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NOTE

From: Presidency
To: Permanent Representatives Committee/Council
Subject: Legislative package for Cohesion Policy 2021-2027
- Overall state of play of negotiations
= Progress report

I. INTRODUCTION

1. 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, the Commission's legislative proposals for Cohesion Policy for the 2021-2027 period were published on 29 and 30 May 2018. The Cohesion Policy legislative package namely includes the Common Provisions Regulation (CPR)¹, the ERDF/Cohesion Fund Regulation (ERDF/CF)², the European Social Fund Plus Regulation (ESF+)³, the European Territorial Cooperation (Interreg) Regulation⁴, as well as a Regulation for a mechanism to resolve legal and administrative obstacles in a cross-border context (ECBM)⁵.

¹ Doc. 9511/18 + ADD 1.

² Doc. 9522/18 + ADD 1-2.

³ Doc. 9573/18 + ADD 1-2.

⁴ Doc. 9536/18 + ADD 1.

⁵ Doc. 9555/18.

II. STATE OF PLAY OF NEGOTIATIONS WITHIN THE COUNCIL

2. The Bulgarian Presidency kicked-off the examination of the legislative proposals with the organisation of presentations and first exchanges of views during the month of June 2018.
3. From July until December of the same year, the Austrian Presidency held an in-depth examination of the legal proposals, including a political debate at the General Affairs Council (Cohesion) held on 30 November 2018. In order to make the discussions more effective and efficient, work within the Council was structured by regulation and, for the CPR, also in thematic blocks. Partial mandates on relevant parts of the CPR were endorsed during the Austrian Presidency.
4. The Romanian Presidency continued with the detailed examination of the CPR thematic blocks and the fund-specific regulations in order to achieve the relevant (partial) mandates for negotiations with the European Parliament by the end of its term. This intense work entailed very close cooperation between Member States with one or two meetings of the Structural Measures Working Party (SMWP) per week, with a total of 28 meetings of the SMWP during the Romanian Presidency, also accompanied by a political discussion at the General Affairs Council (Cohesion) on 25 June 2019.
5. Progress achieved on the various regulations part of the Cohesion Policy Legislative Package can be summarised as follows:

Common Provisions Regulation

6. The Common Provisions Regulation (CPR) was presented to the SMWP in June 2018 during the Bulgarian Presidency. Detailed examination of the texts took place during the Austrian Presidency, as stated in their Presidency's Report (doc. 15428/1/18 REV1).
7. On 19 December, under the Austrian Presidency, the Permanent Representatives Committee agreed on a partial mandate for negotiations on the Common Provisions Regulation covering provisions on programming and strategic planning (**Block 1**) and management and control (**Block 5**) as set out in doc. 15429/18 ADD1.

8. Between February and June 2019, under the Romanian Presidency, the Permanent Representatives Committee agreed on a partial mandate for negotiations on the Common Provisions Regulation covering:
- the conditions for eligibility and performance framework (**Block 2**) and Annex IV on the thematic enabling conditions, as set out in doc. 6147/19 ADD1;
 - the provisions on monitoring, evaluation, communication and visibility (**Block 3**) and on financial support from the Funds (**Block 4**) and their related annexes, as set out in doc. 7983/19;
 - the provisions on financial management (**Block 6**) and their related annexes, as set out in doc. 8728/19;
 - the provisions on definitions and other provisions such as delegation of power, implementing, transitional and final provisions (**Block 7**), as set out in doc. 9590/19;
 - the Annex III on horizontal enabling conditions, as set out in doc. 9961/19.
9. It is also worth noting that all provisions of the CPR with budgetary implications (e.g. transfers, pre-financing, co-financing, de-commitment) or of a horizontal nature were put between square brackets and thus excluded from the partial mandates for negotiations mentioned above, pending further progress on the MFF discussions. This also covers **Block 8** (Financial framework) of the CPR.
10. Moreover, the Romanian Presidency also worked on a technical alignment of the CPR Annexes in order to better reflect the agreement reached with the mandates for CPR Blocks 1 to 7. A consolidated version of the various partial mandates covering the CPR is to be prepared in due course.
11. Beyond work within the Council preparatory bodies, the Romanian Presidency also conducted three political trilogues with the European Parliament on 19 and 26 February and 6 March 2019, which were accompanied by several technical meetings. The results of the work and the outcome of trilogue negotiations are set out in a Presidency Report (doc. 10052/19).

ERDF/Cohesion Fund Regulation

12. Following the work on the ERDF/Cohesion Fund Regulation under the Austrian Presidency, as set out in its report (doc.15428/1/18 REV1), the SMWP further scrutinised the text of the legislative proposal with the aim at addressing the remaining concerns expressed by delegations. Following the deliberations at working party level, the Romanian Presidency proposed some additional amendments to the ERDF/CF Regulation which were discussed in Coreper on 30 January and 15 February. At the latter date, the Permanent Representatives Committee agreed on a partial mandate for negotiations on the ERDF/CF Regulation, as set out in doc. 6147/19 ADD 2. Article 3 (Thematic concentration) was put between square brackets and thus excluded from the compromise text pending further progress on the MFF discussions.
13. Technical work on the Annexes of the Regulation, containing the ERDF/Cohesion Fund indicators was also carried out, based on the work of Evaluation Network experts.

ESF+ Regulation

14. Work on the articles of the ESF+ Regulation started during the Austrian Presidency, focussing on the specific objectives of the Regulation (Article 4(1)) and the related enabling conditions (Annex IV CPR). This set of provisions was agreed by Coreper on 15 February 2019 already under the Romanian Presidency in the framework of CPR Block 2.
15. After working on the remaining Parts of the Regulation at working party level, the Permanent Representatives Committee reached a partial mandate for negotiations on the ESF+ Regulation and its related Annexes on 3 April 2019, as set out in doc. 8211/19. All provisions with budgetary implications or of a horizontal nature were put between square brackets and thus excluded from this partial mandate for negotiations pending further progress on the MFF discussions.

European Territorial Cooperation (Interreg) Regulation

16. Detailed examination of the Interreg Regulation by the SMWP started under the Austrian Presidency, with an orientation debate and work on the potential alignment and implications between the CPR and the Interreg Regulation. The General Affairs Council (Cohesion) on 30 November 2018 gave specific guidance for further work, mainly for the Interreg architecture and the existing programmes to reflect, to the extent possible, the 2014-2020 period set-up, with also component 5 (Interregional Innovation Investments) shifted to ERDF as a dedicated initiative in that Regulation.
17. The Romanian Presidency pursued the work on the file with a detailed examination of the full Interreg Regulation and its Annex. The SMWP discussed the Interreg Regulation in ten different meetings. On 29 May 2019, under the Romanian Presidency, the Permanent Representatives Committee agreed on a partial mandate for negotiations on the Interreg Regulation and its Annex, as set out in doc. 9781/19. All provisions with budgetary implications or of a horizontal nature were excluded from the partial mandate for negotiations, pending further progress on the MFF discussions. However, amendments made to Chapter VIII by the Council preparatory bodies during their work on the file have been already included in the text.

European Cross-Border Mechanism Regulation (ECBM)

18. Detailed examination of the ECBM Regulation by the SMWP started in the second half of 2018 with an orientation debate on 16 October and a dedicated seminar on 21 November 2018. However, the proposal itself raised a large number of questions and the Austrian Presidency requested the Council Legal Service to further scrutinise the dossier.
19. Under the Romanian Presidency, the Council Legal Service presented its preliminary assessment on the applicable legal framework and on the main elements of the ongoing analysis. The Council Legal Service opinion on the ECBM Regulation is expected to be presented to delegations during the Finnish Presidency.

III. CONCLUSION

20. Very substantial progress has been achieved during the past months. Following the work carried out by the Bulgarian and Austrian Presidencies, and with the exclusion of the provisions that are part of the MFF negotiations due to their budgetary or horizontal nature, the Romanian Presidency has conducted and finalised the (partial) mandates for negotiations with the European Parliament on the Common Provisions Regulation, the ERDF/Cohesion Fund Regulation, the ESF+ Regulation and the Interreg Regulation during its term.
21. In light of the above, the Permanent Representatives Committee and the Council are invited to take note of this report and of the progress made by the Council preparatory bodies on the Cohesion Policy legislative package 2021-2027.
