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General Secretariat

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## **MEETING DOCUMENT**

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From:	General Secretariat of the Council
To:	Budget Committee
Subject:	RoL/Budget conditionality: COM assessment of 30/11: PPT presentation

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Delegations will find attached the slides that were used by the Commission for presenting its assessment of 30 November at the Budget Committee meeting on 2 December 2022.



# Rule of law conditionality regulation

*COMBUD, 2 December 2022*

# Overview



- **Ongoing procedure**
- **College decision of 30 November 2022**
- **Q&A**

# Ongoing procedure – latest steps

**18 September 2022** → The Commission proposed **to the Council** to adopt budgetary protection measures

**September-November 2022** → Intensive dialogue between **the Commission and Hungary**

**19 November 2022** → **Deadline for Hungary to implement** a number of key elements of the remedial measures. Hungary delivered a report (with many annexes) within the deadline.

**30 November 2022** → The Commission **informed the Council** about the assessment of the implementation of the remedial measures

**7 December** → Vote in the HU National Assembly on a **number of legal texts still to be adopted**

**Before 19 December** → **Council** takes final decision **by qualified majority**

# Concerns raised in the written notification

- Systemic irregularities, deficiencies and weaknesses in public procurement, including
  - high rate of single bidding procedures and low intensity of competition in procurement procedures
  - issues related to the use of framework agreements
- Detection, prevention and correction of conflicts of interest; concerns regarding 'public interest trusts'
- Addition grounds related to investigation, prosecution, and the anti-corruption framework
- Aspects in the area of independence of the judiciary as potential future issues under this regulation should a sufficiently direct link to the budget be established

# The remedial measures proposed by Hungary

- **Hungary committed to implement a total of 17 remedial measures**
- To consider them to be 'adequate' - need to be able to conclude that they will **put an end to the breaches of the principles of the rule of law** and/or to the **risks** they create **for the EU budget** and the Union's financial interests
- **Taken together**, they could in principle be capable of **addressing the issues raised in the notification**, if correctly specified in laws and rules, and implemented accordingly

# Assessment (1)

- The Commission **has assessed the implementation of the remedial measures based on**
  - (i) the key implementation steps taken
  - (ii) the legal acts proposed and adopted
  - (iii) further procedures and measures put in place
- The Commission **acknowledges the steps taken by Hungary**

# Assessment (2)

- Many commitments fulfilled by Hungary but important **weaknesses, risks and shortcomings remain**
- Some of the remedial measures are of structural and horizontal nature
- The Commission **cannot conclude** that the remedial measures as implemented **would put an end to the relevant breaches of the principles of the rule of law and/or to the impacts or risks for the sound financial management of** the Union's budget and for the Union's financial interests
- **Example:** key issues regard the powers of the Integrity Authority regarding verification of asset declarations of high-risk officials and possible limitations to the judicial review of decisions not to investigate and prosecute corruption-related crimes

# College decision of 30 November 2022

- A risk for the EU budget remains
- The Commission maintains its proposal for Council Implementing Decision of 18 September 2022
  - A suspension of **65% of the commitments for three operational programmes under cohesion policy**, amounting to an estimated €7.5 billion (or a suspension of the approval of one or more programmes as proportionate, if programmes have not been adopted by the time the Council decides)
  - A prohibition to **enter into legal commitments with the so-called public interest trusts** for programmes implemented in direct and indirect management

**NB:** Alternative scenario in case operational programmes not approved yet

# Q&A

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