

Position paper - Towards more social and democratic rules for the EU funds

Adopted at the Executive Committee Meeting of 6-7 December 2022

Key messages

- The present document contains the ETUC position with respect to the opportunity to make a comprehensive revision of the rules applicable to the use of the EU General Budget as well as across all EU funds.
- The ETUC believes that **the rules governing the use of EU funds must ensure and enhance the compliance with the highest social rights and democratic principles.**
- The ETUC calls for the financial rules applicable to all EU funds
 - to be aligned with the EPSR, the SDGs, the fundamental rights of workers;
 - to embed the rule-of-law conditionalities;
 - to allow the provision of public money only to those employers respecting workers' rights and applicable working conditions;
 - to enhance the effectiveness of social conditionalities in public procurement and concessions rules with effective sanctions
 - to ensure an effective role for the European Parliament as well as national Parliaments
 - to assign an effective and meaningful role to social partners at all levels in the programming, evaluation, management and monitoring of the EU funds
 - to mainstream the EU social policy priorities across implementation, monitoring and evaluation phases.
- It is necessary to harmonize the financial rules to social rights and democratic principles as already embedded in EU policy and legislation.
- Such *acquis* should be extended to the rules concerning the use of **all EU funds**, both those within the EU budget and those off-budget.
- In a wider perspective the ETUC supports the EP remarks about the need that **MFF implementation is more coherent with EU social policy and its allocations more respondent to the social needs** in the post-pandemic and transitioning phase faced by the EU.
- The ETUC is convinced that such steps are also crucial to ensure greater policy coherence as well as efficiency of EU spending with the rights and needs of the people of the EU.

In Spring 2022, the European Commission proposed a tailored revision of the Regulation on the financial rules applicable to the general budget of the Union¹ (“Financial Regulation” or “FR”), dating back to 2018, in order to align it to the Regulation on the Multiannual Financial Framework 2021-2027 (MFF)², adopted after the pandemic, in 2020. The EC with such initiative (technically a proposal to *recast* the Regulation³) aims at updating and consolidating the rules governing the expenditure of the EU budget in one single and up-to-date rulebook.

¹ [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](#)

² The EU's long-term budget covering the 7-year-period was adopted in 2020: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.LI.2020.433.01.0011.01.ENG&toc=OJ%3AL%3A2020%3A433%3ATOC> ;

³ <https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=celex:52022PC0223>

The two regulations, FR and MFF, are strictly intertwined. The MFF⁴ establishes “*what to do*”, translating the political priorities of the Union into budgetary decisions and resource allocation; the FR sets the rules on “*how*” to use such resources, via a multidimensional framework which is applicable to all situation implying them. The Regulation to update represents the *rulebook* to implement the MFF, the main point of reference laying down the principles, the general financial rules and procedures for the establishment, implementation and control of the EU budget. Its importance goes much further than technical aspects and its impact can be highly relevant from the political viewpoint.

The FR underwent a full revision already in 2018⁵, , in order to incorporate lessons learnt from previous programming periods into a single rulebook. Among the 2018 provisions, some concerned simplified rules, flexibility instruments as well as tools ensuring that the EU can react in the event of unexpected needs.

The current MFF was adopted in 2020, including new proposals among which the recovery plan (NextGenerationEU) and the setting up of an important recovery instrument (RRF). **All the applicative financial rules and principles contained in the “FR”, instead, still date back to 2018.** Thus, the EC proposes that the rulebook for managing funds are further revised and updated to the current context which has evolved so quickly and significantly.

The ETUC acknowledges and supports the general background reasons for the EC legislative proposal: providing greater legal certainty for EU institutions and recipients of EU funds, better protecting EU financial interests, contributing to the achievement of the EU policy objectives, introducing additional simplification for recipients of Union funds.

However, the ETUC believes that this initiative represents an **opportunity to enhance a more substantial approach to fundamental principles, social rights and priorities for the EU and its people,** that EU funds should support. The rules governing the use of the EU funds represent in fact powerful tools: they potentially condition the access to financial resources to the effective compliance with social rights and democratic principles that have their own place among the EU values and leading priorities - and rightly so. The ETUC thus aims at a more ambitious outcome of the initiative than the one proposed.

The ETUC position

The ETUC demands that **a revision of the rules governing the use of the EU funds** serves to enhance the EU social and the democratic dimension, consolidating them across EU legislative and financial tools, and eventually triggering their greater effectiveness.

The ETUC calls for the EU institutions **to renew and strengthen the approach to social rights and democratic principles across the financial rules and procedures of all EU programmes.** This would enhance their effectiveness and overall consistency with a view to achieving a greater European added value and its socio-economic aims. The ETUC remarks that such rights and principles do not represent novelties but are already part of the EU *acquis*. A different approach would just jeopardise the efficiency of the EU policy and its socio-economic objectives; it would create disruption in social partners’ action, so crucial to contributing to the achievement of high-level goals.

In particular, the FR must promote a renewed and more effective approach to:

⁴ It designs the funding of different programmes and policies, such as those on cohesion or agriculture; organises each major category of the EU resources in so-called “headings”; sets their budgetary “ceilings”;...

⁵ For the first time under the new provisions of the Treaty of Lisbon, according to which the Council must unanimously adopt the MFF Regulation after having obtained the consent of Parliament, thus the EP and the Council are supposed to be on an equal footing for the annual budgetary procedure.

- a. The **rule-of-law conditionality** across all levels, in line with the existing 2020 Regulation and the recent Courts' decisions. This must include the respect of international labour standards, and the guarantee that public money is provided only to those employers respecting workers' rights and applicable working conditions. In no circumstance, the higher costs occurring from the implementation of such principle should be borne by workers, or their rights be compressed. Also, workers will have to be protected from any consequences of the possible violation of the rule of law conditionality at all levels. The EU should also guarantee the continuity and full fiscal coverage of programmes already planned or ongoing.
- b. **The EU Social Acquis and fundamental rights** in line with the Charter of Fundamental Rights of the European Union, in particular workers' rights.
- c. The **Sustainable Development Goals of the 2030 UN Agenda**, whose crucial role for a just digital and climate transition must be enhanced also via a better financial allocation effectively matching with the pursue of each Goal;
- d. The principles of the **European Pillar of Social Rights**, in line with the Porto Declaration⁶, the Porto targets and their national adaptation/implementation⁷;

The ETUC calls for financial rules concerning all types of EU funds to embed the **highest social standards**, thus the FR revision must enhance

- e. **stringent and effective social clauses in public procurement and concessions rules**, thus pushing for overall binding high-level standards and/or awarding criteria; contributing to the strategic EU social, environmental and governance aims, starting with quality job creation, that are key to achieving the Union's future policy objectives, while ensuring a level playing field for fair competition, tackle social dumping and prevent it is performed via EU funds;
- f. **ambitious social conditionality rules and effective sanctions** in case of noncompliance with applicable working and employment conditions and/or employer obligations resulting from all relevant collective agreements and social and labour law at national, Union and international levels. It is necessary to build on the progress in this sense achieved in the 2021 reform of the Common Agriculture Policy⁸, that must be further improved.

The ETUC calls for integrating and enhancing the principle of **democracy in decision-making with respect to EU funds**; crises and emergencies should not justify unlawful breaches to these principles. In particular it is necessary that the FR includes

- g. Clear methodologies to assess that the use of the funds is coherent with the achievement of EU social policy priorities⁹;

⁶ https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights_en

⁷ <https://ec.europa.eu/social/BlobServlet?docId=25728&langId=en>

⁸ See art 14 of the CAP Strategic Plans regulation <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R2115> and Article 87-88- 89 of the Horizontal regulation https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R2116&qid=1638780120389&utm_source=POLITICO.EU&utm_campaign=abe29038d4-EMAIL_CAMPAIGN_2021_12_07_06_00&utm_medium=email&utm_term=0_10959edeb5-abe29038d4-190257565

⁹ such as the Gender budgeting, set in [the interinstitutional agreement](#) signed at the moment the MFF was agreed back in 2020 and the one on Climate and bio-diversity

- h. Processes to activate in case of crises and emergency that ensure **transparent and inclusive decision-making**. The increased economic and social volatility of critical junctures such as the Ukrainian refugee crisis call for appropriate instruments that don't bypass participative procedures to be promptly operational¹⁰.
- i. Full recognition of the **appropriate role of the European Parliament as well as of national Parliaments** in budgetary scrutiny of *all* EU programmes and financial resources, including off-budget instruments, whose number and scope have grown significantly. This is the case with important resources such as those engaged by the NGEU, that, while increasing the magnitude of the EU budget to allow the EU to face the greatest challenges of its existence¹¹, its use bypasses the scrutiny of the European Parliament as they're technically not part of the EU budget, but "external assigned revenues¹²".
- j. a **substantial and effective role for social partners** at all levels, including when appropriate at local and sectoral level, in the design, programming, evaluation, management and monitoring of the EU funds, **in line with the most advanced involvement practices**. Although already foreseen in several pieces of EU legislation, the involvement of social partners is often either not foreseen nor effective¹³. The **partnership principle, supported by the European code of conduct on partnership**, although not fully implemented and yet to be refined, is **applicable to Cohesion funds but not too many others**. Nevertheless, it has proved its value in terms of both decision-making, enforceability and monitoring¹⁴. Dedicated thematic recommendations and tools should be established in this regard both at EU and lower levels.

The ETUC thus demands EU institutions involved in the legislative process to:

- Go beyond the proposed *recast procedure*, which limits the margin of manoeuvre of decisions to targeted articles that the EC identifies as open for change;
- Broaden the discussion to additional regulations, such as those on competition and shared management principles, for a more consistent approach;
- Address the need for coherency and harmonisation in EU law-making, acknowledging that the social and democratic rights and values in discourse are already embedded in and pursued by many pieces of EU policy and legislation;

¹⁰ The Ukrainian situation emerged as problematic in the ESF+ committees all parties reported the non-appropriateness of Cohesion Policy funds to manage the crisis in the long run.

¹¹ NGEU creates liabilities until 2058 through borrowing for lending and borrowing for direct EU expenditure.

¹² Art. 21 Financial Regulation; the EP also warns against the weak or even inexistent procedures of consultation of national parliaments in the implementation of the RRF. the form of external assigned revenue and outside the budgetary procedure is not exclusive to NGEU, but has been the chosen fix for the Facility for Refugees in Turkey, the COVID-19 vaccine contracts

¹³ Ref. to Social partner consultation in CPR etc

¹⁴ The [European Court of Auditors recently assessed](#) that the use of the RRF and the implementation of the NRRPs is affected by qualitative issues residing in weak national decision -making procedures, impacting the setting and feasibility of milestones, targets, and eventually the effectiveness of CSRs. The [ETUC report](#) on the status of implementation of the NRRPs shows a mismatch between the measures adopted in the national plans and trade union expectations - mostly due to widespread difficulties in identifying social priorities and milestones in the NRRPs. This is a consequence of the lack, or inappropriate, involvement of social partners in the implementation of the RRF.

- Respond to the whole range of political forces **within the EP**, that transversally called¹⁵ for social and democratic provisions to be enhanced by including them in the EU financial rules.
- Comply with the trade union demands to tackle social objectives in the most concrete manner at disposal of both legislators, practitioners and users of EU funds, but especially EU people.

The ETUC, in line with these principles and priorities will lobby the EU institutions for a wide and comprehensive revision of the Financial Regulation and will support the European Parliament for their successful consideration in the trialogue phase.

¹⁵ *European Parliament resolution of 24 November 2021 on the revision of the Financial Regulation in view of the entry into force of the 2021-2027 multiannual financial framework ([2021/2162\(INI\)](#))*