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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Preparation of GAC: Draft Council conclusions on Simplification: Priorities and expectations of Member States with respect to European Structural and Investment Funds

- = Exchange of views
- Draft Council conclusions
- = Adoption

1. Almost two years after the adoption of the cohesion policy legislative package reform for the period 2014-2020, the simplification of the rules governing cohesion policy remains a necessity to ensure the policy's success, its efficient contribution to smart, sustainable and inclusive growth, and to bring it closer to the citizens of the EU.
2. The European Commission has announced, at the Informal Meeting of Ministers responsible for Cohesion Policy on 9 June 2015 in Riga, its intention to set up a High Level Group of Independent Experts on Monitoring Simplification for Beneficiaries of the European Structural and Investment Funds. It has effectively been set up in July 2015¹, and is chaired by former Commission Vice-President Siim Kallas.

¹ COM(2015) 4806, 10.7.2015.

3. Against this background, France has taken the initiative, supported by other Member States, to elaborate a contribution on simplification that would also be fed into the works of this group. This contribution was transmitted in the format of a letter to Commissioners Frans Timmermans, Corina Crețu and Marianne Thyssen.
4. In the same vein, the Council adopted on 23 June 2015 conclusions on the implementation challenges of cohesion policy 2014-2020, welcoming the Commission's initiative for setting up this group, asking that the Council, as of 2016, is informed regularly on its work and that Member States are involved in this process.
5. In this context, the Luxembourg Presidency presented draft Council conclusions entitled "Simplification: Priorities and expectations of Member States with respect to European Structural and Investment Funds", which were examined by the Working Party on Structural Measures at meetings on 28 September, 27 October, 5 and 9 November 2015. At its last meeting on 9 November 2015, the Working Party on Structural Measures finalised the text. The draft set of Council conclusions, agreed at the level of the Working Party on Structural Measures, is set out in the Annex to this note.
6. Before adopting the draft Council conclusions, the Presidency would like to give Ministers responsible for Cohesion Policy the opportunity to have an exchange of views, at their meeting on 18 November 2015, around the following questions:

a) The meaning of simplification for Cohesion Policy

Who should benefit from simplification? Do you have concrete examples?

b) The way forward:

How to ensure the right balance between further simplification, the need for stability of the general rules and the programmes' strategies and the administrative and financial burden?

Where do you see room for further simplification and streamlining of rules and should we do more now, before defining the post 2020 regulatory framework?

7. The Permanent Representatives Committee is therefore invited to recommend to the Council (General Affairs Council on Cohesion meeting on 18 November 2015):

- to have an exchange of views on the questions set out under paragraph 6
 - to adopt the draft Council conclusions, as set out in the Annex to this note.
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**Draft Council Conclusions on
Simplification: Priorities and expectations of Member States with respect to European
Structural and Investment Funds**

- (1) RECALLING the Council Conclusions on the implementation challenges of the cohesion policy 2014-2020²;
- (2) RECALLING the Council Conclusions on the Sixth Report on economic, social and territorial cohesion: Investment for jobs and growth³;
- (3) ACKNOWLEDGING the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Better regulation for better results - An EU agenda⁴, outlining further measures to deliver better rules for better results;
- (4) TAKING NOTE that good governance is important for the efficient implementation of cohesion policy, and the European Structural and Investment Funds (ESI Funds) in general, and that the institutional and administrative capacity of authorities at European, national and regional level involved in the programming and implementation of the co-financed interventions is one of the key prerequisites for the effectiveness of the policy;
- (5) TAKING NOTE of the Commission's decision setting up the High Level Group of Independent Experts on Monitoring Simplification for Beneficiaries of the European Structural and Investment Funds⁵;

² Doc. 9622/15, 23.06.2015.

³ Doc. 15802/14, 19.11.2014.

⁴ COM(2015) 215 final, 19.05.2015.

⁵ COM(2015) 4806, 10.7.2015.

- (6) TAKING NOTE of the setting-up by the Commission of the Task Force on Better Implementation, which has concentrated on enhancing implementation of the 2007-2013 programmes and prepared grounds for extending the applied approach to the 2014-2020 programmes, in particular through supporting administrative capacity and learning the lessons from the past;
- (7) REITERATES its support to the new principles of cohesion policy and ESI Funds reform, and STRESSES that simplification, together with certainty and clarity over the interpretation of the rules governing the use of the ESI Funds, remains necessary more than ever to ensure a successful and efficient contribution to smart, sustainable and inclusive growth and to the growth and job creation strategy of the Union and to bring the policy closer to the citizens of the EU. STRESSES also the need to ensure sound financial management and the implementation of the result oriented approach;
- (8) HIGHLIGHTS that the regulatory framework for the programming period 2014-2020 includes a number of opportunities for simplification. INVITES the Commission to continue supporting Member States, and in particular managing authorities, to make full use of the possibilities offered by the new regulations, in particular the simplified cost options, e-cohesion, the new procedures related to major projects, the use of flat rates for revenue generating projects, risk management exercise and financing of operations located in different categories of regions etc. and to further develop these tools;
- (9) CONSIDERS nevertheless that the new regulatory elements for the period 2014-2020, at the EU, national, and sometimes regional levels, to adapt, improve and secure the management of Funds, poses new challenges for Member States' administrations, resulting often in the setting-up of complex administrative systems, with a possibly deterring effect on potential beneficiaries;

- (10) STRESSES that Cohesion policy and ESI Funds in general are based on shared management and responsibility, and that simplification can only be achieved and provide its full benefits if undertaken as a common challenge of the Commission, the Member States and all the bodies involved in management and control, also inviting SME's and other groups of beneficiaries to contribute, and therefore CALLS UPON the Commission and the Member States, in that spirit, to ensure full commitment to implement cohesion policy as reformed for the 2014-2020 programming period, to ensure consistency with the adopted provisions, to avoid additional obligations or burdensome application of the rules, and to use also the experience and lessons learnt from the previous programming periods;
- (11) ECHOES concerns from beneficiaries, especially SME's, and from practitioners on the ground, involved in the implementation and management of these funds, about the density and complexity of applicable rules and procedures, and sometimes their instability and overlaps and inconsistency with other EU policies, funds and directly managed instruments. NOTES that this situation has increased their feeling of legal uncertainty, hampered their good ownership and understanding of the rules, or interpretation thereof, and often led them to "over-secure" their work;
- (12) AGREES that the beneficiary is a focal point of the simplification process, however unnecessary burdensome provisions of the management and control system and audit might be to the detriment to this objective, therefore INSISTS that simplification measures should apply to the entire cycle of policy programming and implementation, taking into consideration the needs of all bodies involved in management and control and beneficiaries. RECOGNISES that the objectives of simplification, effectiveness, efficiency and regularity must be treated in a coherent manner and actions to address deficiencies have to be examined from all aspects, avoiding isolated solutions;

- (13) **HIGHLIGHTS** the Commission's role in ensuring timely, coordinated, clear and stable interpretation of regulations, coherent with arrangements adopted in programming documents. **CALLS** for strengthening coordination at all levels, in Member States and within the Commission services which can promote this stability and coherence in the interpretation of rules and simplification;
- (14) **EMPHASISES** that preventive measures are a very important part of simplification and **STRESSES** that auditors at European and national level, including the Court of Auditors, are well positioned to contribute to the simplification effort by detecting redundant processes and procedures, whether or not resulting from the regulation, and suggesting more effective solutions based on good practices; **SUGGESTS** that auditors are consulted about simplification proposals before they come into force to ensure there is a clear and common understanding on all sides;
- (15) **INVITES** the Commission to inform the Council on the work of the Task Force for Better Implementation, and the expected simplification effects;
- (16) **ACKNOWLEDGES** that the Commission's "Better regulation" initiative covers all policy areas, including cohesion policy and ESI Funds in general, and **CALLS** on the Commission to adequately take into consideration cohesion policy needs in the implementation of this initiative, including in the REFIT measures to come, where appropriate; **NOTES** that simplification in the implementation of ESI Funds is also a building block of the Commission initiative "Budget Focussed on Results";
- (17) **CONSIDERS** that the Council should express its priorities and expectations for the work of the High Level Group on Simplification and **ASKS** that the Council, as of 2016, is informed regularly on the work of the group to discuss its recommendations and that Member States are fully involved in order to respond to commonly identified challenges and obstacles, and to seek solutions together;
- (18) **RECALLS** the principle of proportionality as a general principle of Union law, governing also Union action in the field of ESI Funds;

(19) CALLS on the Commission to consider the following, also inviting the High Level Group on Simplification to provide expertise accordingly on:

- a) how simplification can contribute to ensuring that the administrative efforts required to manage programmes are proportionate to the level of support, the financial risks involved, the importance of the issues at stake and the expected benefits, thus improving cost-efficiency, while maintaining the quality of the programmes;
- b) the domains of public procurement and state aid, which are the main sources of error, and the way they could contribute to the streamlining of ESI Funds;
- c) the simplification of programme management and implementation systems of Interreg, including simplified cost options and irrecoverable amounts;
- d) the potential for simplifying procedures with respect to financial instruments;
- e) the potential for using simplified cost options and joint action plans;
- f) flat rates for revenue generating projects in the fields of ICT and energy efficiency;
- g) ways to streamline and harmonise reporting requirements based on an assessment of the use of data and its value added as well as timing of reporting;
- h) simplification of rules for projects covering different categories of regions;
- j) the question whether audit practices, findings and responses, based on the provisions of the regulations, support simplification, as well as to find solutions how the requirements of regularity and assurance could be met with minimal administrative burden, in a simpler manner;
- i) good practices in the implementation and control of other EU funds that could be adapted to the implementation of cohesion policy and the ESI Funds in general;

- (20) STRESSES that simplification may not be pursued at the detriment of the justifiability of expenditure ("each euro counts"), and that proposals for simplification can entail trade-offs, therefore both the benefits and costs linked to such proposals should be considered;
- (21) WELCOMES the intention of the Commission to share all conclusions and outcomes from the High Level Group as well as to hold thematically oriented hearings of the High Level Group with beneficiaries, managing and control authorities, and ENCOURAGES that relevant proposals of the High Level Group are discussed with Member States in view of their application In the context of this discussion on simplification, INVITES the upcoming Presidencies to explore with the Committee of the Regions possible cooperation on this matter;
- (22) CALLS on the Commission, the Member States and all the bodies involved in management and control to cooperate closely to:
- a) establish a common and shared diagnosis of the main sources of complexity, of excessive administrative costs and burdens, including over-regulation put in place at European, national, and regional levels, also in the context of European Territorial Cooperation programmes;
 - b) identify and propose some concrete simplification measures for the current programming period, which could be rapidly endorsed, within the scope of the existing legislative framework, where it provides an immediate added value without undermining the stability of the general rules and the programmes' strategies, and suggesting legislative changes only where this is not possible otherwise and where they would provide substantial improvements to authorities and beneficiaries;
 - c) review existing legislation and non-legislative acts in the perspective of simplification solutions for the post-2020 programming period in order to reduce administrative burden and costs for beneficiaries;

d) share experiences and best practices in order to support successful implementation of agreed measures at all levels;

(23) REMAINS COMMITTED that a regular debate takes place among relevant ministers to discuss on simplification issues in the framework of the General Affairs Council sessions dedicated to cohesion policy.
