



Council of the European Union  
General Secretariat

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**Interinstitutional files:  
2018/0136(COD)**

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**Brussels, 26 June 2019**

**WK 7764/2019 INIT**

**LIMITE**

**CADREFIN**

**FIN**

**POLGEN**

**RESPR**

**CODEC**

### WORKING PAPER

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### **MEETING DOCUMENT**

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| From:    | General Secretariat of the Council   |
| To:      | Ad hoc Working Party on the Multiannual Financial Framework (MFF) 2021-2027  |
| Subject: | Proposal 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<br>- Joint statement of the Hungarian and Polish delegations on the progress report of the Romanian Presidency |

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Delegations will find attached the above-mentioned joint statement, inscribed to the minutes of COREPER of 26 June 2019 in relation to point 25 of its agenda.

**Joint statement of Hungary and Poland on the Progress report on the 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**

We note with concern the progress of the negotiations, as the proposal with the Presidency's modifications still raises serious concerns regarding conformity with the Treaties as it intends to circumvent the procedure laid down in Article 7 TEU.

We reiterate our view, that there are already adequate instruments for both the protection of the Union's budget and safeguarding the values of the EU. Furthermore the Council Legal Service (CLS) stated in its opinion, that the proposed mechanism could create duplications and would overlap with the already existing instruments, therefore cannot be regarded as independent or autonomous from the procedure laid down in Article 7 TEU.

The CLS and Court of Auditors opinions also emphasized that a regime of conditionality can be activated only if the cases of malfunctioning are identified with a clear and sufficiently precise definition. In our view, the proposed vague, not objectively assessable criteria and an open-ended list would mean that the Commission might act without applying a strict conditionality. We also maintain our position that a risk is only a presumption therefore measures should not be taken on that basis. The position of the Commission as foreseen in the draft regulation is not balanced by the Council. We believe that the role of the Council in the decision making process should be strengthened.

In line with its legal basis, the aim of the proposal should be to protect the financial interest of the EU. In order to ensure that the proposal serves this objective, there should be a direct link between the generalised malfunctioning and the implementation of the EU budget. The measures taken should be proportionate to the impact of the generalised deficiency on the sound financial management of the EU budget, take into account the economic and social circumstances of the Member States and a maximum should be determined. Any measures have to be lifted once the impact on the EU budget ceases to exist.

Given the political sensitivity and importance of this dossier, we stress that having clear political guidelines from the European Council on the most controversial elements is a precondition to reach progress in the negotiations.

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