

EP Generally Supports Link Between Non-Respect of Rule of Law and Loss of EU Money

News

Thomas Wahl

On 19 January 2019, the European Parliament adopted its position on the regulation on the protection of the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States. In essence, the EP backs the Commission’s idea in its proposal of 2 May 2018 (see [eucrim 1/2018, p. 12](#)): the EU may take appropriate measures in connection with EU funding against a Member State in which generalised deficiencies as regards the rule of law persist. The measures may include suspending, reducing, and restricting access to EU funding in a manner proportionate to the nature, gravity, and scope of the deficiencies.

The EP, however, makes a number of proposals for amendments. These include the following:

- The notion of “generalised deficiency” in the rule-of-law context should be defined more precisely (new Art. 2a). Criteria for possible generalised deficiencies are: endangering the independence of the judiciary; failing to prevent, correct, and sanction arbitrary or unlawful decisions by public authorities; limiting the availability and effectiveness of legal remedies, and measures that weaken the protection of the confidential lawyer-client communication.
- The risks to the financial interests of the EU should be linked to the Copenhagen criteria – the essential conditions that each candidate country must fulfil before it can become an EU Member. These criteria include: the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, a functioning market economy and the capacity to cope with competition and market forces, and the ability to take on the obligations of Union membership.
- The assessment of generalised deficiencies should be clarified. To this end, the EP proposes that the Commission take into account all relevant information, including information coming from the Parliament and from bodies such as the Venice Commission of the Council of Europe. The Commission must also take into account the criteria used in the context of accession negotiations.
- The Commission should be assisted in its assessment by a panel of independent experts to which representatives of relevant organisations and networks can also be invited as observers (new Art. 3a).
- Final beneficiaries should be better protected. Therefore, the EP suggests that the Commission take all appropriate measures to assist final beneficiaries in enforcing their claims when legal obligations are not respected.
- The EP must have a strengthened position in the procedure of appropriate measures in which the EP – as the Council of the EU – has a right to reject.

AUTHOR

Thomas Wahl

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

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Other amendments relate to improvement of the certainty of the procedure by including indicative deadlines for the Commission to react to information received from Member States.

The Council has not yet adopted a general approach on the proposal.

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