



Brussels, 10 February 2017
(OR. en)

6063/17

ENV 109
ECOFIN 75
UEM 20
SOC 79
EMPL 54
COMPET 80
EDUC 37
RECH 33
ENER 40
JAI 98

NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

No. Cion doc.: 14357/16 ECOFIN 1032 UEM 361 SOC 698 EMPL 478 COMPET 580
ENV 708 EDUC 371 RECH 311 ENER 382 JAI 937 - COM(2016) 725 final
5967/17 ENV 103 ECOFIN 70 SOC 68 COMPET 74 POLGEN 9
CONSOM 37 + ADD 1 - COM(2017) 63 final

Subject: Greening the European Semester and the EU Environmental
Implementation Review (EIR)

- Exchange of views

1. On 18 November 2016, the Commission presented its Communication on the Annual Growth Survey (AGS) 2017¹. The AGS 2017 outlines the most pressing economic and social priorities on which the European Union and its Member States need to focus their attention in the coming months.

¹ Doc. 14357/16 - COM(2016) 725 final.

2. The policy guidance provided in the AGS 2017 is accompanied by a specific recommendation for a Council recommendation on the economic policy for the euro area. In broad terms, the Commission considers that while there are a number of positive developments in the EU, signalling the resilience and recovery of the European economy, there is no scope for complacency as the recovery remains fragile, in particular in terms of growth, employment and investment.
3. In addition, the Commission presented on 6 February 2017 a package ² consisting of 3 elements, ie:
 - a Communication on the EU Environmental Implementation Review: Common challenges and how to combine efforts to deliver better results;
 - an Annex to the Communication on Guidance to Member States: Suggested actions on better environmental implementation;
 - 28 country reports focusing on each of the 28 EU Member States.

The aim of this new initiative is to offer Member States a tool to improve the implementation of EU environmental policy and legislation, and to contribute to enhancing the greening of the European Semester.

4. In this context, the Presidency has prepared a background paper and three questions (in Annex), to guide the exchange of views at the Council (Environment) at its forthcoming meeting on 28 February 2017.
5. The Committee of the Permanent Representatives is invited to take note of the Presidency's paper and questions as set out in the Annex to this note and forward them to Council for the abovementioned exchange of views.

² Docs 5967/17 - COM(2017) 63 final + ADD 1 to 29.

Greening the European Semester and the EU Environmental Implementation Review**- Exchange of views-****Presidency background paper****1. Greening the European Semester**

The Council (Environment) has taken a keen interest in recent years in discussing how to 'green' the European Semester. This was shown, for instance, in the Council conclusions ¹ of October 2014. The Annual Growth Survey (AGS) is the main guidance document for the Member States for their National Reform Programmes. For the first time, the 2017 AGS contains a section dedicated to the circular economy and the way in which it contributes to growth and jobs. The AGS states that this will create new jobs in services such as innovative, maintenance and repair services and in designing and making new, more sustainable products. Specific areas where the macro-economic relevance of the circular economy and improved resource efficiency can be significant include green public procurement, investments in waste and water infrastructure, sustainable construction, critical raw materials, bio-fuels and bio-chemicals, as well as energy and climate-related investment.

Despite its reference to the circular economy and climate investment, the 2017 AGS does remain relatively weak in environmental and sustainability terms. The reason is that key instruments for sustainable growth - such as green jobs, green and/or sustainable financing or the green and blue economy - are still neglected. In addition, the AGS does not mention the link to relevant global processes such as the 2030 Agenda for Sustainable Development.

¹ Doc. 14731/14.

Furthermore, despite a reference to a tax shift from labour to pollution, the AGS does not reflect strongly enough other environmental issues highlighted in the 7th Environment Action Programme (EAP), such as the phasing-out of environmentally harmful subsidies. This runs somewhat counter to our thinking in terms of promoting the shift towards a low carbon, resource-efficient and circular economy. We believe that it is extremely important to highlight the ever-increasing importance of the environment and environmental policies so as to ensure continued economic recovery. Environmental policy, the European Semester Process and the response to the SDGs need to be better aligned as this will help macro-economic priorities take environmental considerations into account.

2. The Environmental Implementation Review

As highlighted previously, the need to integrate environmental policy within such areas as macro-economic policy is critical to the recovery from the financial crisis and to the greening of our economies. To this end, environmental tools such as the Environmental Implementation Review (EIR) as adopted by the Commission on 6 February 2017 in its Communication '*The EU Environmental Implementation Review: Common Challenges and how to join efforts to deliver the results*'² can contribute to implementing the 7th EAP through maximising the benefits of the Union environment legislation and improving the implementation of commonly-agreed rules.

² Docs 5967/17 - COM(2017) 63 final + ADD 1 to 29.

In addition - and as the Commission highlighted in its May 2016 Communication on the Environmental Implementation Review (EIR) ³ - the environmental, economic and social cost of not implementing the environmental acquis is substantial. For instance, the full implementation of environmental legislation can lead to significant employment opportunities in the green sector. In addition, better implementation of the EU environmental acquis will reduce the economic burden within the Member States. The Commission, too, will need to use fewer resources in instigating legal proceedings in cases of non-compliance. The objective is to bring about a paradigm shift, moving away from infringement proceedings towards a cooperative and collaborative approach as regards implementation. As a result, the EIR in its capacity to review implementation by Member States and identify root causes and common elements of non-implementation, has a significant role to play in the greening of our economies.

The EIR Communication and the initial, detailed 28 country reports reflect the importance that is being attached to better implementation in the regulatory context. The EIR complements other ongoing efforts to improve implementation pursued both at national and EU levels.

The EIR reports describe the main challenges and opportunities on environmental implementation for each Member State and for the EU as a whole. The EIR two-yearly cycle implies that delivering better results requires improved technical cooperation and political involvement in order to solve the strategic and systemic problems observed in Member States. The EIR offers a new opportunity to draw the attention of all key players at local, national and European level to the remaining environmental implementation gaps, and to encourage informed reflection, dialogue and action on how to address these.

The first round of 2016 EIR country reports confirm that the existing evidence base in the different policy areas varies and is in some areas incomplete. Persistent and serious implementation gaps exist in all main environmental policy fields: waste, nature, air and water.

³ Doc. 9704/16 - COM(2016) 316 final.

In addition to the more complete analyses on implementation gaps in the traditional environmental sectors, the EIR also provides, for the first time in the environmental area, preliminary findings on possible root causes of poor implementation, which include:

- *Lack of integration and policy coherence*: a lack of integration of environmental concerns into other policy areas constitutes a root cause for bad implementation. The Communication mentions three specific policy sectors which require stronger integration: (i) Air-Mobility; (ii) Water-Nature-Food Production and (iii) Nature – Rural Land Use-Urbanisation.
- *Ineffective coordination among local, regional and national authorities*: inadequate coordination between the relevant authorities can be an obstacle to implementation in Member States. For example, the responsibilities to monitor water quality are often dispersed among different authorities, which in turn lack sufficient coordination.
- *Lack of administrative capacity and insufficient financing*: in some countries, a lack of financial and human resources poses an obstacle to implementation, as this prevents the authorities from preparing and implementing investment projects. Even when financing is available, local authorities sometimes lack the human resources and/or the know-how needed for public procurement and monitoring the quality of the service provided ⁴.
- *Lack of knowledge and data*: a lack of (access to) data and unreliable data causes implementation problems in many Member States.
- *Insufficient compliance assurance mechanisms*: the analysis indicates that compliance monitoring and enforcement - including requisite, effective and proportionate sanctions – are often a cause for concern.

⁴ The administrative capacity is already a priority in the European Semester and an investment priority in the ESIF Funds.

It is clear that the responsibility for implementation lies primarily in our hands, at national level. The Commission has promised additional action to accompany these efforts through a dedicated framework:

- a) Setting up a structured bilateral dialogue with each Member State: the purpose is to improve knowledge on root causes for implementation gaps, so as to reflect on how to address the structural issues and needs of the respective Member State. This involves the relevant stakeholders and focuses on specific action.

- b) Providing tailored support for Member States' experts directly through their peers in other Member States: the Commission is expecting to launch such a Peer to Peer Tool for the EIR before the summer of 2017 in order to give logistical support to such exchanges.

- c) Discussing common structural issues in the Council in order to improve the implementation of the EU's environmental rules: the Commission is ready to engage with and support strategic discussions at Council level on the key findings of the EIR, with a view to promoting the implementation of EU environmental rules. Implementation problems arising from a lack of clarity, coherence or consistency in EU policy and legislation could also be addressed in this context.

After the EIR country dialogues in 2017 and proposed strategic discussions at Council level, the Commission will evaluate the first EIR cycle and take on board the comments from Member States and other actors, in order to take on board the lessons learned and integrate these within the 2nd cycle.

Tackling structural challenges requires a holistic approach across sectors, and does not just involve those working on environmental policy. This important shift from a purely sectoral approach to new cross-sectoral alliances is also reflected in the Sustainable Development Goals. As the EIR is an approach across all Member States, it requires political involvement to deliver. The link between the EIR, the 7th EAP and a possible 8th EAP is equally important. There is a need to keep in mind that the next EIR will be presented in 2019. The 7th EAP expires in 2020.

3. Questions for the Ministerial exchange of views

- 1) *In view of the above, what are the key sustainable development and environmental elements missing in the 2017 Annual Growth Survey?*
- 2) *How could we ensure that the Environmental Implementation Review contributes to achieving the goals of greening the European Semester? What role can the Environmental Implementation Review have in the greening process?*
- 3) *How could we best use the Environmental Implementation Review as a tool for effective implementation of the EU environmental policy and legislation, in particular the 7th EAP, as well as of the 2030 Agenda for Sustainable Development?*
