

# EP: Budget Conditionality Mechanism for Rule-of-Law Breaches Must Be Launched Immediately

Thomas Wahl

The European Parliament (EP) increased pressure on the European Commission to apply the budget conditionality regulation of 16 December 2020 ([Regulation 2020/2092/EU](#)). The Regulation lays down the rules how the EU budget and the NextGeneration EU resources can be protected against breaches of the principles of the rule of law by an EU country that adversely affect the [sound financial management](#) of the EU budget or the EU's financial interests. In a [resolution adopted on 8 July 2021](#) (with 529 to 150 votes and 14 abstentions), MEPs regretted that the Commission has decided to abide by the non-binding [European Council conclusions](#) of December 2020 (→ [eucrim 3/2020, 176](#)) and delay the application of the budget conditionality regulation by developing application guidelines first. MEPs reiterated their standpoint (already expressed in two resolutions in March 2021 and June 2021 → [eucrim 1/2021, 19](#) and [eucrim 2/2021, 85-86](#)) that the guidelines are unnecessary. They urge the Commission “to avoid any further delay in the application of the Regulation and to investigate swiftly and thoroughly any potential 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”, stressing that the situation in some Member States already warrants immediate action. Furthermore, the Commission is requested “to report to Parliament regularly and proactively at least twice a year on new and ongoing cases under investigation, starting with the first cases as soon as possible”.

The resolution also clarified the EP's stance on how breaches of the rule of law affecting the EU's financial interests should be handled and how measures must be adopted and implemented. These considerations should be taken into account by the Commission when drafting the guidelines. Ultimately, MEPs pointed out that the legitimate interest of final recipients and beneficiaries must be properly safeguarded. The Commission must set out a clear, precise and user-friendly system for submitting complaints under the regulation.

MEPs showed their will to continue preparations to sue the Commission for failure to act (in accordance with Art. 265 TFEU) if the Commission does not apply the budget conditionality regulation from autumn onwards. In this context, it was deeply regretted that the Commission has not taken action after the letter of EP President *David Maria Sassoli* in which he called on the Commission to fulfil its obligations and ensure the full and immediate application of Regulation 2020/2092 (→ [eucrim 2/2021, 85-86](#)).

## AUTHOR

Thomas Wahl

Senior Researcher  
Max Planck Institute for the  
Study of Crime, Security and  
Law

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On 30 August 2021, the [Conference of Presidents of the EP](#), comprising the EP President and heads of political groups, decided to initiate preparations for an action for failure to act against the EU Commission at the CJEU. [Dutch MEP Sophie in 't Veld](#) called the Commission's prior response to the EP's request "the bluntest provocation ever." However, she also questioned the sluggishness of the Parliament itself. The ponderous approach to file the action for failure to act may delay the process for months.

In its [resolution of 16 September 2021](#) "on media freedom and further rule of law deterioration in Poland", the EP calls on the Commission not to approve the draft Polish Recovery and Resilience Plan (necessary to open the COVID-19 cash tap), as long as Poland has not ensured the independence of the judiciary. Furthermore, it must be ensured that the plan does not subsequently lead to the EU budget actively contributing to breaches of fundamental rights in Poland. Similar demands were voiced in an [EP resolution on Hungary in July 2021](#) in the context of the country's recent approaches against LGBTIQ rights (→ [eucrim reports on the recent rule-of-law developments in Poland and Hungary in the section "Foundations > Fundamental Rights"](#)).

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