

Budget Conditionality: EP Ready to Take Commission to CJEU

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News

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ISSN: 1862-6947
<https://eucrim.eu>



The dispute between the European Parliament (EP) and the Commission over the application of Regulation 2020/2092 is entering the next round. Regulation 2020/2092 sets out the rules for the protection of the EU budget from breaches of the rule of law, the so-called budget conditionality mechanism (→ [eucrim 3/2020, 174-176](#)). On 23 June 2021, EP President *David Maria Sassoli* wrote to Commission President *Ursula von der Leyen* calling to fulfil the Commission's obligations under said Regulation.

The letter comes in response to an [EP resolution of 10 June 2021](#), in which the MEPs urge the Commission to propose measures under the new rules against the background of ongoing severe violations of the principles of the rule of law in some EU Member States. They criticised that the Commission has not respected the deadline of 1 June 2021 to draw up guidelines on the application of the Regulations as requested in the EP's previous resolution of 25 March 2021 (→ [eucrim 1/2021, 19](#)). *Sassoli* now set a new deadline: If the Commission does not react within two weeks, the EP will sue the Commission for failure to act in accordance with Art. 265 TFEU.

The EP reiterates its standpoint that the Rule-of-Law Conditionality Regulation is directly applicable in its entirety in all Member States for all funds of the EU budget, including resources allocated through the EU Recovery Instrument, since its entry into force on 1 January 2021. MEPs blame the Commission for not having used all tools at its disposal to address persistent, severe violations of democracy and fundamental rights in the EU, in particular in Poland and Hungary (→ [eucrim news reports on the recent rule-of-law developments in Poland and Hungary](#)).

The Commission is hesitating to apply the conditionality mechanism because the EU leaders agreed in a political compromise in December 2020 that the guidelines for application of the conditionality mechanism should only be finalised after a ruling of the CJEU in the event of an action for annulment. Hungary and Poland had filed such an action in spring 2021 ([Cases C-156/21 and C-157/21](#), → [eucrim 1/2021, 19](#)). The majority of MEPs believe that this political agreement has no legal effect.

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The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



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