



Press Release
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Plans to link EU funding to rule of law are welcome but need better criteria and more safeguards, say Auditors

The European Commission's plans to reduce EU funding for countries which show a lack of respect for the rule of law need better criteria and clearer safeguards for beneficiaries of EU programmes, according to an Opinion published today by the European Court of Auditors.

The auditors welcome the initiative to protect the EU Budget from generalised deficiencies in the rule of law, which can have a negative impact on sound financial management and effective EU funding. They conclude that the proposed mechanism is more specific in its objective, scope and measures than the existing system, and faster to apply. But they recommend that the Commission should clearly specify its sources of guidance, and the criteria, procedure and extent of the measures should be more precise.

The Commission's proposal for a regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States was made at the request of the European Parliament. Generalised deficiencies include: 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 limiting the effective investigation, prosecution or sanctioning of breaches of law.

"As auditors of the Union, our job is to protect the taxpayer's money. We welcome the aim of the proposal, because we need a mechanism to protect the EU Budget against such contingencies." said Annemie Turtelboom, the Member of the European Court of Auditors responsible for the Opinion. "But it needs to be improved, under the circumstances, it is all the more important that there are clear and specific criteria to base these measures on."

The auditors note that the proposal does not clearly specify what available sources of guidance the Commission should use for making its assessments. Doing so could improve the transparency, traceability and auditability of the proposed mechanism, they say. In addition, under the draft regulation, cutting EU funds would not affect the obligation of government bodies to implement EU programmes. But the auditors point out that the proposal does not contain a provision on how this would be ensured.

The purpose of this press release is to convey the main messages of the Opinion adopted by the European Court of Auditors. The full Opinion is on www.eca.europa.eu

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The proposal states that the Commission should act in line with the principle of proportionality. However, no precise criteria are set for important milestone decisions, such as initiating the procedure or determining the extent of measures. This does not lend itself to applying the provisions consistently.

Finally, where national funds were used to pay the suspended or reduced EU funds, they would have to come from the national budget of the Member State concerned. This leads to budgetary implications for the Member State, particularly in case of large-scale suspensions or reductions.

The auditors recommend that the European Parliament and the Council of the EU request the European Commission to:

- set clear and specific criteria for defining what constitutes a generalised deficiency as regards the rule of law and for determining the extent of measures;
- specify the basis for setting time limits for Member States as well as introduce similar deadlines for the Commission, wherever appropriate;
- demonstrate how the legitimate interests of final beneficiaries would be safeguarded;
- assess the possible budgetary implications of a reduction in EU funding for the national budget when deciding which measures to propose;
- clarify the provisions relating to the European Public Prosecutor's Office.

Note to Editors

The case law of the Court of Justice and of the European Court of Human Rights, as well as documents drawn up by the Council of Europe, which build in particular on the expertise of the Venice Commission, provide guidance on the core meaning of the rule of law as a common value of the EU, in accordance with Article 2 of the Treaty of the European Union.

Those principles include legality (which implies a transparent, accountable, democratic and pluralistic process for enacting laws), legal certainty, prohibition of arbitrariness on the part of executive powers, independent and impartial courts, effective judicial review (including respect for fundamental rights) and equality before the law.

The European Court of Auditors contributes to improving EU financial governance by publishing opinions on proposals for new or revised legislation with a financial impact. The opinions are used by the legislative authorities — the European Parliament and the Council — in their work.

ECA Opinion No 1/2018 concerning the proposal of 2 May 2018 for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States is currently available in English on the ECA website eca.europa.eu – other languages will be added in due course.