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WORKING DOCUMENT

From:	Presidency
To:	Working Party of Financial Counsellors
Subject:	PSLF - Presidency Flash note on the first political trilogue

Delegations will find attached the Presidency Flash note on the first Public Sector Loan Facility trilogue in view of the informal videoconference of the Financial Counsellors Working Party on 28 January 2021.

Presidency Flash

First Public Sector Loan Facility Trilogue
Brussels, 26 January 2021

On 26 January, the first political trilogue on PSLF took place in the Council premises, with EP rapporteurs and the ECON chair as well as their staff physically present and the rest of EP attending in remote. This note summarises the first political exchange of views and the foreseen follow-up. The Working Party meeting to debrief Financial Counsellors will take place on 28 January 2021.

The agenda for this first meeting included working methods and an overview of the main points of disagreement between the co-legislators, to allow work to proceed at the technical level:

- objectives of the facility;
- budgetary aspects, including additionality, resources, technical assistance, conditionalities, duration and availability of resources, support for less developed regions;
- Eligibility requirements, including retroactivity, partnership principle, gender impact assessment, "do no significant harm";
- Work programmes;
- Selection of finance partners other than the EIB;
- Monitoring and reporting, including evaluation, external audits, disclosure of information, KPIs.

1. INTRODUCTORY STATEMENTS

This first political trilogue kicked off in a positive atmosphere, with both co-legislators noting that PSLF is part of a wider legislation (JTF) and financial envelope (MFF), which have recently been agreed and will provide a clear reference for the negotiations. The co-legislators agreed to strive for an expedited, yet thorough trilogue process, possibly with 3 political meetings and aiming at reaching an overall agreement by end-February. The Commission praised this commitment, which will be helpful for the different actors to plan their investments, and reminded that the first PSLF loans are expected to be disbursed between end-2023 and early-2024, due to their specific administrative structure. The Commission also reminded that EIB loans will cover on average 30-40% of overall project cost, and PSLF grants will cover maximum 15% of the loans, so the corresponding administrative burden and set of constraints should be commensurate to an effective grant rate of 5-6% of the project cost.

2. EXCHANGE OF VIEWS ON THE OBJECTIVES OF THE FACILITY

While the Council and EP agree on the core objective, the EP would like to include references to additional legal frameworks in the article, such as on the European Pillar of Social Rights and the UN Sustainable Development Goals, and to strengthen commitments towards a climate-neutral economy. COM agrees with the inclusion of explicit climate targets and references to the European Pillar of Social Rights and the UN Sustainable Development Goals, but only as general framing condition and not as a project-by-project checklist. The Council could go in the direction of the Commission suggestion by adding this framing in the recitals, but not in the articles.

3. EXCHANGE OF VIEWS ON BUDGETARY ASPECTS

On additionality, the co-legislators and COM agreed on the principle of financing only projects that do not generate a sufficient stream of own revenues to cover investment costs. But COM warned that in regional policy "additionality" has a different meaning which can cause confusion. Technical work will focus on a definition adapting the concept to the different contexts in which it will have to be applied and insuring that giving proof of additionality does not add significant burden.

On resources, the EP proposes a budget increase (which the Council cannot accept) and asks for clarity from COM on the timing and significance of reflows (with a possible contingency article to be drafted by COM in case of non-materialisation of these reflows). The COM agreed to present a detailed table on reflows.

On technical assistance, the EP would like an extra support to be directed towards beneficiaries with lower capacity to participate in this Facility. The COM explained that the 2% is a ceiling for the administrative costs of managing the instrument by the Commission and not a ceiling for technical assistance and signalled to what is available in InvestEU. To be discussed at technical level.

On conditionalities, the EP would like to include references to climate targets and compliance with fundamental values. The Council and COM suggested to deal with these consistently with the approach taken in recent legislation and not to have it in each project, to avoid increasing the administrative burden for projects. On the duration of the availability of resources, EP wants to extend the availability to 2027 for grants provided under the pre-allocated national shares and links the issue with the availability of reflows. The Council and COM find 2027 too far in the future, but considering the time needed for the facility to be up and running, there is room for a shorter extension of the deadline. However, COM notes that announcing competitive calls at EU level only from January 2028 would give wrong signals on the speed of implementation.

On provisions for less developed regions, the EP wants to hear clarifications from COM on the JTF methodology for less developed regions and explore ways to ensure they are well targeted. The Presidency showed openness to look into possible solutions. To be further discussed at the technical level.

4. EXCHANGE OF VIEWS ON ELIGIBILITY REQUIREMENTS

On retroactivity, the EP wants to include ongoing viable projects that might be facing financing shortfalls which comply with all the eligibility requirements, but the Council and COM cannot see how it would fit in the PSLF framework. The EP suggested to send this to the technical discussion.

On the partnership principle, or the plans prepared together with the relevant local and regional authorities as well as social partners and civil society, the EP wants a reference to underline its importance. The Council and COM agree with the principle but believe that it is a matter for the JTF Regulation.

On gender impact assessment and guidelines, the EP has introduced one eligibility requirement linked to its adoption by public authorities, asking the Commission to develop guidelines to clarify how such assessments should be conducted. The Council and COM share the general objective of gender awareness, but it cannot be applied to every single project. Some public projects are necessarily gender-neutral or, in special cases, may even have a legitimate male-specific dimension.

On the “do no significant harm” principle and "no lock-in" effect, the EP proposes them as eligibility criteria. The Council noted that a similar discussion took place in other legislation and hinted at the possibility of a reference in the recitals. COM agrees that a general, non-binding reference can be useful.

5. EXCHANGE OF VIEWS ON WORK PROGRAMMES AND SELECTION OF FINANCE PARTNERS

The EP wants delegated acts for the work programmes and criteria for the potential selection of finance partners other than the EIB. The Council and COM disagree on the need for delegated acts, but, concerning the issue of the criteria for potential finance partners other than the EIB, adequate wording can be discussed at the technical level and included in the Regulation.

6. EXCHANGE OF VIEWS ON MONITORING AND REPORTING

On the structure of monitoring and reporting, the Council can agree with the EP request for an annual reporting from COM, but it should not result in excessive administrative burden for COM.

On the interim evaluation EP proposes to bring forward the interim evaluation to January 2024, but COM notes that the Facility will have just started working by that time, so it would be definitely too soon to have enough data points for an evaluation.

On external audits, the EP wants ECA to be designated as an external auditor. The Council warns that we should not impinge in ECA prerogatives and COM notes that ECA and EIB have a special protocol, while ECA has also an overall mandate on COM activities. Legal services will look further into the issue, but COM reminds that we should ensure proportionality on this point.

On disclosure of information the EP wants COM to publish the reasons for accepting or refusing projects, related to the grant part. In addition the EP wants that the Commission makes accessible to the EP, under confidentiality, the opinions

it delivers on the projects selected by the EIB related to the loan part. The Council wants to avoid to overburden the Commission.COM also reminds that it cannot communicate confidential information.

On Key Performance Indicators (Annex II),the EP proposes extensive additions to the indicators relating to employment, housing, population, and also clarifies that all data should be disaggregated by gender and by region. The Council is open for technical discussion on some of them but considers some to be out of the central scope of the instrument – such as employment and housing. COM signals that a thorough revision of EP proposal is needed, and some of the proposal cannot really be assessed properly (e.g., the impact of specific projects on the depopulation rate of an area).

7. OUTCOME OF THE TRILOGUE AND FOLLOW-UP

- The first technical trilogue will take place on Friday 29th January.
- The next political trilogue is expected to take place on 11 February 2021, in EP premises.
- The technical level was delegated to address all the issues identified in the preparatory phase as not politically sensitive.
- In addition, further issues have been delegated to the technical level during the trilogue, including: definition of objectives and additionality, selection criteria of finance partners other than the EIB (departing from the EP request to have an ad hoc delegated act for it), clarification of what the 2% with respect to technical assistance refers to, provision for less developed regions, monitoring and reporting, evaluation and transparency.
- The recitals were not discussed. Parties will go back to them once agreements on the articles has been reached.
- The legal services of the institutions will look into the wording on ECA involvement in the external audit of the facility.
- The Commission will present a non-paper on reflows indicating their envisaged use according to the regulation.