

## Article – Rule of law: MEPs demand protection of EU budget and values



MEPs warned in two plenary debates on 5 October 2020 that European values are in danger and said EU funds from the [long-term budget](#) and the [recovery plan](#) should not be put into the hands of those working against democracy and fundamental rights in Europe.

MEPs called for reinforcement of the rule of law across Europe through a new mechanism as well as effective sanctions on EU countries found to be in violation. They also called on the EU institutions to agree on clear rules linking receipt of EU funds by a member state to respect for the rule of law. They criticised a proposal by the German Council presidency as insufficient.

### **What is rule of law?**

Rule of law is [laid down in the EU treaties](#) as one of the values on which the Union is based. It means that governments should be bound by law, that they should not take arbitrary decisions and that citizens should be able to challenge their actions in independent courts.

It also enshrines the fight against corruption, which unfairly favours some to the detriment of others, and the safeguarding of media freedom, thus ensuring the public is properly informed about the work of government.

Rule of law is a common concern among Europeans. In a [2019 Eurobarometer survey](#), at least 85% of respondents across the EU considered each of the different aspects of the rule of law as essential or important.

## EU mechanisms for the protection of rule of law

The EU has [existing tools](#) at its disposal to protect the rule of law. On 30 September 2020, the European Commission published the first [annual rule of law](#) report that monitors both positive and negative developments relating to the rule of law in all member states. It has been [monitoring Romania and Bulgaria](#) since they joined the EU in 2007.

There is also [dialogue on the rule of law in the Council](#) and the current German presidency plans to have country-specific discussions in November starting with five EU countries.

If the Commission is of the view that a member state is violating EU law, it can start infringement proceedings that may lead to financial sanctions determined by the European Court of Justice. Another procedure, under [Article 7 of the Treaty on European Union](#), allows the Council to make recommendations or decide by unanimity on sanctions against a member state, including the suspension of membership rights.

## The case for further measures

MEPs argue that existing tools are insufficient. While there are ongoing hearings in the Council under Article 7 regarding Poland and Hungary, Parliament has [expressed its regret about the lack of significant progress](#) by the two member states in addressing the issues.

In the 5 October plenary debate, MEPs welcomed the annual rule of law report launched by the Commission, but called for more action on enforcement. "Monitoring alone will not bring back judicial independence in Poland, nor will it save the Index media [outlet] in Hungary," said [Michal Šimečka](#) (Renew Europe, Slovakia).

Mr Šimečka has drafted a [report](#), to be voted on on 7 October, calling for a mechanism that consolidates existing instruments and establishes an Annual Monitoring Cycle, with country-specific recommendations, timelines and targets for implementation. The cycle should serve as the basis for triggering Article 7 or suspending budget funds for a member state.

## Protecting EU financial interests

Corruption or dependent courts may mean there is no protection against misuse of EU money allocated to a member state. The Commission put forward a legislative proposal in 2018 that aims to defend the Union's financial interests, should deficiencies in the rule of law be detected.

The proposal envisages that the Commission may suspend or reduce payments from the EU budget to a member state in breach of the rule of law. The Council would be able to veto the Commission's ruling by a qualified majority.

Parliament [adopted its position](#) on the proposal in early 2019, demanding that it be placed on equal footing with the Council in terms of the decision-making. The file is linked to the outcome of the negotiations on the [EU long-term budget](#) and Parliament has insisted that an agreement on the 2021-2027 budget is only possible if there is sufficient progress on this legislation.

EU leaders agreed in July 2020 to introduce rule of law conditionality, i.e. to make receipt of EU funds by a member state dependent on its respect for the rule of law. The German Council presidency has put forward a compromise proposal, which MEPs criticised as weak during the 5 October plenary debate.

"A mechanism that cannot ever be triggered in practice due to backdoors or indecisive processes serves only the interests of those who do not wish to see any measures taken," said [Petri Sarvamaa](#) (EPP, Finland).

[Daniel Freund](#) (Greens/EFA, Germany) said: "The barrier is so high for this mechanism that we know that there will never be consequences. Say you have a member state where a government gets rid of the judges it doesn't like – it has happened in Poland – then the Commission has to prove how this is costing taxpayers before this can be imposed."

Many MEPs underlined that more is at stake than just EU money. S&D leader [Iratxe García Pérez](#) (Spain) said: "Rule of law is about more than tackling corruption – it is about our shared values. Our values are the cornerstone of the EU. We need those values to make progress, to move forward and we will not budge an inch in our defence of those values."