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DRAFT 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 on the European Social Fund Plus (ESF+) – Draft Statement of the Council's reasons

I. INTRODUCTION

1. On 30 May 2018, the Commission tabled the proposal for the European Social Fund Plus Regulation (ESF+ Regulation)[1], which is part of the Cohesion Policy legislative package for 2021-2027. The overarching policy objective of the ESF+ Regulation is to help create a more performing and resilient 'Social Europe' and implement the European Pillar of Social Rights as well as the social and employment priorities endorsed by the European economic governance process. On 28 May 2020, following the COVID-19 outbreak and as part of the revised Multiannual Financial Framework 2021-27 and the Recovery Package, the Commission proposed various amendments to the Cohesion policy legislative package 2021-2027, including to the ESF+ Regulation[2].

2. The European Economic and Social Committee adopted its opinion on the initial proposal on 17 October 2018[3] and on the amended proposal on 18 September 2020[4].

3. The Committee of the Regions adopted its opinion on the initial proposal on 5 December 2018[5] and on the amended proposal on 14 October 2020[6].

4. The European Parliament adopted its position on the ESF+ Regulation at first reading at its plenary session on 4 April 2019.

5. The Structural Measures Working Party examined the proposed ESF+ Regulation in a number of meetings under Bulgarian, Austrian, Romanian, Finland's, Croatian, German and Portuguese Presidencies.

1 Doc. ST 9573/18 + ADD 2.
2 Doc. ST 8394/20.
3 OJ C 62, 15.2.2019, p. 165.
4 OJ C 429, 11.12.2020, p. 245.
5 OJ C 86, 7.3.2019, p. 84.
6 OJ C 440, 18.12.2020, p. 191.

6. The Permanent Representatives Committee endorsed on 3 April 2019 the initial partial negotiation mandate[7]. On 22 July 2020, the Permanent Representatives Committee endorsed another partial mandate for negotiations with the European Parliament as regards the amended Commission proposal for the ESF+ Regulation[8]. Furthermore, on 5 October 2020, the partial mandate for negotiations was updated by the Permanent Representatives Committee[9] 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.

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

8. On 4 March 2021, the European Parliament's Employment and Social Affairs (EMPL) Committee approved the outcome of the interinstitutional negotiations. On 5 March 2021, the Chair of the EMPL 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.

9. Taking into account the above agreement and following legal-linguistic revision, the Council adopted its position at first reading on [xxxx 2021], in accordance with the ordinary legislative procedure laid down in Article 294 TFEU.

II. OBJECTIVE (Articles 3 and 4)

10. In accordance with Articles 149, 153, 164 and 175 TFEU amongst others, the ESF+ aims to support Member States and regions to achieve high employment levels, fair social protection and a skilled and resilient workforce, as well as inclusive and cohesive societies aiming to eradicating poverty and delivering on the principles set out in the European Pillar of Social Rights. At the same time, the ESF+ will support, complement and add value to the already existing policies of the Member States in the aforesaid areas.

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7 Doc. 7982/19.
8 Doc. 9431/20.
9 Doc. 10881/20.

11. The ESF+ will support the following specific objectives:

(a) improving access to employment and activation measures for all jobseekers;

(b) modernising labour market institutions and services to assess and anticipate skills needs;

(c) promoting a gender-balanced labour market participation, equal working conditions, and a better work-life balance;

(d) promoting the adaptation of workers, enterprises and entrepreneurs to change as well as active and healthy ageing;

(e) improving the quality, inclusiveness, effectiveness and labour market relevance of education and training systems;

(f) promoting equal access to and completion of quality and inclusive education and training, in particular for disadvantaged groups;

(g) promoting lifelong learning;

(h) fostering active inclusion with a view to promoting equal opportunities, non-discrimination and active participation;

(i) promoting socio-economic integration of third-country nationals, including migrants;

(j) promoting the socio-economic integration of marginalised communities;

(k) enhancing equal and timely access to quality, sustainable and affordable services; modernising social protection systems; improving accessibility, effectiveness and resilience of healthcare systems and long-term care services;

(l) promoting social integration of people at risk of poverty or social exclusion;

(m) addressing material deprivation through food or basic material assistance to the most deprived persons.

Moreover, in addition to the above-mentioned specific objectives, the ESF+ strand under shared management will also contribute to the policy objectives enshrined in Article 5 of the Common Provisions Regulation.

12. Where strictly necessary and as a temporary measure to respond to exceptional or unusual circumstances, the ESF+ may support the financing of short-time work schemes (without the requirement that they be combined with active measures) as well as access to healthcare including for people who are not in imminent socio-economic vulnerability.

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

(a) Implementation under shared management (Article 7 to 24)

13. Council's first reading position strikes a good balance between different specific objectives to be pursued by the ESF+, reflecting the main social challenges that Europe is currently facing in the context of the European Pillar of Social Rights, and thematic concentration requirements that earmark necessary support for key areas identified by the co-legislators (child poverty, social inclusion, youth unemployment, support to the most deprived and capacity building of social partners and civil society organisations).

14. In this context, the agreement reached on thematic concentration of ESF+ resources (Article 7 and -partly- Article 9) provides that:

- Member States will allocate at least 25 % of their national resources of the ESF+ strand under shared management to foster social inclusion;
- Member States that had an average rate above the Union average of children of less than 18 years old at risk of poverty or social exclusion for the period between 2017 and 2019 (Eurostat data) will allocate at least 5 % of their resources of the ESF+ strand under shared management to those activities;
- Member States that had an average rate above the Union average of young people of 15 to 29 years of age who are not in employment, education or training for the period between 2017 and 2019 (Eurostat data) will allocate at least 12,5 % of their resources of the ESF+ strand under shared management to those actions;

– Member States will allocate at least 3 % of their resources of the ESF+ strand under shared management to address the forms of extreme poverty with the greatest social exclusion impact, such as homelessness, child poverty and food deprivation;
– Member States will allocate an appropriate amount of their resources of the ESF+ strand under shared management in each programme to capacity building of social partners and civil society organisations. Those Member States with a country-specific recommendation in such area will also allocate at least 0,25 % of ESF+ resources to that purpose.

15. In a context where innovation and transnational cooperation in the social domain are playing an increasing important role, Member States will also support actions of social innovation and social experimentation, strengthening bottom-up approaches based on partnerships (Article 14), and they will also have the possibility to promote and support transnational cooperation actions under any of the ESF+ specific objectives (Article 15).

16. At the same time, the ESF+ strand under shared management makes clear what type of support is non-eligible (Article 16). The purchase of land and real estate as well as infrastructure cannot be supported. In addition, the purchase of furniture, equipment and vehicles (except where such purchase is necessary for achieving the objective of the operation, or those items are fully depreciated, or the purchase of those items is the most economic option) are also non-eligible items.

17. Chapter III (Articles 18 to 24) focuses solely on the ex-FEAD material assistance, covering the principles for support, the rules on reporting, eligibility, the indicators and audit for the measures under ESF+ addressing material deprivation. The Council's first reading position maintains the structure of this Chapter from the Commission proposal, keeping a singular approach and not imposing more demanding rules (e.g. for reporting data on indicators, or rules on the audit trail) for these types of operations, which have lower thresholds for participation and thus are less administratively burdensome.

(b) Implementation under direct and indirect management (Articles 25 to 36)

18. The Council's position at first reading concerning the Employment and Social Innovation strand (EaSI strand) includes provisions on operational objectives, eligible actions and entities, associated third countries, forms of EU funding and the protection of the financial interests of the Union as well as other implementation issues (e.g. work programme, monitoring and reporting, evaluation, audits, information and communication and publicity).

19. The EaSI strand will have the following operational objectives (Article 25):

(a) to develop high-quality comparative analytical knowledge;

(b) to facilitate effective and inclusive information sharing, mutual learning, peer reviews and dialogue on relevant policies;

(c) to support social experimentation and build up the relevant stakeholders' capacity;

(d) to facilitate the voluntary geographical mobility of workers and increase employment opportunities;

(e) to support the development of the market ecosystem around the provision of microfinance to microenterprises in start-up and development phases;

(f) to support networking at Union level and dialogue with and among relevant stakeholders and contribute to build up their institutional capacity;

(g) to support the development of social enterprises and of a social investment market;

(h) to provide guidance for the development of social infrastructure needed for the implementation of the European Pillar of Social Rights;

(i) to support transnational cooperation to accelerate the transfer, and to facilitate the upscaling, of innovative solutions; and

(j) to support the implementation of relevant international social and labour standards.

20. The EaSI strand may also support the following actions (Article 26):

(a) analytical activities, including in relation to third countries;

(b) policy implementation;

(c) capacity building;

(d) communication and dissemination activities;

(c) Other provisions (Articles 37 to 42)

21. Apart from rather standard provisions in other legislative acts such as those related to exercise of the delegation and committee procedures (in this case for the ESF+ under shared management), the Council's first reading position guarantees, under Article 39, the involvement of the Committee set up under Article 163 TFEU, which may deliver opinions on relevant ESF+ topics and will set up working groups for each ESF+ strand.

22. In order to ensure continuity in providing support in the relevant policy area and to allow implementation as of the beginning of the Multiannual Financial Framework 2021 to 2027, the Council's position at first reading, under Article 42, finds appropriate to apply the Regulation with retroactive effect with regard to the EaSI strand from 1 January 2021.

IV. CONCLUSION

23. 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.

24. The Council believes that its position at first reading constitutes a balanced text which fulfils all the objectives of the ESF+ Regulation.