



TEXTS ADOPTED

P9_TA(2021)0103

Application of Regulation (EU, Euratom) 2020/2092: the Rule of Law conditionality mechanism

European Parliament resolution of 25 March 2021 on the application of Regulation (EU, Euratom) 2020/2092, the rule-of-law conditionality mechanism (2021/2582(RSP))

The European Parliament,

- having regard to Articles 2, 3(1), 3(3), second subparagraph, 4(3) and 6 of the Treaty on European Union (TEU),
- having regard to Articles 13, 14(1), 16(1), 17(1), 17(3), second subparagraph, and 17(8) of the TEU,
- having regard to the articles of the Treaty on the Functioning of the European Union (TFEU) relating to respect for, and the protection and promotion of, democracy, the rule of law and fundamental rights in the Union, including Articles 234, 265, 310, 317 and 319 thereof,
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to the Framework Agreement of 20 November 2010 on relations between the European Parliament and the European Commission¹,
- having regard to 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 budget²,
- having regard to the Commission's 2020 Rule of Law Report of 30 September 2020 (COM(2020)0580),
- having regard to its resolution of 17 December 2020 on the Multiannual Financial Framework 2021-2027, the Interinstitutional Agreement, the EU Recovery Instrument and the Rule of Law Regulation³,
- having regard to the conclusions of the European Council adopted on

¹ OJ L 304, 20.11.2010, p. 47.

² OJ L 433 I, 22.12.2020, p. 1.

³ Texts adopted, P9_TA(2020)0360.

11 December 2020,

- having regard to the conclusions of the European Council adopted on 21 July 2020,
 - having regard to its resolution of 23 July 2020 on the conclusions of the extraordinary European Council meeting of 17-21 July 2020¹,
 - having regard to the speech by the President of the Commission, Ursula von der Leyen, at the European Parliament Plenary on the conclusions of the European Council meeting of 10-11 December 2020²,
 - having regard to Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013, as regards cooperation with the European Public Prosecutor’s Office and the effectiveness of the European Anti-Fraud Office investigations³, which entered into force on 17 January 2021,
 - 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 enshrined in Article 2 of the TEU;
 - B. whereas 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 Rule of Law Conditionality Regulation’) entered into force on 1 January 2021 and has been applicable since then;
 - C. whereas, in accordance with Article 17(1) of the TEU, the Commission ‘shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them’;
 - D. whereas, in accordance with Article 234 of the TFEU, the European Parliament has the right to vote on a motion of censure of the Commission;
 - E. whereas in accordance with Article 319 of the TFEU, ‘the European Parliament, acting on a recommendation from the Council, shall give a discharge to the Commission in respect of the implementation of the budget’;
 - F. whereas the applicability, purpose and scope of the Rule of Law Conditionality Regulation are clearly defined therein;
1. Reiterates its positions as laid down in its resolution of 17 December 2020; stresses that the Rule of Law Conditionality Regulation has entered into force and is binding in its entirety for all commitment appropriations and payment appropriations in all Member States and for the EU institutions; underlines the importance of the direct applicability of the Regulation since 1 January 2021, particularly in the context of the disbursement

¹ Texts adopted, P9_TA(2020)0206.

² https://ec.europa.eu/commission/presscorner/detail/en/speech_20_2442

³ OJ L 437, 28.12.2020, p. 49.

of the NextGenerationEU funds which will occur early in the budget cycle;

2. Notes that the breaches which occurred before the entry into force of the Regulation may also trigger the adoption of measures under the Regulation as long as they continue to exist and to affect or seriously risk affecting the sound financial management of the Union budget or the protection of the financial interests of the Union in a sufficiently direct way;
3. Underlines the importance of the protection of the financial interests of the Union and the importance of respect for the rule of law; emphasises the clear relationship between respect for the rule of law and the efficient implementation of the Union budget in accordance with the principles of sound financial management;
4. Recalls that according to Article 2 of the Rule of Law Conditionality Regulation, the rule of law ‘refers to the Union value enshrined in Article 2 TEU’, and ‘includes the principles of legality implying a transparent, accountable, democratic and pluralistic law-making process; legal certainty; prohibition of arbitrariness of the executive powers; effective judicial protection, including access to justice, by independent and impartial courts, also as regards fundamental rights; separation of powers; and non-discrimination and equality before the law’; recalls further that ‘the rule of law shall be understood having regard to the other Union values and principles enshrined in Article 2 TEU’;
5. Recalls that according to Article 5 of the Rule of Law Conditionality Regulation, ‘the Commission shall verify whether applicable law has been complied with and, where necessary, take all appropriate measures to protect the Union budget’;
6. Recalls that the Commission ‘shall be completely independent’, and its members ‘shall neither seek nor take instructions from any Government’ in accordance with Article 17(3) of the TEU and Article 245 of the TFEU; recalls further that in accordance with Article 17(8) of the TEU, the Commission ‘shall be responsible to the European Parliament’;
7. Believes that the situation as regards respect for the principles of the rule of law in some Member States warrants immediate consideration; urges the Commission to make full use of its powers of investigation for each case of a potential breach of the principles of the rule of law by a Member State, which could affect or seriously risk affecting the sound financial management of the Union budget in a sufficiently direct way;
8. Recalls that the revised OLAF Regulation establishes cooperation with the European Public Prosecutor’s Office and strengthens OLAF’s means to conduct its own investigations, notably by reinforcing the rules on the anti-fraud coordination services in the Member States and on the cooperation between OLAF and national competent authorities before, during and after an investigation;
9. Stresses that the Commission is obliged to inform the European Parliament and the Council without delay of any notification sent to Member States in case it has reasonable grounds to consider that the conditions for the adoption of measures set out in the Regulation are fulfilled; notices with disappointment the absence of any written notification to Member States since the entry into force of the Regulation, despite many concerns about the breaches of the rule of law identified in the Commission’s 2020 Rule

of Law Report, which have an impact on the sound financial management of the Union budget and remain unresolved by Member States; notes that the other procedures set out in Union legislation do not allow the Commission to protect the Union budget more effectively;

10. Calls on the Commission to keep Parliament regularly informed about all ongoing investigations into breaches of the principles of the rule of law which could affect, or seriously risk affecting, the sound financial management of the Union budget in a sufficiently direct way, as is its duty according to the Rule of Law Conditionality Regulation and the Interinstitutional Framework Agreement between the European Parliament and the Commission;
11. Asks the Commission to include in its annual Rule of Law Report a dedicated section with an analysis of cases where breaches of the principles of the rule of law in a particular Member State could affect or seriously risk affecting the sound financial management of the Union budget in a sufficiently direct way;
12. Recalls that only the Court of Justice of the European Union (CJEU) has the power to annul the Regulation or any part thereof; reaffirms that Parliament will defend the validity of the Regulation before the CJEU in Cases C-156/21 and C-157/21, and will request an expedited procedure; recalls, however, that actions brought before the CJEU do not have any suspensory effect according to Article 278 of the TFEU;
13. Stresses that the application of the Rule of Law Conditionality Regulation cannot be subject to the adoption of guidelines, and urges the Commission to avoid any further delay in its application; recalls that any guidelines shall not undermine the intention of the co-legislators; notes that the Commission has begun to draft guidelines on the application of the Regulation; requests that, if the Commission deems such guidelines necessary, they are adopted as soon as possible, and no later than 1 June 2021, and insists that Parliament is consulted prior to their adoption;
14. In case the Commission does not fulfil its obligations under this Regulation and does not provide Parliament with information as mentioned above by 1 June 2021, Parliament will consider this to constitute a failure to act and subsequently shall take action under Article 265 of the TFEU against the Commission;
15. Instructs its President to forward this resolution to the Commission, the Council and the Member States.