



2021/2025(INI)

27.5.2021

OPINION

of the Committee on Budgetary Control

for the Committee on Civil Liberties, Justice and Home Affairs

on the Commission's 2020 Rule of Law Report
(2021/2025(INI))

Rapporteur for opinion: Isabel García Muñoz

(*) Associated committees – Rule 57 of the Rules of Procedure

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SUGGESTIONS

The Committee on Budgetary Control calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Underlines that the Union's financial interests are to be protected in accordance with the general principles embedded in the Union Treaties, in particular the values in Article 2 of the Treaty on European Union (TEU), and with the principle of sound financial management enshrined in Article 317 of the Treaty on the Functioning of the European Union (TFEU) and in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (the Financial Regulation);
2. Highlights that the rule of law is an essential precondition for compliance with the principle of sound financial management and for the protection of the Union's financial interests, which can only be ensured if public authorities act in accordance with the law, if cases of fraud, tax evasion, corruption, conflicts of interest and other breaches of the law are pursued effectively by investigative and prosecution services, if national courts are independent and the decisions of the Court of Justice of the European Union are respected, and if public scrutiny is maintained by free, independent and pluralistic media; stresses, however, that the above institutions have to be functional not only legally but also in practice;
3. Reiterates its warning that the Union is facing an unprecedented and escalating crisis of its founding values, which threatens its long-term survival as a democratic peace project; is gravely concerned by the rise and entrenchment of autocratic and illiberal tendencies in several Member States; recalls that the Union has been structurally ill-equipped to tackle breaches of rule of law until now; expresses its concern over the potentially growing risk of misuse of the Union's budget as a means to deteriorate the rule of law in some Member States; regrets the inability of the Council to make meaningful progress in enforcing Union values in ongoing Article 7 TEU procedures; notes with concern the disjointed nature of the Union's toolkit in that field and calls for it to be streamlined and properly enforced;
4. Underlines that the annual Rule of Law Report is a separate tool from Regulation (EU, Euratom) 2020/2092 on the general regime of conditionality for the protection of the Union budget and that both serve different purposes: while the annual Rule of Law Report has a preventive and informative character aimed at providing a broader overview of the situation and possible breaches regarding the rule of law in all Member States, the regulation is a conditionality mechanism aimed at imposing sanctions in the event of breaches or the risk of a breach of the rule of law affecting the Union's financial interests in a sufficiently direct way; emphasises the importance of differentiating between their respective legal bases;
5. Acknowledges that the Commission should use the annual Rule of Law Report as an important additional source of information when building cases for the application of the regulation, which requires an ad hoc assessment as enshrined in Article 6 of the regulation; urges the Commission to strengthen the synergy between the annual reports

and the regulation; stresses that the analysis and the conclusions of the annual reports should directly contribute to the conditionality regime in order to identify and act on breaches of the regulation;

6. Underlines the importance of the Commission's Rule of Law Report as the reflection of the European Rule of Law Mechanism, which is designed as a yearly cycle of dialogue and assessment in order to promote this principle and to prevent problems from emerging or deepening in the Member States; welcomes the inclusion among its pillars of the justice system, the anti-corruption framework and other institutional checks and balances, as these are particularly relevant for monitoring the protection of the EU budget; notes that the Rule of Law Report serves as one of the most important tools, but not the only one, for investigating potential cases of breaches of the rule of law; calls on the Commission to ensure a streamlined evaluation process in Member States involved in similar mechanisms such as the Cooperation and Verification Mechanism;
7. Notes that the first Rule of Law Report is mostly descriptive of the situation in the Member States; is of the opinion that the annual report is lacking conclusions on the state of the rule of law in the Member States and in the EU in general, which are essential preconditions to identify follow-up actions; emphasises that the reports should have a more preventive role and go beyond monitoring to be more analytical in the future; calls on the Commission to provide country-specific assessments and recommendations for preventive and corrective actions, and to mention potentially applicable tools for the Commission to use in cases of non-compliance with the recommendations; underlines that these recommendations should include deadlines for implementation, where appropriate;
8. Welcomes the fact that all Member States are being scrutinised against the same indicators and in accordance with the same methodology; appreciates that the Commission includes observations and findings about all Member States; regrets, however, that the current presentation of the report neither differentiates between the severity of the identified rule of law issues nor determines whether these are of a systemic nature or isolated breaches; calls on the Commission to make this distinction in future reports in order to prevent the report from being misused as a tool to relativise and trivialise processes that seriously undermine the state of the rule of law in some Member States; calls on the Commission to update its methodology accordingly and to keep Parliament informed without undue delay;
9. Asks the Commission to provide information in its future reports about the way Member States respect the rule of law and effectively protect the Union's financial interests, for both EU budget revenue and expenditure, taking into account the additional risks to the Union budget due to COVID-19 and the related Union funds available to Member States under the Recovery and Resilience Facility, as well as putting emphasis on cases where breaches of the principles of the rule of law in a particular Member State could affect or seriously risk affecting the Union's financial interests in a sufficiently direct way and which could then serve as a basis for triggering the rule of law conditionality mechanism; asks the Commission to include a follow-up on its previous observations, while highlighting in particular any systemic or reoccurring patterns of breaches of the rule of law, and to monitor the implementation of its recommendations;

10. Recalls that the Commission is to take into account relevant information from pertinent sources and recognised institutions referred to in Recital (16) of Regulation (EU, Euratom) 2020/2092, with an emphasis on the European Court of Auditors, the EU Justice Scoreboard, the European Anti-Fraud Office (OLAF), and the European Public Prosecutor's Office (EPPO); calls on the Member States to proactively participate in the procedure and engage in meaningful dialogue and cooperation with the Commission in order to improve the state of the rule of law in each Member State and in the EU overall;
11. Welcomes the fact that civil society was consulted during the drafting process; stresses that civil society actors can provide valuable input for the assessment of country-specific situations and provide a more critical view than the government in question; notes, however, that the consultation process could be improved by, inter alia, following up with civil society actors about their input, ensuring sufficiently long timeframes for providing input and reconsidering the format of a one-size-fits-all questionnaire for providing input; encourages the Commission to seek further input from civil society on how to optimise the consultation process for future reports;
12. Welcomes the fact that one of the four selected pillars in the report is the anti-corruption frameworks in place in Member States; notes, however, that their assessment remains mainly descriptive; calls on the Commission to assess not only the existence of national anti-corruption legislation, policies and strategies but also their effectiveness, to outline best practices, to identify areas that are particularly sensitive to corruption and come up with country-specific recommendations for improvement, and to use that knowledge to update and enhance the Union's anti-corruption framework; calls on the Commission to use the information and assessments of the Group of States against Corruption (GRECO) in this process;
13. Underlines that anti-corruption frameworks should cover areas such as ethical rules, awareness-raising measures, rules on asset disclosure, incompatibilities and conflicts of interest, public procurement, internal control mechanisms, rules on lobbying, and revolving doors; also highlights that national strategies should incorporate tools to prevent and detect risks of fraud and corruption and to bring such practices to an end by means of sanctions, as well as mechanisms to recover the profit from such practices;
14. Calls on the Commission, in the spirit of setting a good example, to include in future reports an assessment of the EU institutions' performance in the areas addressed by the report, where applicable, and in particular as regards its anti-corruption framework;
15. Stresses that transparency, access to public information, media freedom and pluralism, investigative journalism, protection of journalists against strategic lawsuits against public participation (SLAPPs), protection of whistleblowers and an overall culture of integrity in public life are indispensable to identify and prevent corruption;
16. Warns that the lack of uniform, up-to-date and consolidated statistics across all Member States, together with the challenges of collecting information on the EU programmes' beneficiaries, hinder the assessment and comparison of data about the investigation and prosecution of corruption offences; calls, therefore, on the Commission to support and promote the Union-wide harmonisation of definitions of such offences, as well as a

better use of the existing data sets and methodology in order to develop new ones with a view to obtaining comparative data across the EU on the treatment of corruption cases;

17. Highlights the importance of supporting and strengthening the cooperation between the EU institutions, the Member States, OLAF and the EPPO in the fight against corruption; is of the opinion that fighting corruption requires not only a strong mandate but also a bigger budget, more resources and any other kind of support necessary for the aforementioned institutions and bodies; recalls that Member States receiving grants from the EU budget should be encouraged to join the EPPO;
18. Welcomes the fact that the revised OLAF Regulation promotes a better follow-up of OLAF's recommendations by the Member States and improved admissibility of OLAF reports in national judicial and administrative proceedings; recalls that the revised OLAF Regulation also strengthens the way OLAF can conduct its own investigations, notably by reinforcing rules on the anti-fraud coordination services in the Member States and on cooperation between OLAF and national competent authorities before, during and after an investigation;
19. Believes that the situation as regards respect for the principles of the rule of law in some Member States is extremely worrying and seriously risks affecting the sound financial management of the Union budget, so it demands urgent attention; reiterates that the general regime of conditionality as defined in Regulation (EU, Euratom) 2020/2092 has been in force since 1 January 2021, and is not subjected to the adoption of any guidelines or judicial interpretation; reiterates its call on the Commission to fulfil its obligations under this regulation by 1 June 2021 and to duly inform Parliament, otherwise Parliament will have to consider that the Commission failed to act and will subsequently take action under Article 265 of the TFEU;
20. Regrets that the Commission has not yet made use of this tool despite many breaches of the rule of law identified in the report which have an impact on the sound financial management of the budget; reiterates its calls on the Commission for immediate action under the aforementioned regulation to make full use of its existing investigative tools without further delay in order to address rule of law deficiencies in Member States that could affect or seriously risk affecting the sound financial management of the Union budget in a sufficiently direct way; insists on the role and competences of Parliament, in particular the right to be duly informed by the Commission in the procedures of the rule of law instruments; recalls that it is essential that the legitimate interests of final recipients and beneficiaries are properly safeguarded when measures are adopted in the event of breaches of the principles of the rule of law;
21. Calls for the establishment of a European Parliament Working Group to closely scrutinise developments in relation to Regulation (EU, Euratom) 2020/2092, consisting of Members from the responsible lead committees;
22. Calls for a systemic and structural mechanism for Parliament to communicate its findings to the Commission concerning shortcomings and breaches in the rule of law in the Member States; suggests that Parliament propose such a mechanism to the Commission at its earliest convenience.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	26.5.2021
Result of final vote	+: 24 -: 5 0: 1
Members present for the final vote	Matteo Adinolfi, Olivier Chastel, Caterina Chinnici, Lefteris Christoforou, Corina Crețu, Ryszard Czarnecki, José Manuel Fernandes, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Pierre Karleskind, Joachim Kuhs, Claudiu Manda, Younous Omarjee, Tsvetelina Penkova, Markus Pieper, Sabrina Pignedoli, Michèle Rivasi, Petri Sarvamaa, Vincenzo Sofo, Michal Wiezik, Angelika Winzig, Lara Wolters, Tomáš Zdechovský
Substitutes present for the final vote	Joachim Stanisław Brudziński, Katalin Cseh, Mikuláš Peksa, Ramona Strugariu, Lucia Vuolo

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

24	+
NI	Sabrina Pignedoli
PPE	Lefteris Christoforou, José Manuel Fernandes, Monika Hohlmeier, Markus Pieper, Petri Sarvamaa, Michal Wiezik, Angelika Winzig, Tomáš Zdechovský
Renew	Olivier Chastel, Katalin Cseh, Pierre Karleskind, Ramona Strugariu
S&D	Caterina Chinnici, Corina Crețu, Isabel García Muñoz, Claudiu Manda, Tsvetelina Penkova, Lara Wolters
The Left	Luke Ming Flanagan, Younous Omarjee
Verts/ALE	Daniel Freund, Mikuláš Peksa, Michèle Rivasi

5	-
ECR	Joachim Stanisław Brudziński, Ryszard Czarnecki, Vincenzo Sofo
ID	Matteo Adinolfi, Lucia Vuolo

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ID	Joachim Kuhs

Key to symbols:

+ : in favour

- : against

0 : abstention