*Brussels, 21 June 2016*

# FICHE 12
# OTHER REVENUE

## 1. CONTEXT

Article 311 TFEU provides that '*without prejudice to other revenue, the budget shall be financed wholly from own resources*'. The first part of this paragraph is not very often in the limelight and 'other revenue' so far has played a minor role in the debate of the reform of the own resources system. This fiche examines the potential and downsides of this oft-neglected component of EU budget income.

The overview table from the General Budget reminds that besides the own resources, there are 6 specific titles on the revenue side allowing for a wide range of income sources.

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B. GENERAL STATEMENT OF REVENUE BY BUDGET HEADING

| Title | Heading | Financial year 2016 | Financial year 2015 | Financial year 2014 |
|---|---|---|---|---|
| 1 | OWN RESOURCES | 142 268 594 111 | 129 667 123 674 | 128 866 678 682,39 |
| 3 | SURPLUSES, BALANCES AND ADJUSTMENTS | p.m. | 8 567 801 708 | 5 100 054 025,61 |
| 4 | REVENUE ACCRUING FROM PERSONS WORKING WITH THE INSTITUTIONS AND OTHER UNION BODIES | 1 348 027 707 | 1 300 952 883 | 1 251 228 829,93 |
| 5 | REVENUE ACCRUING FROM THE ADMINISTRATIVE OPERATION OF THE INSTITUTIONS | 55 455 129 | 94 453 674 | 578 079 503,85 |
| 6 | CONTRIBUTIONS AND REFUNDS IN CONNECTION WITH UNION AGREEMENTS AND PROGRAMMES | 60 000 000 | 60 000 000 | 3 224 982 237,29 |
| 7 | INTEREST ON LATE PAYMENTS AND FINES | 123 000 000 | 1 523 000 000 | 4 606 681 826,68 |
| 8 | BORROWING AND LENDING OPERATIONS | 5 217 537 | 36 890 000 | 297 309 339,40 |
| 9 | MISCELLANEOUS REVENUE | 25 001 000 | 30 201 000 | 15 103 275,47 |

Title 3 is governed by the own resources legislation, as it relates directly to own resources. 'Other' revenue sources (i.e. stemming from 'other than own resources') include specific items like the surplus of the previous year (outturn), the taxes and contributions levied on staff (around EUR 1.3 billion/a), different contributions and interest and fines. Revenue which is explicitly recorded as earmarked is a particular case as well as it is meant to re-enforce specific budget lines on the expenditure side and is not counted against the authorized appropriations or MFF ceilings. It is therefore not fungible with the residual GNI-based resource.

However, there are several items which are considered as general revenue and which, once budgeted, result in a correspondingly lower need for the GNI-based own resources,. The best known example is the fines stemming from competition and cartel cases but there are others. The excess emission premiums for new passenger cars, Article 711of the general budget[1], are a case in point:

TITLE 7

INTEREST ON LATE PAYMENTS AND FINES

CHAPTER 7 0 — INTEREST ON LATE PAYMENTS
CHAPTER 7 1 — FINES
CHAPTER 7 2 — INTEREST ON DEPOSITS AND FINES

| Article Item | Heading | Financial year 2016 | Financial year 2015 | Financial year 2014 | % 2014/ 2016 |
|---|---|---|---|---|---|
| | CHAPTER 7 1 | | | | |
| 7 1 0 | *Fines, periodic penalty payments and other penalties* | 100 000 000 | 1 415 000 000 | 4 124 682 904,05 | 4 124,68 |
| 7 1 1 | *Excess emissions premiums for new passenger cars* | p.m. | p.m. | 0,— | |
| 7 1 2 | *Penalty payments and lump sums imposed on a Member State for not complying with a judgment of the Court of Justice of the European Union on its failure to fulfil an obligation under the Treaty* | p.m. | 50 000 000 | 49 406 800,— | |
| | CHAPTER 7 1 — TOTAL | 100 000 000 | 1 465 000 000 | 4 174 089 704,05 | 4 174,09 |

*(source: excerpt from Budget 2016)*

Legally, such revenue sources are not established through the own resources decision (ORD). They can be anchored in secondary law and thus would not require ratification by all Member States like the ORD. For example, the *Regulation (EC 443/2009) setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO2 emissions from light-duty vehicles* includes a provision under its Article 9(4): "*The amounts of the excess emission premiums shall be considered as revenue for the general budget of the EU*." In the annual budget, a token entry (p.m.) under Chapter 71 Fines, Article 711 assures the *'structure d'accueil'* in case such premiums were to materialize[2].

In a similar vein, the TFEU explicitly allows for measures of fiscal nature in the areas of energy and environment. To be sure, the fiscal aspect should be in any case secondary and there must be a primary sectoral / policy justification for such measures. The proceeds of the auctioning of the emission rights in the context of the European Emission trading system of greenhouse gases is yet another example. These proceeds stem from EU level policy and legislation. Under present legal provisions, such proceeds are collected and retained by the Member States. Since the proceeds are sporadic and unpredictable they would not have constituted a very stable own resource. However, as an item of 'other revenue', the auctioning proceeds could have been a non-negligible component of EU budget income.

[Very tentative, preliminary examples[3] from other, ongoing or upcoming policy initiatives may comprise the space strategy or the marine sector/conservation of marine biological resources. This would follow the logic of the custom duties in a custom union with common commercial policy.]

Such initiatives could have a distinct purpose in selected policy areas, especially in those (few) where the Union has exclusive competences. Therefore, such revenue should not be considered an own resource, established in the first place to finance the EU budget.

[1] From the budget 2017 onwards, these fines will be budgeted under Item 7190 of the general budget
[2] So far, there have never been any such premiums, but in the light of recent events concerning emission of certain Diesel engines, this may not be excluded…
[3] Without prejudice to any Commission position or initiative.

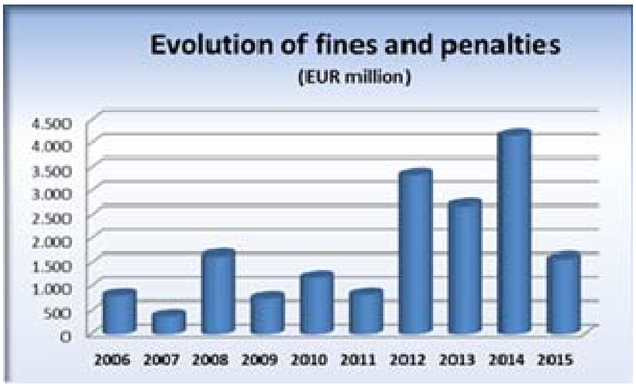
In a national context, the levying of fees, user charges, premiums, reimbursement of costs or auctioning proceeds are much more commonly considered as a useful and legitimate tool in policy making. At EU level, it is not – yet - a much used tool. For the post-2020 generation of new programmes, policies and legislation, this type of prospective income could be foreseen more systematically and incorporated already at the stage of policy design.

## 2. ASSESSMENT IN RELATION WITH THE CRITERIA IDENTIFIED BY THE GROUP

**1. Equity/Fairness:** depending on the policy area and the design. Rather than the GNI-scale between Member States, there might be other benchmarks of 'fairness', for example related to the polluter pays principle.

**2. Efficiency:** will depend on the design and the sector. By default, the sectoral efficiency would have to be the primary motivation of any such measures (compare competition fines). Certainly distortive effects should be avoided. Administrative efficiency would also have to be considered as the build-up of new central bureaucracies for irregular income sources would be difficult to justify.

**3. Sufficiency and Stability**: This is the clear downside of most 'other revenue' sources. Almost by definition, the proceeds are sporadic, unpredictable and/or feeble. Only in a bigger picture, and with a variety of such sources could a more stable and sizeable flow be achieved over the years. With regards to fines, over the last 10 years, annual revenues have averaged roughly EUR 1.7 billion. Volatility is high with annual amounts varying between EUR 0.4 and EUR 4.2 billion.




A larger number of 'other revenue' sources could neutralize volatility to a certain degree.

**4. Transparency and Simplicity**: Visibility could be a good motivation. Citizens and consumers could easily understand if certain fees and levies originating in EU legislation would be dedicated to the financing of the EU budget.

**5. Democratic accountability and budgetary discipline**: it will depend on the type of collection decided for taxation.

**6. Focus on European added value and constrain narrow self-interest**: certainly a strong factor for most cases as these revenues are generally linked to EU common policies. The EU or the Commission enforcing common standards, including by means of fines, penalties for infringements and similar tools would in principle serve overall efficiency and equity.

**7. Subsidiarity principle and fiscal sovereignty of Member States**: Member States may have to implement the common legal framework and implement new taxation or charging schemes. The case for such EU-level charges would probably be easier to argue in an own resources context than simply a taxation one, as the principle of transfer to the EU budget and the provisions for revenue sharing arrangements would have to be set out in the Own Resources Decision (unanimity, ratification requirement).

**8. Limit political transactions costs**: depending on the sector and economic actors concerned, the transactions costs may actually be rather low. In the case of EU level, cross-border, single market related competition fines, there is a high acceptance and any other destination than the EU budget would be much more controversial. In fact, under present budget mechanics this amounts to the equivalent of re-distributing the proceeds according to the GNI-key to Member States. In the concerned sector, the measures themselves and their economic incidence may encounter resistance, but the fact that the money would flow to the EU budget as such is unlikely to pose an additional obstacle.

## 3. Advantages and weaknesses of Other Revenue

Other revenue as described could turn out to be one of the most 'genuine' income sources for the EU budget. Linked to EU policies and legal competences, it would be an additional element in our policy tool box; the financial gains would be a side effect, and therefore possibly more acceptable politically.

The major weakness would be the unpredictable and unstable nature of such revenues.

## 4. Known positions of stakeholders (MS, industry, other)

See under 'transaction costs'. The concerned industries or sectors might oppose such measures. However, once fined or charged without further possibility to appeal, they would presumably not have a stake in the destination of the money (EU or national, earmarked or general).

## 5. Estimate of revenue for the EU budget

In recent years, other revenue was composed mainly of fines. Infringements and other sources were rather modest. In 2015, 'other revenue' represented 2.5% of the total revenue (excluding assigned revenue) while revenue under title 7 (interests on late payments, fines and penalties) represented around 50% of the total other revenue (EUR 1.7 billion).