SOUND FINANCIAL MANAGEMENT AND THE RULE OF LAW

WHY IS THIS A PRIORITY?

The EU is a Community based on the rule of law. Effective respect for the rule of law is a prerequisite for confidence that EU spending in Member States is sufficiently protected.

Sound financial management can only be ensured by the Member States if public authorities act in accordance with the law, and if breaches thereof are effectively pursued by investigative and prosecution services, and if decisions of public authorities can be subject to effective judicial review by independent courts and by the Court of Justice of the European Union.

WHAT IS NEW IN THE COMMISSION PROPOSALS?

The new rules (a Regulation) will equip the Union to protect its budget when weaknesses in the rule of law impair – or threaten to impair – sound financial management or the financial interests of the Union.

Under the proposals, the Union could suspend, reduce or restrict access to EU funding in a manner proportionate to the nature, gravity and scope of the deficiencies and their effect on the EU budget. It could be invoked when a generalised deficiency as regards the rule of law in a Member State endangers:

- The proper functioning of the authorities implementing the Union budget,
- The proper functioning of investigation and public prosecution of fraud or corruption relating to the budget,
- The effective judicial review by independent courts,
- The prevention and sanctioning of fraud, corruption or other breaches of EU law relating to the budget, or
- The effective and timely cooperation with the European Anti-Fraud Office and with the European Public Prosecutor’s Office.
TO WHICH FUNDS WOULD THE NEW RULES APPLY?

- all EU funds in shared management
- funds in direct and indirect management where the financial beneficiary is a government entity (national, regional, local authority, public law body or private organisation entrusted with a public service mission)

HOW WILL IT WORK?

The decision as to whether a generalised deficiency in the rule of law risks affecting the financial interests of the EU will be **proposed by the Commission and adopted by the Council unless it is rejected by a qualified majority voting**. The Commission will take into account relevant information such as decisions by the Court of Justice of the European Union, reports from the European Court of Auditors, as well as conclusions of relevant international organisations.

The proposed mechanism would not affect the individual beneficiaries of EU funding under the budget, since they cannot be held responsible for generalised deficiencies in the rule of law system. Member States would continue to be obliged to implement the affected programmes and make payments to Erasmus students, researchers, civil society or any other final recipients or beneficiaries.

NEXT STEPS

The legal basis of the proposal (a Regulation) is Article 322 of the Treaty on the Functioning of the EU, through which financial management rules are set. This means that the proposal is adopted jointly by the European Parliament and the Council, the latter acting with qualified majority.

The Rule of Law mechanism is an **essential part of the overall set of proposals on the long-term budget 2021-2027**. The instrument and its final shape are currently negotiated between the institutions. For the long-term budget, European Leaders have set a **clear timeframe**: the political negotiations should lead up to a **formal agreement** on the next long-term budget by the **end of 2019**.

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¹ Under reverse qualified majority voting, the Commission’s proposal is deemed to be adopted by the Council unless it decides by qualified majority to reject the Commission’s proposal.