



2021/2180(INI)

16.3.2022

OPINION

of the Committee on Budgetary Control

for the Committee on Civil Liberties, Justice and Home Affairs

on the Commission's 2021 Rule of Law Report
(2021/2180(INI))

Rapporteur for opinion (*): Petri Sarvamaa

(*) Associated committee – 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 budget and financial interests must be implemented and protected in accordance with the general principles embedded in the Union Treaties, in particular the values in Article 2 TEU, and with the principle of sound financial management enshrined in Article 317 TFEU and in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 (the Financial Regulation); highlights that the rule of law is both a guiding value and an essential precondition for compliance with those principles;
2. Recalls that Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (the Conditionality Regulation) integrated the conditionality mechanism into a wider framework, requiring the Commission to use its own annual rule of law reports as a source for its objective assessments under the Regulation; calls, once again, on the Commission to implement the Conditionality Regulation without any further delay by sending written notifications within the meaning of Article 6(1) of the Regulation to the Member States concerned; recalls that for budget-related measures in the event of violations of the rule of law in a Member State, the competences of parliamentary committees should be determined on the basis of Annex VI of Parliament's Rules of Procedure if the infringements under the Conditionality Regulation procedure are dealt with in Parliament;
3. Welcomes the decision of the Court of Justice of the European Union (CJEU) to reject the actions brought by Hungary and Poland against the Conditionality Regulation; deplores the time wasted since its entry into force by the Commission, who unilaterally decided to abide by non-binding European Council conclusions, which led Parliament to take action under Article 265 TFEU for failure to act; highlights that the Commission's 2021 Rule of Law Report contains multiple and detailed examples of breaches of the rule of law that fall within the scope of the Conditionality Regulation, which should have led the Commission to trigger the conditionality mechanism a long time ago;
4. Strongly regrets the fact that the Commission's failure to act since January 2021 has led to the deterioration of the rule of law situation in several Member States, as shown in the Commission's 2021 Rule of Law Report;
5. Recalls its resolution of 8 July 2021 on the creation of guidelines for the application of the Conditionality Regulation; insists that a more direct link between the Commission's annual rule of law report and the triggering of the Conditionality Regulation should be established, for example by including in the annual rule of law reports a section dedicated to cases where rule of law breaches in a Member State have affected or seriously risk affecting the sound financial management of the Union budget or the protection of the Union's financial interests in a sufficiently direct way; calls on the Commission to present in its future reports an assessment of the fulfilment of the

conditions of the Rule of Law Conditionality Regulation, and a summary of the actions undertaken at national or EU level to address such cases, as well as to what extent they have protected the Union's budget;

6. Regrets that the Commission's 2021 Rule of Law Report remains mainly descriptive and does not provide sufficient analysis or envisaged remedies, which undermines its preventive role; recalls its request to the Commission to include country-specific recommendations on how to address the concerns identified or remedy rule of law breaches, including concrete actions and deadlines for implementation, as well as to follow up on the implementation of its recommendations and the remedial actions; stresses that the annual reports fail to make a clear distinction between Member States with isolated shortcomings and those with systemic rule of law deficiencies; calls on the Commission to make this distinction in future annual reports in order to transform it into a comprehensive instrument to be used by Member States to fix the identified rule of law breaches; recalls that the Commission should align its recommendations with concrete Union tools for cases where Member States fail to implement the remedial actions;
7. Stresses that the four areas assessed in the 27 country chapters of the Commission's 2021 Rule of Law Report (the justice system, the anti-corruption framework, media pluralism, and other institutional checks and balances) are key interdependent pillars for upholding the rule of law, fighting fraud and corruption and protecting the Union's financial interests; is of the opinion that other important elements of the Venice Commission's 2016 Rule of Law Checklist should be included in the evaluation, particularly a chapter on shrinking civic space; welcomes the evaluation of the effects of COVID-19 on the four issues assessed; highlights the importance of continuing this evaluation in future annual rule of law reports to contribute to streamlining anti-corruption measures in pandemic-related areas, such as recovery funds, emergency legislation and medical care; points out that the COVID-19 pandemic has shortened legislative processes and reduced parliamentary debate and shortened or stopped consultation of civil society and other stakeholders;
8. Considers that the European Union should lead by example in its respect for the rule of law principles; reiterates, therefore, its call on the Commission to include in its annual rule of law report an assessment of the EU institutions' performance in the areas addressed by the report, where applicable;
9. Points out that measures taken to address the COVID-19 pandemic often involve exceptional and necessary flexibility in administrative rules and controls in the interests of rapid reaction, and welcomes the fact that the subsequent risks for the rule of law and for the fight against corruption were mitigated in some cases by safeguards built into the national emergency regimes; recalls in this regard Parliament's resolution of 15 December 2021 on the evaluation of preventive measures for avoiding corruption, irregular spending and misuse of EU and national funds in case of emergency funds and crisis-related spending areas; stresses that in emergency situations such as the COVID-19 outbreak, the health sector is particularly exposed to corruption with regard to public procurement, medical-related services and COVID-19 fraud;
10. Highlights that rule of law breaches in Member States can undermine economic and

social recovery, particularly when affecting EU instruments for structural reforms such as the Recovery and Resilience Facility and the Structural Funds; asks the Commission to provide information in the annual rule of law reports on the relevant reform priorities included in the national Recovery and Resilience Plans that contribute to protecting the EU budget and the Union's financial interests in the four areas assessed;

11. Reiterates that the fight against corruption requires that breaches of the law be effectively pursued by investigative and prosecution services, that national courts be independent and that the decisions of the CJEU be respected; points out that the COVID-19 pandemic has exposed the national justice systems' vulnerability to disruption in emergency situations and stresses, therefore, the importance of investing in human and financial resources and digitalisation, and addressing structural obstacles, in order to improve significantly their efficiency and resilience;
12. Underlines that corruption prevention policies cover many fields, typically including ethical rules, awareness-raising measures, rules on asset disclosures, incompatibilities and conflicts of interest, public procurement, internal control mechanisms, rules on lobbying, and revolving doors; calls for further corruption prevention measures to be taken at EU level, including transparency of ownership structures and prohibition of involvement of offshore or shell companies in the spending of EU funds; welcomes the Commission's adoption of the anti-money laundering (AML) package of proposals; calls on the EU institutions to be ambitious in their negotiations and to reach an agreement as quickly as possible, particularly on the creation of a new European AML authority with strong direct supervisory powers over the riskiest obliged financial entities and on clear rules on beneficial ownership transparency; reiterates the role of national measures in preventing fraud and corruption as well as in recovering the profit from those cases; welcomes in this regard the information included in the 2021 Rule of Law Report about cases of corruption involving high-level officials in Member States and calls for provision of more clarification in future reports with regard to whether EU funds have been affected; considers that the EU institutions need to be fully equipped to prevent and investigate fraud and corruption;
13. Reiterates its call on the Commission to assess not only the existence but the effectiveness of the national anti-corruption legislation, policies and strategies, including key elements such as clear and measurable objectives, adequate budgetary resources, regular evaluations and well-defined responsibilities for specialised institutions; appreciates that the report comments on the overall good performance of Member States in the 2020 Corruption Perceptions Index and, in this regard, welcomes the fact that ten Member States are in the top twenty of the countries perceived as least corrupt in the world and another fourteen Member States remain above average or have improved their scores; deeply regrets, however, that some others have registered a significant deterioration in perceived corruption levels;
14. Notes with great concern the deteriorating situation of freedom of expression, protection of the right to information and protection of journalists in 2021 compared with 2020, according to the Media Pluralism Monitor; recalls that media pluralism and media freedom are essential for the protection of the EU's financial interests, as investigative journalism is often at the source of the identification of issues such as corruption, fraud or conflicts of interest in the use of EU funds;

15. Stresses that transparency, access to public information, media freedom and pluralism, the protection of whistleblowers and an overall culture of integrity in public life are key to preventing and detecting corruption, as they facilitate public scrutiny and maintain public trust; expresses its concern about deteriorating developments in these areas in several Member States; calls on the Commission, in coordination with the relevant EU and national institutions and bodies, to act against the specific breaches it has identified in its previous annual rule of law reports, so as not to affect citizens and businesses not guilty of acts of corruption;
16. Is concerned about the Commission's findings in its 2021 Rule of Law Report that, in some countries, the state-sponsored harassment and intimidation of LGBTI organisations is affecting their ability to access funding; calls on the Commission to take a closer look at the issue and to make sure that the non-discrimination principle governing the access to EU funds is fully complied with, everywhere in the EU; considers that these findings reinforce the long-standing position of Parliament that the scope of the rule of law report should be broadened to include all Article 2 TEU values;
17. Welcomes the fact that the 2021 report pays particular attention to the financing of political parties due to its importance in shaping a European electoral space and its influence on civil society; is concerned that political party financing can be used as a conduit for corruption, and supports the importance of transparency and the rigour of regulation; calls on the Commission to maintain its focus on this issue in future reports including, where necessary, on reforms that may affect compliance with the requirements for political parties that are members of European political parties;
18. Welcomes the variety of sources used by the Commission to draw up its assessment in the 2021 Rule of Law Report, including from civil society organisations and NGOs; highlights, in this regard, the key role played by these grassroots organisations in identifying and reporting breaches of the rule of law at national and local level;
19. Calls on the Commission and the Member States to use the Commission's annual rule of law reports and their findings to resolutely fight against systemic corruption, and to use all effective instruments available under EU financial legislation and the applicable sector-specific and financial rules for preventing, combating and sanctioning corruption and fighting fraud, including where the latter existed before the COVID-19 outbreak, as well as for regularly monitoring the use of public funds, including Recovery and Resilience Facility funds;
20. Is concerned that in many Member States, the lack of adequate resources allocated for investigating corruption and prosecution authorities has made it particularly difficult to hire or retain highly specialised personnel; points out that public officials need appropriate support, particularly in emergency situations, in order to secure the quality of the public administration and ensure that authorities apply the law and implement court decisions correctly; reiterates that uniform, up-to-date and consolidated statistics across all Member States are instrumental to track the comparative success of the investigation and prosecution of corruption offences; calls, therefore, on the Commission to use its annual reports to support the Union-wide harmonisation of definitions of such offences, as well as the better use of data sets in order to obtain comparative data across the EU on the treatment of corruption cases;

21. Emphasises that during the state of emergency direct public procurement was possible, especially for health material and equipment, without a great deal of transparency and without regard for legal limits in the field of public procurement; calls on the Commission and the competent EU and national institutions to investigate potential errors in procurement made during the state of emergency;
22. Regrets the fact that the report fails to clearly recognise the deliberate process of the rule of law backsliding in Poland and Hungary, which could result in further backsliding in those two Member States and seriously risk affecting other Member States as well;
23. 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 concerned; notes, however, that the consultation process could be improved by ensuring, among other things, follow-up with civil society actors on their input given, sufficiently long time frames for providing input and a coherent annual publication cycle, as well as reconsidering the format of the current 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;
24. Regrets that the draft country chapters were only shared with the respective Member State's government, giving members of the other national parliaments the chance to provide input only after the final report had been published; stresses the importance of consulting a comprehensive spectrum of all democratic parties when assessing a country-specific situation, as governments naturally have an interest in a less critical assessment of the situation in their own country; calls on the Commission to provide all the national parliaments with the draft country chapters at the same time as they are provided to the governments of the Member States concerned.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	15.3.2022
Result of final vote	+: 23 -: 7 0: 0
Members present for the final vote	Matteo Adinolfi, Gilles Boyer, Olivier Chastel, Caterina Chinnici, Lefteris Christoforou, Corina Crețu, Ryszard Czarnecki, José Manuel Fernandes, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Pierre Karleskind, Mislav Kolakušić, Joachim Kuhs, Ryszard Antoni Legutko, Claudiu Manda, Alin Mituța, Younous Omarjee, Markus Pieper, Michèle Rivasi, Sándor Rónai, Petri Sarvamaa, Simone Schmiedtbauer, Angelika Winzig, Lara Wolters, Tomáš Zdechovský
Substitutes present for the final vote	Mikuláš Peksa, Elżbieta Rafalska

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

23	+
PPE	Lefteris Christoforou, José Manuel Fernandes, Monika Hohlmeier, Markus Pieper, Petri Sarvamaa, Simone Schmiedtbauer, Angelika Winzig, Tomáš Zdechovský
Renew	Gilles Boyer, Olivier Chastel, Pierre Karleskind, Alin Mituța
S&D	Caterina Chinnici, Corina Crețu, Isabel García Muñoz, Claudiu Manda, Sándor Rónai, Lara Wolters
The Left	Luke Ming Flanagan, Younous Omarjee
Verts/ALE	Daniel Freund, Mikuláš Peksa, Michèle Rivasi

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ECR	Ryszard Czarnecki, Ryszard Antoni Legutko, Elżbieta Rafalska
ID	Matteo Adinolfi, Jean-François Jalkh, Joachim Kuhs
NI	Mislav Kolakušić

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention