Council of the European Union

Brussels, 11 December 2020
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OPINION OF THE LEGAL SERVICE

From:	Legal Service
To:	Delegations
Subject:	Part I of the Conclusions of the European Council of 10 and 11 December 2020 - Conformity with the Treaties and with the text of the Regulation on a general regime of conditionality for the protection of the Union budget

1. Part I of the Conclusions of the European Council of 10 and 11 December 2020 is aimed at, as indicated in paragraphs 2 and 4 thereof, un-blocking the whole MFF package, including the MFF Regulation and the Own Resources Decision, by addressing the concerns expressed with regard to the draft Regulation on a general regime of conditionality for the protection of the Union budget ("the Regulation") and bringing an appropriate and lasting response to those concerns. The Conclusions do so through clarifications, interpretative assurances and by expressing a common understanding as to how the Regulation will be applied in practice.

2. The Conclusions are based on the premise that the text of the Regulation will be the same as the one that was politically agreed at the last trilogue with the European Parliament on 5 November 2020, a text which, in the meantime, has been revised by the jurist-linguists and is now in doc. 9980/20.

3. The Legal Service is of the opinion that Part I of the Conclusions of the European Council respects the content and objectives of the Regulation and is compatible with it. In particular, no element of Part I of the Conclusions is in conflict with the Regulation, contradicts it or amends it. It expresses a common understanding as referred to in paragraph 1.

4. More generally, Part I of the Conclusions is in conformity with the EU Treaties and the principle of institutional balance. It respects the powers of the different institutions, including the power of the co-legislator to adopt the Regulation and the powers of the Commission and the Council to commit on how to apply it, in accordance with the Treaties.

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