

## **No EU money for autocrats - protect Europe's rule of law!**

The European Union is founded on a set of shared principles, including the respect for fundamental rights, democracy, and the rule of law. These common values are laid down in the Treaty on European Union (TEU) and explicitly stipulated in the Preamble of the Charter of Fundamental Rights of the European Union. However, democracy and the rule of law in Europe are in danger. The Hungarian government is systematically dismantling democracy in Hungary. Prime Minister Viktor Orbán bases his power in part on corruption and nepotism. Media freedom, academic freedoms, space for independent civil society organisations, independence of the judiciary, and the rights of minorities and refugees have been severely restricted with discriminating laws that violate fundamental rights. He uses his veto power as a nationalist instrument and thus restricts the European Union's unity and ability to act. In recent years, similar attempts to threaten free media or attack the judiciary have also been observed in other EU Member States.

In recent years, the Polish ruling party PiS embarked on a similar political course that undermines judicial independence. Judgments of the European Court of Justice (ECJ) and the European Court of Human Rights are regularly ignored. The PiS party has attacked the rights of women, members of the LGBTQI community, refugees and many others. EU governments, which do not respect the rule of law and democratic values, should face financial and political consequences. However, activation of the Article 7 mechanism, which can result in the withdrawal of voting rights for Member States, is blocked in the Council as it requires a unanimous vote. The fight against corruption and the misuse of EU funds must now be a top priority.

Since 2001, the EU has a new mechanism to suspend, reduce or restrict Member States' access to EU funding in case of serious breaches of the rule of law that affect or risk affecting EU financial interests, which is, at this moment, the EU's tool with the most potential to prevent Member States from drifting away from the common consensus on values.

The European Commission and its President Ursula von der Leyen personally are the guardians of the EU Treaties; the Commission is obliged to defend democracy and the rule of law. It must use all means at its disposal to do so, including the horizontal principles and enabling conditions in the current funding regulation. We welcome the fact that the EU Commission has now applied the conditionality regulation for the first time and wants to freeze €7.5 billion in EU funding to Hungary, representing about a third of the total amount of cohesion funds that Hungary is allocated until 2027. The Council has to take a decision via qualified majority on this proposal by 19 December 2022. It is very important that this new instrument is used in an absolutely legally sound and court-proof manner and will not be damaged.

Via the Recovery and Resilience Facility (RRF), a further €35.4 billion could flow into Poland and €7.2 billion into Hungary. The responsible Council of EU ministers conditionally approved the Polish recovery plan in June, without the Polish government having carried out any significant judicial reforms. If corresponding milestones are met, the €35.4 billion can now be disbursed to the Polish government in tranches. However, these milestones are controversial. Negotiations between the

Commission and the Hungarian government on the approval of Hungary's recovery plan touched upon the rule of law as well.

Europe must defend EU citizens' fundamental rights in all EU countries. We must ensure that EU funds serve to strengthen prosperity, democracy and the rule of law and do not disappear into the pockets of autocrats and their friends.

We demand:

- The EU Commission presses ahead with the suspension of EU funds in the ongoing rule-of-law proceedings against the Hungarian government and proposes to suspend further payments in the event of continued violations of the rule of law. The European Commission should also in its assessment of implemented measures always take into account risks that might persist in the long run
- EU Member State governments actively advocate in the Council for such action by the EU Commission to restore the rule of law and the independence of the judiciary in Hungary;
- The Council to adopt, without further delay, the European Commission proposal of suspending 65% of the main cohesion funds directed to Hungary, in line with the European Parliament resolution of 24 November 2022; and also adopt sanctions under article 7 procedure initiated by EP
- The Commission and the national governments only approve payment requests by the Polish government under the RRF if the agreed milestones are fully and effectively met and the related ECJ rulings are fully effectively implemented also in order to minimise the risk of a reversal;
- The Commission only approves the payments under the Hungarian recovery plan on the condition that the rule-of-law violations documented by the Commission are remedied and all 27 agreed milestones are fully implemented;
- The national governments in the Council only approve the Hungarian recovery plan if it fully complies with the Regulation;
- The European Commission, as guardian of the Treaties, uses the existing rule-of-law instruments consistently and in a timely manner, and enforces the ECJ's rulings.