

ESMA updates Brexit statements for the end of UK transition period

10 November 2020

Brexit

MiFID II: Transparency Calculations and DVC

Securities Financing Transactions

Transparency

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has updated three statements which address the impact on reporting under EMIR and SFTR and on the operation of ESMA databases and IT systems after 31 December 2020, the end of the UK's transition from the EU.

Previously published in preparation for a no-deal Brexit scenario in 2019, the following statements have now been updated:

Press release – COVID-19: first go-ahead given to the new Recovery and Resilience Facility



The Budgets and Economic and Monetary Affairs committees adopted the objectives, financing and the rules for providing funding from the Recovery and Resilience Facility (RRF), with 73 votes to 11 and 15 abstentions.

MEPs also adopted a mandate to enter into negotiations with EU governments by 84 votes to 11 and 4 abstentions. They want the mandate to be announced during the upcoming plenary of 11-13 November, to be able to start the talks without delay.

Eligibility to receive funding

MEPs agreed that the RFF should only be made available to member states committed to respecting the rule of law and the European Union's fundamental values. National recovery and resilience plans would be eligible for financing if they are consistent with six EU priorities – green transition, digital transformation, economic cohesion and competitiveness, social and territorial cohesion, institutional crisis-reaction and crisis preparedness, as well as with Next Generation EU policies, which include the European Skills Agenda, the Youth Guarantee and the Child Guarantee.

MEPs also want each plan to contribute at least 40% of its budget to climate and biodiversity and at least 20% to digital actions. The plans should have a lasting impact on EU countries in both social and economic terms and provide comprehensive reform and a robust investment package.

Availability of funding

MEPs want the amount of €672,5 billion euros in grants and loans to be available to finance national measures designed to alleviate the economic and social consequences of the pandemic, which will be in place from 1 February 2020 onwards. They also want the funding to be available for four years (instead of three as in the Council position) and for EU governments to be able to request up to 20% pre-financing for their recovery and resilience plans, instead of proposed 10%, so that they can react faster and do more.

Transparency and communication

MEPs from the both committees demanded that the Commission (responsible for the RFF implementation) be accountable to the EP, including by submitting a report twice a year outlining how the targets and milestones have been implemented as well as the amounts paid to each EU country. They also stressed that the recipients should ensure that spending under the RRF is visible by clearly labelling the supported projects as “European Union Recovery Initiative”.

Press release – Dual use goods: Parliament and EU ministers agree on new EU export rules



The reviewed rules, agreed by Parliament and Council negotiators, govern the export of so-called dual use goods, software and technology – for example, high-performance computers, drones and certain chemicals – with civilian applications that might be repurposed to be used in ways which violate human rights.

The current update, made necessary by technological developments and growing security risks, includes new criteria to grant or reject export licenses for certain items.

Human rights and cyber-surveillance

Parliament negotiators, mandated by a [2018](#) report, have succeeded in substantially strengthening human rights considerations among those new

criteria to avoid that certain surveillance and intrusion technologies exported from the EU contribute to human rights abuses.

Parliament negotiators

- got agreement on setting up an EU-wide regime to control cyber-surveillance items that are not listed as dual-use items in international regimes, in the interest of protecting human rights and political freedoms;
- strengthened member states' public reporting obligations on export controls, so far patchy, to make the cyber-surveillance sector in particular more transparent;
- increased the importance of human rights as licensing criterion; and
- agreed on rules to swiftly include emerging technologies in the regulation.

[Bernd Lange](#) (S&D, DE), the head of the negotiating delegation

"Parliament's perseverance and assertiveness against a blockade by some member states has paid off: respect for human rights will become an export standard. The revised regulation updates European export controls and adapts to technological progress, new security risks and information on human rights violations. It is an EU milestone, as export rules for surveillance technologies have been agreed for the first time. Economic interests must not take precedence over human rights.

"This new regulation, in addition to the one on conflict minerals and a future supply chain law, shows that we can shape globalisation according to a clear set of values and binding rules to protect human and labour rights and the environment. This must be the blueprint for future rule-based trade policy", the leader of the Parliamentary delegation said.

[Markéta Gregorová](#) (Greens/EFA, CZ), rapporteur

"Today is a win for global human rights. We have set an important example for other democracies to follow. We will now have EU-wide transparency on the export of cyber surveillance and will control the export of biometric surveillance. Authoritarian regimes will no longer be able to secretly get their hands on European cyber-surveillance. We still do not have a level-playing field among EU countries but several new provisions allow for autonomous controls, better enforcement and coordination. I expect that member states' obligation to uphold human rights and their own security will be the foundation of further work ahead", said the rapporteur, who has led the negotiating team since July 2020.

Next steps

The informal political agreement now needs to be formally endorsed by the International Trade Committee and Parliament as a whole, as well as the Council, before it can enter into effect.

Background

The Commission tabled the [original proposal](#) to review the export controls regime in 2016, with the goal of updating the rules under which member states license companies to sell dual use goods, software and technology to third countries. The Commission also included cyber-surveillance technologies among dual use products. Parliament adopted its [negotiating mandate](#) in January 2018, and was waiting for the Council's position to start talks until October 2019.

[Press release – Press conference at 12.00: EP and Council deal on rule of law conditionality mechanism](#)



When: Today, 5 November at 12.00

Where: via Webex. Asking questions is possible

Parliament's co-rapporteurs on the rule of law mechanism, Petri Sarvamaa (EPP, FI) and Eider Gardiazabal Rubial (S&D, ES), will hold a press conference today at 12.00 after a deal was struck on the rule of law conditionality, which enables the EU to stop funding governments that disrespect EU values such as the rule of law.

The press conference will be followed by a technical briefing by EP staff.

You can follow the press conference live on Parliament's [webstreaming](#) or [EbS](#) – or ask questions by connecting via the [WebEx](#).

Journalists are encouraged to participate remotely and ask questions via WebEx, by following this link:

<https://europarl.webex.com/europarl/j.php?MTID=md877ad64b32588f0b0a58a5a2dcedf97>.

Password: ruleoflaw

Please indicate your name, surname, and the media you are representing when connecting to the press conference.

If you wish to ask a question, please notify the EP press officer Agnese Krivade in the chat window and you will be given the opportunity.

Please use headphones and a microphone for better sound quality.

Press release – Rule of law conditionality: MEPs strike a deal with Council



“Today’s agreement is a milestone for protecting EU values. For the first time, we have established a mechanism that enables the EU to stop funding governments that disrespect our values such as the rule of law”, said co-rapporteur Petri Sarvamaa (EPP, Finland) after conclusion of the negotiations.

“For us it was crucial that final beneficiaries won’t be punished for wrongdoings of their governments and that they continue receiving funds that have been promised to them and that they rely on, even after the

conditionality mechanism has been triggered. We can proudly say that we achieved a strong system that will guarantee their protection”, said co-rapporteur Eider Gardiazabal Rubial (S&D, Spain)

“We did not compromise on the values: we made sure that the rule of law is seen in the context of all the EU values enshrined in the treaties, such as independence of judiciary. Every breach of the rule of law will be covered by the mechanism: from individual breaches to systemic or recurrent breaches for which no mechanism existed so far”, said Mr Sarvamaa.

“European citizens expect us to condition the disbursement of EU funds to the respect of rule of law. The mechanism agreed today does exactly that”, concluded Ms Gardiazabal Rubial.

A **press conference** by the two co-rapporteurs takes place at 12.00, 5. November. Find all info [here](#).

A broader concept of breaches of the rule of law

MEPs succeeded in ensuring that the new law does not only apply when EU funds are misused directly, such as cases of corruption or fraud. It will also apply to systemic aspects linked to [EU fundamental values that all member states must respect](#), such as freedom, democracy, equality, and respect for human rights including the rights of minorities.

Parliament’s negotiators also insisted that tax fraud and tax evasion are considered possible breaches, by including both individual cases and widespread and recurrent issues. .

Moreover, they succeeded in securing a specific Article that clarifies the possible scope of the breaches by listing examples of cases, such as threatening the independence of the judiciary, failing to correct arbitrary/unlawful decisions, and limiting legal remedies .

Prevention

Crucially, MEPs succeeded in keeping a strong preventive aspect for the mechanism: not only can it be triggered when a breach is shown to directly affect the budget, but also when there is a serious risk that it may do so, thus ensuring that the mechanism prevents possible situations where EU funds could finance actions that are in conflict with EU values.

Protecting final beneficiaries

To ensure that the final beneficiaries who depend on the EU support – such as students, farmers, or NGOs – are not punished for the actions of their governments, MEPs insisted that they can file a complaint to the Commission via a web platform, which will assist them in ensuring they receive the due amounts. The Commission will also have the possibility to make a financial correction by reducing the next instalment of EU support to the respective

country in question .

Functioning of the mechanism

MEPs succeeded in shortening the time that the EU institutions will have for the adoption of measures against a member state, if risks of breaches of the rule of law are identified, to a maximum of 7-9 months (down from 12-13 months as initially requested by Council). .

The Commission, after establishing the existence of a breach, will propose to trigger the conditionality mechanism against an EU government. The Council then will have one month to adopt the proposed measures (or three months in exceptional cases), by a qualified majority. The Commission will use its rights to convene the Council to make sure the deadline is respected .

Next steps

The agreed compromise now needs to be adopted formally by the Parliament and EU ministers.