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From: Presidency
To: Permanent Representatives Committee/Council
Subject: Legislative Package for Cohesion Policy Post-2020
- Policy debate

I. INTRODUCTION

Cohesion Policy plays a crucial role in strengthening the economic, social and territorial cohesion of the European Union by reducing disparities between the various EU regions, in line with Article 174 TFEU. Following the publication of the Multiannual Financial Framework for 2021-2027 at the beginning of May 2018, the Commission's legislative proposals for Cohesion Policy for the 2021-2027 period were published on 29 and 30 May.

With the aim at driving up convergence and modernising and strengthening Cohesion Policy, the Commission put forward a set of five regulations configuring the "Cohesion package" for post-2020:

1. The Common Provisions Regulation (CPR);
2. The European Regional Development Fund and Cohesion Fund (ERDF/CF) Regulation;
3. The European Social Fund Plus (ESF+) Regulation;
4. The European Territorial Cooperation (Interreg) Regulation;
5. The European Cross-Border Mechanism (ECBM) Regulation.

II. STATE OF PLAY OF NEGOTIATIONS WITHIN THE COUNCIL AND WAY FORWARD PROPOSED BY THE PRESIDENCY

Discussions within the Council started right after the Commission proposals of the Cohesion package were published. The Bulgarian Presidency organised presentations and first exchanges of views during the month of June 2018. From July onwards, the Austrian Presidency has led an in-depth examination of the legal proposals. In doing so, the Presidency prioritised those parts of the regulations which would be needed first to ensure a timely start of the upcoming programming exercise. This is to say that a simplified delivery system and cutting red tape are pivotal elements therein.

This intense work entailed very close cooperation between Member States with one or two meetings of the Structural Measures Working Party (SMWP) per week.

The approach taken by the Austrian Presidency on examining the proposals has been clear-cut from the very beginning. Firstly, the Presidency believes the Commission proposals are a very good starting point for the negotiations, with a reduced number of legislative provisions and a firm commitment to avoid over-regulation and to increase flexibility for Member States. Secondly, "less is more" is the guiding principle of the Austrian Presidency: by keeping the regulations short and concise, the flexibility for Member States is maximised, with each country being able to adjust the provisions nationally and/or regionally as they see fit.

Common Provisions Regulation (CPR)

The work of the SMWP has put emphasis on the Common Provisions Regulation (CPR), for which examination article-by-article started in September with a well-founded choice: a focus on provisions covering (1) Programming and strategic planning, (2) Management and control and (3) Enabling conditions and performance framework. These three blocks constitute the main basis needed for national and regional authorities to start planning and programming at the earliest possible stage, to allow for a quick start and implementation of the 2021-2027 programmes. Following discussions within the Council preparatory bodies, the way forward proposed by the Presidency on the CPR is the following:

Ensuring a needs-based, proportionate approach for all: the Partnership Agreement

Partnership agreements have been a useful coordination tool for implementing ESI Funds in the 2014-2020 period. With a re-definition of the scope of the CPR for the 2021-2017 period, several Member States have voiced their concerns about the future role and added value of Partnership Agreements. While such an agreement might be beneficial for Member States with a high number of programmes and a high share of EU contributions in investments in jobs and growth, it may be considered as additional administrative burden in Member States with few programmes and/or lower allocations. Certain flexibility is needed.

The Presidency proposes to have a mandatory partnership agreement in all Member States, except in the following cases:

- Where a Member State's combined allocation for ERDF and ESF+ under the investment for jobs and growth goal, together with the Cohesion Fund allocation, is lower than € 2.5 billion (in 2018 prices); or*
- Where a Member State has a total of three programmes or less financed by the above-mentioned funds.*

The Asylum and Migration Fund (AMF), the Border Management and Visa Instrument (BMVI) and the Internal Security Fund (ISF) should not be included in partnership agreements.

Striking the right balance between short-term flexibility and long-term planning: programming and mid-term review

The Commission proposal foresees a mandatory re-programming after five years, in 2025, for programme authorities to react to newly arising challenges. This ‘mid-term review’ would be in conjunction with relevant country-specific recommendations (CSRs) in 2024. However, this limits the possibilities to approve projects for a seven-year period. A balance between flexibility and strategic planning of long-term investments is to be found.

In line with the Commission's proposed 5+2 approach, the Presidency suggests to have a mandatory review in 2025, based on the relevant 2024 country-specific recommendations (CSRs).

The programming of the allocations would be done for the whole programming period. If, however, the mid-term review demonstrates that a programme no longer meets the challenges in a Member State or region, an appropriate re-programming of the allocations shall be carried out.

ERDF/Cohesion Fund and ESF+ Regulations

During the Austrian Presidency, progress has also been made on the fund-specific regulations part of the Cohesion package, following various orientation debates to guide the start of the negotiations as well as initial examination of the articles.

Concerning the ERDF/Cohesion Fund Regulation, the SMWP carefully looked at the proposed provisions and clarified the mechanics between the different policy objectives and the scope of support of the ERDF and the Cohesion Fund. Overall, fast and comprehensive progress has been made, placing an agreement on this regulation within reach.

As for the ESF+ Regulation, the SMWP has had a close look at its specific objectives as well as at the proposed governance structure, with more work needed on the relevant decision-making processes of the various strands and on indicators. Significant progress has been made on the specific objectives of ESF+.

The Presidency invites Member States to take note of the progress made.

European Territorial Cooperation (Interreg) Regulation

Striving for continuity and clarity: a revised 'architecture' for Interreg

The current Commission proposal includes important changes to the 'architecture' of Interreg, notably five new 'components' with the inclusion of maritime cross-border programmes in the transnational component (2) of the policy, the definition of a separate component (3) for outermost regions, the elimination of two policy areas under the interregional cooperation component (4) and the introduction of a new component 5 on interregional innovation investments.

While the new component 3 for outermost regions is welcomed by Member States, the other areas require further discussion. Overall, the Presidency believes that the 'architecture' of Interreg could benefit from as much as possible continuity in terms of programme areas and clarity in terms of objectives. Also, closer links between the proposed component 5, smart specialisation strategies and the ERDF mainstream would be desirable.

The Presidency suggests to adjust the 'architecture' proposed in the Interreg Regulation in a way that it stays as close as possible to the one of the 2014 – 2020 period, consisting of the following 'strands':

- Strand 'Interreg A' for maritime and terrestrial cross-border cooperation;*
- Strand 'Interreg B' for transnational cooperation; and*
- Strand 'Interreg C' for interregional cooperation.*

Existing programs of all three strands should be continued to a maximum extent.

As an exception to the above-mentioned 'continuity principle', cooperation of outermost regions should be organised as proposed by the Commission and defined as a separate, fourth strand 'Interreg D' for Outermost Regions.

At the same time, it is suggested to shift the proposed component 5 from Interreg to ERDF and to further define its scope as a dedicated initiative in the ERDF regulation.

European Cross-Border Mechanism Regulation (ECBM)

The Austrian Presidency has also worked on the legal implications and potential use of the proposed Regulation on a European Cross-Border Mechanism, including a dedicated seminar in cooperation with the Government of Luxembourg.

Member States have shown support for the idea of reducing undesirable border effects. However, the proposal itself raised a large number of questions, notably about the voluntary nature of such an instrument, about additional administrative burden and about the full recognition of existing mechanisms, such as bilateral agreements and State Treaties.

The Presidency invites Member States to take note of the progress made.

III. FOR DEBATE

To guide further discussions within the Council preparatory bodies and provide guidance for further work, the Presidency proposes the following questions for discussion:

Question 1

Do Ministers agree with the suggested Presidency's proposals, as set out above?

Question 2

Beyond the scope of these proposals, do Ministers see other key issues requiring further attention (and not covered by the MFF discussions)?