

Follow-up to the European Parliament non-legislative resolution on the implementation of the rule of law conditionality regime

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- 2. References:** 2025/2061(INI) / A10-0240/2025 / P10_TA(2025)343
- 3. Date of adoption of the resolution:** 18 December 2025
- 4. Competent Parliamentary Committee:** Committees on Budgets (BUDG) and Budgetary Control (CONT)
- 5. Brief analysis/ assessment of the resolution and requests made in it:**

The European Parliament's resolution emphasises that 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 Conditionality Regulation') is a cornerstone for safeguarding the European Union's budget against risks arising from breaches of the rule of law. The Parliament expresses concern that the implementation of the Conditionality Regulation has been insufficient and calls for concrete improvements to ensure its effectiveness. In particular, the Parliament:

- Regrets the Commission's failure to immediately trigger the Conditionality Regulation in response to severe violations of the rule of law principles in some Member States, despite well-documented rule of law problems;
- Calls for proper funding for bodies such as the EPPO, OLAF, Europol and the EU Agency for Criminal Justice Cooperation (Eurojust);
- Criticises the lack of transparency in the Commission's assessments, in particular about decisions not to act, choice of other instruments, assessment of evidence, and recommends the establishment of a confidential reporting portal to protect whistleblowers;
- Urges the Commission and the Council to act swiftly and transparently in cases where a link has been established between rule of law breaches and risks to the EU budget;
- Reiterates that the rule of law must not be treated as a "bargaining chip" and that decisive action must be taken to address breaches of the rule of law;
- Regrets the Commission's interpretation of the Conditionality Regulation as a "last resort instrument";
- Notes that the Council suspended 55% of budgetary commitments for three operational programmes under cohesion policy for Hungary but considers that a larger proportion of EU funding could be suspended due to systemic and persistent breaches, in line with the proportionality principle;
- Expresses concerns regarding the lack of clarity in the interaction between the Conditionality Regulation and other instruments in the rule of law toolbox, warning that the reallocation/reshuffling of

frozen appropriations would signal to national governments that losses can be offset elsewhere;

- Notes a fragmented rule-of-law monitoring across Commission services, resulting at times in inconsistent, non-transparent and delayed action;
- Stresses the importance of information sharing with the Parliament and calls for a decision-making role for itself in the process as well as quarterly structured dialogues;
- Stresses the need to protect final recipients and beneficiaries;
- Calls on the Commission to urgently revise the 2022 Guidelines and publish a step-by-step methodology showing how proportionality is calculated;
- Expects the Commission to take concrete action to strengthen the links between the recommendations of its annual Rule of Law Reports and financial support from the EU budget.

The Parliament also expresses concerns that the Commission's proposal for the 2028–2034 Multiannual Financial Framework (MFF) may be insufficient as regards the protection of the Union budget from rule of law breaches.

6. Response to requests and overview of actions taken, or intended to be taken, by the Commission:

The Commission welcomes the Parliament's resolution on the *Implementation of the rule of law conditionality regime* and is looking forward to a continued close cooperation as regards the protection of the Union budget against breaches of the principles of the rule of law.

Application of the Conditionality Regulation

Scope and implementation steps (paragraph 12)

The Parliament resolution points to the time it took to trigger the Conditionality Regulation, and the fact that this only happened after the publication of the Guidelines on the application of the Conditionality Regulation¹ ('the guidelines'). In that respect the Commission underlines that, pending the judgment of the CJEU in cases *Hungary v Parliament and Council*², and *Poland v Parliament and Council*³ on the validity of the regulation, the Commission screened the sources and documents from recognised institutions (Court of Justice, Council of Europe, OLAF, EPPO, etc.) and took into account the findings of its own Rule of Law Report to identify possible relevant breaches of the principles of the rule of law since 1 January 2021, when the Conditionality Regulation entered into force. Since then, the

¹ Guidelines on the application of the Regulation (EU, EURATOM) 2020/2092 on a general regime of conditionality for the protection of the Union budget.

² Judgment of 16 February 2022, *Hungary v. Parliament and Council*, C-156/21, EU:C:2022:97.

³ Judgment of 16 February 2022, *Poland v Parliament and Council*, C-157/21, EU:C:2022:98.

Commission has also carefully considered and followed up on complaints or other sources of information on its own motion. Those sources and documents do not provide self-standing evidence, and the Commission must in any event carry out its own assessment under the Conditionality Regulation. This assessment must check the key requirement that breaches of the principles of the rule of law in a Member State affect or seriously risk affecting the sound financial management of the Union budget or the protection of the Union financial interests in a sufficiently direct way. This was confirmed by the CJEU, which considered that the terms ‘in a sufficiently direct way’ require that the link between the breach of the principles of the rule of law and the impact or risks for the Union budget should be ‘genuine’ or ‘real’⁴. This means that the procedure of the Conditionality Regulation should not be triggered regarding situations in which the connection is merely hypothetical, too uncertain or too vague. The assessment must also consider whether there is no other Union law instrument that can protect the Union budget more effectively.

Reporting of rule of law breaches under the Conditionality Regulation (paragraphs 14-17)

Regarding funding for bodies such as the EPPO, OLAF, Europol and Eurojust, the Commission reviews the requests for resources during the preparation of the EU annual budget proposal and includes proposals for amounts in the proposal for the draft annual budget that is subject to negotiation and finally agreed between the Parliament and the Council, as the two arms of the budgetary authority.

The submission of substantiated complaints by any third party that may be aware of relevant information and evidence for the assessment under the Conditionality Regulation is a valuable source of information for the Commission. Regarding the stakeholders’ possibility to send a complaint, the Commission has a dedicated form available on its website⁵, which guides complainants to submit the information that is relevant for the Commission’s assessment.

As mentioned on the Commission website on the Rule of law Conditionality Regulation, the Commission services treat the complaints with full confidentiality. Measures are in place to restrict distribution, and complainants have the option to authorise the Commission to disclose their identity in its contacts with the national authorities.

As regards the concerns of lack of transparency, the Commission acts in line with the transparency obligations set out by the legislator in the Conditionality Regulation. In cases where the Commission considers that there is possible ground to apply the procedure foreseen by the

⁴ See judgment of 16 February 2022, *Poland v Parliament and Council*, C-157/21, EU:C:2022:98, paragraph 288, 299.

⁵ https://commission.europa.eu/strategy-and-policy/eu-budget/protection-eu-budget/rule-law-conditionality-regulation_en

Conditionality Regulation, the Commission documents its assessment as part of the written notification sent to the Member State, the intention letter and in its proposal of measures to the Council. Communicating publicly on all assessments for all the Member States where the Commission does not see grounds to apply the Conditionality Regulation is not foreseen in the Conditionality Regulation and would entail an unnecessary and disproportionate administrative burden. The Commission also recalls that it publishes on regular occasions relevant information as regards the rule of law in Member States, in particular the yearly Rule of Law Report.

Assessment and triggering of the conditionality mechanism (paragraphs 18-22)

The general regime of conditionality has been designed to protect the Union budget – both revenue and expenditure – from breaches of the principles of the rule of law in the Member States that 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.

Where the Commission finds that it has reasonable grounds to consider that the conditions set out in Article 4 of the Conditionality Regulation are fulfilled, it shall, unless it considers that other procedures set out in Union legislation would allow it to protect the Union budget more effectively, launch the process and send a written notification to the Member State concerned, setting out the factual elements and specific grounds on which it based its findings. The Conditionality Regulation therefore complements other instruments that can protect the budget.

In March 2022, the Commission adopted the guidelines to clarify several elements related to the Conditionality Regulation. The guidelines have been prepared through a comprehensive feedback process, including consultations with the European Parliament and the Member States. According to the guidelines, the identification of breaches of the principles of the rule of law requires a thorough qualitative assessment by the Commission. That assessment must be objective, impartial and fair, and consider relevant information from available sources and recognised institutions. Objectivity requires the assessment to be based on facts or evidence that the Commission has at its disposal. Impartiality in the assessment of cases under the Conditionality Regulation implies equal treatment among the Member States. As regards fairness, the Commission takes a comprehensive view on all the circumstances under consideration to identify breaches of the principles of the rule of law that are relevant under the Conditionality Regulation. Measures proposed by the Commission must be appropriate and proportionate. Final decisions adopted under the Conditionality Regulation are subject to full judicial review by the Court of Justice.

As also laid down in the guidelines, with regard to the identified breaches of the principles of the rule of law, the Commission duly takes into account: the nature, duration; the seriousness/gravity, and scope of

the breaches. These criteria help to determine the extent of the impact of the identified breaches on the Union's financial interests. Their consideration influences the assessment of the proportionality of the proposed measures. This is what the Commission did in the case related to Hungary (see Commission's proposal for a Council implementing decision on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary of 18 September 2022⁶). In addition to these elements, the Commission may also consider other factors, in particular: the intention of the Member State to put an end to the breach, the degree of cooperation of the Member State, or its refusal to cooperate sincerely, or a possible persistence or repetition of similar breaches of the principles of the rule of law, despite earlier recommendations or proposals of measures made by the Commission.

Backsliding and reversal of remedial measures (paragraphs 23-26)

The Commission continuously evaluates for all Member States whether new developments constitute breaches of the principles of the rule of law with a sufficiently direct link to the Union budget. As the Court of Justice has held, this requires 'a real link between those breaches and that effect or serious risk of effect'⁷.

In the case of Hungary, significant amounts of funding remain blocked under the Conditionality Regulation procedure, the enabling conditions of the Common Provisions Regulation (CPR), and under the Recovery and Resilience Facility (RRF). Moreover, the Commission has launched several infringement proceedings against Hungary. Concerns relate to the rights of civil society organisations, academic freedom, media freedom, the rights of migrants and asylum seekers, and the rights of LGBTIQ people, as well as to the functioning of the Single Market. The Commission's concerns regarding the rule of law in Hungary are also clearly stated in the Hungarian country chapter of the Commission's annual Rule of Law Reports and its recommendations to Hungary; the last edition was published in July 2025.

As regards the measures adopted by the Council under the Conditionality Regulation, in line with Article 7 of the regulation, the Commission will only propose the Council to adapt or lift the measures if Hungary notifies new (adopted) remedies that are considered by the Commission satisfactory to show that the conditions of Article 4 are no longer fulfilled. It is for Hungary to take action to address the outstanding concerns and notify satisfactory new remedial measure to the Commission so that adaptation or lifting of the Council Implementing Decision measures can be proposed to the Council. The Commission adopted a decision on 16 December 2024 following a notification of legislative amendments for the public interest trusts

⁶ COM(2022) 485 final, 2022/0295 (NLE.)

⁷ Judgment of 16 February 2022, *Hungary v. Parliament and Council*, C-156/21, EU:C:2022:97.

(PITs) by Hungary. This decision found that notified legislative amendments did not adequately address the outstanding concerns on conflicts of interest in the boards of public interest trusts identified in the Council Implementing Decision. On that basis, the Commission concluded that the Council measure on PITs and entities maintained by them should remain in place and therefore did not propose any lifting or adaptation of the Council Implementing Decision of December 2022 to the Council. In its decision of 16 December 2024, the Commission clearly outlined the adaptations that would still be needed in order for the PITs measure to be lifted. The Hungarian government filed an action before the General Court of the European Union to seek the annulment of the Commission's Decision of 16 December 2024. The case is pending.

The Commission stands ready to make full use of the range of tools at its disposal to ensure the respect of the rule of law and the protection of the Union's financial interests in Hungary, as in all other Member States, and will not hesitate to take appropriate measures where necessary and where all relevant conditions are met.

Links between the conditionality regime and other instruments in the rule of law toolbox (paragraphs 27-30)

The Commission has multiple tools at its disposal to respond to challenges to the rule of law and will continue to make use of all of them where needed.

The annual rule of law cycle with the Rule of Law Report at its centre promotes the rule of law in all Member States through dialogue and exchange of information which leads to the formulation of recommendations and aims at preventing challenges from emerging or deepening.

Article 7 TEU provides a preventive and a sanctioning procedure to address breaches of the Article 2 TEU founding values of the Union, including democracy and the rule of law. The Conditionality Regulation is an instrument protecting the EU budget and the EU's financial interests in case of breaches of the principles of the rule of law insofar as they have an impact or create risks for the EU budget.

The RRF and the CPR can contribute to addressing certain rule of law issues in the Member States, within the limits of their legal setup.

The Regulation establishing the RRF, as a temporary recovery instrument created to respond to the Covid-19 crisis, does not require a specific ex ante assessment of 'rule of law' matters. However, the RRF has demonstrated how the EU budget can both condition payments where rule of law concerns related to the protection of the financial interests of the Union arise, and promote reforms that strengthen the rule of law in the Member States, such as reforming and strengthening the judicial systems and increasing their efficiency through digitalisation, strengthening the institutions fighting corruption, or improving the quality of the legislative process. With regard to rule of

law deficiencies affecting the RRF audit and control systems intended to protect the Union's financial interests, an effective mechanism was set up through the use of the so-called 'super-milestones' which need to be fulfilled before the first or - if introduced during the implementation - subsequent payments. The RRF Regulation also lays out a mechanism to guard against reversals, which operates as a condition for subsequent disbursements.

As regards the CPR, the horizontal enabling condition on the Charter of Fundamental Rights requires that Member States have the necessary arrangements in place as prerequisite to ensure the effective and efficient implementation of the specific objectives of the programmes supported by EU funds. Enabling conditions, including the one on the Charter of Fundamental Rights, must remain fulfilled throughout the whole programming period, with the Commission monitoring fulfilment. When an enabling condition is not considered fulfilled, the Commission is not authorised to reimburse the expenditure related to the concerned specific objectives until the Commission has informed the Member State of the fulfilment.

The rule of law monitoring is a matter of responsibility for the Commission as a whole. The Commission makes full use of the synergies between different Commission services to harness both country- and sector-specific knowledge and identify possible matters that would be relevant for the application of the Conditionality Regulation. Services responsible for the preparation of the Rule of Law Report, for the implementation of the RRF, the CPR and the Conditionality Regulation exchange information acquired under their respective activities on a regular basis, also by taking advantage of the monitoring performed and stakeholder visits taking place as part of other work streams. This also serves to ensure coherent action.

As regards concerns of possible circumventions of measures, the Commission takes these very seriously and makes sure that no such circumvention can take place, including where the legislator sets out additional conditions. For instance, in the case of Hungary, following the amendment of the fund specific regulation of cohesion policy in the context of the Mid-Term Review of the cohesion programmes the following amounts cannot be subject to programme amendments or transfers:

- amounts suspended by measures adopted in the context of the Conditionality Regulation and
- amounts exceeding the flexibility amount corresponding to the specific objectives subject to a negative assessment by the Commission based on the application of horizontal enabling conditions.

Requests for cohesion programme amendments must be assessed in line with EU law applicable at the time of submission of a request for amendment by the concerned Member State. Accordingly, some amendment proposals submitted by Hungary in 2025 were assessed pursuant to the former CPR rules rather than according to the rules

introduced by the amendment of the fund specific regulation of cohesion policy in relation to the Mid-Term Review of the cohesion programmes. While approving programme amendments, the Commission blocked the reimbursement of expenditure under the newly introduced priorities and corresponding specific objectives as it found that the specific objectives underpinning those priorities were affected by the unfulfilled horizontal enabling condition on the Charter of Fundamental Rights. In addition, a further EUR 141 million is newly blocked in an existing ESF+ priority of the Digital Programme of Hungary because it falls under the same specific objective as the unfulfilled ESF+ STEP priority of the Digital Programme. If, under one programme, one specific objective is in more than one priority, they must have the same assessment – in this case, a negative one.

Democratic scrutiny and transparency (paragraphs 31-38)

The Conditionality Regulation sets the procedure for the Commission to notify its findings to the Member State concerned, to protect the Member State's right to be heard, for the Council to adopt measures and for the measures to be lifted.

The Conditionality Regulation establishes obligations for the Commission to inform the European Parliament and the Council about specific procedural steps and acts:

- Article 6(1): to inform without delay the European Parliament and the Council of the written notification (and its contents) sent to the Member State.
- Article 8: to immediately inform the European Parliament of any measures proposed, adopted or lifted pursuant to Articles 5, 6 and 7 of the Conditionality Regulation.

The Commission met all these obligations in the case of Hungary. In the spirit of sincere cooperation with the Parliament, the Commission also went beyond its obligations and has been informing the Parliament of decisions and other procedural steps taken under the Conditionality Regulation, while preserving the spirit of mutual trust with the Member State. For instance, the Commission informed the Parliament about the two negative reasoned decisions that the Commission adopted in the Hungarian case, pursuant to Article 7(2), in December 2023 and December 2024. The Commission also discussed the application of the Conditionality Regulation in meetings with the Parliament, while insisting, when necessary, on an appropriate (in camera) format to preserve the confidentiality of the information given on ongoing cases.

On its own motion, the Commission proactively published specific documents in the procedure regarding Hungary. The Commission also disclosed certain acts, fully or partially, following up on requests for access to documents, where no legal exceptions would prohibit such a disclosure.

Protection of final recipients and beneficiaries (paragraphs 39-43)

The protection of final recipients and beneficiaries is provided for in the

applicable legal framework. As per Art. 5(2) of the Conditionality Regulation the imposition of appropriate measures under the Regulation does not affect the obligations of Member States to implement the programme or fund affected by the measure, and in particular the obligations towards final recipients or beneficiaries, including the obligation to make payments.

To make beneficiaries or final recipients of Union programmes aware of their rights under the Conditionality Regulation, the Commission has set up a dedicated webpage⁸ where citizens, including beneficiaries or final recipients, may seek informal guidance. They may also submit information to the Commission about issues that are relevant for the application of the Conditionality Regulation by filling in and submitting the complaint form available. The Commission will continue publishing on its webpage information on the measures adopted by the Council upon the Commission's proposal, so that beneficiaries and final recipients are aware of the measures imposed to each Member State.

Under the applicable rules, there is no legal basis for the Commission to unilaterally take over funds under shared management and implement them in direct/indirect management. Shared management implies that Member States assume responsibility and ownership in achieving the objectives of their national programmes.

The Commission's proposal for the National and Regional Partnership Plan regulation for the next MFF builds on discussions and requests, including from the European Parliament, for so-called "smart conditionality" mechanisms. According to the proposal:

- As is the case under the current MFF, Member States have an obligation to continue payments to final recipients in case of suspension. With a view to better enforcing this obligation, Member States, as part of the description of their management, control and audit systems, will have to demonstrate in their National Regional and Partnerships Plans (NRPPs) that they have appropriate arrangements in place to ensure that payments to beneficiaries, final recipients, recipients, contractors and participants will be continued in the event of interruption of payment deadlines or suspension of Union funding, financial corrections or other measures. Such arrangements constitute one of the key requirements for the Member States' management, control and audit systems.
- If an amount is decommitted because a Rule of Law or Charter breach (Art. 8 and 9 of the proposed Regulation) is not remedied within one year by the Member State, the funds related to the affected measures, as identified in the relevant decision, are decommitted and can be made available again and channelled to other programmes implemented under direct or indirect management, in particular those contributing to supporting Europe's democracy, civil society, Union values or the fight against corruption.

⁸ https://ec.europa.eu/info/strategy/eu-budget/protection-eu-budget/rule-law-conditionality-regulation_en

The respective decision on making decommitted amounts available again will be for the budgetary authority to take in the framework of the annual budgetary procedure. The European Parliament and the Council will thus be fully involved in deciding whether such amounts shall be made available again, and where such amounts would go.

Lessons learnt and recommendations for future improvements (paragraphs 44-70)

The Commission plans to review the guidelines, along with internal guidance notes, once it considers the case practice to be sufficient and the need for revision to be there.

As concerns the link between the annual Rule of Law Reports recommendations and financial support: the Rule of Law Report is based on a process grounded in partnership between the EU and Member States to further the rule of law, with continued emphasis on prevention and dialogue. The analysis resulting from this process helps to shape national debates and galvanise action. Specific recommendations to Member States create an effective focus for the Commission's dialogue with Member States and help their authorities prioritise the measures they take. The Commission's proposal for National and Regional Partnership Plans in the next MFF strengthens the link between the EU financial support and the Rule of Law Report, which is part of the policy reference framework for the future Plans (see below more details on the Commission proposal).

The Conditionality Regulation and the next MFF (paragraphs 71-76)

In the next MFF, the respect for the rule of law and fundamental rights will remain a must for all Union funds. The Conditionality Regulation will continue to apply to all EU funds. Furthermore, the Commission has proposed a set of harmonised conditionality rules for all shared management funds. This aims to draw lessons from the experience under the different legal regimes currently in place, namely under the CPR (Horizontal Enabling clauses) and the RRF (in particular the so-called 'super milestones') and ensure better consistency in the future.

The NRPP Regulation proposal is based on a combination of financial support for measures aimed at strengthening the rule of law and fundamental rights and the application of strong safeguards and conditionalities to ensure that the EU budget is protected. Under the proposal, Member States must ensure respect of the principles of rule of law ("Rule of Law horizontal condition") throughout the implementation of their NRPPs. They must also put in place and maintain effective mechanisms to ensure compliance of the measures under their Plans and their implementation with the EU Charter of Fundamental Rights ("Charter horizontal condition").

Both horizontal conditions under the NRPP regulation proposal imply a link between the breach and the Union budget. They build on experience with the existing requirements of the Conditionality Regulation, the application of the RRF regulation and the Charter horizontal enabling condition currently applying to cohesion policy

funds, while ensuring a harmonised and more efficient approach for all funds under shared management.

Compliance with the rule of law and fundamental rights will be a prerequisite for receiving support from the Union budget. As part of the submission, assessment and adoption process of their NRPPs, Member States will have to provide assurance on the fulfilment of these two horizontal conditions, with an identification of potential deficiencies and remedial actions based, in particular, on the country-specific challenges identified in the context of the Rule of Law Report and European Semester, judgments of the Court of Justice of the EU, etc.

In case of a breach, the proposal provides for the possibility to block part or all payments at any time during implementation, in line with the principle of proportionality, and considering the nature, duration, gravity and scope of the breach.

As outlined above, the proposal also builds on discussions with and requests from the European Parliament for “smart conditionality”, including to reinforce the protection of beneficiaries.