Protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States

2018/0136(COD) - 02/05/2018 - Legislative proposal

PURPOSE: to protect the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the rule of law is **one of the essential values** upon which the Union is founded. As recalled by Article 2 of the Treaty on European Union, these values are common to the Member States. Respect for these values must therefore be ensured throughout all Union policies. This includes the **EU budget**, where respect for fundamental values is an essential precondition for sound financial management and effective EU funding.

The Commission considers that the European Union should be given the possibility to adopt the rules necessary for the protection of the Union’s budget in the case of generalised deficiencies as regards the rule of law in the Member States.

The proposal is based on the 2014 Commission Communication "A new EU framework to strengthen the rule of law", the February 2018 Commission Communication "A new and modern multiannual financial framework for a European Union that implements its priorities efficiently beyond 2020" and the standards and principles developed by the Council of Europe.

CONTENT: this proposal for a Regulation establishes the rules necessary for the **protection of the Union’ s budget in the case of generalised deficiencies as regards the rule of law** in the Member States.

Measures: appropriate measures shall be taken where a generalised deficiency as regards the rule of law in a Member State affects or risks affecting the principles of sound financial management or the protection of the financial interests of the Union such as: (i) the proper functioning of the authorities of that Member State implementing the EU budget, in particular in the context of public procurement procedures; (ii) the proper functioning of investigative services in the context of the fight against **fraud and corruption**; (iii) effective judicial control by independent courts of acts or omissions of the abovementioned authorities; (iv) jeopardised the independence of the judiciary.

Content of measures: the proposal lists the type of measures that could be taken and specifies that Member States receiving EU funds should receive them. This concerns in particular the **suspension of payments or the implementation of the legal commitment** or a prohibition on entering into new legal commitments where the Commission implements the Union budget directly or indirectly.

Procedure: measures should be on the basis on a **Council decision following a proposal from the Commission**. The decision shall be deemed to have been adopted by the Council, unless it decides, by qualified majority, to reject the Commission proposal within one month of its adoption by the Commission. The European Parliament should also be fully involved at all stages.

Proportionality: measures need to be adopted in full respect of the principles of transparency and proportionality. It is also important to ensure that the consequences of measures have a sufficient connection with the aim of the funding. This also points to the need to ensure that the **consequences fall on those responsible** for identified shortcomings. It should therefore reflect the fact the individual beneficiaries of EU funding, such as Erasmus students, researchers or civil society organisations, cannot be considered responsible for such breaches.