



Plenary sitting

B9-0135/2022

2.3.2022

MOTION FOR A RESOLUTION

to wind up the debate on the statements by the Council and the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the rule of law and the consequences of the ECJ ruling
(2022/2535(RSP))

Ryszard Antoni Legutko, Lars Patrick Berg, Adam Bielan, Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Ryszard Czarnecki, Margarita de la Pisa Carrión, Angel Dzhambazki, Carlo Fidanza, Raffaele Fitto, Anna Fotyga, Ladislav Ilčić, Patryk Jaki, Krzysztof Jurgiel, Karol Karski, Beata Kempa, Izabela Helena Kloc, Joanna Kopcińska, Zdzisław Krasnodębski, Elżbieta Kruk, Zbigniew Kuźmiuk, Beata Mazurek, Andżelika Anna Możdżanowska, Tomasz Piotr Poręba, Nicola Procaccini, Elżbieta Rafalska, Bogdan Rzońca, Jacek Saryusz-Wolski, Vincenzo Sofò, Raffaele Stancanelli, Beata Szydło, Dominik Tarczyński, Hermann Tertsch, Grzegorz Tobiszowski, Valdemar Tomaševski, Alexandr Vondra, Witold Jan Waszczykowski, Jadwiga Wiśniewska, Anna Zalewska, Kosma Złotowski

on behalf of the ECR Group

Andor Deli, Kinga Gál, András Gyürk, Lívia Járóka, Edina Tóth, László Trócsányi

B9-0135/2022

European Parliament resolution on the rule of law and the consequences of the ECJ ruling (2022/2535(RSP))

The European Parliament,

- having regard to Articles 2, 5, 7 and 15 of the Treaty on European Union (TEU),
 - having regard to Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget¹ (the Conditionality Regulation),
 - having regard to Opinion No 1/2018 of the European Court of Auditors of 17 July 2018 concerning the proposal of 2 May 2018 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 States²,
 - having regard to the opinion of the Legal Service of the Council of 25 October 2018 concerning the compatibility with the EU Treaties of 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,
 - having regard to the conclusions of the European Council adopted on 11 December 2020,
 - having regard to the judgments of the Court of Justice of the European Union (CJEU) in cases C-156/21³ and C-157/21⁴ regarding the legality of the Conditionality Regulation,
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas the limits of Union competences are governed by the principle of conferral, which in consequence means that competences not conferred upon the Union by the Treaties remain competences of the Member States;
- B. whereas Article 2 TEU does not confer any material competence upon the Union and only lists certain values that ought to be respected by both the institutions of the Union and its Member States when they act within the limits of the powers conferred upon the Union by the Treaties, and without affecting those limits;
- C. whereas only Article 7 TEU provides for a Union competence to supervise the

¹ OJ L 433 I, 22.12.2020, p. 1.

² OJ C 291, 17.8.2018, p. 1.

³ Judgment of 16 February 2022, *Hungary v European Parliament and Council of the European Union*, C-156/21, ECLI:EU:C:2022:97.

⁴ Judgment of 16 February 2022, *Republic of Poland v European Parliament and Council of the European Union*, C-157/21, ECLI:EU:C:2022:98.

application of the rule of law, as a value of the Union; whereas Article 7 TEU does not set a basis to further develop or amend the procedure described within it;

- D. whereas the notion of the rule of law is interpreted differently from one Member State to another;
 - E. whereas the European Council must provide the Union with the necessary impetus for its development and must define the general political directions and priorities thereof;
 - F. whereas the Commission and Parliament seem to want to use the Rule of Law Conditionality Mechanism against Member States that defend the primacy of their traditional values and their own constitutions;
1. Stresses that the only possible legal basis for the Union to interfere in matters related to the Member States' respect for the Union's values as such is Article 7 TEU; emphasises that Article 7 TEU is complete and exhaustive;
 2. Points out that the mere fact that an Article 7 TEU procedure has been initiated does not mean that there is a risk of a breach of the rule of law in a Member State; underlines that as long as such a breach has not been established in accordance with the Article 7 TEU procedure, that Member State should be treated on an equal footing with the others;
 3. Notes that the CJEU has explicitly stated that the Conditionality Regulation is not intended to protect the rule of law, but to protect the EU budget;
 4. Stresses that it is necessary to respect the will of the European Council and issue detailed and unambiguous guidelines before starting to protect the budget using the Conditionality Regulation;
 5. Stresses that the organisation of the judiciary is the exclusive competence of the Member States; regrets the extension of the CJEU's competences, which undermines trust in the European Union and the principles of proportionality and loyalty, which stem directly from the Treaties; condemns *ultra vires* adjudication;
 6. Takes the view that examining the conformity of EU law with national constitutions is normal practice in the EU; awaits assessments regarding the Conditionality Regulation from the constitutional courts of the Member States;
 7. Instructs its President to forward this resolution to the Council and the Commission.