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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	COM(2020) 452 final
Subject:	ERDF and Cohesion Fund Regulation (amended proposal) - Partial mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 29 May 2018, the Commission tabled the proposal for the ERDF/Cohesion Fund Regulation (ERDF/CF Regulation)¹, which is part of the Cohesion Policy legislative package for 2021-2027. The overarching policy objective of the ERDF/CF Regulation is to strengthen the economic, social and territorial cohesion of the Union, by reducing disparities between the various EU regions, in line with Articles 174, 176 and 177 TFEU.
2. The ERDF/CF Regulation was presented to the Structural Measures Working Party in June 2018 during the Bulgarian Presidency. The detailed examination of the ERDF/CF Regulation took place under the Austrian and the Romanian Presidencies.

¹ Doc. 9522/18 + ADD1-2.

3. The Permanent Representatives Committee endorsed a (partial) mandate for negotiations with the European Parliament on the ERDF/CF Regulation on 15 February 2019².
4. 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 to the ERDF/CF Regulation³.

II. WORK WITHIN THE COUNCIL

5. The amended Commission proposal for the ERDF/CF Regulation was presented to the Structural Measures Working Party on 4 June, during the Croatian Presidency, followed by detailed examination on 15 June.
6. The Structural Measures Working Party discussed the Presidency compromise proposals on the amended ERDF/CF Regulation at its meetings on 3, 9 and 16 July, under the German Presidency.
7. Substantial progress has been made since the detailed examination of the amended ERDF/CF Regulation proposal began at working party level. Following the Structural Measures Working Party on 16 July, **the Presidency is of the view that, based on the principle that "nothing is agreed until everything is agreed", a balanced compromise text has emerged which has been supported by a majority of Member States.**

III. WAY FORWARD

8. The Permanent Representatives Committee is, therefore, invited to agree on a partial mandate for negotiations with the European Parliament and to confirm the compromise proposed by the Presidency on the amended ERDF/CF Regulation, as set out in the Annex to this note.

² Doc. 6147/19 ADD 2.

³ Doc. 8380/20 + ADD1.

ERDF/COHESION FUND REGULATION

Commission proposal COM(2018) 372 is amended as follows:

(6) in Article 2, paragraph 1 is amended as follows:

(a) in point (a), point (iii) is replaced by the following:

“(iii) enhancing growth and competitiveness of SMEs, including by productive investments, and job creation in SMEs”;

(b) point (d) is amended as follows:

(i) point (ii) is replaced by the following

“(ii) improving equal access to inclusive and quality services in education, training and lifelong learning through developing accessible infrastructure, including by fostering resilience for distance and on-line education and training;”;

(ii) point (iv) is replaced by the following:

“(iv) ensuring equal access to health care and fostering resilience of health systems, including primary care and promoting the transition from institutional to family- and community-based care”;

(iii) the following point (v) is added:

“(v) enhancing the role of culture and tourism in economic development, social inclusion and social innovation;”;

(7) in Article 4 (1), the following subparagraph is added:

“In order to contribute to the specific objective under PO 2 set out in point (b)(iv) of Article 2(1) and to the specific objective under PO 4 set out in point (d) (iv) of that Article, the ERDF shall also support the purchase of supplies necessary for strengthening the resilience of health systems and for strengthening disaster resilience.”;

(7a)⁴ in Article 4, a new paragraph 3 is inserted:

3. In addition, the ERDF supports the financing of working capital in SMEs in the form of grants, where strictly necessary as a temporary measure to respond to exceptional or unusual circumstances referred to in Article 15a of [Common Provisions Regulation].

Where, upon a request submitted by the Member States concerned, the Commission finds that the requirements laid down in the first subparagraph are fulfilled, it shall adopt an implementing decision specifying the period during which the temporary additional support from ERDF is authorised.

The Commission shall monitor the implementation of this paragraph and assess whether the temporary additional support from ERDF is sufficient to facilitate the use of the fund in response to the exceptional and unusual circumstances. On the basis of its assessment, the Commission shall, where deemed appropriate, make proposals for amendments to this Regulation, including on thematic concentration requirements in Article 3.

(8) in Article 6 (1), point (d) is replaced by the following:

(d) undertakings in difficulty, as defined in Article 2(18) of Commission Regulation (EU) No 651/2014, unless authorised under de minimis aid, a temporary State aid framework established to address exceptional circumstances or under a temporary derogation to address exceptional circumstances under State aid rules;”;

[Point (9) is deleted]

(10) Annex I is amended in accordance with the Annex to this proposal.

⁴ *Recital (27a) is modified as follows:*

“(27a) In order to allow for a rapid response to exceptional and unusual circumstances as referred to in the Stability and Growth Pact that may arise during the programming period, implementing powers should be conferred to the Commission to adopt temporary measures to facilitate the use of the support from the ERDF in response to such circumstances. The Commission should adopt the measures that are most appropriate in light of the exceptional or unusual circumstances that a Member State is facing while preserving the objectives of the fund. Furthermore, the implementing powers in relation to the temporary measures for the use of the Funds in response to exceptional and unusual circumstances should be adopted without committee procedures given that the scope of application is determined by the Stability and Growth Pact and limited to the measures set out in this Regulation. The Commission should also monitor the implementation and assess the appropriateness of the measures.”