Council of the European Union

Brussels, 28 May 2021
(OR. en)

Interinstitutional File:
2018/0196(COD)

6674/1/21
REV 1 ADD 3

FSTR 21
REGIO 36
FC 9
SOC 122
PECHE 75
CADREFIN 122
JAI 237
SAN 119
CODEC 295
PARLNAT 127

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 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy – Statement of the Council's reasons – Adopted by the Council on 27 May 2021

I. INTRODUCTION

1. On 29 May 2018, the Commission adopted the proposal for the Common Provisions Regulation (CPR)[1]. The original CPR proposal set out common provisions for seven shared management funds: the Cohesion Fund, the European Maritime and Fisheries Fund, the European Regional Development Fund, the European Social Fund Plus, the Asylum and Migration Fund, the Border Management and Visa Instrument and the Internal Security Fund. On 14 January 2020, together with the proposal for establishing the Just Transition Fund (JTF), the Commission proposed various amendments to the CPR[2] in order to embed the JTF as a new fund under the umbrella rules of the CPR. On 28 May 2020, following the COVID-19 outbreak, and as part of the revised MFF 2021-27 and of the Recovery Package, the Commission proposed various amendments to the Cohesion policy legislative package 2021-2027, including additional amendments to the CPR[3].

2. The European Economic and Social Committee adopted its opinion on the initial CPR proposal on 17 October 2018[4] and on the amended proposals on 10 June 2020[5] and 18 September 2020[6].

3. The Committee of the Regions adopted its opinion on the initial CPR proposal on 5 December 2018[7] and on the amended proposals on 14 October 2020[8].

4. The European Court of Auditors adopted its opinion on the CPR on 31 October 2018[9].

---

1 Doc. 9511/18 + ADD 1.
2 Doc. 5259/20 + ADD1.
3 Doc. 8399/20 + ADD1.
4 OJ C 62, 15.2.2019, p. 83.
5 OJ C 311, 18.9.2020, p. 55.
6 OJ C 429, 11.12.2020, p. 236.
7 OJ C 86, 7.3.2019, p. 41.
8 OJ C 440, 18.12.2020, p. 191.
9 OJ C 17, 14.1.2019, p. 1.

5. The European Parliament adopted its position on the CPR at first reading at its plenary session on 27 March 2019.

6. The Structural Measures Working Party examined the proposed CPR in several meetings under Bulgarian, Austrian, Romanian, Finland's, Croatian, German and Portuguese Presidencies.

7. The Permanent Representatives Committee endorsed various partial negotiation mandates on different parts (CPR blocks) of the Regulation from December 2018 to May 2019[10]. On 22 July 2020, the Permanent Representatives Committee endorsed another partial mandate for negotiations with the European Parliament as regards the amended Commission proposals for the CPR[11]. 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 2020[12].

8. On the basis of those mandates, the Romanian, Finland's, Croatian, German and Portuguese Presidencies conducted interinstitutional negotiations that were concluded in February 2021.

9. On 16 March 2021, the European Parliament's Committee on Regional Development (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.

10. 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.

---

10 Doc. 11149/19 (consolidated version of CPR partial mandates).
11 Doc. 9428/20.
12 Doc. 10879/20.

II. OBJECTIVE (Articles 1 to 9)

11. In accordance with Articles 174, 175, 177 and 322 TFEU amongst others, the CPR is the umbrella Regulation for a set of shared management funds that aim to support Member States to strengthen their economic, social and territorial cohesion, by reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands. Common provisions based on Article 177 TFEU are established to cover policy-specific rules for the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF.

12. In addition, in order to further develop a coordinated and harmonised implementation of Union Funds implemented under shared management, financial rules based on Article 322 TFEU are established for all the Funds covered by the CPR, with the Council's first reading position clearly specifying the scope of application of the relevant provisions.

13. The CPR will support the following policy objectives:

    (a) a more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT connectivitiy;

    (b) 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;

    (c) a more connected Europe by enhancing mobility;

    (d) a more social and inclusive Europe implementing the European Pillar of Social Rights;

    (e) a Europe closer to citizens by fostering the sustainable and integrated development of all types of territories and local initiatives.

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

(a) Strategic approach and programming (Articles 7 to 37)

14. The Partnership Agreement, prepared by each Member State, will be a concise and strategic document guiding the negotiations between the Commission and the Member State concerned on the design of programmes under the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF.

15. Member States at the appropriate territorial level, in accordance with their institutional, legal and financial framework and the bodies designated by them for that purpose, will be responsible for preparing and implementing programmes. They will also take due account of the partnership principle during implementation.

16. Horizontal principles have been strengthened, inter alia with the aim to ensure the sustainability of funding, supporting the EU's climate and environmental goals, integrating the "do no harm" and the "energy-efficiency-first" principles as well as strengthening the link to the national energy and climate plans. The programmes will indicate the climate contribution target for each Member State as a percentage of its total ERDF and Cohesion Fund allocation.

17. In order to provide Member States with sufficient flexibility in the implementation of their shared management allocations, the Council's first reading position allows to transfer certain levels of funding between the Funds and between shared management and direct and indirectly managed instruments. Moreover, each Member State will also have the flexibility to contribute to the InvestEU Programme, under certain conditions set out in the Regulation.

18. To ensure the necessary prerequisites for the effective and efficient use of Union support granted by the Funds, a limited list of enabling conditions as well as a concise and exhaustive set of objective criteria for their assessment will be established and clearly specified in relevant provisions both in the Articles and the Annexes of the Regulation.

19. The Council's position at first reading continues a similar approach to the existing mechanisms linking Union funding policies with the economic governance of the Union during the 2014-2020 period, and allows the Commission, for the 2021-2027 period, to make a proposal to the Council to suspend all or part of the commitments or payments for one or more of the programmes of the Member State concerned where that Member State fails to take effective action in the context of the economic governance process. The ESF+ and Interreg programmes will be excluded from the scope of those mechanisms.

20. In order to further strengthen the link between cohesion policy and the European Semester, for the first time Member States will carry out a mid-term review in 2024 of each programme supported by the ERDF, the ESF+, the Cohesion Fund and the JTF. The review's intention is to provide a fully-fledged adjustment of programmes based on programme performance. For programmes under the Investment for jobs and growth goal, an amount corresponding to 50 % of the contribution for the years 2026 and 2027 ('flexibility amount') per programme in each Member State will be retained and will only be definitively allocated to the programme after the adoption of the Commission decision following the mid-term review.

21. The co-legislators have also decided to empower the Commission to adopt temporary measures to facilitate the use of the Funds in response to exceptional or unusual circumstances. The Commission will have the necessary legislative framework to adopt the measures that are most appropriate in light of these circumstances, while preserving the objectives of the Funds.

22. In order to reduce the administrative burden, the Council's first reading position allows the implementation of technical assistance linked to programme implementation at the initiative of the Member State through a flat rate based on progress in programme implementation. Nevertheless, where continuity with the 2014-2020 period is preferred, Council's position provides the possibility to the Member State to continue receiving reimbursement of eligible costs actually incurred by the beneficiary and paid in implementing operations for technical assistance.

(b) Monitoring, evaluation, communication and visibility (Articles 38 to 50)

23. In order to examine the performance of programmes, Member States will set up monitoring committees, whose composition will include representatives of relevant partners. For the ERDF, the ESF+ and the Cohesion Fund, annual implementation reports will be replaced by annual performance reviews based on the latest information and data on programme implementation made available by the Member State.

24. Programme authorities, beneficiaries and stakeholders in Member States will remain accountable for raising awareness of the achievements of Union funding and informing the general public accordingly. The Council's first reading position considers transparency, communication and visibility activities as essential elements in making Union action visible on the ground.

(c) Financial support from the Funds (Articles 51 to 68)

25. The Council's position contributes to simplifying the use of the Funds and to reducing the risk of error. With this aim, both the forms of Union contribution to Member States and the forms of support provided by Member States to beneficiaries are defined. Managing authorities will be able to provide grants through the form of financing not linked to costs. As regards grants to beneficiaries, Member States are meant to increasingly make use of simplified cost options.

26. In order to provide legal clarity, the Council's first reading position specifies the eligibility period for expenditure or costs linked to operations supported by the Funds under this Regulation and restricts support for completed operations.

(d) Management and control (Articles 69 to 85)

27. The Council's position at first reading gives the possibility to Member States, at their own initiative, to identify a coordinating body to liaise with and provide information to the Commission and to coordinate activities of the programme authorities in that Member State.

28. The Council's first reading position also ensures an appropriate balance between the effective and efficient implementation of the Funds and the related administrative costs and burdens, through a more accurate frequency, scope and coverage of management verifications and audits. In this respect, the Council's position guarantees that management verifications will be proportionate to the risks previously assessed and audits will be proportionate to the level of risk to the budget of the Union.

(e) Financial management and financial framework (Articles 86 to 112)

29. The Council's first reading position puts forward a set of proportionate measures to be implemented at the level of Member States and the Commission to safeguard the financial interests and the budget of the Union.

30. In order to promote the objectives of the TFEU related to economic, social and territorial cohesion, the Investment for jobs and growth goal will support all regions, allocating resources under that goal from the ERDF and the ESF+ on the basis of an allocation key which is predominantly based on gross domestic product ('GDP') per capita. Member States whose per capita gross national income ('GNI') is less than 90 % of that of the Union average will also benefit from the Cohesion Fund under that same goal.

31. The resources for the European territorial cooperation goal (Interreg) will be allocated to Member States on the basis of a specific allocation methodology which takes into account in particular population density in border areas.

32. The Commission will set out the annual breakdown of available allocations per Member State for the ERDF, the ESF+, the Cohesion Fund and the JTF under the Investment for jobs and growth goal, together with the list of eligible regions, as well as the allocations for the European territorial cooperation goal (Interreg).

33. The Council's position at first reading also establishes maximum rates of co-financing in the area of cohesion policy by category of region, where applicable, in order to ensure that the principle of co-financing is respected through an appropriate level of public or private national support.

(f) Other provisions (Articles 112 to 119)

34. In order to ensure continuity in providing support in the relevant policy area, the Council's position at first reading establishes phasing provisions between the 2014-2020 and the 2021-2027 periods.

IV. CONCLUSION

35. 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.

36. The Council believes that its position at first reading constitutes a balanced text which fulfils all the objectives of the Common Provisions Regulation.