

## I

(Legislative acts)

## REGULATIONS

**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 budget**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (a) of Article 322(1) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors <sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, enshrined in Article 2 of the Treaty on European Union (TEU). As recalled by Article 2 TEU, those values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.
- (2) In its conclusions of 21 July 2020, the European Council stated that the financial interests of the Union are to be protected in accordance with the general principles embedded in the Treaties, in particular the values set out in Article 2 TEU. It also underlined the importance of the protection of the financial interests of the Union and the importance of respect for the rule of law.
- (3) The rule of law requires that all public powers act within the constraints set out by law, in accordance with the values of democracy and the respect for fundamental rights as stipulated in the Charter of Fundamental Rights of the European Union (the 'Charter') and other applicable instruments, and under the control of independent and impartial courts. It requires, in particular, that the principles of legality <sup>(3)</sup> implying a transparent, accountablede-

<sup>(1)</sup> OJ C 291, 17.8.2018, p. 1.

<sup>(2)</sup> Position of the European Parliament of 4 April 2019 (not yet published in the Official Journal) and position of the Council at first reading of 14 December 2020. Position of the European Parliament of 16 December 2020 (not yet published in the Official Journal).

<sup>(3)</sup> Judgment of the Court of Justice of 29 April 2004, CAS Succhi di Frutta, C-496/99 P, ECLI:EU:C:2004:236, paragraph 63.

mocratic and pluralistic law-making process; legal certainty <sup>(4)</sup>; prohibition of arbitrariness of the executive powers <sup>(5)</sup>; effective judicial protection, including access to justice, by independent and impartial courts <sup>(6)</sup>; and separation of powers, <sup>(7)</sup> be respected <sup>(8)</sup>.

- (4) The accession criteria established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995 are the essential conditions that a candidate country has to satisfy to become a Member State of the Union. Those criteria are now enshrined in Article 49 TEU.
- (5) Once a candidate country becomes a Member State, it joins a legal structure that is based on the fundamental premiss that each Member State shares with all the other Member States, and recognises that they share with it, a set of common values on which the Union is founded, as stated in Article 2 TEU. That premiss implies and justifies the existence of mutual trust between the Member States that those values will be recognised and, therefore, that the law of the Union that implements them will be respected. <sup>(9)</sup> The laws and practices of Member States should continue to comply with the common values on which the Union is founded.
- (6) While there is no hierarchy among Union values, respect for the rule of law is essential for the protection of the other fundamental values on which the Union is founded, such as freedom, democracy, equality and respect for human rights. Respect for the rule of law is intrinsically linked to respect for democracy and for fundamental rights. There can be no democracy and respect for fundamental rights without respect for the rule of law and vice versa.
- (7) Whenever Member States implement the Union budget, including resources allocated through the European Union Recovery Instrument established pursuant to Council Regulation (EU) 2020/2094 <sup>(10)</sup>, and through loans and other instruments guaranteed by the Union budget, and whatever method of implementation they use, respect for the rule of law is an essential precondition for compliance with the principles of sound financial management enshrined in Article 317 of the Treaty on the Functioning of the European Union (TFEU).
- (8) Sound financial management can only be ensured by Member States if public authorities act in accordance with the law, if cases of fraud, including tax fraud, tax evasion, corruption, conflict of interest or other breaches of the law are effectively pursued by investigative and prosecution services, and if arbitrary or unlawful decisions of public authorities, including law-enforcement authorities, can be subject to effective judicial review by independent courts and by the Court of Justice of the European Union.
- (9) The independence and impartiality of the judiciary should always be guaranteed, and investigation and prosecution services should be able to properly execute their functions. The judiciary, and investigation and prosecution services should be endowed with sufficient financial and human resources and procedures to act effectively and in a manner that fully respects the right to a fair trial, including respect for the rights of defence. Final judgments should be implemented effectively. Those conditions are required as a minimum guarantee against unlawful and arbitrary decisions of public authorities that could harm the financial interests of the Union.

<sup>(4)</sup> Judgment of the Court of Justice of 12 November 1981, *Amministrazione delle finanze dello Stato v Srl Meridionale Industria Salumi and others Ditta Italo Orlandi & Figlio and Ditta Vincenzo Divella v Amministrazione delle finanze dello Stato*. Joined cases 212 to 217/80, ECLI:EU:C:1981:270, paragraph 10.

<sup>(5)</sup> Judgment of the Court of Justice of 21 September 1989, *Hoechst*, Joined cases 46/87 and 227/88, ECLI:EU:C:1989:337, paragraph 19.

<sup>(6)</sup> Judgment of the Court of Justice of 27 February 2018, *Associação Sindical dos Juizes Portugueses v Tribunal de Contas C-64/16*, ECLI:EU:C:2018:117, paragraphs 31, 40-41; judgment of the Court of Justice of 25 July 2018, *LM*, C-216/18 PPU, ECLI:EU:C:2018:586, paragraphs 63-67.

<sup>(7)</sup> Judgment of the Court of Justice of 10 November 2016, *Kovalkovas*, C-477/16, ECLI:EU:C:2016:861, paragraph 36; Judgment of the Court of Justice of 10 November 2016, *PPU Poltorak*, C-452/16, ECLI:EU:C:2016:858, paragraph 35; and Judgment of the Court of Justice of 22 December 2010, *DEB*, C-279/09, ECLI:EU:C:2010:811, paragraph 58.

<sup>(8)</sup> Communication from the Commission 'A new EU Framework to strengthen the Rule of Law', COM(2014)0158 final, Annex I.

<sup>(9)</sup> Opinion 2/13, EU:C:2014:2454, paragraph 168.

<sup>(10)</sup> Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (see page 23 of this Official Journal).

- (10) The independence of the judiciary presupposes, in particular, that the judicial body concerned is able to exercise, both under the relevant rules and in practice, its judicial functions wholly autonomously, without being subject to any hierarchical constraint or subordinated to any other body, and without taking orders or instructions from any source whatsoever, thus being protected against external interventions or pressure liable to impair the independent judgment of its members and to influence their decisions. The guarantees of independence and impartiality require rules, particularly as regards the composition of the body and the appointment, length of service and the grounds for rejection and dismissal of its members, in order to dismiss any reasonable doubt in the minds of individuals as to the imperviousness of that body to external factors and its neutrality with respect to the interests before it.
- (11) Respect for the rule of law is essential not only for Union citizens, but also for business initiatives, innovation, investment, economic, social and territorial cohesion, and the proper functioning of the internal market, which will flourish most where a solid legal and institutional framework is in place.
- (12) Article 19 TEU, which gives concrete expression to the value of the rule of law set out in Article 2 TEU, requires Member States to provide effective judicial protection in the fields covered by Union law, including those relating to the implementation of the Union budget. The very existence of effective judicial review designed to ensure compliance with Union law is the essence of the rule of law and requires independent courts <sup>(11)</sup>. Maintaining the independence of the courts is essential, as confirmed by the second paragraph of Article 47 of the Charter <sup>(12)</sup>. This is true, in particular, for the judicial review of the validity of measures, contracts or other instruments giving rise to public expenditure or debts, inter alia, in the context of public procurement procedures which may also be brought before the courts.
- (13) There is therefore a clear relationship between respect for the rule of law and the efficient implementation of the Union budget in accordance with the principles of sound financial management.
- (14) The Union has developed a variety of instruments and processes that promote the rule of law and its application, including financial support for civil society organisations, the European Rule of Law Mechanism and the EU Justice Scoreboard, and provide an effective response from Union institutions to breaches of the rule of law through infringement proceedings and the procedure provided for in Article 7 TEU. The mechanism provided for in this Regulation complements these instruments by protecting the Union budget against breaches of the principles of the rule of law affecting its sound financial management or the protection of the financial interests of the Union.
- (15) Breaches of the principles of the rule of law, in particular those that affect the proper functioning of public authorities and effective judicial review, can seriously harm the financial interests of the Union. This is the case for individual breaches of the principles of the rule of law and even more so for breaches that are widespread or due to recurrent practices or omissions by public authorities, or to general measures adopted by such authorities.
- (16) The identification of breaches of the principles of the rule of law requires a thorough qualitative assessment by the Commission. That assessment should be objective, impartial and fair, and should take into account relevant information from available sources and recognised institutions, including judgments of the Court of Justice of the European Union, reports of the Court of Auditors, the Commission's annual Rule of Law Report and EU Justice Scoreboard, reports of the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO) as relevant, and conclusions and recommendations of relevant international organisations and networks, including Council of Europe bodies such as the Council of Europe Group of States against Corruption (GRECO) and the Venice Commission, in particular its rule-of-law checklist, and the European networks of supreme courts and councils for the judiciary. The Commission could consult the European Union Agency for Fundamental Rights and the Venice Commission if necessary for the purpose of preparing a thorough qualitative assessment.

<sup>(11)</sup> Case C-64/16, para 32-36.

<sup>(12)</sup> Case C-64/16, para 40-41.

- (17) Measures under this Regulation are necessary in particular in cases where other procedures set out in Union legislation would not allow the Union budget to be protected more effectively. Union financial legislation and the applicable sector-specific and financial rules provide for various possibilities to protect the Union budget, including interruptions, suspensions or financial corrections linked to irregularities or serious deficiencies in management and control systems. The measures to be adopted in the event of breaches of the principles of the rule of law and the procedure to be followed to adopt such measures should be determined. Such measures should include the suspension of payments and of commitments, the suspension of the disbursement of instalments or the early repayment of loans, a reduction of funding under existing commitments, and a prohibition on entering into new commitments with recipients or to enter into new agreements on loans or other instruments guaranteed by the Union budget.
- (18) The principle of proportionality should apply when determining the measures to be adopted, in particular taking into account the seriousness of the situation, the time which has elapsed since the relevant conduct started, the duration and recurrence of the conduct, the intention, the degree of cooperation of the Member State concerned in putting an end to the breaches of the principles of the rule of law, and the effects on the sound financial management of the Union budget or the financial interests of the Union.
- (19) It is essential that the legitimate interests of final recipients and beneficiaries are properly safeguarded when measures are adopted in the event of breaches of the principles of the rule of law. When considering the adoption of measures, the Commission should take into account their potential impact on final recipients and beneficiaries. Taking into consideration that in shared management payments from the Commission to Member States are legally independent from payments by national authorities to beneficiaries, appropriate measures under this Regulation should not be considered to affect the availability of funding for payments towards beneficiaries according to the payment deadlines set out under the applicable sector-specific and financial rules. Decisions adopted under this Regulation and obligations towards final recipients or beneficiaries set out in this Regulation are part of applicable Union law with respect to implementing funding in shared management. The Member States concerned by the measures should regularly report to the Commission on compliance with their obligations towards final recipients or beneficiaries. Reporting on compliance with payment obligations towards beneficiaries set out in the applicable sector-specific and financial rules should allow the Commission to verify that decisions under this Regulation do not impact in any way, directly or indirectly, payments to be made under the applicable sector-specific and financial rules.

To strengthen the protection of the final recipients or beneficiaries, the Commission should provide information and guidance via a website or internet portal, together with adequate tools to inform the Commission about any breach of the legal obligation of government entities and Member States to continue making payments after measures pursuant to this Regulation are adopted. The Commission should follow up on such information to verify whether the applicable rules have been respected, in particular Article 63, point (b) of Article 68(1) and Article 98 of Regulation (EU) .../... of the European Parliament and of the Council of ... 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 <sup>(13)</sup>. Where necessary, in order to ensure that any amount due by government entities or Member States is effectively paid to final recipients or beneficiaries, the Commission should recover payments made, or, where appropriate, make a financial correction by reducing Union support to a programme in line with the applicable sector-specific and financial rules.

- (20) In order to ensure uniform conditions for the implementation of this Regulation and in view of the importance of the financial effects of measures adopted pursuant to this Regulation, implementing powers should be conferred on the Council, which should act on the basis of a Commission proposal.

---

<sup>(13)</sup> Not yet published in the Official Journal.

- (21) Before proposing the adoption of any measure pursuant to this Regulation, the Commission should inform the Member State concerned why it considers that breaches of the principles of the rule of law might exist in that Member State. The Commission should inform the European Parliament and the Council without delay about any such notification and its contents. The Member State concerned should be allowed to submit its observations. The Commission should take those observations into account.
- (22) When setting time limits in accordance with this Regulation for the Member State concerned, the Commission should take into account, in particular, the amount of information provided and requested, the complexity of the relevant facts and of their assessment, as well as the administrative capacity of the Member State concerned.
- (23) Where the Commission, after analysing the observations of the Member State concerned, considers that the conditions for the adoption of measures are fulfilled, it should submit a proposal for the adoption of appropriate measures to the Council. The Council should act upon the proposal of the Commission to adopt appropriate measures by means of an implementing decision within a period of one month, which may exceptionally be extended by a maximum of two additional months. With a view to ensuring that the Council takes the decision within those time limits, the Commission should make the most appropriate use of its rights under Article 237 TFEU and the Council's Rules of Procedure <sup>(14)</sup>.
- (24) After the adoption of any measures pursuant to this Regulation, the Commission should regularly monitor the situation in the Member State concerned. The Commission should reassess the situation when the Member State concerned adopts new remedial measures, or in any case at the latest one year after the adoption of the measures.
- (25) The Council should, acting on a proposal from the Commission, lift measures that have a suspensive effect if the situation leading to the imposition of those measures has been sufficiently remedied.
- (26) The procedure for adopting and lifting the measures should respect the principles of objectivity, non-discrimination and equal treatment of Member States and should be conducted according to a non-partisan and evidence-based approach. If, exceptionally, the Member State concerned considers that there are serious breaches of those principles, it may request the President of the European Council to refer the matter to the next European Council. In such exceptional circumstances, no decision concerning the measures should be taken until the European Council has discussed the matter. This process shall, as a rule, not take longer than three months after the Commission has submitted its proposal to the Council.
- (27) The Commission should keep the European Parliament informed of any measures proposed, adopted and lifted pursuant to this Regulation.
- (28) The Commission should report to the European Parliament and the Council on the application of this Regulation. When reporting to the European Parliament and the Council, the Commission should consider, in addition to the effectiveness of the measures adopted, the overall effectiveness of the procedure set out in this Regulation and the complementarity of this instrument with others.
- (29) This Regulation should not affect the competence of the EPPO or the obligations of the Member States which do not participate in the enhanced cooperation established by Council Regulation (EU) 2017/1939 <sup>(15)</sup>,

<sup>(14)</sup> Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

<sup>(15)</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject matter**

This Regulation establishes the rules necessary for the protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States.

#### *Article 2*

##### **Definitions**

For the purposes of this Regulation, the following definitions apply:

- (a) 'the rule of law' refers to the Union value enshrined in Article 2 TEU. It includes the principles of legality implying a transparent, accountable, democratic and pluralistic law-making process; legal certainty; prohibition of arbitrariness of the executive powers; effective judicial protection, including access to justice, by independent and impartial courts, also as regards fundamental rights; separation of powers; and non-discrimination and equality before the law. The rule of law shall be understood having regard to the other Union values and principles enshrined in Article 2 TEU;
- (b) 'government entity' means a public authority at any level of government, including national, regional and local authorities, as well as Member State organisations within the meaning of point (42) of Article 2 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(16)</sup> (the 'Financial Regulation').

#### *Article 3*

##### **Breaches of the principles of the rule of law**

For the purposes of this Regulation, the following may be indicative of breaches of the principles of the rule of law:

- (a) endangering the independence of the judiciary;
- (b) failing to prevent, correct or sanction arbitrary or unlawful decisions by public authorities, including by law-enforcement authorities, withholding financial and human resources affecting their proper functioning or failing to ensure the absence of conflicts of interest;
- (c) limiting the availability and effectiveness of legal remedies, including through restrictive procedural rules and lack of implementation of judgments, or limiting the effective investigation, prosecution or sanctioning of breaches of law.

#### *Article 4*

##### **Conditions for the adoption of measures**

1. Appropriate measures shall be taken where it is established in accordance with Article 6 that breaches of the principles of the rule of law in a Member State affect or seriously risk affecting the sound financial management of the Union budget or the protection of the financial interests of the Union in a sufficiently direct way.

<sup>(16)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

2. For the purposes of this Regulation, breaches of the principles of the rule of law shall concern one or more of the following:

- (a) the proper functioning of the authorities implementing the Union budget, including loans and other instruments guaranteed by the Union budget, in particular in the context of public procurement or grant procedures;
- (b) the proper functioning of the authorities carrying out financial control, monitoring and audit, and the proper functioning of effective and transparent financial management and accountability systems;
- (c) the proper functioning of investigation and public prosecution services in relation to the investigation and prosecution of fraud, including tax fraud, corruption or other breaches of Union law relating to the implementation of the Union budget or to the protection of the financial interests of the Union;
- (d) the effective judicial review by independent courts of actions or omissions by the authorities referred to in points (a), (b) and (c);
- (e) the prevention and sanctioning of fraud, including tax fraud, corruption or other breaches of Union law relating to the implementation of the Union budget or to the protection of the financial interests of the Union, and the imposition of effective and dissuasive penalties on recipients by national courts or by administrative authorities;
- (f) the recovery of funds unduly paid;
- (g) effective and timely cooperation with OLAF and, subject to the participation of the Member State concerned, with EPPO in their investigations or prosecutions pursuant to the applicable Union acts in accordance with the principle of sincere cooperation;
- (h) other situations or conduct of authorities that are relevant to the sound financial management of the Union budget or the protection of the financial interests of the Union.

#### Article 5

#### **Measures for the protection of the Union budget**

1. Provided that the conditions set out in Article 4 of this Regulation are fulfilled, one or more of the following appropriate measures may be adopted in accordance with the procedure set out in Article 6 of this Regulation:

- (a) where the Commission implements the Union budget in direct or indirect management pursuant to points (a) and (c) of Article 62(1) of the Financial Regulation, and where a government entity is the recipient:
  - (i) a suspension of payments or of the implementation of the legal commitment or a termination of the legal commitment pursuant to Article 131(3) of the Financial Regulation;
  - (ii) a prohibition on entering into new legal commitments;
  - (iii) a suspension of the disbursement of instalments in full or in part or an early repayment of loans guaranteed by the Union budget;
  - (iv) a suspension or reduction of the economic advantage under an instrument guaranteed by the Union budget;
  - (v) a prohibition on entering into new agreements on loans or other instruments guaranteed by the Union budget;
- (b) where the Commission implements the Union budget under shared management with Member States pursuant to point (b) of Article 62(1) of the Financial Regulation:
  - (i) a suspension of the approval of one or more programmes or an amendment thereof;
  - (ii) a suspension of commitments;
  - (iii) a reduction of commitments, including through financial corrections or transfers to other spending programmes;
  - (iv) a reduction of pre-financing;
  - (v) an interruption of payment deadlines;
  - (vi) a suspension of payments.

2. Unless the decision adopting the measures provides otherwise, the imposition of appropriate measures shall not affect the obligations of government entities referred to in point (a) of paragraph 1 or of Member States referred to in point (b) of paragraph 1 to implement the programme or fund affected by the measure, and in particular the obligations they have towards final recipients or beneficiaries, including the obligation to make payments under this Regulation and the applicable sector-specific or financial rules. When implementing Union funds under shared management, Member States concerned by measures adopted pursuant to this Regulation shall report to the Commission on their compliance with those obligations every three months from the adoption of those measures.

The Commission shall verify whether applicable law has been complied with and, where necessary, take all appropriate measures to protect the Union budget, in line with sector-specific and financial rules.

3. The measures taken shall be proportionate. They shall be determined in light of the actual or potential impact of the breaches of the principles of the rule of law on the sound financial management of the Union budget or the financial interests of the Union. The nature, duration, gravity and scope of the breaches of the principles of the rule of law shall be duly taken into account. The measures shall, insofar as possible, target the Union actions affected by the breaches.

4. The Commission shall provide information and guidance for the benefit of final recipients or beneficiaries on the obligations by Member States referred to in paragraph 2 via a website or an internet portal. The Commission shall also provide, on the same website or internet portal, adequate tools for final recipients or beneficiaries to inform the Commission about any breach of these obligations that, in the view of these final recipients or beneficiaries, directly affects them. This paragraph shall be applied in a manner that ensures the protection of persons reporting on breaches of Union law, in line with the principles set out in Directive (EU) 2019/1937 of the European Parliament and of the Council<sup>(17)</sup>. Information provided by final recipients or beneficiaries in accordance with this paragraph shall be accompanied by proof that the concerned final recipient or beneficiary has lodged a formal complaint with the relevant authority of the Member State concerned.

5. On the basis of the information provided by the final recipients or beneficiaries in accordance with paragraph 4 of this Article, the Commission shall do its utmost to ensure that any amount due from government entities or Member States as referred to in paragraph 2 of this Article is effectively paid to final recipients or beneficiaries, in accordance with in particular Article 63, point (b) of Article 68(1) and Article 98 of Regulation (EU) .../... of the European Parliament and of the Council of ... 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.

## Article 6

### Procedure

1. Where the Commission finds that it has reasonable grounds to consider that the conditions set out in Article 4 are fulfilled, it shall, unless it considers that other procedures set out in Union legislation would allow it to protect the Union budget more effectively, send a written notification to the Member State concerned, setting out the factual elements and specific grounds on which it based its findings. The Commission shall inform the European Parliament and the Council without delay of such notification and its contents.

2. In light of the information received pursuant to paragraph 1, the European Parliament may invite the Commission for a structured dialogue on its findings.

3. When assessing whether the conditions set out in Article 4 are fulfilled, the Commission shall take into account relevant information from available sources, including decisions, conclusions and recommendations of Union institutions, other relevant international organisations and other recognised institutions.

<sup>(17)</sup> Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

4. The Commission may request any additional information it requires to carry out the assessment referred to in paragraph 3, both before and after having sent the written notification pursuant to paragraph 1.
5. The Member State concerned shall provide the required information and may make observations on the findings set out in the notification referred to in paragraph 1 within a time limit to be specified by the Commission, which shall be at least one month and not more than three months from the date of notification of the findings. In its observations, the Member State may propose the adoption of remedial measures to address the findings set out in the Commission's notification.
6. The Commission shall take into account the information received and any observations made by the Member State concerned, as well as the adequacy of any proposed remedial measures, when deciding whether to submit a proposal for an implementing decision on the appropriate measures. The Commission shall carry out its assessment within an indicative time limit of one month from the receipt of any information from the Member State concerned or of its observations, or, when no information or observations are received, from the expiry of the time limit set in accordance with paragraph 5, and in any event within a reasonable time frame.
7. Where the Commission intends to make a proposal pursuant to paragraph 9, it shall, before doing so, give the Member State the opportunity to submit its observations, in particular on the proportionality of the envisaged measures, within one month.
8. When assessing the proportionality of the measures to be imposed, the Commission shall take into account the information and guidance referred to in paragraph 3.
9. Where the Commission considers that the conditions of Article 4 are fulfilled and that the remedial measures, if any, proposed by the Member State under paragraph 5 do not adequately address the findings in the Commission's notification, it shall submit a proposal for an implementing decision on the appropriate measures to the Council within one month of receiving the Member State's observations or, in the event that no observations are made, without undue delay and in any case within one month of the deadline set in paragraph 7. The proposal shall set out the specific grounds and evidence on which the Commission based its findings.
10. The Council shall adopt the implementing decision referred to in paragraph 9 of this Article within one month of receiving the Commission's proposal. If exceptional circumstances arise, the period for the adoption of that implementing decision may be extended by a maximum of two months. With a view to ensuring a timely decision, the Commission shall make use of its rights under Article 237 TFEU, where it deems it appropriate.
11. The Council, acting by a qualified majority, may amend the Commission's proposal and adopt the amended text by means of an implementing decision.

#### *Article 7*

#### **Lifting of measures**

1. The Member State concerned may, at any time, adopt new remedial measures and submit to the Commission a written notification including evidence to show that the conditions of Article 4 are no longer fulfilled.
2. At the request of the Member State concerned, or on its own initiative and at the latest one year after the adoption of measures by the Council, the Commission shall reassess the situation in the Member State concerned, taking into account any evidence submitted by the Member State concerned, as well as the adequacy of any new remedial measures adopted by the Member State concerned.

Where the Commission considers that the conditions of Article 4 are no longer fulfilled, it shall submit to the Council a proposal for an implementing decision lifting the adopted measures.

Where the Commission considers that the situation leading to the adoption of measures has been remedied in part, it shall submit to the Council a proposal for an implementing decision adapting the adopted measures.

Where the Commission considers that the situation leading to the adoption of measures has not been remedied, it shall address to the Member State concerned a reasoned decision and inform the Council thereof.

When the Member State concerned submits a written notification pursuant to paragraph 1, the Commission shall submit its proposal or adopt its decision within one month of receiving that notification. This period may be extended in duly justified circumstances, in which case the Commission shall without delay inform the Member State concerned of the reasons for the extension.

The procedure set out in paragraphs 3, 4, 5, 6, 9, 10 and 11 of Article 6 shall apply by analogy as appropriate.

3. Where measures concerning the suspension of the approval of one or more programmes or amendments thereof referred to in point (i) of Article 5(1)(b) or the suspension of commitments referred to in point (ii) of Article 5(1)(b) are lifted, amounts corresponding to the suspended commitments shall be entered in the Union budget subject to Article 5 of Council Regulation (EU, Euratom) 2020/2093 <sup>(18)</sup>. Suspended commitments of year  $n$  may not be entered in the budget beyond year  $n+2$ .

#### Article 8

### Informing the European Parliament

The Commission shall immediately inform the European Parliament of any measures proposed, adopted or lifted pursuant to Articles 5, 6 and 7.

#### Article 9

### Reporting

The Commission shall report by 12 January 2024 to the European Parliament and the Council on the application of this Regulation, in particular on the effectiveness of the measures adopted.

#### Article 10

### Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 December 2020.

For the European Parliament  
The President  
D. M. SASSOLI

For the Council  
The President  
M. ROTH

---

<sup>(18)</sup> Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (see page 11 of this Official Journal).