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*Plenary sitting*

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**B9-0320/2022**

7.6.2022

## MOTION FOR A RESOLUTION

to wind up the debate on the statements by the Council and the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the rule of law and the potential approval of the Polish national recovery plan (RRF)  
(2022/2703(RSP))

**Damian Boeselager, Terry Reintke, Francisco Guerreiro, Piernicola Pedicini, Ernest Urtasun, Eleonora Evi, Rosa D'Amato, Daniel Freund, Damien Carême, Rasmus Andresen, Gwendoline Delbos-Corfield, Ignazio Corrao, Marcel Kolaja, Alice Kuhnke, Monika Vana, Mikuláš Peksa, Alviina Alametsä, Michèle Rivasi, Sylwia Spurek, Benoît Biteau, David Cormand, Mounir Satouri, Caroline Roose, Yannick Jadot, Saskia Bricmont, Tilly Metz, Tineke Strik, Katrin Langensiepen, Bas Eickhout, Sara Matthieu, Kim Van Sparrentak, Alexandra Geese, Henrike Hahn, Sergey Lagodinsky, Jordi Solé, Margrete Auken, Erik Marquardt**  
on behalf of the Verts/ALE Group

**European Parliament resolution on the rule of law and the potential approval of the Polish national recovery plan (RRF) (2022/2703(RSP))**

*The European Parliament,*

- having regard to the Charter of Fundamental Rights of the European Union (hereinafter ‘the Charter’),
  - having regard to Articles 1, 2, 4 and 19 of the Treaty on European Union (TEU),
  - having regard to Article 49 of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to the European Convention on Human Rights and the related case-law of the European Court of Human Rights,
  - having regard to the Universal Declaration of Human Rights,
  - having regard to the case-law of the Court of Justice of the European Union (CJEU),
  - having regard to its resolution of 21 October 2021 on the climate, energy and environmental State aid guidelines (CEEAG)<sup>1</sup>,
  - having regard to its resolution of 10 March 2022 on the rule of law and the consequences of the ECJ ruling<sup>2</sup>,
  - having regard to its resolution of 5 May 2022 on ongoing hearings under Article 7(1) TEU regarding Poland and Hungary<sup>3</sup>,
  - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, as set out in Article 2 TEU, and as reflected in the Charter and embedded in international human rights treaties; whereas those values, which are common to the Member States and to which all Member States have freely subscribed, constitute the foundation of the rights enjoyed by those living in the Union;
- B. whereas any clear risk of a serious breach by a Member State of the values enshrined in Article 2 TEU does not concern solely the individual Member State where the risk materialises, but also has an impact on the other Member States, on the mutual trust between them and on the very nature of the Union and the functioning of its institutions

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<sup>1</sup> OJ C 184, 5.5.2022, p. 163.

<sup>2</sup> Texts adopted, P9\_TA(2022)0074.

<sup>3</sup> Texts adopted, P9\_TA(2022)0204.

as well as its citizens' fundamental rights under Union law;

- C. whereas proper protection of the EU's financial interests is impossible until the independence of the Polish judicial system is fully restored; whereas until this occurs, it is impossible for Poland to meet the relevant assessment criteria under the Recovery and Resilience Facility (RRF), meaning the restoration of Poland's judicial system is therefore a precondition for the positive assessment of its plan;
- D. whereas the RRF Regulation<sup>4</sup> requires that the bodies tasked with control and supervision have the legal empowerment and administrative capacity to exercise their tasks independently and whereas the draft Council implementing decision itself emphasises that effective judicial protection is a prerequisite for the functioning of an internal control system;
- E. whereas on 21 October 2021, Parliament called on the Commission and the Council to refrain from approving Poland's draft recovery and resilience plan until the Government of Poland implements the judgments of the CJEU and international courts fully and properly, and to ensure that the assessment of the plan guarantees compliance with the relevant country-specific recommendations, in particular on safeguarding judicial independence;
- F. whereas on 10 March 2022<sup>5</sup>, Parliament stressed that approval of the national plans under the RRF should be made conditional on the fulfilment of all 11 criteria set out in Article 19 of and Annex V to the RRF Regulation;
- G. whereas on 5 May 2022<sup>6</sup>, Parliament called on the Commission and the Council to refrain from approving the national plans of Poland and Hungary under the RRF until both countries have fully complied with all European Semester country-specific recommendations in the field of the rule of law and until they have implemented all the relevant judgments of the Court of Justice of the EU and the European Court of Human Rights;
- H. whereas the three conditions set by the Commission president before Parliament on 19 October 2021 for the disbursement of RRF funds to Poland, namely 1) the liquidation of the illegal Disciplinary Chamber; 2) the reinstatement of the judges suspended by it; and 3) changes in the disciplinary system for judges, have not been fulfilled;
- I. whereas, since the outbreak of the war in Ukraine, the Polish authorities have taken a number of measures in direct contradiction of the three conditions set by the Commission president, including, among others, the suspension of the Polish judge Anna Głowacka on 25 February 2022 for applying European law and the judgments of the European courts; whereas the president of Poland handed out appointments to more than 200 new, defectively nominated (at the request of the National Council of the

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<sup>4</sup> Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility. OJ L 57, 18.2.2021, p. 17.

<sup>5</sup> European Parliament resolution of 10 March 2022 on the rule of law and the consequences of the ECJ ruling. Texts adopted, P9\_TA(2022)0074.

<sup>6</sup> European Parliament resolution of 5 May 2022 on ongoing hearings under Article 7(1) TEU regarding Poland and Hungary, Texts adopted, P9\_TA(2022)0204.

Judiciary (NCJ)) so-called ‘neo judges’, including four appointments to the Supreme Court; whereas, furthermore, on 10 March 2022, at the request of the Minister of Justice Zbigniew Ziobro, the politicised and fully subordinated ‘Constitutional Tribunal’ (with the participation of so-called ‘stand-in judges’) undermined the validity of Article 6 of the European Convention on Human Rights in Poland by questioning the ability of the European Court of Human Rights and Polish courts to examine the correctness of the appointment of judges and the independence of the neo-NCJ;

- J. whereas several draft acts are being considered by both chambers of the Polish Parliament, including amendments to the Act on the Supreme Court and other acts, as well as amendments to the Act on the NCJ and other acts;
  - K. whereas the decision to put forward the draft Council implementing decision was taken by the College of Commissioners with votes against by two Commission vice-presidents and written concerns submitted by one Commission vice-president and two other Commissioners;
1. Strongly condemns the Commission’s positive assessment of Poland’s recovery and resilience plan despite the existing and continued breaches of the values enshrined in Article 2 TEU, including of the rule of law and independence of the judiciary, as well as the fact that the plan is not compliant with the requirements for a positive assessment as set out in the RRF Regulation; recalls that the existence of such breaches is extensively documented by court judgments, positions of EU institutions, including an ongoing procedure under Article 7(1) TEU, and international organisations; recalls that unconditional compliance with court judgments is not negotiable and cannot be treated as a bargaining chip;
  2. Strongly urges the Council to refrain from approving Poland’s national plan under the RRF until it has fully complied with the requirements of the RRF Regulation, in particular with Article 22 thereof on safeguarding the Union’s financial interests against conflict of interest and fraud, with all European Semester country-specific recommendations in the field of the rule of law, and with all the relevant judgments of the Court of Justice of the EU and the European Court of Human Rights;
  3. Recalls that the Commission, as the guardian of the Treaties, should use all tools at its disposal to ensure compliance with the values enshrined in Article 2 TEU and the primacy of EU law; considers that payments made to Poland under the RRF must be conditional on the full implementation of all the relevant judgments of the CJEU and the European Court of Human Rights, and they would otherwise constitute a major breach of trust; stresses that Parliament is prepared to react accordingly and use all tools at its disposal, including recourse to a motion of censure, in accordance with Article 234 TFEU;
  4. Instructs its President to forward this resolution to the governments and parliaments of the Member States, the Council, the Commission, the Committee of the Regions and the Council of Europe.