



Council of the
European Union

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'I' ITEM NOTE

From: Budget Committee

To: Permanent Representatives Committee

No. Cion doc.: 12551/22 + ADD 1 (COM(2022) 485 final + ANNEX)

No. prev. doc.: 13207/22

Subject: Proposal for a Council Implementing Decision on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary: Commission's final assessment

– *Approval of a letter*

1. On 18 September 2022, the Commission submitted to the Council its proposal for a Council implementing decision on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary (the “Proposal”). The Proposal has been submitted pursuant to Article 6(9) of Regulation 2020/2092 on a general regime of conditionality for the protection of the Union budget (the “Conditionality Regulation”). It proposes measures for the protection of the budget of the Union against breaches of the principles of the rule of law in Hungary that the Proposal itself identifies.

2. Under Article 6(10) of the Conditionality Regulation, the Council shall adopt the implementing decision on measures for the protection of the Union budget within one month of receiving the Commission’s proposal. Article 6(10) of the Conditionality Regulation foresees also that the period for the adoption of the implementing decision may be extended by a maximum of two months “*if exceptional circumstances arise*”.
3. On 13 October 2022, the Council decided to extend the deadline for the Council to act, which expires on 19 October 2022, by two additional months, until 19 December 2022 in order to have sufficient time for both the Council and the Commission to properly analyse the adoption and the effective implementation of the remedial measures proposed by the Hungarian authorities, which go beyond the one-month deadline originally foreseen.
4. As stated in the Opinion of the Council Legal Service on the handling of and procedural remarks on the Proposal¹, the final decision by the Council “*should rely on the facts and circumstances as assessed and substantiated by the Commission*”. In order to allow the Council preparatory bodies to evaluate in an appropriate manner the final assessment by the Commission on whether the remedial measures are fully satisfactory to protect the sound financial management of the EU budget and the financial interests of the EU, and notably in order to have enough time for a sound and well-informed decision, the Presidency has deemed it appropriate to send a letter to the Commission regarding the timing and modalities of the Commission’s final assessment.
5. The Budget Committee examined the draft letter at its meeting on 25 October 2022.
6. In view of the above, the Permanent Representatives Committee is invited to approve the letter set out in the Annex to be sent on behalf of the Council to the Commission, in accordance with point (k) of Article 19(7) of the Council's Rules of Procedure.

¹ Doc. 12904/22.

DRAFT LETTER

from: Chair of the Permanent Representatives Committee of the Council of the European Union

to: Mr Johannes HAHN, Commissioner for Budget and Administration

copy: Mrs Ursula VON DER LEYEN, President of the European Commission

Mr Gert-Jan KOOPMAN, Director-General for Budget of the European Commission

Subject: Proposal for a Council Implementing Decision on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary: Commission's final assessment

Dear Commissioner,

The Council welcomes the current constructive dialogue between the Commission and the Hungarian authorities on the protection of the budget of the Union against breaches of the principles of the rule of law in Hungary and, in particular, positively acknowledges the set of 17 remedial measures submitted to the Commission by the Hungarian authorities and the pace of implementation of such measures.

The Council recognises the pivotal role of the Commission in the framework of the Conditionality Regulation², in particular in its Article 6, by assessing the situation in the Member State concerned in an objective and thorough manner, and by tabling the appropriate measures through a proposal for a Council Implementing Decision. The final decision by the Council should rely on facts and circumstances as assessed and substantiated by the Commission.

² Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L433 I, 22.12.2020, p. 1-10).

It is in the light of the above that the Council, on the 13th of October 2022, decided to extend the one-month period for the Council to act in order to have sufficient time for both the Council and the Commission to properly analyse the adoption and the effective implementation of the remedial measures proposed by the Hungarian authorities, which go beyond the one-month deadline originally foreseen.

The Commission indicates in the Annexes to the Explanatory Memorandum of its proposal (COM(2022) 485 final) that Hungary committed to implement the final key step of the remedial measures on the 19th of November 2022.

In order to allow the Council to fulfil its role as foreseen in Article 6(10) of the Conditionality Regulation, it is essential that the final assessment by the Commission is received immediately after the 19th of November 2022, or even before this date if the Commission had already been notified by Hungary on the adoption of all the necessary measures. Given the timeframe foreseen by the Conditionality Regulation for the decision of the Council and the schedule for the implementation of the remedial measures, it would be very useful to receive an update from the Commission's services in the Budget Committee with a preliminary assessment, where possible, on the steps undertaken by the Hungarian authorities even before the 19th of November 2022.

Moreover, it is of vital importance that the final assessment presents in a clear, conclusive and unambiguous manner whether the remedial measures are fully satisfactory to protect the sound financial management of the EU budget and the financial interests of the EU or whether they fail to do so.

It is also indispensable that, together with the assessment, the Commission clarifies the follow-up in procedural terms, especially whether it intends to withdraw the proposal, to adapt it accordingly or to leave it unchanged.

I would like to underline that it is only under the above-mentioned circumstances that the Council will be able to evaluate in an appropriate manner the final assessment of the Commission and have enough time for a sound and well-informed decision on this very important dossier. I count on you, Commissioner, and on your services' cooperation to make this happen.

(Complimentary close)