The creation of guidelines for the application of the general regime of conditionality for the protection of the Union budget

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The European Parliament adopted by 529 votes to 150, with 14 abstentions, a resolution on the creation of guidelines for the application of the general regime of conditionality for the protection of the EU budget.

The Commission must apply the rule of law conditionality regulation without delay

Members regretted the Commission's decision to draw up guidelines for the application of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council on a general system of conditionality for the protection of the EU budget, which entered into force on 1 January 2021 and has been binding in its entirety since that date.

Parliament reiterated its view that the **text of the Regulation was clear and that its application needed no further interpretation**, as the co-legislators had not delegated powers to the Commission to do so. It recalled that the guidelines were not legally binding and that they could not amend, extend or restrict the text of the regulation.

Members also deplored the Commission's failure to meet the deadline set by Parliament for fulfilling its obligations under the regulation, including the preparation of the guidelines, by 1 June 2021.

Parliament called on the Commission to **avoid any further delay in the application of the regulation** and urged it to investigate as soon as possible and in depth any potential breach of the rule of law in the Member States which might affect the sound financial management of the Union budget. It recalled in this respect that the situation in some Member States already justified immediate action under the Regulation, by sending a written notification to the Member States concerned and informing the Parliament.

The Commission is invited to report to Parliament on a regular basis and at least twice a year on new and ongoing investigations, starting as soon as possible with the first cases, and to respond to the scrutiny of the lead committees in a timely manner by providing thorough information.

Breaches of the principles of the rule of law

Parliament called on the Commission: (i) to clarify in the guidelines that breaches of the rule of law in a Member State which result from decisions or events that took place prior to 1 January 2021 still fall within the scope of the Regulation as long as their effect is still ongoing; and (ii) to investigate in the Member States potential cases of breaches included in the list of indicative breaches of the principles of the rule of law set out in Article 3 of the regulation.

The resolution stressed the importance of cooperation between the EU institutions, the Member States, the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office, while recalling that, in order to determine the existence of violations of the principles of the rule of law, the Commission should make an objective, impartial, fair and thorough qualitative assessment, taking into account relevant information from available sources and recognised institutions.

Members called on the Commission: (i) to include in its annual report on the rule of law a section on cases of breaches of the rule of law in a Member State which may affect the sound financial management of the EU budget and (ii) to set up a clear, precise and user-friendly system for lodging complaints, as well as deadlines for the Commission's replies to such complaints.

Protecting the EU budget

Parliament called on the Commission to take into account in its guidelines the fact that cases of persistent violations of democracy and fundamental rights, such as state discrimination against minorities, as well as attacks on media freedom and freedom of association and assembly, can have an impact on the projects to which Member States decide to allocate EU funding, and thus affect the protection of the EU's financial interests.

Members also stressed that the regulation should not be considered as a ‘last resort’, but rather that the Commission could use a wide range of procedures, including the regulation, to protect the Union's financial interests, to be chosen on a case-by-case basis according to their effectiveness.

The Commission is also invited to clearly indicate the criteria for determining the measures to be taken in cases of systemic breaches, such as those which hamper the functioning of the judicial system or the proper functioning of the entities whose task is to prevent and combat corruption, fraud, tax evasion and conflicts of interest.

Adoption of measures

Parliament recalled that the Council must act on any Commission proposal to adopt appropriate measures under the regulation within one month, which may be extended by up to two additional months in exceptional circumstances. It considered that the Commission should ensure that these time limits are fully respected for a timely decision and that it should define the rules and principles of transparency that it will apply in the event that the conditionality mechanism is triggered.

Protection of final recipients and beneficiaries

The resolution stressed that in cases such as serious corruption, nepotism, systemic fraud, illegitimate ties with political parties and conflicts of interest, the Commission should carefully evaluate on a case-by-case basis whether payments to final recipients and beneficiaries should be continued or not.

The Commission is called on to:

- set up a website or internet portal with information and guidance for the benefit of final recipients or beneficiaries and with adequate tools for them to inform the Commission about any breach of the legal obligation to continue making payments after measures pursuant to this Regulation are adopted, such as a simple, easy-to-use and structured complaint form;

- explain how it will implement an efficient and effective compliant mechanism for applicants, recipients and beneficiaries.