ensure a successful future for the EU, its citizens and future generations of Europeans.

CONCLUSION

Closing remarks were delivered by **Prof. Dr. Ekkehart Reimer**. The workshop brought to light several layers of flexible integration and opened the discussion about the role of flexibility as one of the key determinants of the EU's future development. The workshop showed the importance of areas of law ranging from insolvency and civil justice, of the development of new EU own resources, and fiscal governance, and showed, that the strong fiscal foundation and stable public finance, both at the EU and the Member States level, constitute key prerequisites for the future successful development of the European Union and strength the EU capacity to address dynamic challenges and withstand geopolitical pressure. In this context was opened the discussion on repayment of the EU common debt. The perspectives presented at the workshop go beyond traditional approaches. The participants identified a number of important outstanding questions and several key issues that remain to be addressed, including the constitutional and competence limits of tax and insolvency law harmonisation, the selection of decision-making modes, and the selection of appropriate governance mechanisms between unanimity and qualified majority voting, as well as the necessity to ensure the procedural equality and consistent judicial protection within a more differentiated EU. The workshop highlighted that the need to find a balance between flexibility and coherence is essential.

A more flexible approach to the EU law-making could bring benefits to all participating EU Member States. The whole system we have known so far is undergoing through a dynamic transformation and the EU also needs to flexibly reflect these fundamental changes. If the EU won't be sufficiently actionable and remain passive and full of internal contradictions, the fragmentation tendencies could lead to inability to cope with an increasing global pressures and become, unable to meet the aims of EU's own existence for which it was founded. The workshop confirmed that the EU constitutional and fiscal framework is based on the dominance of unanimity in the decision-making and the flexible perspective could bring a solution at the situations, in which the achieving of unanimity in decision-making on certain issues becomes almost impossible and the application of flexible integration in some issues unavoidable.

The European Union finds itself in a unprecedented position. The EU must prepare now very quickly for many changes, an increasingly unpredictable future. The concept of unanimity was established in the past under very different geopolitical and societal global conditions. The core question now is, whether the concept of unanimity can withstand also in today's completely different situation. Flexibility is gradually becoming a necessity for the European Union as a logical and objective consequence of ongoing

developments, due to objective reasons (beyond its control), because EU must move towards deeper integration driven by the goal of preserve itself, EU's own integrity and to ensure the future of this important integration European project.

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