

EP Sues Commission for Non-Application of the Conditionality Regulation

News

Thomas Wahl

On 29 October 2021, the [European Parliament \(EP\)](#) submitted the action against the European Commission for failure to apply the Regulation on the conditionality mechanism to the CJEU. The action is registered as [Case C-657/21](#).

[Regulation 2020/2092](#) aims to protect the EU budget and NextGenerationEU resources from breaches of the principles of the rule of law by an EU country that adversely affect the sound financial management of the EU funds or the EU's financial interests. Based on the Regulation, payments from the EU budget can be interrupted, reduced, terminated or suspended; new commitments can be prohibited (→ [eucrim 3/2020, 174-176](#)). The EP has urged the Commission to apply the Regulation against Poland and Hungary where the rule of law is under threat without waiting for a decision on the lawsuit filed by Hungary and Poland to the CJEU which seeks the annulment of the Regulation (→ [eucrim 3/2021, 152](#)).

After the European Council meeting of 21/22 October 2021, Commission President *Ursula von der Leyen* confirmed that the Commission will wait for the CJEU's decision about the complaints put forward by Hungary and Poland. However, [on 19 November 2021, the Commission sent "letters" to Poland and Hungary](#) requesting information about certain rule-of-law developments in the countries. [According to media reports](#), Poland was asked questions on the independence of the judiciary. Questions to Hungary dealt with public procurement, corruption and risks of conflict of interest. It was stressed that the letters had not formally triggered the conditionality mechanism, but the Commission expects replies that would "feed into the Commission's assessment" on how to proceed further in the application of the conditionality tool. The initiative can also be seen as a reaction to continuous criticism about the Commission's stalling tactics. It came short before the Advocate General delivered its opinion on 2 December 2021, in which he assessed the actions brought by Hungary and Poland against the conditionality mechanism (→ [related links](#)).

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