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From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)/Council
Subject: Draft Council Conclusions on the implementation challenges of the cohesion policy 2014-2020
- Adoption

1. One year and a half after the adoption of the cohesion policy legislative package reform for the period 2014-2020, it is particularly important to take stock of how the key features of this reform have been taken up in the programming process in individual Member States. It is essential to identify the current developments and bottlenecks in the programming and implementation of this newly reformed policy and to address the remaining challenges without delay.
2. Responding to the Council's invitation for a detailed assessment of the quality of spending and interventions¹, the Commission has provided first preliminary assessments of the implementation of the reform in the programming for cohesion policy 2014-2020².

¹ Council Conclusions on the Sixth Report on economic, social and territorial cohesion: Investment for jobs and growth of November 2014 (doc. 15802/14).

² Effectiveness and Added Value of Cohesion Policy - European Commission's Non-paper assessing the implementation of the reform in the programming for cohesion policy 2014-2020, May 2015.

3. In this context, the Latvian Presidency presented draft Council Conclusions on the implementation challenges of the cohesion policy 2014-2020, which were examined by the Structural Actions Working Party (SAWP) at several meetings, on 8 May, 26 May and 2 June 2015. Subsequent "silence procedures" were issued, with the last one ending on 12 June, which was not broken by any delegations. Against this background, the draft set of Council conclusions, as prepared by the SAWP, is set out in the Annex to the present note.
 4. The Permanent Representatives Committee is therefore invited to recommend to the Council (General Affairs Council meeting on 23 June 2015) to adopt the draft Council conclusions as set out in the Annex to the present note.
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**Draft Council Conclusions on the implementation challenges
of the cohesion policy 2014-2020**

THE COUNCIL OF THE EUROPEAN UNION

- (1) RECALLING that the mission of Cohesion policy is set out in the Article 174 of the Treaty on the Functioning of the European Union (TFEU).
- (2) RECALLING the Council conclusions on the Sixth Report on Economic, social and territorial cohesion.
- (3) RECALLING the Investment Plan for Europe launched by the European Commission and the role that Cohesion policy plays in supporting long-term investment to enhance growth and jobs and in improving the investment environment³.
- (4) RECALLING the ECOFIN Council conclusions on the Annual Growth Survey and the Alert Mechanism Report.⁴

Implementation of Cohesion policy reform

- (5) REITERATES the relevance of the main elements of the Cohesion policy reform agreed for the 2014-2020 programming period, aligning investments with the priorities of the Europe 2020 strategy, the European Semester and in particular the strong focus on increased effectiveness and results orientation.

³ COM(2014) 903.

⁴ 5957/1/15 REV 1.

- (6) UNDERLINES the importance of fully exploiting the potential of this reform to reinforce Cohesion policy as the main EU investment policy promoting economic, social and territorial cohesion in all EU regions while concentrating interventions in the less developed regions and contributing to other European objectives.
- (7) WELCOMES the fact that ERDF and ESF thematic concentration has been achieved and, in a number of cases, exceeded the requirements of the legislative framework and that Europe 2020 strategy priorities have been clearly addressed in programming documents.
- (8) RECOGNISES the importance of the established measures linked to sound economic governance and their implementation in practice. UNDERLINES that, by addressing relevant country specific recommendations arising from the European Semester, Cohesion policy investments have an important role to play in supporting structural reforms which encourage favourable framework conditions for ESI Funds interventions and improve the overall investment environment in Member States and regions.
- (9) RECOGNISES the important role of ex ante conditionalities in reinforcing the effectiveness of investment and the potential positive spill over effects to Member State's administrations. TAKES NOTE that, overall, ex ante conditionalities have been fulfilled in a majority of programmes and Member States. Nonetheless, NOTES that there are variations in the degree of fulfilment across Member States.
- (10) CALLS on Member States to strive for an effective and rapid implementation of their action plans related to ex-ante conditionalities, along the lines defined in the regulation, and to ensure that programme implementation starts as soon as possible and the reformed policy is effectively delivered on the ground. STRESSES the need for the Commission to work closely with Member States in the process of monitoring ex-ante conditionalities and their fulfilment progress. CALLS on the Commission and Member States to finalise the adoption of the remaining operational programmes.

- (11) WELCOMES the fact that the intervention logic in programmes has generally gained in clarity and that a clear definition of changes to be achieved through the investments of ESI Funds has been provided in programmes.
- (12) WELCOMES the integrated approach to territorial development and use of integrated territorial investments and community-led local development in order to achieve better results in addressing complex territorial challenges.
- (13) INVITES Member States to use to the full potential of the recent increase of the pre-financing for the Youth employment initiative in 2015 to speed-up the implementation.

Financial instruments

- (14) RECOGNISES the potential effectiveness of using financial instruments to increase the impact and leverage of ESI Funds, underpinned by an ex-ante assessment as well as by specific objectives defined in operational programmes, and additional to and coordinated with already existing regional, national and EU level financial instruments, both public and private. RECALLS nevertheless that grants within cohesion policy are an effective form of support for many types of projects and programmes on their own and in combination with financial instruments.
- (15) WELCOMES that, based on current estimates and plans, the overall use of financial instruments is expected to nearly double compared to the 2007-2013 programming period and INVITES Member States to continue exploring how to further enhance and widen the sustainable use of financial instruments, while taking into account different situations and contexts in the Member States and regions. TAKES NOTE of different implementation modalities, such as tailor made instruments, off-the-shelf instruments and SME Initiative.
- (16) CALLS on the Commission to provide guidance on the use of financial instruments and on the synergies between different instruments in a timely, coherent, consistent and clear manner and to explore all opportunities to provide more clarity, in no case going beyond the scope of the legal provisions agreed by the co-legislators by creating additional obligations.

- (17) HIGHLIGHTS that stable, consistent and clear rules throughout the whole implementation period are a pre-requisite to attract private investors.
- (18) INVITES the Commission to further explore possible synergies and complementarities between ESI Funds and the European Fund for Strategic Investments (EFSI) and provide guidance on combining the use of ESI Funds with EFSI to ensure smooth and efficient coordination between these instruments
- (19) RECOGNISES the importance of practical know-how and past experiences in successfully setting up and managing financial instruments. INVITES the Commission to continue analysing the implementation bottlenecks and to provide practical solutions in overcoming these bottlenecks, in particular for tailor made financial instruments.
- (20) WELCOMES the creation of the new "fi-compass" platform and INVITES the Commission to ensure that it is developed as a demand-driven advisory platform which delivers on practical issues related to the design and implementation of financial instruments in a timely manner.

Administrative capacity and Simplification

- (21) ACKNOWLEDGES that good governance and administrative capacity are among the main preconditions to achieve the objectives of Cohesion policy, that the primary responsibility in improving administrative capacity lies with the Member States and their regions, and that, at the same time, the Commission has an important supportive role to play. RECOGNISES the importance of addressing weaknesses in administrative capacity, including in the fields of public procurement and state aid.

- (22) CALLS on Member States to improve their administrative capacity in managing the ESI Funds while respecting the principle of proportionality and to foster the exchange of good practices within and between them. CALLS on the Commission to continue facilitating and fostering the exchange of good practices among Member States and to continue innovating in the way in which it can help Member States improving their administrative capacity in managing ESI Funds. WELCOMES the opportunities offered by the new TAIEX REGIO PEER 2 PEER exchange mechanism.
- (23) CALLS on the Commission to strengthen coordination within the Commission services and to reinforce its capacity to ensure timely, coordinated, clear and stable interpretation of rules and Commission decisions. Close cooperation between the Commission and Member States is crucial in order to ensure a common and consistent understanding of rules throughout the whole implementation period, in particular concerning specific arrangements agreed during recently finalized negotiations of programming documents
- (24) CALLS on the Commission and JASPERS to ensure sufficient capacity to support Member States in addressing horizontal issues and project preparation to ensure quality policy implementation.
- (25) INVITES the Commission to explore the possibilities for further simplification and proportionality, taking into account the findings in the Sixth Cohesion report on varying governance capacities. CONSIDERS that the Better regulation initiative should encompass Cohesion policy, including simplification.

- (26) WELCOMES the set-up by the Commission of the high level group monitoring simplification for beneficiaries. ASKS that the Council as of 2016 is informed regularly on the work of the group and that Member States are involved and ENCOURAGES relevant findings to be discussed with Member States and applied to the current programming period where it provides an immediate added value without undermining the stability of the general rules. RECALLS that achieving simplification of Cohesion policy is a shared objective and responsibility of the Commission, Member States, and other stakeholders. Respecting the principle of shared management of ESI Funds, all actors at EU and national level are invited to make use of the simplification measures provided for in the legal framework, to identify and remove processes and procedures which constitute excess administrative burden and cost, or can be simplified without undermining the overall assurance and effectiveness of the management and control system. RECOGNISES that auditors at EU and national level, including Court of Auditors, are well positioned to contribute to the simplification effort by detecting redundant processes and procedures and suggesting more effective solutions based on good practices.
- (27) INVITES the Commission and Member States to make efforts and where necessary allocate sufficient resources for preventive actions increasing legal certainty in order to minimise the risk of errors and avoid retroactivity, as well as to identify problems in the early stages of implementation via the designation procedure, system audits and early-warning mechanisms. CALLS on the Commission to provide timely guidance and coordinated methodological support to Member States, including national auditors, and to share recurrent and horizontal audit results with the audit community and programme authorities.

- (28) INVITES the Commission to report on the uptake of financial instruments and the contribution of ESI Funds to the implementation of the relevant country-specific recommendations, as well as on the contribution of ex ante conditionalities to creating a better investment environment and removing long-term bottlenecks for growth, and on the reduction in administrative burden. INVITES the Commission to include these findings in the report on the outcome of the negotiations concerning the Partnership Agreements and the programmes foreseen under article 16 of the Common provisions regulation⁵. INVITES Member States to provide information with respect to financial instruments funded by ESI Funds on performed ex-ante assessments and, if available, on signed funding agreements, in order to enable the Commission to produce this report.
- (29) RECOMMENDS that a regular debate in the General Affairs Council takes place among relevant ministers to discuss on the implementation and results of the ESI Funds, contributing in a meaningful and substantial way to ensure effective implementation and result orientation of cohesion policy.

⁵ Regulation (EU) No 1303/2013, OJ L 347, 20.12.2013, p. 320.