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From: The Romanian Senate
On: 29 November 2019
To: The President of the Council of the European Union

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States to cover serious financial burden inflicted on them following a withdrawal of the United Kingdom from the Union without an agreement
[doc. 11919/19 - COM(2019) 399 final]
- Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality

Delegations will find attached the above-mentioned document followed by a courtesy English translation.



Parlamentul Romaniei Senat

Bucuresti, 27 noiembrie 2019

OPINIA SENATULUI ROMANIEI

referitoare la propunerea de Regulament al Parlamentului European și al Consiliului de modificare a Regulamentului (CE) nr. 2012/2002 al Consiliului pentru a oferi asistența financiară statelor membre în scopul acoperirii sarcinii financiare considerabile suportate de acestea ca urmare a unei retrageri a Regatului Unit din Uniune fără un acord

COM (2019) 399 final

Senatul României a examinat propunerea de Regulament al Parlamentului European și al Consiliului de modificare a Regulamentului (CE) nr. 2012/2002 al Consiliului pentru a oferi asistența financiară statelor membre în scopul acoperirii sarcinii financiare considerabile suportate de acestea ca urmare a unei retrageri a Regatului Unit din Uniune fără un acord - COM (2019) 399 final, în conformitate cu prevederile Tratatului de la Lisabona (Protocolul nr. 2).

Având în vedere raportul Comisiei pentru Afaceri Europene nr. LXII/210/24.10.2019, **plenul Senatului**, în edința din data de 27 noiembrie 2019, a hotărât următoarele:

1. Constata că:
 - a) Baza juridică este articolul 175 din TFUE.
 - b) Propunerea de Regulament respectă principiul subsidiarității.
 - c) Propunerea respectă principiul proporționalității însă, sub aspectul conținutului sunt necesare unele clarificări.
2. Apreciază intenția propunerii ca expresie concretă a unei solidarități reale în cadrul UE, prin care statele membre sunt de acord să se sprijine reciproc prin punerea la dispoziție a unor resurse financiare suplimentare prin intermediul bugetului UE în cazuri de urgență, atunci când nu fac față singure unei crize.

3. Exprima nedumerirea asupra motivelor alegerii sursei de finantare din FSUE si nu din alte fonduri, sugerandu-se inadecvat ca Brexitul ar fi o catastrofa naturala si nu rezultatul deciziilor unor politicieni responsabili si al unui referendum national.

4. Solicita o mai buna ciarificare cu privire la aplicabilitatea noilor prevederi in cazul „no-deal Brexit” in ceea ce priveste eligibilitatea TVA. Astfel, textul in vigoare al Regulamentului FSUE prevede la art. 3 alin. (4) faptul ca TVA nu constituie cheltuieli eligibile aferente unei operatiuni, cu exceptia cazului in care aceasta nu se poate recupera in temeiul legislatiei nationale referitoare la TVA. Prin noile modificari, se adauga un nou articol, art. 3b, care prevede la alin. (2) ca „TVA nu constituie cheltuiala eligibila”, fara a preciza ca aceasta prevedere s-ar aplica strict in cazul „no-deal Brexit”.

5. Constata faptul ca, referitor la valoarea pierderilor /pagubelor suferite de un stat membru in cazul unui scenariu „no-deal Brexit”, textul propus al Regulamentului nu este suficient de clar in ceea ce privește tipurile de pierderi care pot fi luate in calcul pentru stabilirea eligibilitatii unei cereri de asistenta din Fond prin atingerea unui prag minim. Astfel, atat in memorandumul care precede textul propus de Comisie, cat si la art. 3a alin. (3) pare a se face o definire a acestor pagube financiare („financial burden”) ca reprezentand cheltuieli publice suplimentare cauzate de un „no-deal Brexit”. Mai mult, la art. 3b alin. (3) se mentioneaza clar ca pierderile de venituri suferite de statele membre ca urmare a „no-deal Brexit” nu pot constitui cheltuieli eligibile din FSUE. Tinand cont ca la noul propus art. 4a, care trateaza modalitatea de depunere a unei solicitari de asistenta din FSUE strict ca urmare a „no-deal Brexit”, se mentioneaza ca o aplicatie va trebui sa includa toate informatiile relevante legate de pagubele financiare, pe baza carora s-ar calcula atingerea pragului de eligibilitate, nu este clar daca pierderile de venituri suferite ca urmare a „no-deal Brexit” pot fi luate in calculul pagubelor financiare, fara a fi ulterior cheltuieli eligibile din FSUE.

6. Propune o modificare a textului noului Regulament astfel incat sa reiasa ca pierderile de venituri (spre exemplu, pierderi ale statului din diminuarea unor taxe si impozite in urma reducerii schimburilor comerciale) pot fi considerate parte din paguba financiara a unui stat membru, chiar daca ele nu sunt eligibile pentru decontare din FSUE. Avem ca similitudine principiul folosit pana in prezent in implementarea FSUE in cazul dezastrelor naturale, unde in cuantumul pagubelor sunt incluse toate pierderile directe cauzate de dezastru, inasa asistenta din FSUE nu poate acoperi decat parte din cheltuielile publice derulate ca urmare a acelui dezastru.

7. Considera ca pragul propus pentru eligibilitatea unei aplicatii FSUE, de 0,3% din VNB - circa 550 milioane euro in cazul Romaniei - este destul de ridicat, mai ales daca luam in calcul faptul ca acesta ar reprezenta circa 15% din totalul schimburilor comerciale dintre Romania si Marea Britanie (bazat pe faptul ca in anul 2017, schimburile comerciale au totalizat circa 4,25 miliarde euro). Mai mult, urmare a unor cifre estimative, cuantumul impactului asupra PIB-ului Romaniei ar fi undeva la circa 340-350 milioane euro, incluzand aici toate pierderile de venituri.

Preedintele Senatului



Teodor-Viorel MELESCANU



**Parlamentul Romaniei
Senat**

Bucharest, 27 November 2019

Courtesy translation

**OPINION
of the SENATE OF ROMANIA**

on the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States to cover serious financial burden inflicted on them following a withdrawal of the United Kingdom from the Union without an agreement

COM (2019) 399 final

The Senate of Romania has examined the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States to cover serious financial burden inflicted on them following a withdrawal of the United Kingdom from the Union without an agreement, according to the provisions of the Treaty of Lisbon (Protocol no.2).

Taking into account the report of the Committee for European Affairs no. LXII/210/24.10.2019, **the plenum of the Senate**, during its session of 27 November 2019, has decided the following:

1. Notes that:
 - a) The legal basis is Article 175 of the Treaty on the Functioning of the European Union (TFEU).
 - b) The proposed Regulation respects the principle of subsidiarity.
 - c) The proposal respects the principle of proportionality but, in terms of content, some clarifications are needed.

2. Appreciates the intention of the proposal as a concrete expression of real solidarity within the EU, whereby the Member States agree to support each other by providing additional financial resources through the EU budget in cases of emergency, when they cannot handle by themselves a crisis.
3. Expresses its bewilderment over the reasons for choosing the source of funding from the EUSF and not from other funds, suggesting inadequately that Brexit would be a natural disaster and not the result of the decisions of some responsible politicians and of a national referendum.
4. Calls for a better clarification on the applicability of the new provisions in the "no-deal Brexit" case regarding the eligibility of VAT. Thus, the current text of the EUSF Regulation provides in art. 3 paragraph (4) the fact that VAT does not constitute eligible expenditure related to an operation, unless it cannot be recovered under national VAT legislation. Through the new modifications, a new article is added, art. 3b, which provides in par. (2) that "VAT is not eligible expenditure", without specifying that this provision would apply strictly in the case of "no-deal Brexit".
5. Notes that, regarding the value of losses / damages suffered by a Member State in the case of a "no-deal Brexit" scenario, the proposed text of the Regulation is not sufficiently clear as to the types of losses that can be taken into account for establishing the eligibility of a request for assistance from the Fund by reaching a minimum threshold. Thus, both in the memorandum preceding the text proposed by the Commission and in art. 3a paragraph (3) it seems to be a definition of these financial damages („financial burden") as representing additional public expenditure caused by a "no-deal Brexit". Moreover, at art. 3b paragraph (3) it is clearly mentioned that the revenue losses suffered by the Member States as a result of the "no-deal Brexit" cannot constitute eligible expenditure from the EUSF. Considering that at the new proposed art. 4a, which deals with how to submit a request for assistance from the EUSF strictly as a result of "no-deal Brexit", it is mentioned that an application will have to include all the relevant information related to the financial damages, based on which the eligibility threshold would be calculated, it is not clear whether the revenue losses suffered as a result of "no-deal Brexit" can be taken into account in calculating the financial damages, without being subsequently eligible expenditure from the EUSF.
6. Proposes an amendment to the text of the new Regulation to show that the losses of revenue (for example, losses of the State from the reduction of some taxes and duties resulting from the reduction of trade) can be considered part of the financial damage of a Member State, even if they are not eligible for settlement from the EUSF. We have as similarity the principle used so far in the implementation of the EUSF in the case of natural disasters, where the amount of damages includes all the direct losses caused by the disaster, but the assistance from the EUSF can cover only part of the public expenditure incurred as a result of that disaster.

7. Considers that the proposed threshold for the eligibility of a EUSF application, of 0.3% of GNI - about 550 million euros in the case of Romania - is quite high, especially considering that it would represent around 15% of the total trade between Romania and the United Kingdom (based on the fact that in 2017, the total trade was around 4.25 billion euros). Moreover, as a result of some estimating figures, the amount of the impact on the GDP of Romania would be somewhere around 340-350 million euros, including here all the income losses.

President of the Senate

I Helena

Teodor-Viorel MELE CANU
