Protection of the financial interests of the Union – Rule of Law
Rule of law toolbox

Promotion of Rule of law and prevention of problems

- Rule of law report
- Cooperation and Verification Mechanism
- European Semester
- Justice Scoreboard

Response

- Infringements
- Art. 7 TEU
- Rule of law conditionality mechanism

RRF tackles challenges related to rule of law have identified in the country-specific recommendations;

RRF is covered by the general regime of conditionality for the protection of the Union budget.
RoL in the context of the RRF

1. Where the Council issues **Country-Specific Recommendations (CSRs) related to Rule of Law** matters, the Commission is closely considering whether they are addressed by the measures in the plans.

2. Protection of Union budget: Member States must have in place **effective and efficient internal control systems** to prevent, detect and correct serious irregularities. The Commission assessed the control systems put forward in the plan.

3. Where **deficiencies not addressed in the plans remain**, specific milestones linked to their control systems have to be fulfilled prior to the first payment request.
For 2019 and 2020, three types of challenges related to rule of law have been identified in the country-specific challenges:

- Fight against corruption [BG (CVM), CZ, CY, EL, HU, HR, IT, LV, MT, RO (CVM), SK];
- Strengthening the justice systems [BG (CVM), CY, EL, HU, HR, IT, MT, SK, PL, PT, RO (CVM)];
- Improving the policy-making process [PL, HU, HR, RO, SK].
Audit & control framework

**Phase 1: Ex-ante Control**
- Detailed discussions with the MS
- Building national audit and control capacity
- Assessment of control systems (Criterion 10)

**Phase 2: A&C During Implementation**
- Payment request
- Management declaration & summary of audit with each payment request
- Assessment of each milestone and target
- Subsequent payment request & assessments
- First request: Payment only if milestones related to control are fulfilled
- Recovery of funds in case of serious breaches or irregularities not corrected by the MS

**Audits by National Audit Bodies, COM and ECA**
- Investigation
- Legal action, recoveries
First line of defence: national authorities

- Countries must set up adequate control systems against double funding, conflict of interest, corruption and fraud, **before the first payment can be made.**

- Each subsequent request for payment must be accompanied by a (i) **management declaration** (ii) **summary of audits carried out** and (iii) evidence for the achievement of milestones and targets.
The role of the European Commission

• Assessing whether the control systems described in the RRP comply with the RRF requirements: *conditio sine qua non for the first payment*

• Assessing primary evidence on M&T provided and possible checks on *the ground* to check that the milestones and targets were correctly achieved

• Considering the audits performed by the Member States: (i) *risk-based audit* and control, (ii) system & *substantive audits on M&T* and (iii) protection of the financial interest of the union
Enforcement

• The Commission, OLAF, the Court of Auditors and EPPO can exert their rights laid down Article 129(1) of the Financial Regulation.

• If serious irregularities are identified the Commission can request return of the funds