Rule of law: MEPs press Commission to defend EU funds

MEPs want the European Commission to prove it’s up to the task of defending the EU budget from member states violating the rule of law principle.

The Commission should investigate potential breaches of the rule of law principle as soon as possible, as the situation in some EU countries already warrants immediate action, MEPs said in a report adopted in July 2021.

The report considers guidelines drafted by the Commission for the implementation of EU law that links the disbursement of EU funds to the respect for the rule of law by member states.
The legislation has been in force since 1 January 2021, but so far the Commission has not proposed any measures under the rules. In Parliament’s view, the regulation does not require any additional interpretation in order to be applied and the development of guidelines should not cause further delay.

The Commission should report to Parliament on the first cases under investigation as soon as possible, MEPs said. If the Commission fails to act, Parliament is getting ready to file a case against the Commission in the European Court of Justice.

Parliament made similar demands in an earlier resolution adopted on 10 June.

In a separate resolution on 8 July, 2021, Parliament condemned a Hungarian law that, under the guise of fighting paedophilia, bans LGBTIQ content from being featured in school educational materials or TV shows for children.

The law is not an isolated incident, but another “intentional and premeditated example of the gradual dismantling of fundamental rights in Hungary”, MEPs say. Parliament argues that “state-sponsored discrimination against minorities has a direct impact on which projects the member states decide to spend EU money on” and so affects the protection of the EU's financial interests.

Parliament is demanding the Commission immediately triggers the procedure to suspend or cut EU budget payments to Hungary.

**Defending the rule of law: a matter of urgency**

During a meeting of Parliament’s budget and budgetary control committees on 26 May, MEPs discussed the application of the legislation on the EU budget and the rule of law with Gert Jan Koopman, Director-General of the Commission's budget department.

Koopman emphasised the sensitive nature of potential Commission assessments regarding the rule of law in EU countries: “Decisions taken will be subject to full judicial review by the [European] Court of Justice,” he said. "We need to get this right from the beginning. We simply cannot afford to make mistakes and bring cases that are annulled by the Court. This will be a disaster."

“If one wanted to have a very short set of guidelines, one could just write in one sentence: ‘Take a look at the regulation’,“ added Petri Sarvamaa (EPP, Finland).

Still, Parliament will express an opinion on the guidelines in a report that is expected to be voted on in July. “All member states should be able to see that the Commission is doing its investigations in a truly objective manner,” said Sarvamaa.

“When we speak about violations of the rule of law, this is a very serious topic. We are aware of the fact that we need to be very scrupulous with these assessments. But this rigorousness and
this meticulousness cannot postpone the application of the regulation forever," said Eider Gardiazabal (S&D, Spain).

Other MEPs said there is a rule of law crisis in the EU and called on the Commission to act decisively to prevent further deterioration. Terry Reintke (Greens/EFA, Germany) said: "We have absolute trust in the Commission’s ability to monitor, find and assess cases. You have some of the smartest lawyers in Europe, you have the best civil servants to protect the EU budget and the rule of law.

“But the impression is, and I am speaking on behalf of millions of EU citizens, that you are lacking a certain sense of urgency. It feels like you are sitting in this burning house and you say: 'Before we call the fire brigade, we are actually going to come up with guidelines on how they can extinguish this fire'."

The EU budget and the rule of law

The legislation adopted at the end of 2020 made access to EU funds conditional on respect for the rule of law. If the Commission establishes that a country is in breach and that the EU's financial interests are threatened, it can propose that payments from the EU budget to that member state are either cut or frozen.

The Council has to take the decision by a qualified majority. The rules also seek to protect the interests of final beneficiaries - farmers, students, small businesses or NGOs - who should not be punished for the actions of governments.

Legal challenges

Parliament is keen to see the system implemented given concerns in recent years about the rule of law and democracy in some member states.

Hungary and Poland have brought cases before the European Court of Justice demanding that the regulation be annulled. In their meeting on 10-11 December 2020, EU leaders agreed that the Commission should prepare guidelines for the implementation of the rules that should be finalised after the ruling of the Court of Justice.

However, Parliament has insisted that the rules are in force and that the Commission has a legal duty to defend the EU’s interests and values.

Find out how the EU aims to protect the rule of law