

Rule of law: new mechanism aims to protect EU budget and values



Rule of law is laid down in the EU treaties as one of the values on which the Union is based ©Helmutvogler /Adobe Stock

The EU is preparing rules which would make it possible to stop payments from the EU budget to member states that do not respect the rule of law.

Parliament negotiators [reached a provisional agreement](#) with the Council presidency on 5 November on legislation establishing a mechanism that would allow the suspension of budget payments to a member state violating the rule of law.

The decision on the suspension will have to be taken by the Council acting by a qualified majority on the proposal of the European Commission.

MEPs have been warning that European values are at risk and that EU funds from the [long-term budget](#) and the [recovery plan](#) should not be put into the hands of those working against democracy and fundamental rights in Europe.

In a report [adopted on 7 October](#), MEPs called for reinforcement of the rule of law across Europe through a new mechanism and for effective sanctions on member states found to be in violation. They also insisted that the EU institutions should agree clear rules that link receiving EU funds to how a member state respects the rule of law.

What is rule of law?

Rule of law is [laid down in the EU treaties](#) as one of the values on which the Union is based. It means that governments should be bound by law, that they should not take arbitrary decisions and that citizens should be able to challenge their actions in independent courts.

It also enshrines the fight against corruption, which unfairly favours some to the detriment of others, and the safeguarding of media freedom, thus ensuring the public is properly informed about the work of government.

Rule of law is a common concern among Europeans. In a [2019 Eurobarometer survey](#), at least 85% of respondents across the EU considered each of the different aspects of the rule of law as essential or important. Another [survey](#), from October 2020, found that 77% of Europeans support the concept that the EU should only provide funds to EU countries if they are in compliance with the rule of law and democratic principles.

EU mechanisms for the protection of rule of law

The EU has [existing tools](#) at its disposal to protect the rule of law. On 30 September 2020, the European Commission published the first [annual rule of law](#) report that monitors both positive and negative developments relating to the rule of law in all member states. It has been [monitoring Romania and Bulgaria](#) since they joined the EU in 2007.

There is also [dialogue on the rule of law in the Council](#) and the current German presidency plans to have country-specific discussions in November starting with five EU countries.

If the Commission is of the view that a member state is violating EU law, it can start infringement proceedings that may lead to financial sanctions determined by the European Court of Justice. Another procedure, under [Article 7 of the Treaty on European Union](#), allows the Council to make recommendations or decide by unanimity on sanctions against a member state, including the suspension of membership rights.

The case for further measures

MEPs have argued that existing tools are insufficient. While there are ongoing hearings in the Council under Article 7 regarding Poland and Hungary, Parliament has [expressed its regret](#)

[about the lack of significant progress](#) by the two member states in addressing the issues.

In a plenary debate on 5 October, MEPs welcomed the annual rule of law report launched by the Commission, but called for more action on enforcement. “Monitoring alone will not bring back judicial independence in Poland, nor will it save the Index media [outlet] in Hungary,” said [Michal Šimečka](#) (Renew Europe, Slovakia).

Šimečka [drafted a report adopted on 7 October](#), calling for a mechanism that consolidates existing instruments and establishes an Annual Monitoring Cycle, with country-specific recommendations, timelines and targets for implementation. The cycle should serve as the basis for triggering Article 7 or suspending budget funds for a member state.

Protecting EU financial interests

Corruption or dependent courts may mean there is no protection against misuse of EU money allocated to a member state. The Commission put forward a legislative proposal in 2018 that aims to defend the Union’s financial interests, should deficiencies in the rule of law be detected.

Parliament [adopted its position](#) on the proposal in early 2019. The file is linked to the outcome of the negotiations on the [EU long-term budget](#) and Parliament has insisted that an agreement on the 2021-2027 budget is only possible if there is sufficient progress on this legislation.

EU leaders agreed in July 2020 to introduce rule of law conditionality, i.e. to make receipt of EU funds by a member state dependent on its respect for the rule of law. The German Council presidency put forward a compromise proposal in early autumn, which MEPs criticised as insufficient during the plenary debate on 5 October.

“A mechanism that cannot ever be triggered in practice due to backdoors or indecisive processes serves only the interests of those who do not wish to see any measures taken,” said [Petri Sarvamaa](#) (EPP, Finland).

Agreement with the Council

MEPs started negotiations with the Council in October. Parliament’s co-rapporteurs on the file are Sarvamaa and [Eider Gardiazabal Rubial](#) (S&D, Spain).

An agreement was reached on 5 November. Parliament’s negotiators secured a broad scope of the legislation, ensuring it will not only apply to cases of corruption and fraud, but will also cover breaches of fundamental values such as freedom, democracy, equality and respect for human rights including the rights of minorities.

The agreed text also protects the final beneficiaries of the funds such as students, farmers or NGOs. They will be able to claim their due amounts from the Commission.

“For us it was crucial that final beneficiaries won’t be punished for the wrongdoing of their governments and that they continue receiving funds that have been promised to them,” said

Gardiazabal Rubial.

Find out more

[Press conference: Parliament's co-rapporteurs on the informal agreement with Council \(5 November\)](#)

[Facebook Live with Petri Sarvamaa after the second round of negotiations with Council \(20 October\)](#)

[Facebook Live with budgetary control committee chair Monika Hohlmeier on the informal agreement with Council \(9 November\)](#)