**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the 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**

(Protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States)

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**2. Reference numbers:** 2018/0136 (COD) / A8-0469/2018 / P8\_TA-PROV(2019)0349

**3. Date of adoption of the resolution:** 4 April 2019

**4. Legal basis:** Article 322(1)(a) of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Budget (BUDG), Committee on Budgetary Control (CONT) (joint committee procedure)

**6. Commission's position:** At this stage, following the exchanges with the co-legislators including the resolution adopted by the European Parliament on 4 April 2019, the following topics are relevant for further discussion in view of the upcoming trilogues:

The **connection between the generalised deficiencies as regards the rule of law and the protection of the Union’s financial interests**: the boundary between this proposal and other existing mechanisms to protect the rule of law (such as the one established by Article 7 of the Treaty on European Union) must remain clear. The protection of the Union financial interests is the focus that allows the proposal to be autonomous from the procedure in Article 7 of the Treaty on European Union.

The **indicative deadline for the Commission to act** following the reply received from the Member State concerned: both the European Parliament and the Council have proposed a deadline for the Commission to act. Whilst the Commission intends to act within a reasonable timeframe, and the whole mechanism is conceived to allow a timely response to deficiencies with respect to the rule of law that affect the EU financial interest, it should be ensured that:

* the Union is not pre-empted from acting because of a too strict deadline that cannot be complied with;
* the Commission can carry out the necessary examination of a possibly complex situation, accompanied by information and documents from various sources and with multiple legal and financial implications. This examination requires accuracy, thus time;
* the whole action is not pre-empted because of a Member State submitting its replies in a belated manner. Any time-span should therefore start from the submission of the reply by the Member State.

Clarification of the **sources of information** that the Commission can use to assess the situation in the Member States: the list must be kept open.

Addressing how to **strengthen the protection of final beneficiaries.** The Commission should inform recipient of Union funds about their rights and provide them with guidance about the recourse tools available to them, in case a Member State does not fulfil its obligations towards them, notwithstanding the measures adopted in accordance with this proposal. The Commission could also clarify that the corrective measures shall not affect the obligation of government entities or of Member Statesto implement the programme or fund affected by the measure, and in particular the obligation to make payments to final recipients or beneficiaries[[1]](#footnote-1).

In addition, by reading this proposal in combination with the MFF regulation proposal, it is clear that the amounts suspended beyond N+2 will be de-committed. Equivalent amounts to be entered into the Union reserve established by Article 12 of the MFF regulation proposal may be mobilised by the European Parliament and the Council in the framework of the budgetary procedure, in accordance with the same proposal.

1. See Art.68 of the Proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument, COM (2018) 375 final [↑](#footnote-ref-1)