

Council Adopted Historic Decision on Budget Protection vis-à-vis Hungary – Conditions also for RRF Payments

News

Thomas Wahl

In the dispute between the EU and Hungary over the application of the conditionality mechanism, the [Council decided on 16 December 2022 to withhold €6.3 billion](#) of EU funds for Hungary. The conditionality mechanism allows measures to be taken to protect the Union budget and the EU's financial interests if certain breaches of the rule of law by an EU Member State adversely affect the [sound financial management](#) of the EU budget (→ [eu-crim 3/2020, 174-176](#)).

The Council decision provides that EU funds amounting to €6.3 billion should not be disbursed to Hungary for the time being until the country has implemented the necessary remedial measures to prevent the risk of misappropriation and embezzlement of the funds through corruption and improper procurement in the country. The Council thus follows a corresponding proposal by the Commission of September 2022 (→ [euclid 3/2022, 183](#)). Previously, the [European Parliament had also vehemently demanded](#) that the EU must freeze funding to Hungary due to the persistent deficiencies in the areas of rule of law and the fight against corruption in the country.

In its [proposal of September 2022](#), the Commission recommended the freezing of €7.5 billion (equivalent to 65% of the commitments for three operational programmes under cohesion policy). The Council now decided to reduce the amount to said €6.3 billion (equivalent to 55% of the commitments of the programmes concerned) and pay out part of the funds. The Council justified this with Hungary's efforts to remedy the problems and its "degree of cooperation". However, the funds cannot be paid out in full unless the remedial measures initiated by the Hungarian government have been fully implemented.

The Council also stressed that it mainly relied on the facts and circumstances as assessed and substantiated by the Commission. At the end of November 2022, the [Commission concluded](#) that Hungary failed to adequately implement central aspects of the 17 remedial measures as committed to. According to the Commission, Hungary has not satisfactorily reacted to identified deficiencies, weaknesses, limits and risks that are widespread and intertwined in the Hungarian public administration system and beyond, in particular reforms in sectoral legislation have not remedied the situation.

The case with Hungary represents the first application of the conditionality mechanism, which is based on Regulation 2020/2092. Proceedings against other states have not yet been initiated.

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Hungary is also under pressure to receive money from the EU's Recovery and Resilience Facility (RRF → [eu-crim 3/2021, 151](#)). Even though the Commission endorsed Hungary's Recovery and Resilience Plan (RRP) on 30 November 2022, [payments under the RRF were made subject to the condition](#) that Hungary fully and correctly implements 27 “super milestones”. These milestones include the effective implementation of all 17 remedial measures under the general conditionality mechanism (→ supra), measures to strengthen judicial independence, and the full implementation of several audit and control measures.

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