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STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with a view to the adoption of a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on the European Regional Development Fund and on the
Cohesion Fund

- Statement of the Council's reasons
- Adopted by the Council on 27 May 2021

I. INTRODUCTION

1. On 29 May 2018, the Commission tabled a proposal for a Regulation on the European Regional Development Fund (ERDF) and on the Cohesion Fund¹, which is part of the Cohesion Policy legislative package for 2021-2027. The overarching policy objective of the ERDF/Cohesion Fund Regulation is to strengthen the economic, social and territorial cohesion of the Union, by reducing disparities between the various EU regions, in line with Articles 174, 176 and 177 of the Treaty on the Functioning of the European Union (TFEU). On 28 May 2020, following the COVID-19 outbreak and as part of the revised Multiannual Financial Framework 2021-27 and the Recovery Package, the Commission proposed various amendments to the Cohesion policy legislative package 2021-2027, including to the ERDF/Cohesion Fund Regulation².
2. The European Economic and Social Committee adopted its opinion on the initial proposal on 17 October 2018³ and on the amended proposal on 18 September 2020⁴. The Committee of the Regions adopted its opinion on the initial proposal on 5 December 2018⁵ and on the amended proposal on 14 October 2020⁶.
3. The European Parliament adopted its position on the ERDF/Cohesion Fund Regulation at first reading at its plenary session on 27 March 2019.
4. The Structural Measures Working Party examined the proposed ERDF/Cohesion Fund Regulation in a number of meetings under Bulgarian, Austrian, Romanian, Finland's, Croatian, German and Portuguese Presidencies.

¹ Doc. ST 9522/18 + ADD 1 + ADD 2.

² Doc. ST 8380/20 + ADD 1 .

³ OJ C 62, 15.2.2019, p. 90.

⁴ OJ C 429, 11.12.2020, p. 236.

⁵ OJ C 86, 7.3.2019, p. 115.

⁶ OJ C 440, 18.12.2020, p. 191.

5. The Permanent Representatives Committee endorsed on 15 February 2019 the initial partial negotiation mandate⁷. On 22 July 2020, the Permanent Representatives Committee endorsed another partial mandate for negotiations with the European Parliament as regards the amended Commission proposal for the ERDF/Cohesion Fund Regulation⁸. Furthermore, on 5 October 2020, the partial mandate for negotiations was updated by the Permanent Representatives Committee to take account of the European Council Conclusions on the Multiannual Financial Framework 2021-27 and the Recovery Package adopted in the special meeting of the European Council of 17, 18, 19, 20 and 21 July 2020⁹.
6. On the basis of those mandates, the Finland's, Croatian, German and Portuguese Presidencies conducted interinstitutional negotiations that were concluded on 9 February 2021.
7. On 16 March 2021, the European Parliament's Regional Development Committee (REGI) approved the outcome of the interinstitutional negotiations. On 18 March 2021, the Chair of the REGI Committee addressed a letter to the Presidency of the Council indicating that he would recommend to the Plenary that the Council's position be accepted without amendments, subject to legal-linguistic verification, at Parliament's second reading.
8. Taking into account the above agreement and following legal-linguistic revision, the Council adopted its position at first reading on 27 May 2021, in accordance with the ordinary legislative procedure laid down in Article 294 TFEU.

⁷ Doc. 6147/19 ADD 2.

⁸ Doc. 9430/20.

⁹ Doc. 10880/20.

II. OBJECTIVE (Articles 2 and 3)

9. In accordance with Article 176 and the second and third paragraphs of Article 174 TFEU, the ERDF will continue contributing to reducing disparities between the levels of development of the various regions and to reducing the backwardness of the least-favoured regions, among which particular attention will be paid to regions which suffer from severe and permanent natural or demographic handicaps, including in particular handicaps resulting from demographic decline, such as the outermost regions, northernmost regions with very low population density, islands and cross-border and mountain regions. The Cohesion Fund will continue contributing to the overall objective of strengthening economic, social and territorial cohesion of the Union by providing financial contributions in the fields of environment and trans-European networks in the area of transport infrastructure (TEN-T).
10. The ERDF will support the following policy objectives:
- a more competitive and smarter Europe by promoting innovative and smart economic transformation and regional Information and Communication Technology Connectivity (Policy Objective 1);
 - a greener, low-carbon transitioning towards a net zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate change mitigation and adaptation, risk prevention and management, and sustainable urban mobility (Policy Objective 2);
 - a more connected Europe by enhancing mobility (Policy Objective 3);
 - a more social and inclusive Europe implementing the European Pillar of Social Rights (Policy Objective 4);
 - a Europe closer to citizens by fostering the sustainable and integrated development of all types of territories and local initiatives (Policy Objective 5).

Policy Objectives 2 and 3 will also be supported by the Cohesion Fund.

Policy Objectives are subsequently further refined in specific objectives that are also set out in the ERDF/Cohesion Fund Regulation.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

(a) Specific objectives (Article 3)

11. Council's first reading position strikes a good balance between different specific objectives to be pursued by the ERDF and Cohesion Fund, reflecting the main challenges that Europe is currently facing, such as supporting recovery from the COVID-19 pandemic, green transition, boosting competitiveness, enhancing connectivity, to name just some.
12. In this context, the agreement reached provides for an explicit possibility for the ERDF to provide support aimed at enhancing digital connectivity as part of the Policy Objective 1 for a more competitive and smarter Europe. To preserve the right balance between support for different Policy Objectives, only 40 % of resources spent on enhancing digital connectivity will be taken into account when calculating compliance with the thematic concentration requirements for Policy Objective 1 and the resources taken into account for thematic concentration requirements will not exceed 40 % of the minimum thematic concentration requirements for that Policy Objective.
13. Under the Policy Objective 2 for a greener, low-carbon transitioning towards a net zero carbon economy and resilient Europe, the ERDF and the Cohesion Fund will be able to provide among others support to enhancing protection and preservation of nature, biodiversity and green infrastructure, including in urban areas, and reducing all forms of pollution. Moreover, under the same Policy Objective 2, the ERDF and the Cohesion Fund will be able to provide support to promoting sustainable multimodal urban mobility, as part of transition to a net zero carbon economy. To preserve the right balance between support for different Policy Objectives, only 50 % of resources spent on promoting sustainable multimodal urban mobility will be taken into account when calculating compliance with the thematic concentration requirements for Policy Objective 2 and the resources taken into account for thematic concentration requirements will not exceed 50 % of the minimum thematic concentration requirements for that Policy Objective.

14. Within Policy Objective 4 for a more social and inclusive Europe implementing the European Pillar of Social Rights, the ERDF will be able to provide support to promoting the socioeconomic inclusion of marginalised communities, low income households and disadvantaged groups, including people with special needs; and to promoting the socio-economic integration of third country nationals, including migrants, both through integrated actions, including housing and social services.
15. Under Policy Objective 5 for a Europe closer to citizens by fostering the sustainable and integrated development of all types of territories and local initiatives, the ERDF will be able to foster the integrated and inclusive social, economic and environmental development, culture as well as natural heritage, sustainable tourism and security in areas other than urban areas. Support under this policy objective will be provided through territorial and local development strategies.

(b) Thematic concentration of ERDF support (Article 4)

16. Member States will decide on which level they will comply with thematic concentration: either at national level or at the level of category of regions. Member States will make this choice in their Partnership Agreements concluded with the Commission. Their choice shall apply for the entire programming period.

17. For the purposes of a thematic concentration, Member States and regions are classified on the basis of their gross national income ratio, into three groups, and minimum allocations for Policy Objectives 1 and 2 are fixed for each group. Member States and regions with a gross national income ratio equal to or above 100 % of the EU average will have to allocate at least 85 % of their ERDF resources to Policy Objective 1 and Policy Objective 2 and at least 30 % to Policy Objective 2. Member States and regions with a gross national income ratio equal to or above 75 % and below 100 % of the EU average will be required to allocate at least 40 % of their ERDF resources to Policy Objective 1, and at least 30 % to Policy Objective 2. Finally, Member States and regions with a gross national income ratio below 75 % of the EU average shall allocate at least 25 % of their ERDF resources to Policy Objective 1, and at least 30 % to Policy Objective 2. Giving Member States the choice to attain thematic concentration either at national level or at the level of category of regions, should allow for flexibility at the level of individual programmes.

(c) Scope of support of ERDF (Article 5)

18. The ERDF will support the following:

- investments in infrastructure;
- activities for applied research and innovation, including industrial research, experimental development and feasibility studies;
- investments in access to services;
- productive investments in SMEs and investments aiming at safeguarding existing jobs and creating new jobs;
- equipment, software and intangible assets;
- networking, cooperation, exchange of experience and activities involving innovation clusters including between businesses, research organisations and public authorities;
- information, communication and studies; and
- technical assistance.

19. Under certain conditions, the ERDF may support productive investments in enterprises other than SMEs. Also, under certain conditions, the ERDF may support training, life-long learning, reskilling and education activities, and the purchase of supplies necessary for strengthening the resilience of health systems and for strengthening disaster resilience.
20. Where strictly necessary and as a temporary measure to respond to exceptional or unusual circumstances, the ERDF may support the financing of working capital in SMEs in the form of grants.

(d) Scope of support from the Cohesion Fund (Article 6)

21. The Cohesion Fund will support the following:
 - investments in the environment, including investments related to sustainable development and energy presenting environmental benefits, with a particular focus on renewable energy;
 - investments in TEN-T;
 - technical assistance;
 - information, communication, and studies.

(e) Exclusions (Article 7)

22. It was important to clarify which activities fall outside the scope of the ERDF and of the Cohesion Fund. This will be for example the case of investments to achieve the reduction of greenhouse gas emissions from activities under the Emissions Trading System Directive 2003/87/EC, in order to avoid duplication of available financing, which already exists as part of that Directive. Moreover, investments in undertakings in difficulty as defined in Commission Regulation (EU) No 651/2014 are also excluded, unless authorised under *de minimis* aid or temporary State aid rules established to address exceptional circumstances. The ERDF and the Cohesion Fund will also not support certain investment in airports, with the exception of support to targeted environmental mitigation, security and safety measures in regional airports as long as the primary objective of the investments would be clearly identified in terms of environmental, security or safety standards of the Union and would be in line with the State aid rules. Similarly, neither of the funds will support facilities for landfilling and residual waste treatment, the decommissioning or the construction of nuclear power stations or the manufacturing, processing and marketing of tobacco and tobacco products. Support to investment related to production, processing, transport, distribution, storage or combustion of fossil fuels is also excluded, with the exception of:
- (i) under certain conditions, the replacement of solid fossil fuels fired heating systems with gas-fired heating systems;
 - (ii) investment in the expansion and repurposing, conversion or retrofitting of gas transmission and distribution networks provided that such investment makes the networks ready for adding renewable and low carbon gases, such as hydrogen, biomethane and synthesis gas, into the system and allows to substitute solid fossil fuels installations;
 - (iii) investment in clean vehicles for public purposes, as well as vehicles, aircraft and vessels designed and constructed or adapted for use by civil protection and fire services.

The amount of support under points (ii) and (iii) above will be capped depending on the level of the Member State's gross national income and the Member State's share of solid fossil fuels in gross inland energy consumption. Operations supported by the ERDF and the Cohesion Fund under points (i) and (ii) will be selected by the managing authority by 31 December 2025 and no phasing to the next programming period will be possible.

(f) Specific provisions (Articles 9-14)

23. Certain specific provisions will apply in relation to outermost regions, in line with Article 349 TFEU.
24. The ERDF may support integrated territorial development within programmes under the Investment for jobs and growth goal and the European territorial cooperation goal. To address economic, environmental, climate, demographic and social challenges, the ERDF will support integrated territorial development based on territorial or community-led local development strategies. The ERDF will support the European Urban Initiative. The ERDF will support the Interregional Innovation Investments Instrument, which will in turn support the commercialisation and scaling up of interregional innovation projects having the potential to encourage the development of European value chains.

IV. CONCLUSION

25. The Council's position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament, with the support of the Commission.
26. The Council believes that its position at first reading represents a balanced package for both funds that this Regulation is to set up for the 2021-2027 programming period.