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# Linking cohesion policy and the European Semester

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Partnership and  
multi-level  
governance to  
boost investment  
and structural  
reforms

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STUDY

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Partnership and multi-level governance to boost investment and structural reforms

Multi-level governance requires the involvement of all levels of government, central, regional and local, in decision-making. Obstacles to appropriate and adequate involvement may lead to infringements of the principles of subsidiarity. However, under the cycle of EU economic and fiscal policy coordination known as the European Semester, local and regional administrations are considered to be 'stakeholders' – that is, they are not categorised as part of general government. Recent extension of the European Semester to aspects of cohesion policy may consequently strengthen a top-down policy approach. A Code of Conduct, such as that proposed by the European Committee of the Regions, may help correct this imbalance.

This paper analyses the existing and future links between the European Semester and cohesion policy, which are currently being strengthened. It also scrutinises the effects of this evolution on multi-level governance. It has been drafted at the request of a member of the European Committee of the Regions, in the framework of the cooperation agreement between the Committee and Parliament.

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## Executive summary

The European Semester and European Union (EU) cohesion policy are two fields which respond to different aims: the former was created to improve European economic governance. Its primary aim is to avoid a repeat of the European sovereign debt crisis, however more general aims of economic and social policy coordination were added. The European Semester is underpinned by an improved Stability and Growth Pact and the Macroeconomic Imbalance Procedure, and envisages measures to reduce fiscal deficits and improve the resilience of EU economies, e.g. through structural reform. By contrast, cohesion policy is geared towards reducing territorial disparities, and its instruments are European funds.

Links already exist between the two, in the form of macroeconomic conditionalities. Ex-ante conditionalities need to be fulfilled to be eligible for specific funds, and some of these are based on fulfilling the European Semester's country-specific recommendations. Ex-post conditionalities can serve as part of the corrective arm of the Stability and Growth Pact.

Further links between the two fields exist through specific funds, such as the Structural Reform Support Programme, and new ones that are still in preparation, namely the Reform Support Programme, the Budgetary Instrument for Convergence and Competitiveness, and the Convergence and Reform Instrument. In addition, the Commission now identifies areas where investment should be carried out in the Member States, and includes a chapter in the preparatory work to the country-specific recommendations. This will be used as guidance for the cohesion funds. Much of the new approach will, however, depend on the outcome of ongoing legislative processes, and on the negotiations on the volume and structure of the 2021-2027 multiannual financial framework.

However, the approach to link the European Semester to cohesion policy bears the potential to exacerbate an already existing problem with multi-level governance. Current practice has shown that within the European Semester it is mainly the national central governments that, together with the European Commission, decide on the country-specific recommendations. Local and regional administrations, although part of general government, are usually not in a position to participate actively in decision-making, leading the recommendations to be viewed as externally imposed. By adding guidance for investment and cohesion fund finance, even more decisions might be precluded for territorial governments, an approach which may infringe the subsidiarity principle.

To alleviate this situation and improve multi-level governance, the European Committee of the Regions proposed, in 2017, to adopt a Code of Conduct, which would increase the territorial contents of the analytical part of the European Semester workings, e.g. by analysing territorial disparities, and to better involve the local and regional authorities and the European Committee of the Regions in the different steps of the European Semester. Two major problems exist: first, there is no uniformity between Member States on how to balance the interests of central authorities on the one hand and the local and regional authorities on the other; and second, the representatives of these territorial authorities are categorised as 'stakeholders'. That status denies their functions and responsibilities as part of general government and relegates them to the level of groups defending vested interests.

The European Commission has started to follow suit by increasing the territorial analysis, but the request to recognise the territorial authorities as part of general government and elevate their role within the European Semester is not making headway. The European Committee of the Regions therefore proposed to extend the European Code of Conduct on Partnerships, which is used in

regional policy, to cover all fields of the European Semester, although the Committee considers this to be a second-best solution.

The present analysis demonstrates that for the territorial level, participation in the elaboration of the national reform and stability/convergence programmes is the best opportunity to influence the European Semester and to increase ownership. At the same time, the European Semester's guidance is vague concerning investment and funding at present, with little possibility to direct funding to a particular territorial entity or to a specific project. Finally, this analysis identifies the relationship within the Member States between the territorial authorities and the central government as the focus point for rebalancing multi-level governance.

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# 1. Introduction

European Union cohesion policies, in place for many years now, are tried and trusted instruments to achieve European goals, such as greater socio-economic and territorial cohesion across the EU. Over the years, their framework has been refined. Local and regional authorities (LRAs), which are central to the execution of the programmes, are involved in programmes and policies in many ways. One important instrument is the European Code of Conduct on Partnerships, which insures the involvement of LRAs in all phases of planning and execution of cohesion programmes.<sup>1</sup>

The European Semester (ES)<sup>2</sup> is a more recent framework in comparison, and is still being refined. Together with the fully centralised monetary policy of the euro area, it is a key part of European economic governance, and comprises instruments of economic and fiscal coordination that cover a very wide range, from soft to hard coordination.<sup>3</sup> Its best-known instrument is the Stability and Growth Pact (SGP)<sup>4</sup>. Country-specific recommendations (CSRs)<sup>5</sup> are issued on an annual basis for each Member State, and concern every level of government, including LRAs. However, when comparing countries, the participation and influence of LRAs in the ES process is highly uneven. Although the governance system of the ES is fundamentally different from that of cohesion policy, the two policies are already linked to each other, through forms of macroeconomic conditionality.

The European Commission announced that it would establish a greater link between cohesion policies and the European Semester for the next EU multiannual financial framework (MFF)<sup>6</sup>, running from 2021 to 2027. Its intention is to maximise the added value of EU financing and support reforms at national level in the context of the ES. This raises the question to what extent the LRAs, as well as the European Committee of the Regions (CoR),<sup>7</sup> can – and should – be associated in the ES process. It also raises the question whether the current approach may infringe principles such as subsidiarity and multi-level governance. The CoR has repeatedly requested to be involved in the different stages of the ES.

Aiming at informing the debate, this analysis lays out the origins, aims, means and workings of the ES, allowing comprehension of the complexity of the tasks currently carried out and assessment of where further influence might be exercised, namely by the CoR and the LRAs. Cohesion policy is also outlined, especially in view of the existing role of LRAs in the procedures. The extent to which LRA involvement in these procedures can serve as an example for that in the ES, or existing procedures could be extended to encompass participation in the ES, is also analysed. The aim is to gauge to what extent multi-level governance, i.e. working together in partnership to achieve greater economic, social and territorial cohesion in Europe, can be applied. This publication was prepared in response to a request from the CoR.

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<sup>1</sup> European Commission [delegated Regulation \(EU\) No 240/2014](#) of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds.

<sup>2</sup> See European Commission website on the [European Semester](#).

<sup>3</sup> Hard coordination comprises coercive measures, such as fines, while soft coordination is mainly based on advice and peer pressure.

<sup>4</sup> See European Commission website on the [Stability and Growth Pact](#).

<sup>5</sup> See European Commission website on [country-specific recommendations](#).

<sup>6</sup> See Council website on the [multiannual financial framework](#).

<sup>7</sup> For the work of the European Committee of the Regions, see [ECOR website](#).

## 2. Multi-level governance defined

In 2009, with its White Paper on Multi-level governance,<sup>8</sup> the CoR launched a public consultation on drafting a charter to include a common and shared understanding of European governance in the core values of the EU. The White Paper stipulated that 'The [European] **Committee of the Regions considers multi-level governance to mean coordinated action by the European Union, the Member States and local and regional authorities, based on partnership and aimed at drawing up and implementing EU policies.** It leads to responsibility being shared between the different tiers of government concerned, and is underpinned by all sources of democratic legitimacy and the representative nature of the different players involved'. This led to the 2014 adoption of the Charter for Multi-level governance in Europe (MLG)<sup>9</sup>. Over 200 signatories have joined the charter since then. This analysis returns explicitly to the European Code of Conduct on Partnerships,<sup>10</sup> established by the Commission in January 2014, and which was established to involve a series of partners, including LRAs, in the spirit of multi-level governance in the cohesion funds and their programmes. Similarly, the relevant chapter of this analysis deals extensively with the Code of Conduct proposed by the CoR to increase territorial analysis and LRA participation in the ES mechanisms.

## 3. European Semester: background and mechanisms

The European Semester is part of the EU's answer to the European sovereign debt crisis, and was created at its height. It was adopted in the wider framework of tightening the hard rules of economic governance with the establishment of several ad hoc instruments destined to support countries that were about to lose access to the capital markets, i.e. where governments were on the verge of bankruptcy. The ES uses hard coordination, (including sanctions), to avoid a crisis and its negative spill-over effects on other countries. The Semester also uses soft coordination, in the context of the wider coordination of economic policies, i.e. through non-binding recommendations.

### 3.1. Origin of the Semester: European sovereign debt crisis

Several years after the start of European monetary union (EMU), Europe was hit by two major crises, first the world-wide financial crisis that began around 2007, followed by the European sovereign debt crisis.

The first three EU countries to experience a sovereign debt crisis – Hungary, Latvia and Romania, who requested EU support in October 2008, February 2009 and March 2009 respectively, along with International Monetary Fund (IMF) support – were not using the euro at that time.<sup>11</sup> To avoid a situation where these countries would default on their debt, the EU made use of the balance of payments assistance (BoP),<sup>12</sup> which can exclusively be used for Member States that have not yet adopted the euro. This assistance provides conditional loans. A country requesting support has to

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<sup>8</sup> See the CoR's [White Paper on Multilevel Governance](#) of June 2009.

<sup>9</sup> See Charter for [Multilevel governance in Europe](#) of February 2014; for geographic breakdown consult the signatory map.

<sup>10</sup> See European Commission [delegated Regulation \(EU\) No 240/2014](#) of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds.

<sup>11</sup> For details on the programmes and disbursements see European Commission website on [Hungary, Latvia and Romania](#).

<sup>12</sup> See European Commission website on the [balance of payments assistance](#).

sign a Memorandum of Understanding (MoU), by which it agrees to pay back the loan in due time, to carry out structural reforms destined to increase the economy's competitiveness, as well as a commitment to endeavour to increase the sustainability of its public finances.

Soon after, in 2009, the first of four euro area countries also became subject to a sovereign debt crisis. This began when, in 2009, it appeared that Greece's national accounts were far from correct, including a higher than previously announced deficit. The deficit numbers were revised upwards in short succession, and not long after, the country lost access to the capital markets. As the EU Treaties explicitly forbid bailing a country out, and restrict use of the BoP facility to countries outside the euro area, ad hoc mechanisms, such as the Greek Loan Facility, were created. The European financial stabilisation mechanism (EFSM)<sup>13</sup> and the European Financial Stability Facility (EFSF)<sup>14</sup> were added, and were used when Ireland, Portugal and Cyprus requested financial support.

Later, these ad hoc mechanisms were replaced by a permanent one: the European Stability Mechanism<sup>15</sup> (ESM), which is an intergovernmental instrument. The IMF participated in all operations. Although the actual rescue was carried out by these mechanisms, monetary policy intervened as a stabilising factor, most notably through the announcement by the European Central Bank President at the time, Mario Draghi, when he delivered a speech, stating that: 'Within our mandate, the ECB is ready to do whatever it takes to preserve the euro. And believe me, it will be enough.'<sup>16</sup>

### 3.2. Failure of the original economic governance framework to prevent crises

The economic governance framework of the euro area is characterised by asymmetry. On one side, monetary policy is decided at EU level by what is called the Eurosystem. This is an exclusive competence of the EU, where the Eurosystem takes decisions in full independence, pursuing its main aim: price stability. On the other side are national fiscal and economic policies, which essentially remain in the sovereign realm of the Member States. Fitting in-between are provisions destined to bridge that asymmetry, mainly in the form of binding fiscal rules and the 'no bail-out' clause. These are meant to avoid strong negative spill-over effects on the rest of the EU economies, as well as to avert threats to the common currency.

### 3.3. European Semester: fixing European economic governance

After sovereign debt crisis occurred in no fewer than seven Member States, it was decided that the framework of European economic governance would be adapted to avoid a repeat of this type of crisis. A sovereign debt crisis within a monetary union bears what is called a redenomination risk: the possibility for the common currency to be undone. Adapting the European economic governance framework to these new challenges led to the creation of the European Semester,<sup>17</sup> and to its codification within the preventive arm of the Stability and Growth Pact in 2011.

<sup>13</sup> See Commission website on the [European financial stabilisation mechanism](#).

<sup>14</sup> See ESM website on the [European Financial Stability Facility](#).

<sup>15</sup> See ESM website on the [European Stability Mechanism](#).

<sup>16</sup> See ECB website: [Speech by Mario Draghi, President of the European Central Bank at the Global Investment Conference in London](#), July 2012.

<sup>17</sup> See Commission website on the [European Semester](#).

The aim of the ES is to identify problems and achieve corrections at a much earlier stage than the SGP allowed. It is understood that, once problems are identified, corrections to EU national draft budgets have to be made. Once the draft budgets are vetted at EU level, the Member States each start their 'national semester', i.e. exert their sovereign right to finalise the details of their own budgets.

### 3.3.1. Adding the Macroeconomic Imbalance Procedure to the tool box

The thrust of the ES is to identify possible problems at an early stage, through the Macroeconomic Imbalance Procedure (MIP), and try to correct them before they spiral out of proportion. In theory, this should prevent Member States reaching debt levels that would trigger SGP procedures.<sup>18</sup>

The MIP is the most important and innovative element of the new economic governance framework. It allows the Commission to carry out a country-specific in-depth review to identify if a country's economy is evolving harmoniously, or if it is in a state of imbalance. Metaphorically speaking, it is a diagnostic destined to find out if a country is economically ill and thus on a financially unsustainable path. Only an in-depth review, triggered by specific indicators, can conclude that a macroeconomic imbalance exists within a Member State.

Within the ES, each country is invited to correct its imbalances. Most of the country-specific recommendations concentrate on this task, but these are not binding. In case of a very large imbalance, the Excessive Imbalances Procedure (EIP) can be employed to force a Member State to take action, and if it fails to do so, sanctions may apply.<sup>19</sup>

### 3.3.2. Reinforcing the Stability and Growth Pact within the European Semester

In view of several countries running persistent high budget deficits, the SGP was also strengthened through what is known as 'the 6-Pack'. More attention is now paid to overall government debt, rather than focusing on the annual budget deficit, and the automaticity of application of the rules was increased. Stronger sanctions were made possible, including through macroeconomic conditionality. As the legal bases provided for by the Treaties were rather exhausted, further elements were added in form of intergovernmental treaties, such as the intergovernmental Treaty on Stability, Convergence and Growth<sup>20</sup> (TSCG) and the Euro Plus Pact.<sup>21</sup> Although the rules were toughened, they nevertheless include a high level of flexibility.

### 3.3.3. Flexibility in the Stability and Growth Pact

A considerable amount of flexibility has long been built into the EU fiscal rules and this has contributed to their complexity. The Commission's internal SGP handbook is over 400 pages long, and most of the details, which are also laid down in the SGP Code of Conduct,<sup>22</sup> are decided without a reaction from the general public. A notable exception is the 2015 Commission communication on

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<sup>18</sup> See C. Scheinert, [Understanding the macroeconomic imbalance procedure: Origin, rationale and aims](#), EPRS, European Parliament, April 2017.

<sup>19</sup> See Commission website on the [Excessive Imbalances Procedure](#).

<sup>20</sup> See [Treaty on Stability, Convergence and Growth](#).

<sup>21</sup> For the text of the [Euro Plus Pact](#), see Annex 1 of the European Council conclusions.

<sup>22</sup> See [Revised Specifications on the implementation of the Stability and Growth Pact and Guidelines on the format and content of Stability and Convergence Programmes \(Code of Conduct of the Stability and Growth Pact\)](#) of May 2017.

'making the best use of the flexibility within the existing rules of the Stability and Growth Pact', which elicited widespread attention.<sup>23</sup>

This communication does not contain a general 'flexibility clause', e.g. allowing a systematic and permanent breach of the 3 % deficit limit. The paper makes additions, amongst others, to the so-called 'structural reform clause', as well as the so-called 'investment clause'.<sup>24</sup> However, as the Commission reiterated, in a 2018 follow-up communication: 'The use of the clauses should not lead to a breach of the 3 % of GDP deficit threshold and a safety margin in relation to that threshold should be preserved.'<sup>25</sup>

The communication takes a restrictive approach, as the Commission promises to be lenient with Member States who respect fiscal rules but run into extraordinary difficulties, while warning it will be tough on those who do not. The aim is to help those Member States who have a temporary problem, but not those who would like to permanently escape the rules. Flexibility mainly consists in trading immediate consolidation efforts for future ones, i.e. it allows for a smaller short-term fiscal adjustment in return for a higher fiscal adjustment in the near future, to be completed within a timeframe of maximum four years. A country's overall adjustment effort is therefore not reduced.

In most cases, it is the pace of attainment of the medium-term budgetary objective (MTO) which is modulated, and in the rare instances where a breach of the 3 % or 60 % limits is allowed, this can only be done by a very small margin, is further linked to conditions, and is limited in time. Countries not respecting the SGP's 3 % and 60 % limits are almost systematically denied additional flexibility. The communication also officialises and quantifies a symmetric approach to flexibility: it is not only about leniency, but also about requesting **accelerated** fiscal consolidation from countries with high debt.

To properly assess the practical importance of this communication, the wider context of EU decision-making needs to be taken into account. Most decisions within the SGP are taken by Council, based on the Commission's preparatory work. The Council therefore maintains a close watch on the methodology applied by the Commission, and can request modifications. The communication therefore did not so much present information on the way the Commission intends to operate the SGP, but rather reflected the way it would like things to be done, Council permitting. This was the start of a lengthy and intense behind-the-scenes discussion between the two institutions, which eventually led Council to modify the SGP's Code of Conduct, but not entirely as the Commission had intended.

Council therefore happened to be more restrictive than the Commission. A case in point is where, in the field where the Commission went furthest, not just by marginally interpreting existing law, but by a departure from the legal texts,<sup>26</sup> and Council agreed in principle, but with strings attached: it decided that this specific flexibility would be granted to a Member State only once, and that the Member State would not be allowed to benefit from the same clause again, until it has attained its

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<sup>23</sup> See Commission communication on [Making the best use of the flexibility within the existing rules of the Stability and Growth Pact of January 2015](#).

<sup>24</sup> It is the Commission which uses the expression 'so called' and puts the terms in inverted commas in its communication.

<sup>25</sup> See Commission communication on the [review of the flexibility under the Stability and Growth Pact](#), May 2018.

<sup>26</sup> Concerning the application of the structural reforms clause, the Commission proposed to substantially change a central criterion: rather than require that the whole euro area (or EU) experience economic downturn, the criterion was deemed to be fulfilled if only the country requesting flexibility, rather than all Member States, is in economic difficulty. The Commission therefore substantially departed from the legal text as set by the co-legislators (Council and Parliament).

MTO. Council justified this specific requirement on the observed record of several Member States which showed a 100 % failure rate in terms of achieving the MTO since the inception of the SGP.<sup>27</sup>

The general topic of flexibility divides public opinion as well as the political sphere, ranging from those who are totally against fiscal rules, to those who want to strengthen them until they can be applied quasi-automatically. Independent of the ferocity of that debate, when considering the actual decision-makers, i.e. the Member States as represented in Council, the Commission, and in view of their recent exchanges following the 2015 communication, it seems clear that little scope remains for changes to the rules. Amongst other things, the application of a 'golden rule', which would for example exempt categories of investment from the deficit calculation, is neither welcomed by the Commission,<sup>28</sup> nor by Council, although an occasional voice is heard within Member States' governments to take that avenue. The European Fiscal Board's 2019 Annual Report deals extensively with this topic, and proposes a radical simplification of the fiscal rules, including: the abolition of most of the flexibility provisions; to move towards a single indicator in the form of an expenditure rule linked to a debt target and a general escape clause based on independent analysis; introduction of a targeted 'golden rule' to protect productive public expenditure during episodes of fiscal consolidation; introduction of country-specific debt targets modulated on sustainability-related issues, such as the ageing of the population; and tighter governance of the rules through a stronger separation between policy decisions and their underlying economic assessment. Concerning the application of the current rules, the European Fiscal Board (EFB) comes to the conclusion that a high level of flexibility was recently used, especially for countries with high public debt.<sup>29</sup>

### 3.4. Soft versus hard coordination

The ES essentially centres on ensuring public debt sustainability. To achieve that aim it uses mechanisms to influence the national budgets and encourages Member States to carry out structural reforms. In comparison, the legal bases for the general aim of coordinating economic policies are rather weak and the lack of coercive instruments makes them almost impossible to enforce. It is possible to distinguish three levels of economic and fiscal coordination, from the most to the least binding:

- 1 **The fiscal rules of the SGP.** For the Member States it is necessary to achieve numerical results, e.g. to reduce debt to the level commonly agreed, in the form of the MTO. Simply taking action in the right direction is deemed insufficient. Sanctions are possible in the absence of results.
- 2 **The MIP.** For the Member State it is necessary to take action, e.g. carry out structural reforms. It is not necessary to reach numerical results, such as diminishing a trade deficit to under a set limit. If no appropriate action is taken, sanctions may apply.
- 3 **The general coordination at EU level of national economic and fiscal policies.** This is mainly carried out in the form of recommendations. Non-compliance with these recommendations cannot lead to sanctions.

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<sup>27</sup> See Council's [Commonly agreed position on Flexibility in the Stability and Growth Pact](#), November 2015.

<sup>28</sup> In its [blueprint for a deep and genuine monetary union](#), which is at the core of most 'grand plans' to improve economic governance, the Commission warns against a 'golden rule' destined to allow a permanent exemption of public investment from the calculation of public expenditure. It warns that indiscriminately exempting investment would endanger the sustainability of government debt.

<sup>29</sup> See the European Fiscal Board's [2019 Annual Report, September 2019](#).

Sanctions provide a 'stick' or disincentive under the two first forms of coordination, for the third there are none. In the absence of a legal base for the latter form of coordination, although the Member States are expected to coordinate, they are not forced to do so. It is therefore unsurprising, in the absence of a 'stick', that the level of compliance with the third form of coordination is practically zero. To remedy this situation, the Commission recently endeavoured to provide what could be considered a 'carrot', by linking the ES with cohesion funding.

As codified in the SGP, the European Semester covers five fields: (a) the formulation and surveillance of broad economic policy guidelines<sup>30</sup> (BEPGs); (b) the formulation and examination of the implementation of employment guidelines<sup>31</sup> (EG); (c) the submission and assessment of stability or convergence programmes;<sup>32</sup> (d) the submission and assessment of national reform programmes (NRPs),<sup>33</sup> supporting the Union's strategy for growth and jobs (EU 2020); and (e) surveillance, to prevent and correct macroeconomic imbalances. New Commission President Ursula von der Leyen also intends to take the United Nations sustainable development goals<sup>34</sup> into account.

Except in the fields directly related to the SGP and the MIP, all coordination is of the soft type. The Treaties do not allow the European economic governance framework to extend hard coordination tools to fields currently under soft coordination, of which much is exerted through guidelines, meetings and letters. This does not leave much margin for those, such as the Commission, who would like to increase the coordination of the Member States' economic and fiscal policies.<sup>35</sup> Stringent and enforceable coordination is always linked either to avoiding strong negative spill-overs on other countries, or to ensure the common currency is not threatened.

### 3.5. European Semester cycle

The European Semester cycle starts in **November** with the Commission's annual growth survey (AGS), setting out generic economic, social and budgetary priorities for the EU for the next year, which also include information on possible structural reforms.<sup>36</sup> Alongside this, the Commission's alert mechanism report (ARM) helps to warn of countries that may have to be reviewed in-depth, to identify those whose economy may be in imbalance, with a view to possibly starting macroeconomic imbalance procedures. The Commission further proposes recommendations that are specific to the euro area. Also part of the so-called 'autumn package' is a draft joint employment report, which is commonly issued by the Commission and Council, analysing the EU's employment and social situation and the Member States' policy responses.

In **February** a country report is issued for each Member State, in which the Commission analyses the economic situation and progress on the implementation of the Member State's reform agenda.

<sup>30</sup> See Commission website on [Broad economic policy guidelines for EU countries](#).

<sup>31</sup> See Commission website on [European employment strategy - Employment guidelines](#).

<sup>32</sup> See Commission website on [stability or convergence programmes](#).

<sup>33</sup> See Commission website on [National Reform Programmes and Stability/Convergence Programmes](#).

<sup>34</sup> For the sustainable development goals, see United Nations [Development Programme website](#).

<sup>35</sup> See, for example, the Commission's [blueprint for a deep and genuine economic and monetary union](#), where the Commission lays out, in detail, that the realisation of many of its plans, including aspects of economic coordination, would require Treaty change.

<sup>36</sup> The calendar given here is that currently applied, which differs from the first versions of the procedure.

In **March**, all the reports are discussed at Council, and the European Council provides guidance on the common direction of the EU and the euro area as a whole. The euro area recommendations are discussed in Council, then endorsed by the European Council, and finally adopted by Council.

In **April**, Member States submit their stability or convergence programmes (SCPs; stability programmes for euro area countries; convergence programmes for other EU Member States), which outline their three-year plans to achieve and maintain sound public finances. They also present their national reform programmes (NRPs), setting out policies they are implementing or intend to put in place to boost jobs and growth, and prevent or correct macroeconomic imbalances. Comparing the SCPs and the NRPs gives an insight into the complementarities between fiscal and structural policies within a country.

In **May**, the Commission assesses these programmes, and checks the progress made towards the EU 2020 targets. Based on all this analysis and the priorities that were already set, the Commission makes recommendations for country-specific recommendations (CSRs).

The CSRs are first discussed at Council level, and in **June**, they are endorsed (with or without changes to the Commission recommendations) by the European Council, and finally formally adopted by Council in **July**. This concludes the **formal end of the European Semester**, and the Member States can then start their national semester.<sup>37</sup> The CSRs provide guidance for setting budgets and preparing structural reform.

Governments will then prepare draft budgetary plans and submit these to the national parliaments. By **15 October**, euro area Member States submit these drafts to the Commission and the Economic and Financial Affairs Council configuration (ECOFIN) for assessment. Governments can then examine each other's plans, and are invited to comment, and if necessary criticise. The Commission assesses these plans against the requirements of the SGP and the CSRs, and will issue an opinion on each euro area Member State in **November**, providing guidance for the finalisation of the national budgets.

### 3.6. How and by whom are European Semester documents drafted?

Although final decisions relating to the ES are taken at Council level by default, most of the analytical work is carried out by the Directorate-General for Economic and Financial Affairs within the Commission's services.<sup>38</sup> The Directorate-General is largely composed of economists, many of whom are econometrists, who run econometric models and attempt to figure out the future economic evolution of a country, the euro area and individual Member States. This information is used at all stages of the European Semester and the insight gained serves as a basis for the country-specific recommendations.

Several other supporting bodies exist, either internal to the Commission, or working both for Commission and Council. Their principal aim is to provide additional advice and to double-check DG ECOFIN's work, and there too, most work involves econometric models. The European Fiscal Board (EFB),<sup>39</sup> which is part of the Commission, evaluates the implementation of the Union fiscal

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<sup>37</sup> In practice, since 2015, the Semester continues over the whole year. One reason for this is to allow more time for the proper involvement of governments and stakeholders, in the hope that this would increase ownership of the process.

<sup>38</sup> ECOFIN stands for 'economic and financial'. The DG is responsible for promoting economic growth, higher employment, stable public finances and financial stability. See [presentation](#) of the Directorate-General.

<sup>39</sup> For the mandate, documents and the composition see the [European Fiscal Board](#) website.

framework and the appropriateness of the actual fiscal stance at euro area and national level, and reports to the President of the Commission. The Economic and Financial Committee (EFC),<sup>40</sup> envisaged under Article 134 TFEU,<sup>41</sup> keeps the economic and financial situation of the Member States and of the Union under review and delivers opinions to the Council or the Commission. Amongst other things, these cover the European Semester mechanisms.

At most, if not at all stages of the European Semester, the Commission's services maintain direct relations with their counterparts in the Member States, where a form of negotiation between the European and the national sides takes place. The countries' delegations are supported by National Independent Fiscal Institutions,<sup>42</sup> non-partisan public bodies defined by EU law and put in place in the wake of the sovereign debt crisis. Their tasks include monitoring compliance with fiscal rules, production or endorsement of macroeconomic forecasts for the budget, and/or advising the government on fiscal policy matters.

Following all the preparatory work, decisions are taken in Council or by the European Council. Council may or may not endorse the Commission's recommendations for a recommendation.<sup>43</sup> The 'comply or explain' principle applies, by which the Council is free to decide what it deems necessary, but needs to publicly give a reason when it deviates from the Commission's suggestions.<sup>44</sup>

Each Member State therefore participates twice in the elaboration and setting of the CSRs being addressed. Firstly, when individually negotiating the analysis and the recommendations; and secondly when, together with all other EU Member States, it adopts the recommendations for each country in Council.

### 3.7. The importance of the European Semester for Local and regional administrations

Local and regional administrations are very much concerned by the European Semester for several reasons. Firstly, concerning the fiscal rules, it is not only central government whose debt and deficit are being scrutinised, but also that of the levels below. Secondly, a large number of policy recommendations either directly or indirectly concern the regions, and investment-related CSRs are on the increase. Thirdly, in order to function well, the ES is dependent on ownership at all government levels.

#### 3.7.1. Stability and Growth Pact debt and deficit calculations cover all levels of government

LRAs are deeply concerned by the fiscal rules – government debt in the SGP is not merely that of the central government, but that of **general government**, defined in Treaty Protocol No 12<sup>45</sup> as central government plus regional government, local government, and social security fund debt. Under the fiscal rules, this means that all levels have a share of responsibility when it comes to meeting the criteria set by EU law. It also means that simply looking at numbers aggregated at country level may

<sup>40</sup> See [presentation](#) of the European Fiscal Board.

<sup>41</sup> The full text of Article 134 TFEU can be found [here](#).

<sup>42</sup> See Commission webpage on [independent fiscal institutions](#).

<sup>43</sup> 'Recommendation for a recommendation' may sound strange, but is correct. The Commission recommends to the Council that the Council recommend something to the Member States.

<sup>44</sup> See [A comparison of Commission and Council texts \(implementing the 'comply or explain' principle\)](#), EGOV, European Parliament, September 2019.

<sup>45</sup> The text of Protocol No 12 can be found [here](#).

miss the more detailed picture, as an effort to abide by the rules by one level of government and/or by some LRAs can be offset both by other levels of government and/or by other LRAs. Should sanctions be applied, it is possible that macroeconomic conditionality applied indiscriminately might hit all regions for the failings of some, or sanction all levels of government for the failure of one.

A 2014 Commission study<sup>46</sup> shows that subnational government accounts for a significant share of general government expenditure. However, most of the problems during recent crises seem to have occurred at central government level. In the wake of these crises, the fiscal imbalances at local level have remained contained, while state government deficit has been more volatile than that of local government, and subnational debt increased less than that of central government. One factor helping to achieve this was the extension of fiscal rules to the subnational government level in a number of Member States, a trend that had already started before the sovereign debt crisis.

### 3.7.2. A large number of country-specific recommendations are directed at the local and regional authorities

Each year, the CoR's services analyse the CSRs extensively to identify and quantify the recommendations that are directly or indirectly addressed at LRAs. As their 'Territorial Analysis of the Country-specific Recommendations for 2019'<sup>47</sup> shows, the number of recommendations with a territorial impact went up from 120 in 2018, to 137 in 2019. Two factors are behind this: the new investment-oriented CSRs for all EU countries, and the inclusion of Greece in the ES process, after exiting its financial assistance programme.

In both 2018 and 2019, 'territory related' CSRs represented around 62 % of all CSRs. These 137 CSRs can be broken down into 41 CSRs directly involving LRAs, 81 CSRs indirectly involving LRAs, and 15 CSRs not involving LRAs, but with territorial impact.

Territory-related CSRs that address administrative capacity challenges stand at 26, which are broken down into 11 directly related (capacity-building is the main aim), and 16 are indirectly related (capacity-building is part of a sectoral objective) CSRs.

Furthermore, 55 CSRs are territory-related, implementing the European Pillar of Social Rights, and 112 territory related CSRs address obstacles to investment (a rise from 79).

### 3.7.3. Ownership at all levels of government is crucial

For the ES to work well, ownership at all levels of government is crucial. However, at sub-central levels, the ES process is generally not considered to be conducive to ownership, an important reason being the lack of proper implementation of multi-level governance. Pucher and Martinos warn<sup>48</sup> that 'Independently of the degree of LRA contribution there is an issue of lead of the process and ownership of the NRP', as even in the best performing countries (Sweden is mentioned as one of the best), documents such as the NRPs are seen as purely central government products. The impression prevails that the central governments provide the ES input through their negotiations with the Commission, which itself provides the rest of the input, meaning that, from a sub-central level, the CSRs appear as imposed. The lack of proper LRA participation in the formulation of such documents

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<sup>46</sup> See [Coordination arrangements across government sub-sectors in EU Member States](#), European Commission Economic Papers 517, June 2014.

<sup>47</sup> See CoR [Territorial Analysis of the Country-specific Recommendations for 2019](#), Directorate for Legislative Works, Commission for Economic Policy, July 2019.

<sup>48</sup> See [Improving the European Semester by involving local and regional authorities](#), October 2017.

as the national reform programmes, the stability/convergence programmes and the CSRs reduces ownership, i.e. leads to both a lack of concern regarding the recommendations and a lack of willingness to actually implement them. Experts draw attention<sup>49</sup> to the fact that participation at central government level in the formulation of the CSRs does not necessarily avoid them appearing imposed externally. The authors also see a difference in ownership levels based on a country's size: while smaller Member States are generally interested in improving their country's performance, political bodies in larger states are usually too self-absorbed to take external advice. These aspects taken together would mean that ownership of recommendations may be more the exception than the norm. Although ownership does not forcefully equate with successful implementation, the low level of implementation of the CSRs might be related to the issues that: in the past three years the number of CSRs where 'full/substantial progress' could be observed oscillated between 1.3 and 2.8 % (down from 11.6 % in 2012), while in 36.6 % to 48.7 % of the cases 'some progress' could be observed.<sup>50</sup>

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<sup>49</sup> See [How to further strengthen the European Semester?](#), November 2017.

<sup>50</sup> See European Parliament, EGOV, [Country-specific recommendations: An overview - September 2019](#).

## 4. Cohesion policy and the partnership principle

### 4.1. The 2014-2020 cohesion policy framework

The primary aim of EU cohesion policy is to reduce the territorial, social and economic inequalities that exist among the different regions of the EU. Also known as regional policy, the EU's cohesion policy provides funding to support job creation, business competitiveness, economic growth, sustainable development and to improve citizens' quality of life. To help deliver these objectives and address the development needs of the EU's regions, a total of €351.8 billion, almost one third of the EU's total budget, has been earmarked for cohesion policy for the current 2014-2020 period. While this policy covers every region of the EU, funding focuses on where it is needed most: the EU's poorer regions with a gross domestic product (GDP) per capita under 75 % of the EU average.

This financial support is distributed through the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (CF). Together with the European Agricultural Fund for Regional Development (EARDF) and the European Maritime and Fisheries Fund (EMFF), these funds are known as the European structural and investment (ESI) funds. They represent the main delivery tools for achieving the Europe 2020 strategy, an overarching framework and structure for the implementation of the ESI Funds, which aims to achieve smart, sustainable and economic growth in the EU.

The priorities for cohesion policy and the use of European structural and investment funds in each Member State are determined on the basis of consultations between individual countries and the European Commission. Every Member State prepares a draft Partnership Agreement, which outlines the country's overall strategy, as well as operational programmes, which set out in more detail how ESI Funds are to be used by breaking down strategic priorities into individual investment priorities. The European Commission then negotiates with individual countries on the final version of the Partnership Agreement and operational programmes, with these documents forming the basis for how ESI Funds are used in each Member State. Local and regional authorities are actively involved in the process of designing, delivering and monitoring these cohesion documents, with their rights enshrined by the partnership principle, a key principle that reinforces the legitimacy of EU policy-making by giving stakeholders a say in decisions on funding that concern them directly.

#### 4.1.1. Partnership principle under the 2014-2020 cohesion policy framework

Already firmly established in previous programming periods, the partnership principle has been further strengthened under the 2014-2020 cohesion policy framework. While the individual structural fund regulations make a number of references to partnership, with the ESF Regulation, for instance, explicitly encouraging the involvement of regional and local authorities, among other things, in the preparation and implementation of operational programmes, it is the Common Provisions Regulation that establishes the main guidelines in this respect. In accordance with Article 5 of the Common Provisions Regulation,<sup>51</sup> Member States must organise a partnership with the competent regional and local authorities for each operational programme and the Partnership Agreement, with the rules stipulating that this partnership shall also include urban and other public authorities, economic and social partners and relevant bodies representing civil society. In addition,

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<sup>51</sup> See [Regulation \(EU\) No 1303/2013](#) of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

to help give the partnership principle a firm basis within cohesion policy, Article 5 also provided for the adoption by the Commission of a delegated act introducing a European code of conduct on partnership.

#### 4.1.2. European Code of Conduct on Partnership (ECCP)

The aim of the ECCP, which was established under Commission Delegated Regulation No 240/2014 of 7 January 2014, is to help Member States with the organisation of partnerships, setting out a number of key principles in this area. In particular, the ECCP provides that the selected partners should be the most representative of the relevant stakeholders while the relevant selection procedures must be transparent and take account of Member States' institutional and legal frameworks. The partners should include those that are able to influence or be influenced by the implementation of the Partnership Agreement (PA) and programmes (OP), with a particular emphasis on vulnerable groups, while the differences between PAs and programmes should be taken into account when selecting partners in general. In addition, the code of conduct outlines the main principles and good practices for the timely, meaningful and transparent consultation of partners. This includes ensuring the timely disclosure of and easy access to information, providing channels through which partners can share their views, involving partners in the selection of thematic objectives when preparing PAs, as well as in decisions on the allocation of funding when preparing programmes.

#### 4.1.3. Assessing implementation of the partnership principle in 2014-2020

A 2016 European Commission study<sup>52</sup> on the implementation of the partnership principle and multi-level governance in the 2014-2020 ESI Funds found that the partnership principle was satisfactorily upheld in a significant number of countries and programmes. In general, the report argued that procedures for identifying partners were transparent and that background documentation had been made available on a timely basis, with a sufficient amount of time set aside for the consultation process. Overall, the report considered that the level of stakeholder involvement had improved since the 2007-2013 programming period, with the new legal framework raising awareness of the partnership principle, which itself had brought added value by applying the experience and knowledge of stakeholders during decision-making. The view among certain stakeholders, particularly those representing local and regional authorities has, however, been somewhat more mixed.

A particularly extensive assessment of the involvement of local and regional authorities in the partnerships established as part of the 2015 ESIF programming cycle is to be found in the 2015 report<sup>53</sup> by the Council of European Municipalities and Regions entitled 'Planning of EU Structural Funds: Is local government treated as a real partner?'. According to the study's findings, the binding provisions on partnership set out in the ECCP had been fully or partially applied in only three quarters of all countries, with the document also highlighting that the participation of associations of local and regional authorities in preparing PAs and OPs had been irregular. In particular, the report found that in certain countries, local and regional authorities had been invited to take part in consultative meetings attended by a wide range of partners such as trade unions and NGOs. According to the report, this suggests that central government considers LRAs to be ordinary stakeholders, calling into question local government's role as an important delivery partner.

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<sup>52</sup> See [Implementation of the partnership principle and multi-level governance in 2014-2020 ESI Funds: Final Report](#), July 2016.

<sup>53</sup> See [Planning of EU structural funds: Is Local Government treated as a real partner?](#), 2015.

Equally, while emphasising the high involvement of its member regions in cohesion programming compared with 2007-2013, a 2015 study by the Conference of Maritime and Peripheral Regions (CMPR) argued that this had not necessarily led to the regions in question being given any greater responsibilities in the process. The report also drew particular attention to the ambiguous nature of the provisions of the ECCP, which do not specify which partners should participate or the extent of their involvement. In the CMPR's opinion, this means that the selection of partners and their responsibilities in the field of cohesion policy continues to remain at the full discretion of the Member States.

Parliament's 2017 resolution<sup>54</sup> on 'Investing in jobs and growth - maximising the contribution of ESIF' welcomed the ECCP, noting that it had improved implementation of the partnership principle in most Member States. Parliament, however, regretted that many countries have centralised significant parts of the negotiation and implementation of the PAs and OPs, emphasising the need to involve local and regional authorities at all stages, and the need for clarity from the Commission on the performance of countries and regions on the partnership principle. Noting that there are cases where the partnership principle is implemented formally, yet in a manner that does not allow any real participation in the governance process, Parliament's 2017 resolution on increasing the engagement of partners and visibility in the performance of the ESI Funds notes calls for more efforts and resources to be invested in partnership involvement.

For its part, the European Committee of the Regions has taken a positive view of the European Code of Conduct on Partnership. Its 2015 opinion<sup>55</sup> on the outcome of the negotiations on the PAs and OPs welcomed the ECCP as the first item of legally enforceable EU legislation on multi-level governance, noting also that the partnership principle was a precondition for the success of cohesion policy. However, notwithstanding this favourable assessment, the Committee argued that the involvement of local and regional authorities did not amount to full partnership as set out in the ECCP, noting that they had rarely been sufficiently involved in drafting PAs and OPs. This situation was compounded further by the late adoption of the cohesion policy package and an underestimation of the time needed by LRAs to engage in the cohesion programming process, resulting in the creation of purely superficial partnerships.

More recently, the 2018 review<sup>56</sup> of the ECCP has also highlighted a number of challenges to applying the ECCP in practice, identifying such issues as a lack of awareness in many Member States of the ECCP and the partnership principle, or weak stakeholder involvement, especially when implementing programmes, as well as poor frameworks for regional and local engagement. Taken together, the above assessments suggest that while the strengthening of the partnership principle during 2014-2020 has helped formalise the role of local and regional authorities within the cohesion programming process, there is clearly still room for improvement in this area.

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<sup>54</sup> See European Parliament resolution [Investing in jobs and growth – maximising the contribution of European Structural and Investment Funds](#), February 2017.

<sup>55</sup> See CoR opinion [Outcome of the negotiations on the partnership agreements and operational programmes](#), September 2015.

<sup>56</sup> See [Review of the European code of conduct on partnership \(ECCP\)](#), June 2018.

## 4.2. The cohesion policy framework post-2020

### 4.2.1. Overview

With the rules on the current cohesion policy framework applying only up to 2020, talks have already begun on the future shape of cohesion policy beyond 2020. On 28 May 2018, the European Commission adopted a set of legislative proposals, which seek to modernise cohesion policy through a more tailored approach to regional development and a simplified and more flexible legislative framework. In particular, funding will focus on just five policy objectives – a smarter Europe, a greener, carbon-free Europe, a more connected Europe, a more social Europe and a Europe closer to citizens, down from the current 11 thematic objectives.

In terms of financing, the Commission proposal for a multiannual financial framework has earmarked €330 billion for economic, social and territorial cohesion for 2021-2027, which represents a reduction of 10 % on the current programming period. With Member States required to allocate between 65 % and 85 % of their ERDF and Cohesion Fund resources (depending on their wealth status) to just two of the five proposed policy objectives – a smarter Europe and a greener Europe, this means that local and regional authorities will effectively have to 'do more with less' in certain policy areas. This will require strong local and regional participation in the cohesion programming process, and the rules on partnership set out in the proposal for a common provisions regulation (CPR) remain relatively unchanged from the current period, including the rollover of the current ECCP to the period beyond 2020.

However, while post-2020 proposals have maintained a role for LRAs within the process of programming, implementing and monitoring cohesion policy programmes, a number of EU bodies and stakeholders have called for the partnership principle to be strengthened. Emphasising the importance of the principles of partnership and multi-level governance, the CoR's 2018 opinion<sup>57</sup> on the CPR calls for the inclusion of the existing Code of Conduct as an annex to the draft regulation and for the full implementation of the Code of Conduct, to ensure that the involvement of local and regional authorities amounts to full partnership, while the Council of European Municipalities and Regions (CEMR)<sup>58</sup> has stressed the need for clearer and stronger wording to ensure that the partnership principle is enforced throughout all the relevant regulations. For its part, the European Parliament has also emphasised the importance of partnership, with its first reading position on the CPR,<sup>59</sup> stating that for the partnership agreement and each programme, each Member State shall organise a fully-fledged and effective partnership for the partnership agreement and each programme, which should include regional, local, urban and other public authorities, as well as stipulating that partnership agreements shall be prepared in accordance with the ECCP.

These calls to strengthen the partnership principle take on a particular relevance in light of a number of amendments to the CPR proposed at Council level. Specifically, the consolidated council partial mandate<sup>60</sup> on the CPR proposes lifting the requirement for Member States to prepare partnership

<sup>57</sup> ECOR [opinion](#) 2018/03593 on the Common Provisions Regulation, 5-6 December 2018.

<sup>58</sup> CEMR [position paper](#) on 'Cohesion Policy Ten key messages for the future', 28 August 2018

<sup>59</sup> European Parliament legislative [resolution](#) of 27 March 2019 on the proposal for 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, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument (COM(2018)0375 – C8-0230/2018 – 2018/0196(COD))

<sup>60</sup> Common Provisions Regulation (Articles) – [Council partial mandate](#) (consolidated version), 11149 2019 INIT, 15 July 2018.

agreements in cases where the amount of resources for a Member State from the ERDF, Cohesion Fund and the ESF+ is lower than €2.5 billion, or where a Member State does not submit more than three programmes under the investment for jobs and growth goal, as a result of which it is possible that not all Member States would be required to prepare partnership agreements. In response, a recent CEMR resolution<sup>61</sup> called on the Member States to not endanger the EU-wide applicability of the partnership principle, stressing that all Member States must work together with the representatives of local and regional authorities in drafting the operational programmes and monitoring their implementation, in line with this principle.

Beyond the question of the partnership principle, several changes have also been proposed to the cohesion policy architecture which have the potential to impact on the extent to which the needs of local and regional authorities are taken into account.

#### 4.2.2. Changes impacting on the regional dimension of cohesion policy

One change that has attracted a significant amount of attention concerns the introduction of a closer link between cohesion policy and the European Semester. In line with the CPR proposal, country-specific recommendations (CSRs) would be taken into account twice during the programming process: firstly, at the beginning of the 2021-2027 period, to help with programming funds and designing cohesion policy programmes and, secondly, as part of the mid-term review of the programmes in 2024. The most recent CSRs would serve as a guide for the mid-term review in order to adapt to new or ongoing challenges. Member States would also be required to report regularly on their progress in implementing the programmes in support of the CSRs to the monitoring committee and to the Commission throughout the 2021-2027 programming period.

Furthermore, the proposed CPR also includes a new provision, which provides that Member States and the Commission shall ensure the coordination, complementarity and coherence between the Funds and other Union instruments such as the reform support programme, helping to further strengthen the link between cohesion policy and the European Semester. However, the proposals to establish a closer link with the European Semester process have elicited a less than enthusiastic response among regional stakeholders. The CPMR, for instance, has raised concerns that the strengthening of the link between cohesion policy and the European Semester would divert the policy from its initial Treaty objectives. Together with the upcoming reform support programme, it considers that this will mean cohesion policy funds are used to carry out structural reforms in areas that have no link to regional policy.<sup>62</sup>

The Assembly of European Regions (AER), for its part, has also expressed reservations,<sup>63</sup> noting that the proposed link with the European Semester could make it possible to divert funds away from cohesion policy and its objectives into top-down incentives for structural reform. It emphasises that the moves to centralise EU funds are unacceptable and fears that this development will not allow the framework to deliver economic, social and territorial cohesion more effectively.

A second change worth highlighting in this context is the proposal whereby 'thematic concentration', i.e. the distribution of resources by policy objectives, would take place at national level, rather than at regional level as is currently the case. Article 3 of the proposal for an ERDF and

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<sup>61</sup> CEMR [Resolution](#) of 6 November 2019.

<sup>62</sup> See Conference of Peripheral Maritime Regions: [European Parliament and Council must restore essence of cohesion policy](#).

<sup>63</sup> See [Cohesion Policy 2021-2027: EU-wide coalition welcomes proposals to cover all regions with a strong role for cities and regions, but warns against cuts impact](#), May 2018.

Cohesion Fund Regulation provides that countries would be categorised into three groups – those with GNI equal to or above 100 % of the EU average (group one), those with GNI above 75 % (group two) and, lastly, those with GNI below 75 % (group three) – to which different thematic concentration requirements would apply. Specifically, Member States in group one would be required to allocate at least 85 % of their ERDF resources to policy objectives one and two, while the percentages for group two and group three Member States would be a minimum of 45 % and 35 % of their ERDF resources respectively.

While the regulation's explanatory memorandum emphasises that thematic concentration criteria will apply at national level 'in order to enable flexibility', stakeholders have expressed a number of reservations regarding this approach. The CoR argues that it represents an important change as it overlooks key differences between the development levels of different regions. Noting that the proposed centralised allocation mechanism was a cause of concern for many regional stakeholders, its 2018 opinion<sup>64</sup> on the ERDF and Cohesion Fund proposal emphasised that this mechanism goes against the place-based approach and the multi-level governance principle of cohesion policy, making the proposal counterproductive. As explained in the CoR's opinion, the proposed national thematic concentration rules could lead to a situation where a transition region (i.e. with a GNI above 75 % but below 100 % of the EU average), located in a Member State with a GNI above 100 %, would be erroneously required to comply with stricter rules. Clearly, in this situation, the interests of the affected region would not be adequately reflected in the decisions taken at national level, bringing into sharper focus the need to ensure strong partnership involving local and regional authorities in the cohesion policy process.

Lastly, it is worth drawing attention to the proposed rules for the transfer of ESI Funds to other funds or instruments, and to the EU Investment Instrument (InvestEU). Specifically, Article 19 of the CPR stipulates that Member States may request the transfer of up to 5 % of ESIF resources to a fund under shared management or to any instrument under direct or indirect management while Article 10 provides that Member States may allocate up to 5 % of the total allocation of each fund to InvestEU. While these provisions are intended to provide Member States with more flexibility, some stakeholders have warned that these proposals risk diluting the amount of ESI Funds available.

The CPMR has noted for instance that these provisions could lead to considerable structural and investment fund resources being diverted to the new InvestEU instrument, an instrument that is not aimed at achieving social, economic and territorial cohesion.<sup>65</sup> The European Committee of the Regions, meanwhile, has highlighted the benefits of the shared management approach, noting that this method has had a demonstrated impact on economic, social and territorial cohesion for Europe. It considers that the transfer by the Member State should be decided with the involvement of the local and regional partners, in line with the partnership principle and multi-level government.<sup>66</sup>

#### 4.2.3. Assessing the impact of the new cohesion policy on partnership

This brief overview of the post-2020 cohesion policy framework would appear to suggest a trend towards the growing centralisation of EU funds and the possible dilution of ESI Funds during the post-2020 period as a result of the allocation of cohesion resources to other funds. As highlighted above, a number of regional stakeholders have raised concerns that this could imply a significant shift away from the original Treaty objectives of cohesion funding, with the closer link with the

<sup>64</sup> See [Opinion Factsheet](#), December 2018.

<sup>65</sup> See Conference of Peripheral Maritime Regions: [European Parliament and Council must restore essence of Cohesion policy](#).

<sup>66</sup> See [Opinion Factsheet](#), December 2018.

European Semester providing new possibilities for cohesion resources to be used to deliver new and uncertain goals in the area of reform support. Lastly, one should not underestimate the impact on the proposed rules on national level thematic concentration, which look set to move the focus of attention away from the regional level. In light of all these new elements in the cohesion policy mix, it is far from certain whether the future cohesion policy framework will be able to ensure the effective participation of LRAs during the entire programming cycle in the period beyond 2020.

In this context, it is perhaps understandable that, in view of the very real risk of attention being moved away from the regions to the national level in the Member States, the closer link between cohesion policy and the European Semester and the proposed changes under the Council partial mandate<sup>67</sup> on the CPR relating to the preparation of partnership agreements, calls to strengthen the partnership principle further are growing. The CoR has called for an explicit reference to the partnership principle in the ERDF Regulation, noting that it is important that the partnership principle and multi-level governance be covered and guaranteed in all policy fields of cohesion policy, especially given the concerns regarding centralisation of cohesion policy among local and regional stakeholders. In particular, recent months have also seen the resurgence of an idea floated by the CoR several years ago: the creation of a European Code of Conduct of Partnership to involve LRAs in the European Semester.<sup>68</sup>

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<sup>67</sup> Common Provisions Regulation (Articles) - [Council partial mandate](#) (consolidated version), 11149 2019 INIT, 15 July 2018

<sup>68</sup> See [Opinion Factsheet](#), December 2018.

## 5. Established links between the European Semester and cohesion policy

When comparing aims, institutional arrangements and instruments of the European Semester and cohesion policy fields, as set out in the chapters above, it becomes evident that these are quite different in nature, and establishing links between them is not immediately obvious. Nevertheless, two explicit links already exist for a number of years, both in form of conditionality. In addition, specific financial support programmes exist and further programmes will be created to reinforce these links.

### 5.1. Conditionality

There are two forms of conditionalities: 'ex-ante' and 'macroeconomic' conditionalities. Both already exist for several years, and establish direct links between cohesion policy and the ES.

'Ex-ante conditionalities' are preconditions to receiving money from cohesion funds, and are defined in the Common Provisions Regulation (CPR),<sup>69</sup> which states that 'a closer link between cohesion policy and the economic governance of the Union is needed to ensure that the effectiveness of expenditure under the ESI Funds is underpinned by sound economic policies and that the ESI Funds can, if necessary, be redirected to addressing the economic problems a Member State is facing'. Ex-ante conditionalities are concrete and precise pre-defined factors, which are a prerequisite for the effective and efficient achievement of a specific objective for an investment priority or a Union priority. They are based on compliance with a large number of factors, such as energy efficiency, but also on the implementations of CSRs in general terms.

Ex-post 'macroeconomic conditionalities' were introduced through the Common Provisions Regulation as a further means to enforce the rules of the ES. A suspension of cohesion fund payments can be triggered when a Member State fails to take appropriate action in relation with the excessive macroeconomic imbalance procedure or does not implement the corrections envisaged in the excessive deficit procedure. Although this is now introduced in all European Structural and Investment Funds (ESIF), providing a theoretically very strong link between the European Semester and the cohesion policies, its application has proven to be less stringent than the legal provisions envisaged.<sup>70</sup>

For the period beyond 2020, the Commission strives to increase the links between the policies in a different manner. Metaphorically speaking, if macroeconomic conditionality is a 'stick', then the new approach rather resembles a 'carrot', with EU money flowing to those fields for which CSRs were issued. This kind of 'carrot' can give more weight to the parts of the ES where only soft coordination can be applied.

<sup>69</sup> See [Regulation \(EU\) No 1303/2013](#) of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

<sup>70</sup> See [Macroeconomic Conditionalities: Using the Controversial Link between EU Cohesion Policy and Economic Governance](#), 2019.

## 5.2. Structural reform support programme and reform support programme

In 2017 the structural reform support programme (SRSP)<sup>71</sup> was introduced to provide financial support for institutional, administrative and growth-enhancing reform in all EU countries. While the SRSP concentrates on the priorities identified in the ES, the European Commission, building on the Five Presidents' Report,<sup>72</sup> has focused its priorities on what it calls the 'virtuous triangle' of boosting investment, pursuing structural reform, and ensuring responsible fiscal policies. The entire reform process is covered, support is tailor-made, and no co-financing is necessary.

Building on this approach, the Commission proposed<sup>73</sup> a reform support programme (RSP) in May 2018, on which legislative work is ongoing,<sup>74</sup> and the financial envelope for which will depend on the outcome of the negotiations on the 2020-2027 MFF. The RSP aim is larger than the SRSP, with a greater link to be established between the ES and EU cohesion funds, and additional fields to be covered. This multi-pronged approach – a reform delivery tool provides a follow-up to the SRSP for euro area Member States; and a convergence facility, helps prepare for euro area membership – would deliver strong support and incentives for a broad range of reforms across Member States. The link with the ES would be strengthened further. A Commission communication of May 2018 on 'a modern budget for a Union that protects, empowers and defends', confirmed that the Commission was aiming at an overall budget of €25 billion over the entire MFF period.<sup>75</sup>

*As explained in the proposal, The programme thus aims to support Member State governments and public authorities, upon their request for technical support or upon their submission of proposals for reform commitments, in their efforts to design and implement growth-sustaining structural reforms. The programme is intended to contribute to the overall objective of enhancing cohesion, competitiveness, productivity, growth, and employment. It could also have a positive impact on the realisation of the European Pillar of Social Rights. For those purposes, it should provide sufficient financial incentives for the accomplishment of reforms of a structural nature and technical support to strengthen the administrative capacity of the Member States in relation to challenges faced by institutions, governance, public administration, and economic and social sectors.*

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<sup>71</sup> See Commission webpage on [Structural Reform Support Programme](#) (SRSP).

<sup>72</sup> See [The Five Presidents' Report: Completing Europe's Economic and Monetary Union](#), June 2015.

<sup>73</sup> See [Proposal for a regulation of the European Parliament and of the Council on the establishment of the reform support programme](#), COM(2018) 391 final - 2018/0213 (COD).

<sup>74</sup> See European Parliament website [MFF – proposal for a regulation on the reform support programme 2021-2027](#).

<sup>75</sup> See Commission communication [A Modern Budget for a Union that Protects, Empowers and Defends – The Multiannual Financial Framework for 2021-2027](#), May 2018.

## 6. New approach to funding and the regions

The European Commission is striving for greater socio-economic and territorial cohesion across the EU, by creating stronger links and greater synergies and complementarity between investment and the country-specific recommendations. To this end, additional attention within the European Semester is now devoted to the regions.

### 6.1. Taking regions into account within European Semester analysis

Although regions were already mentioned throughout the European Semester cycle, the Commission decided to elevate the analysis of the regions by adding a chapter on the specificities of regions in its country reports. The territorial aspect that are being dealt with in a country report depend on the specificities of each Member State. Much attention is devoted to regional divergences.

### 6.2. Stronger links between cohesion funds and the European Semester in the annual growth survey

#### 6.2.1. Annual growth survey

Legislative work on the reform support programme is not yet finalised, and the financial envelope will only be known after the successful completion of the MFF negotiations. Nevertheless, the Commission is already preparing to engage in the new approach. As outlined in the 2019 annual growth survey (AGS),<sup>76</sup> 'The Commission's proposals for the next EU multiannual financial framework (2021-2027) fully support the delivery of more and better investment by national authorities and the private sector'. The document continues, stating that 'the Commission intends to ensure more effective links between the European Semester and EU funding for 2021-2027. Moreover, the new InvestEU programme<sup>77</sup> will bring together under one roof the multitude of EU financial instruments available to support investment. This will make EU funding for strategic investment projects in Europe simpler, more efficient and more flexible. By reinforcing existing practices in the context of the next multiannual financial framework, EU programmes will be used in a coherent manner to maximise the added value of EU financing and support reforms at national level in the context of the European Semester, with the ultimate objective to efficiently deliver on EU policy priorities'.

The 2019 AGS further announces that 'the 2019 European Semester will have a stronger focus on assessing investment needs to guide programming decisions for 2021-2027. The analysis in the 2019 country reports will look at investment needs in each country, including – where relevant – sectoral and regional dimensions. Based on this analysis, a new annex to the country report will identify those investment needs that are relevant for the European Regional Development Fund, the European Social Fund Plus and the Cohesion Fund during the 2021-2027 period. This will provide a solid analytical input to the programming dialogue with Member States'. It is also

<sup>76</sup> See Commission communication on the [Annual Growth Survey 2019: For a stronger Europe in the face of global uncertainty](#), COM(2018) 770 final.

<sup>77</sup> [Proposal for a regulation of the European Parliament and of the Council establishing the InvestEU programme](#), COM(2018) 439 final.

intended to identify priority areas for public and private investment in the 2019 CSRs, to facilitate the implementation of growth-enhancing reforms.

Concluding that in 'several Member States, sluggish reform momentum, low productivity growth and high debt levels weigh on the growth potential of the economy', the 2019 AGS warns that 'there are considerable differences in productivity performance across EU firms, regions and sectors' and that 'wide regional and territorial disparities remain a key issue of concern'. It also finds that 'while the poorest regions have become more prosperous since 2010, their economic gap with richer regions has widened.'

### 6.2.2. Specific new instruments: Budgetary Instrument for Convergence and Competitiveness and Convergence and Reform Instrument

Two new specific instruments will also be created, linked to the planned euro area budget. This is the outcome of a long debate on the possible aims of a euro area budget, which culminated in the December 2018 European Council decision<sup>78</sup> to concentrate on competitiveness and convergence, rather than creating an instrument for the absorption of shocks.<sup>79</sup> A proposal for a Budgetary Instrument for Convergence and Competitiveness (BICC) was made in July 2019.<sup>80</sup> The BICC would provide, on an annual basis, country-specific guidance on the reform and investment objectives for the purposes of the reform and investment packages, which Member States may subsequently submit under the (awaited) regulation on the reform support programme, thus establishing a link between the BICC and the RSP. The legislative process on these files is ongoing, and the financial envelope that will be available will have to be decided during the MFF negotiations, however, it is not expected that the amounts will be substantial. A term sheet for the BICC was agreed by the Eurogroup in October 2019.<sup>81</sup> It specifies that Member States will submit proposals which should, as a rule, consist of packages of reforms and investments linked to the NRP in spring 2020.

An October 2019 letter by Eurogroup President Mario Centeno hints at progress on a possible convergence and reform instrument (CRI) to be created for the non-euro area Member States that are converging towards the euro area. The CRI would be destined to support structural reforms in those countries with structural challenges as evidenced by income per capita below the euro area average. It would build on the BICC proposal, but its governance would be clearly distinct from the governance structure of the BICC.<sup>82</sup>

The BICC proposal specifies that the 'strategic orientations and country-specific guidance to be adopted under this proposal are limited to providing guidance to the euro area Member States, while the choice of actual reforms and investment remains with the Member State concerned. As a result, the proposed regulation does not prejudice the right of each Member State to decide what action is necessary or opportune to be undertaken at national, regional or local level; the proposed regulation respects the principle that the implementation of reforms and investment remains a national competence and the Member States are responsible for it at the appropriate level of government'.

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<sup>78</sup> See [Conclusions of the Euro Summit of 14 December 2018](#).

<sup>79</sup> The December 2018 decision to not make economic stabilisation an aim of the future euro area budget *de facto* put an end to the work on a pending legislative file, the [European Investment Stabilisation Function](#) (EISF).

<sup>80</sup> See [Proposal for a regulation of the European Parliament and of the Council on a governance framework for the budgetary instrument for convergence and competitiveness for the euro area](#), COM(2019) 354 final, July 2019.

<sup>81</sup> See [term sheet](#) of October 2019.

<sup>82</sup> See [letter by Eurogroup President Mario Centeno of October 2019](#).

## 7. Local and regional authority and European Committee of the Regions participation in the European Semester

The crucial question regarding participation in the ES is to identify the powers conferred by EU law on specific institutions, e.g. the CoR or to LRAs. Currently, the main decision-makers in the ES are the Council and the European Council – putting the (central) governments of the Member States clearly in a privileged position. The Commission is a *de facto* decision-maker, as practice within the ES shows that the different Council formations seldom deviate from the initial Commission recommendations, such as those which serve as a basis for the CSRs that the Council addresses to the Member States. The European Parliament is informed at various stages of the ES, but has no power of its own in the **executive** tasks (although it does play a role in the **legislative** process). At first sight, primary and secondary EU legislation makes little mention of any role for LRAs. However, as demonstrated below, LRAs may have a role to play and can exert power, although this varies enormously from one Member State to another. This role is related to their relationship and access to central government, i.e. it is dependent on national culture and government traditions.

### 7.1. How are powers conferred on the EU and its institutions?

The EU derives its powers from the EU Treaties, and these are subject to the principle of conferral, defined in Article 5 of the Treaty on European Union (TEU):<sup>83</sup> 'The limits of Union competences are governed by the principle of conferral. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States'. Likewise, for an institution to exert specific powers, a legal base setting out its rights and duties is necessary. Member States, which decide in a consensual matter about treaty changes (i.e. each one has a veto right when treaties are created or amended), therefore maintain their exclusive right to confer powers on the EU, as well as to decide how individual institutions are involved in the exercise of power.

An institution cannot exert greater power in any specific field than has been conferred on it. If the Treaties do not provide it with a specific role in relation with a policy field (or worse, if an institution is not even mentioned in relation with a policy field), then that institution cannot participate in the decision-making in its own capacity. This is illustrated by the European Parliament's involvement in the application of fiscal rules, which are based on Article 126 of the Treaty on the Functioning of the European Union (TFEU),<sup>84</sup> which envisages that Parliament should simply be informed at several stages of the procedure. Therefore, when Parliament decides to adopt a resolution on such a matter, this does not constitute a formal input to the procedure, i.e. no institution or Member State is obliged to take Parliament's position into account, or even have to wait for Parliament to adopt a resolution. Secondary legislation derived from this article only mentions Parliament in relation with the informative duties of other institutions towards it.<sup>85</sup>

<sup>83</sup> The full text of Article 5 TEU can be found [here](#).

<sup>84</sup> The full text of Article 126 TFEU can be found [here](#).

<sup>85</sup> The EP is further mentioned twice in Article 126 TFEU, but that is not to give it executive prerogatives in relation with the fiscal rules, but to define the EP's role when secondary legislation based to this paragraph is enacted.

## 7.2. Legal basis

Under what legal bases can the European Committee of the Regions or local and regional participate in the European Semester? The Treaties provide the CoR with little role in relation to the ES. The Committee is neither mentioned in articles relevant to economic (and monetary) policy – nor in those on which most of the ES and all of its hard coordination is based (including the application of fiscal rules and the macroeconomic imbalance procedure), nor the more general and non-binding soft coordination of economic policies. Neither is the Committee consulted under the procedures setting secondary legislation in these fields.

Concerning the field of employment, Article 148 TFEU<sup>86</sup> stipulates that the CoR is consulted when the Council draws up guidelines that the Member States are to take into account in their employment policies.<sup>87</sup> Article 149 TFEU<sup>88</sup> envisages consultation of the CoR when incentive measures designed to encourage cooperation between Member States and support specific actions are enacted through the ordinary legislative procedure. On social policy, Article 153 TFEU<sup>89</sup> envisages consultation of the CoR when measures are adopted to encourage cooperation between Member States, or when minimum requirements are adopted. By definition, the positions expressed by those consulted are not binding on other institutions.

The CoR's only formal involvement in ES-related executive tasks is its consultation role within the employment guidelines. In contrast, LRAs are not mentioned in any of the Treaty articles relevant to the ES.

## 7.3. Increasing the powers of the EU and its institutions

As seen above, the Treaties do not always favour the CoR in the ES. An overview as to how its powers could be increased is therefore useful. This can be achieved by way of treaty change – via the ordinary treaty revision procedure under Article 48 TEU,<sup>90</sup> paragraphs 2 to 5, which allows almost everything in the TEU and the TFEU to be altered. However, this procedure is very cumbersome, and requires among other things that the European Council put a convention in place, followed by a conference of the representatives of governments, which then takes the formal decision. To be successful, a very high level of consensus between the Member States is necessary on all aspects of such treaty amendments, and the final result also needs to pass the hurdle of ratification in national parliaments, as well as via the occasional national referendum.

For the sake of completeness, it should be mentioned that neither the **simplified treaty revision procedure** under Article 48, paragraph 6, nor an **interinstitutional agreement (IIA)**, nor a 'passerelle' clause, can be used to confer new powers on the EU level. Interinstitutional agreements mainly formalise the way institutions interact (e.g. which document is to be sent to whom, by what deadline, and in which format). EU institutions cannot 'grab' powers through an agreement amongst themselves. The **passerelle clauses**, which are based on Article 48 (7) TEU, also cannot augment the EU's powers, but can change voting modalities, e.g. move from unanimity voting to majority voting, or switch from a special legislative procedure to the ordinary legislative procedure

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<sup>86</sup> The full text of Article 148 TFEU can be found [here](#).

<sup>87</sup> The EP, the [European Economic and Social Committee](#) (EESC) and the advisory [Employment Committee](#) are also consulted.

<sup>88</sup> The full text of Article 129 TFEU can be found [here](#).

<sup>89</sup> See full text of [Article 153 TFEU](#).

<sup>90</sup> See full text of [Article 48 TEU](#).

('codecision'). However, for the passerelle clause to be activated, a unanimous vote in Council or at a European Council is necessary. In the limited cases where the **flexibility clause** under Article 352 TFEU<sup>91</sup> can be used, by which powers can be added provided they are necessary to attain a Treaty objective, individual measures can only be adopted by Council acting unanimously, again placing a very high bar for agreement.

The only appropriate way to increase the formal powers of the CoR, or that of the LRAs in the EU's institutional framework, would be in the form of a treaty change under the ordinary treaty revision procedure. However, this does not preclude increased LRA involvement and influence at national level, e.g. through better contacts with the national authorities dealing with the ES, or through participation in the national delegations that meet their EU counterparts.

## 7.4. European Committee of the Regions analysis and requests

The CoR has repeatedly deplored the under-representation of the regional and local level in the mechanisms of the European Semester and in the related decision-making. Multiple opinions adopted in plenary draw attention to the fact that over 40 % of the CSRs are implemented by LRAs, which are responsible for over 50 % of public investment. However, LRAs are insufficiently involved in the ES, whose analysis does not systematically take territorial differentiation into account. Regional endowment of resources, including the institutional and administrative capacity of public administrations, may vary considerably, thus invalidating a one-size-fits-all approach. The CoR draws attention both to weak ownership of the ES at national level and to poor implementation of CSRs, issues which could be improved through greater involvement of LRAs. It also stresses that it is essential to ensure the LRAs' involvement from an early stage in planning. To remedy these shortcomings, the CoR outlines two solutions: the creation of a Code of Conduct (CoC), and the extension of the existing European Code of Conduct on Partnership (ECCP) to include the ES. Drawing attention to a more fundamental aspect, the CoR deplors that the general approach of CSRs influencing LRAs' policy-making may violate a number of multi-level governance principles.

### 7.4.1. Infringements of the principles of subsidiarity, multi-level governance and partnership

As stated in the CoR opinion on 'the European semester and cohesion policy: aligning structural reforms with long-term investments':<sup>92</sup> 'recommendations issued in connection with the European Semester primarily relate to policy areas where the EU and the Member States have shared competence, and the EU can only take action to support them'. In creating a link between the CSRs and cohesion policy, the ES directly influences policy-making at the local and regional level, by imposing obligations on that level of government in those policy areas where LRAs have legislative powers. This approach infringes the principles of subsidiarity,<sup>93</sup> multi-level governance and partnership, and runs counter to the principles of the Council of Europe's European Charter of Self-Government.<sup>94</sup> The CoR states that the 'lack of formal involvement of local and regional authorities in the European semester policy process is liable to result in a top-down approach to programming the new cohesion programmes, which would place undesirable restrictions on freedom of choice at local and regional level and undermine flexibility.' Consequently, to ensure that the principles of

<sup>91</sup> See full text of [Article 352 TFEU](#).

<sup>92</sup> See Opinion of the European Committee of the Regions — [The European semester and cohesion policy: aligning structural reforms with long-term investments](#), (2019/C 275/01), ECON-VI/040, May 2017.

<sup>93</sup> See definition of subsidiarity on Commission [website](#).

<sup>94</sup> See [A Charter for local democracy](#), signed in October 1985.

subsidiarity and multi-level governance are respected, structured involvement of LRAs in the ES is needed urgently.

### 7.4.2. Code of Conduct

The CoR's opinion on 'Improving the governance of the European Semester: a Code of Conduct for the involvement of local and regional authorities'<sup>95</sup> of May 2017, aims at giving a territorial dimension to the ES, and would involve LRAs and the CoR in the Semester's proceedings. This two-pronged approach is centred both on an analytical and at an operational level.

The analytical level would enrich the annual growth survey, the national reform programmes and the country-specific recommendations. In particular: (1) the Commission would complement the AGS with a sub-national analysis and the country reports would include a chapter on regional disparities, while acknowledging the role of local and regional authorities; (2) the Commission would ensure that NRPs address regional disparities and other territorial issues raised in the country reports and review, at sub-national level, progress towards the Europe 2020 targets; (3) the Commission would take the role of LRAs into account in implementing the CSRs; and (4) the Council would consider the territorial dimension before adopting the AGS and CSRs.

The operational level would provide for stronger and systematic local and regional authority involvement, which would build on the partnership and multi-level governance approaches. In particular: (1) each Member State would put standing arrangements in place for LRAs' participation of throughout the Semester process; (2) these standing arrangements would give the LRAs the opportunity to review their country report, take part in the preparation of the NRP, and review and comment on the draft CSRs; (3) the arrangements would insure LRA involvement in the implementation of the NRPs and CSRs; (4) LRA representative organisations would meet the Commission during the country visits and the consultations that take place at the beginning of the ES, and umbrella organisations would take part in a structured dialogue with the Commission; (5) the CoR would provide territorial analysis of the AGS, country reports, CSRs and NRPs; and (6) the European Parliament (EP) would take the territorial dimension into consideration, cooperate with the CoR on monitoring the ES, and invite the CoR to attend the ES interparliamentary week and related hearings.

The CoR opinion stresses that the implementation of the country-level provisions of the CoC should be left to the Member States, in order to respect differences between constitutional arrangements, and proposes to implement the CoC, which should be part of a better governance approach, over a period of two years. The CoC would become an integral part of a more streamlined and less complex ES.<sup>96</sup>

Finally, in its opinion, the CoR invites the Commission, the Council and the EP to consult the CoR when starting to work on the CoC. The code should become legally binding.

### 7.4.3. European Code of Conduct on Partnership

As set out in detail above, Article 5 of the Common Provisions Regulation<sup>97</sup> requires a partnership to be organised at all programming stages and at all levels for each ESIF programme. This is meant to

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<sup>95</sup> See Opinion of the European Committee of the Regions on 'Improving the governance of the European Semester: a Code of Conduct for the involvement of local and regional authorities', (2017/C 306/05), ECON-VI/019, May 2017.

<sup>96</sup> It should be noted that during that period, the ES was neither streamlined, nor was it made less complex.

<sup>97</sup> See [Regulation \(EU\) No 1303/2013](#) of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the

ensure that all partners are involved with the Partnership Agreements and programmes. To help achieve this, a European Code of Conduct on Partnership (ECCP)<sup>98</sup> was set up in 2014. Although not legally binding, it was concluded<sup>99</sup> that the ECCP contributed greatly to the application of the partnership principle, compared to previous programme periods. The ECCP aims at ensuring local and regional authorities are direct partners with the Commission and the Member States in the shared management of cohesion policy. The ECCP is not solely geared at involving LRAs, but rather includes a wide range of partners.

In April 2019, the CoR expressed the opinion (ECON-VI/040) that, in the absence of a Code of Conduct, and in view of the urgent need for a code of conduct created by the new link between the ES and cohesion funding, 'the problem could be potentially addressed by expanding the current Code of Conduct on Partnership to include the European Semester policy process'. However, the CoR makes it clear that this is a 'second best' solution and that the establishment of a code of conduct remains its preferred option.

## 7.5. Local and regional authority involvement in the European Semester

In all EU Member States, LRAs are involved in the ES process, but in a manner and intensity that is far from uniform. Huge differences exist, and this impacts directly on a number of factors, such as the sub-central levels' ownership of the ES, and the overall level of implementation of the CSRs in individual Member States.

### 7.5.1. Analysis of selected examples

The examples below are based on a practical analysis that was provided in a report by Pucher and Martinos, in response to a request from the CoR: 'Improving the European Semester by involving local and regional authorities: Overview of good practices'.<sup>100</sup> Six countries were chosen for analysis: Czechia, France, Italy, Portugal, Romania and Sweden.

Current practices differ considerably; the authors found that participation can be categorised as 'formal' and 'informal'. In the former case, this led to better analysis and formulation of policy measures, to greater ownership of the ES process, and to higher commitment to reforms and targets. For the latter, LRAs are restricted to a role of 'implementer'; the authors could identify tensions and inefficiencies leading to under-performance during implementation.

Nevertheless, there are no country-level consultation arrangements specific to LRAs. Instead, a broad range of stakeholders are involved, such as social partners and representatives of disadvantaged groups. Further opportunities exist in federal countries through regional parliaments. However, even informal schemes can be comprehensive, and get close to the CoR request for the CoC. In this context, the authors laud Sweden for the quality of its explicit agreement,

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European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

<sup>98</sup> See [Commission delegated Regulation \(EU\) No 240/2014](#) of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds.

<sup>99</sup> See [Implementation of the partnership principle and multi-level governance during the 2014-2020 ESI Funds](#), July 2016.

<sup>100</sup> See [Improving the European Semester by involving local and regional authorities](#), October 2017.

which recognises LRAs as a partner. Among other things, social partners are invited to discuss the AGS, the work on the NRP, and discuss how to respond to the CSRs.<sup>101</sup>

The authors also distinguish between LRAs being involved 'for contribution', as opposed to those involved 'for information'. In the first case, LRAs have an opportunity to be recognised as a full partner, contributing to a dialogue on a wide range of policy areas throughout the ES cycle, while in the second case, their role is rather that of an 'implementer'. The latter role creates tensions, inefficiencies and can lead to under-performance during implementation.

According to the authors, the LRAs' first challenge is therefore to be recognised as a full partner. A second challenge remains, however – to make a substantive contribution to the content of the ES. This will require increasing administrative capacity, including the availability of expertise and enhancing the role of the elected political LRAs in mandating and supervising its delegation. It will also require an increase in the allocation of financial resources to these tasks.

Pucher and Martinos' overall conclusion is that, so far, much has been achieved in involving LRAs. Although often not very visible, it is of sufficient substance that the current situation in some countries can be deemed as close enough to the Code of Conduct requested by the CoR. This achievement means the process of elaborating and adopting such a code is a feasible option, despite some Member States still having to make substantial progress in that direction.

### 7.5.2. Points of possible influence (analytical/operational/funding)

It is necessary to identify the points where the LRAs and/or the CoR could **in theory** exert an influence on the European Semester, independently of their **present** participation in multi-level governance. This depends highly on what is being dealt with at the different stages of the ES. This chapter serves to identify the stages where LRAs and the CoR may have to concentrate their efforts, in order to achieve the largest possible impact, while spending less energy and resources on those fields where little can be achieved. The ES stages are listed in chronological order.

The **annual growth survey** is an exercise concentrating on highly aggregated data (i.e. far from the level of detail of regional or lower level administration), mainly setting out where Europe as a whole stands economically. Very little attention is devoted to the regional aspects; at most the AGS mentions that 'some regions' are affected by a certain trend, and even the Member State level is not greatly elaborated. The 2019 AGS<sup>102</sup> announces, in very general terms, that it will seek a greater alignment of the ES and EU cohesion funding in order to achieve greater socio-economic and territorial cohesion across the EU, and states that in some cases investment is needed to support the implementation of CSRs. Concerning points of possible influence, it could be argued that there is little the CoR or LRAs could contribute to the analytical activity that would likely influence the general analysis or direction of the AGS. The survey does not touch on specific funding.

The **alert mechanism report**<sup>103</sup> serves as a basis for determining which Member State should be subject to an in-depth review under the Macroeconomic Imbalance Procedure, based on the specific MIP indicators. It is a statistical analysis based on Eurostat data. Here too, it is difficult to conceive of a role for the CoR or for LRAs.

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<sup>101</sup> The Swedish partners' agreement can be consulted in full text in Annex II of the authors' study.

<sup>102</sup> See Commission communication on the [Annual Growth Survey 2019: For a stronger Europe in the face of global uncertainty](#), COM(2018) 770 final, November 2018.

<sup>103</sup> See the 2019 version of the [ARM report](#).

The Commission **euro area recommendations**<sup>104</sup> are also very broad, and do not dwell on the specificities of countries, let alone regions.

The long and detailed **joint employment report**<sup>105</sup> contains some analysis of the regional situation. Although regions are generally cited in broad and generic terms, the report mentions a number of concrete examples of projects and policy measures, together with the institutions in charge of implementing them. It remains an analytical report, however, concentrating on employment and social aspects, and outlines how well past objectives were reached, especially regarding the Social Scoreboard accompanying the European Pillar of Social Rights. It is not meant to give policy advice, nor does it recommend specific funding activities, but challenges are identified in broad terms. From the LRA point of view, it may be possible to attempt to have a project cited in the report, but it would probably be difficult to achieve much more than that, especially if the ambition is to actually influence future policy decisions or funding in a decisive way.

The Commission **country reports**<sup>106</sup> are also highly analytical regarding the economic situation in each Member State, and are an opportunity to check the progress already made in relation with the implementation of the Member States' reform agenda. The sustainability of public finances is an important part of this exercise. A regional analysis is now also included in the country reports. In addition, Annex D provides investment guidance for cohesion policy funding during 2021-2027. The annex summarises the preliminary Commission views on priority investment areas derived from the broader context of investment bottlenecks and needs, and regional disparities. It also provides the basis for dialogue between a country and the Commission in view of the programming of the cohesion policy funds.

The regional chapter in country reports is tailored to each Member State, concentrating on a country's specific problems, and therefore does not automatically cover the same topics. Considering the 2019 country report for Finland,<sup>107</sup> it appears that the countries' regions and regional aspects are analysed throughout the document (as they participate actively in carrying out CSRs). In addition, a specific title ('3.4.3 The regional dimension') has been added to the report to offer information on: an overview of regional disparities; regional differences in factor endowments; the high score of Finnish regions when assessing the quality and conditions in the regional innovation ecosystem; and the relatively high differences in road accessibility between Finnish regions.

Concerning points of possible influence, while it might be difficult for the CoR or LRAs to provide input on all aspects of the country reports, especially as these are analytical and data-based, the sheer amount and quality of region-related analysis, information and examples may provide an incentive for LRAs to try to influence them. It would be advantageous for LRAs to participate in the dialogue between the Commission and the Member States, especially in order to increase ownership. Furthermore, the ability to provide input to Annex D is directly linked to future funding. However, the importance of the annex needs to be nuanced: the priority investment categories listed are very broad (there is no mention of particular projects, no specific project is earmarked for future funding), and a later dialogue between the Commission and the Member State is still required for programming the funds. The link between Annex D and future funding is therefore not a strong one, and there is little that LRAs can achieve at that juncture to influence future EU financial flows in

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<sup>104</sup> See the [euro area recommendations for 2019](#).

<sup>105</sup> The [joint employment report](#) for 2019.

<sup>106</sup> See the [country reports for 2019](#).

<sup>107</sup> See the [country report for Finland 2019](#).

favour of regions, the local level, or individual projects. The country reports do not provide an opportunity for LRAs to contribute to the allocation of funding at an early stage. Instead, these documents provide general guidance on the direction in which investment should flow.

The **stability programmes** (for euro area countries), **convergence programmes** (for non-euro area countries), as well as the **national reform programmes** (for all countries), are prepared at national level.<sup>108</sup> The format of the NRPs varies from one country to another, and they may contain a chapter outlining the ways in which stakeholders were involved in the preparation of the document, as well as information on a country's investment needs. The stability/convergence programmes, which concern the application of EU fiscal rules, outline the particular field where the regions contribute to attaining the objectives. In view of the quality and depth of these programmes, many of which concern structural reforms or may be linked to funding, this is a phase where adequate LRA (or CoR) participation is absolutely crucial.

Greater LRA involvement was also recommended by the Commission's Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently', which recommends that 'Member States should follow the European Commission's guidance and engage meaningfully with local and regional authorities when preparing their national reform programmes and designing and implementing structural reforms as part of the European Semester to improve ownership and implementation of these reforms'.<sup>109</sup>

Finally, the **country-specific recommendations**<sup>110</sup> build on the ample analysis carried out during the ES. Formally, these are Council recommendations on a country's national reform programme, together with the Council's opinion on the stability/convergence programme of that country. The number of recommendations is very low. The CSR's key content can be illustrated by the four points addressed to Finland.<sup>111</sup> The country is recommended to take action in 2019 and 2020, to:

- 1 *Ensure that the nominal growth rate of net primary government expenditure does not exceed 1.9 % in 2020, corresponding to an annual structural adjustment of 0.5 % of GDP. Improve the cost-effectiveness of and equal access to social and healthcare services.*
- 2 *Improve incentives to accept work and enhance skills and active inclusion, notably through well-integrated services for the unemployed and the inactive.*
- 3 *Focus investment-related economic policy on research and innovation, low carbon and energy transition and sustainable transport, taking into account regional disparities.*
- 4 *Strengthen the monitoring of household debt and establish the credit registry system.*

This example shows that the text of the actual recommendations is both short and very general. To put the CSRs into context and explain why these recommendations were made, however, several pages of explanation accompanies the recommendations. These recapitulate the main findings of the diverse analytical steps taken so far under the ES mechanisms, including the country report, and they build strongly on the national reform programme and the stability/convergence programme. Concerning the fiscal rules for Finland (which the country respects, notably with a debt to GDP ratio that is now under 60 %), the recommendation merely encourages the country to maintain its current fiscal path; while the other recommendations do not contain hard coordination.

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<sup>108</sup> See all [three types of programmes for 2019](#).

<sup>109</sup> See [Active Subsidiarity - A new way of working](#), July 2018.

<sup>110</sup> See the [CSRs for 2019](#).

<sup>111</sup> See the Council [Recommendation of 9 July 2019](#) on the 2019 National Reform Programme of Finland and delivering a Council opinion on the 2019 Stability Programme of Finland, (2019/C 301/26).

Concerning points where the CoR or LRAs may have possible influence, there are fewer opportunities here than in the two previous steps, which are substantially more specific. For funding, the CSR refers to Annex D of the country report, i.e. the CSR does not provide an opportunity to reassess funding needs.

**To summarise the quest for points of possible LRA (or CoR) influence on the ES process, there is clearly one step on which attention should be focused: the elaboration of the national reform programmes and the stability/convergence programmes.** Taking advantage of this opportunity should be facilitated by the fact that, from the operational point of view, LRAs are already best positioned to influence the proceedings at that particular juncture, as it depends on arrangements at national level. The steps just before and after, i.e. the country reports and the CSRs are also points to consider where possible LRA (or CoR) influence could be brought to bear.

### 7.5.3. Practical aspects and challenges in applying the planned Code of Conduct

The rationale behind the calls for a Code of Conduct rests on two pillars: to improve consideration of territorial aspects in ES analysis, and to allow greater LRA and CoR involvement.

A major challenge is that the proposed Code of Conduct, unanimously requested by the CoR in 2017, has not been actively pursued by the three EU institutions that the CoR asked to work on it. The plan was to reach an agreement between Council, the Commission and the European Parliament within two years, to be enshrined in an interinstitutional agreement, after consulting the CoR. In its follow-up to the CoR opinion on CoC, the Commission agrees in principle to the importance of LRAs being involved in the ES, but does not believe that it is necessary to establish a code of conduct on that matter. It insists that that improvements to stakeholder involvement must be maximised at national level. The Commission does not seem inclined to differentiate between stakeholders and LRAs as parts of general government, advocating that ownership should go beyond national administrations of all levels, thereby including the social partners, non-governmental organisations, and specific interest groups.<sup>112</sup> The European Parliament explicitly sympathised with the request for a CoC, and expressed its support in a resolution on the ES.<sup>113</sup> Should there be no progress in the short-term, then LRAs might miss opportunities to influence proceedings when, as of 2021, closer links are established between the ES and the cohesion funds. Nevertheless, current practice is that LRAs are represented through between 70 and 80 national associations (for the whole EU).<sup>114</sup> However, while participation may still be lagging, the Commission has already taken into account important aspects concerning the analytical part of the CoC.

<sup>112</sup> See [Follow-up provided by the Commission to the opinions of the Committee of the Regions](#), plenary session of May 2017.

<sup>113</sup> The relevant paragraph of [EP resolution on the European Semester of 26 October 2016](#) reads: 'Fully supports the efforts made to ensure greater national ownership in the formulation and implementation of CSRs as an ongoing reform process; considers that, in order to increase national ownership and foster the effective implementation of CSRs, and in view of the fact that local and regional authorities have to implement more than half of CSRs, these should be clearly articulated around well-defined and structured priorities at European level, involving national parliaments, regional and local authorities where appropriate; reiterates that, in view of the distribution of powers and competences in various Member States, delivery on the country-specific recommendations might improve with the active participation of local and regional authorities and, to this end, supports the proposal of a code of conduct for the involvement of the local and regional authorities in the European Semester as suggested by the [European] Committee of the Regions; calls on the Member States to ensure a proper democratic scrutiny of their National Reform Programmes in their respective national parliaments;'

<sup>114</sup> See [Division of Powers](#), CoR website.

The data underpinning the analysis within the ES comprises all levels of state, so that no relevant data are omitted when establishing the economic situation of a Member State, e.g. when analysing fiscal sustainability, when conducting a review in search of a macroeconomic imbalance, or when seeking to best support the EU 2020 strategy for jobs and growth. Moreover, with the new aspect of linking the ES with cohesion policy, any lack of appropriate territorial analysis might become a liability.

To a large extent, the Commission has already followed-up on the CoR request to add territorial analysis to the country reports. Adding a chapter on the regional dimension was explicitly requested by the CoR when formulating its CoC opinion. In addition, regional aspects are now extensively taken into account in the country reports, thus helping to provide information on where reforms could be effective, and at least in broad terms on where national investment may be needed, and co-financed action may be possible. Special emphasis is now placed on regional disparities. The country reports may be considered to be approaching the CoR's requirements on territorial analysis.

A greater challenge would be to extend that approach to the annual growth survey, as also requested by the CoR. The AGS is meant to cover all Member States in a single, short and concise document. It covers generic economic, social and budgetary priorities for the EU for the next year, and is meant to formally start the ES cycle by providing a 'grand direction'. Additionally, at that stage in the procedure, no indication on where to orient funding activities is given. The AGS sets the grounds for territorial analysis and differentiation by acknowledging the existence of regional disparities. The AGS explicitly confers the more detailed territorial analysis, as well as the broad indications on where investment should be channelled, on the country reports.

Implementing the partnership principles would arguably represent an even greater challenge. First, as outlined in the study by Jürgen Pucher and Haris Martinos, the involvement of LRAs is uneven across the Member States. In some countries they are simply informed and requested to implement, while in others they are asked to contribute to the ES proceedings. A uniform representation of LRAs across the EU cannot be guaranteed under these conditions.<sup>115</sup>

Second, across the Member States, in relation with the ES, it is widespread practice to merely consider LRAs as 'stakeholders', thus placing them on equal footing with diverse interest group representations. This position overlooks one essential point, which is that LRAs are part of a country's government structure. They have to decide, at their level, on policies related to the ES, such as carrying out structural reform; find adequate ways to abide by fiscal rules; identify areas of priority investment; and play a role in relation to cohesion funding. The Commission is also of this opinion, as its communication on subsidiarity and proportionality<sup>116</sup> of October 2018, draws attention to the fact that LRAs are different from other stakeholders, as they are implementing EU law. Concentrating all the negotiating and considerable decision powers related to the ES to the highest level of government excludes substantial parts of a country's government structure.

A third challenge for implementing the partnership principle resides in the expertise necessary to participate in the discussion. Assuming LRAs are given a prominent place and role within the national delegation that liaises and negotiates with the Commission and later with Council, the high level of economic analysis requests the presence of delegation members that are able to influence this kind of discussion. It starts with the capacity to question econometric models and to suggest

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<sup>115</sup> See [Improving the European Semester by involving local and regional authorities - Overview of good practices](#), September 2017.

<sup>116</sup> See Commission communication on [The principles of subsidiarity and proportionality: Strengthening their role in the EU's policy-making](#), COM(2018) 703 final, October 2018.

adequate modifications. This would be specifically important should one of the CoC opinion's requests be agreed – to give LRAs the opportunity to review the country reports and share their conclusions and policy responses.

A fourth challenge is posed by the organisational structure of the national delegation and the associated democratic oversight. Including one or more representatives for each regional and local authority would inflate the delegation's dimension beyond manageable size. Conversely, only including a small number of LRA delegates, might raise questions of fair and equal representation.

While improving the analytical level by providing a sound territorial analysis is mainly a task for the Commission, improving the operational level is a challenge at national level. The CoC opinion recommends putting standing arrangements to that effect in place in each Member State. As the countries are sovereign in the formulation and adoption of such arrangements, the establishment of a CoC could help promote greater uniformity across Member States.

#### 7.5.4. Practical aspects and challenges when extending the European Code of Conduct on Partnerships to the European Semester

The CoR opinion on the European Semester and cohesion policy<sup>117</sup> of April 2019 acknowledges that little progress was made on the Code of Conduct, and proposes what it considers a 'second best' solution: to expand the European Code of Conduct on Partnerships to include the European Semester policy process.

In essence, all the challenges listed in the chapter on the Code of Conduct would also apply here. Some challenges would be tougher, and others added. From the representational point of view, should the current arrangements concerning the status of LRAs be maintained, then they cannot be given a position within the ES commensurate to their role as levels of government. Instead, they would be confined to the rank of a 'stakeholder', and would therefore fall well behind one of the central aspects the CoC tries to promote. This approach may also raise questions on the legal feasibility of the extension of the scope, as the code is currently a Commission delegated regulation based on specific EU cohesion policy legislation. That legislation is not related to the ES.

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<sup>117</sup> See Opinion of the European Committee of the Regions, [The European semester and cohesion policy: aligning structural reforms with long-term investments](#), (2019/C 275/01), ECON-VI/040, May 2017.

## 8. Uneasy cohabitation: cohesion policy and structural reforms

An inherent level of antinomy exists between structural reforms and cohesion policy. While structural reforms pursue goals such as increasing growth (much of the soft coordination within the ES) and increasing the resilience of Member States and the euro against crises (essentially the hard coordination within the ES), cohesion policy traditionally strives to create a higher level of economic and social uniformity in the EU. The approach to link these policies has been challenged, not only on considerations of possible negative effects on multi-level governance, but also on other grounds.

In its proposal for the reform support programme,<sup>118</sup> the Commission identifies three obstacles to structural reforms: the lack of proper administrative capacity at the different levels of government; the fact that reforms have immediate costs, while their advantages are only felt in the longer term; and a possible lack of ownership. The Commission's answer is the use of EU funds to overcome these obstacles. The trend to link the two policies already began with the introduction of ex-ante conditionalities in cohesion policies; was pursued by the structural reforms support programme; will be enhanced by the reform support programme together with the Budgetary Instrument for Convergence and Competitiveness; and further pursued by the stronger links that are about to be established through the ES, once the 2021-2027 MFF is in place.

Robin Huguenot-Noël et al. have drawn attention to the fact that the use of cohesion funds to support structural reforms risks confusing the aims of the two policies, and diverting finance set aside for one to satisfy the needs of the other. There may also be a risk that the conflict between the two policies has a negative effect on their coexistence and their proper implementation, leading Huguenot-Noël et al. to advise differentiating between a lack of willingness to conduct reforms and the lack of capacity to do so. In case of a lack of ownership, the authors warn that proposing reform funding may be insufficient to automatically see them realised.<sup>119</sup>

The possibility that the increased use of cohesion funds to support reforms may lead to a top-down approach encroaching on multi-level governance has been raised by Alison Hunter.<sup>120</sup> The author points to the general acceptance of structural reforms being a key condition for strengthening economic resilience, but questions the means to achieve this, and warns about the possible outcome of such an approach. Cohesion policy might be repurposed and its agenda highly centralised. The author identifies a tendency within the Commission, as demonstrated in the mission letter to the Commissioner in charge of 'Cohesion and Reforms', to reduce the level of regional participation through mechanisms mostly based on a dialogue between the Commission and the Member States, resulting in a reform agenda that is imposed on the regions and to reduced ownership. The analysis leads to the warning that 'Creating stronger links between the European Semester, economic governance and cohesion policy without a corresponding upgrade to the EU's multi-level governance system would almost certainly distance the regions from the investment decisions that directly affect them'. Experts<sup>121</sup> argue that the coordination of national policies, although essential in times of crisis to avoid strong negative spill-over effects, is far from being

<sup>118</sup> See [Proposal for a Regulation of the European Parliament and of the Council on the establishment of the Reform Support Programme](#), COM/2018/391 final - 2018/0213 (COD), May 2018.

<sup>119</sup> See [Strengthening cohesion in the EU: How can structural reforms contribute?](#), October 2018.

<sup>120</sup> See [From mission letter to mission impossible: Can a top-down approach to 'Cohesion and Reforms' really deliver?](#), September 2019.

<sup>121</sup> See [How to further strengthen the European Semester?](#), Economic Governance Support Unit, Directorate-General for Internal Policies, European Parliament, November 2017.

effective in 'normal' times, when governments may see little advantage in coordinating their policies. They advance that 'The European Semester was created in response to the crisis and had a specific purpose. The policy tools used as part of the Semester have been revisited, however, and the set of policies included in the process has expanded over time. By contrast, the reasons why some policies, typically national, need to be monitored and coordinated at European level seem to have lost importance'. They further state that 'Reforms aiming to improve the structural functioning of the EU's economies are of critical importance for Member States, yet the reasons why specific reforms should be embedded in the Semester are not always clear. Moreover, strengthening the Semester by further linking the EU budget to reforms undertaken in the Member States is fine in theory but very difficult in practice. Reforms cannot be 'bought' as such and it would be extremely difficult to measure the implementation of the CSRs precisely enough to make implementation a condition for funds'. The authors conclude that national ownership, rather than economic policy coordination, is key to a better enforcement of agreed rules.<sup>122</sup>

The Commission's general approach to economic governance rests mainly on its blueprint for a deep and genuine monetary union,<sup>123</sup> of November 2012, which includes a massive push for greater coordination of policies. In Council, this approach received mixed support, and recently a number of Member States have formed the 'New Hanseatic League', which takes a position that is seen as an alternative to the Commission's approach. This loose alliance of 8-12 Member States is increasingly making its strength felt. In their foundational document<sup>124</sup> of February 2018, which sets out their vision of the future of economic governance, 'coordination of economic policies' is not mentioned once, increased cooperation between countries is advised instead. However, despite the general scepticism regarding coordination, the League explicitly supports aligning the post-2020 MFF to the implementation of structural reforms, provided the responsibility and ownership of Member States for such reforms is respected.

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<sup>122</sup> See [How to further strengthen the European Semester?](#), November 2017.

<sup>123</sup> See communication from the Commission on a [blueprint for a deep and genuine economic and monetary union, Launching a European Debate](#), COM(2012) 777 final, November 2012.

<sup>124</sup> See [foundational document](#), February 2018.

## 9. Outlook with tentative conclusions

The project of linking the European Semester and cohesion policies is still in its infancy, and is very much in flux. A number of links already exist through ex-ante conditionalities, macroeconomic conditionalities and the structural reform programme. Other links are in the process of being established: the reform support programme, the Budgetary Instrument for Convergence and Competitiveness, and the Convergence and Reform Instrument. Key legislation is in the process of being revised, such as the Common Provisions Regulation, which among other things, covers conditionality. The outcome of the negotiations on the 2021-2027 multiannual financial framework (which will continue for some time), will bear particular weight on the level of finance that will be available for these projects. It remains to be seen if the Commission intends to go further than its territorial test-run of 2019, i.e. provide additional territorial aspects in its ES analysis, and territorially differentiate the country-specific recommendations, including in the selection of fields for priority investment and co-financing of the CSRs' Annex D.

In view of this fluidity, it is difficult to foresee what the links between the two policies will eventually look like and how effective the approach will be. This chapter builds on observations made so far in this publication and will try to point to some possible conclusions. However, these are not, and cannot be, clear cut.

The comparison of the frameworks of the European Semester and of cohesion policy has shown wide differences between almost all of their aspects, such as the aims and instruments of the policies, the involvement of different levels of government and stakeholders, and has highlighted a number of points where there is possible tension between the policies.

The ES has evolved over time. It was conceived as an instrument to avoid future sovereign debt crises and the ensuing negative spill-overs to other Member States, and to protect the common currency from redenomination risks. Since then, in the practical application of the framework, its scope was extended, leading to a blurring of the boundary between the hard coordination of the Macroeconomic Imbalance Procedure and soft coordination. As a consequence, it is now difficult to differentiate between requests for reforms that are based on the stringent MIP procedure and those requests for which there is no strict legal base. This entails direct consequences for multi-level governance.

It should be borne in mind that LRAs are a major recipients of CSRs, and the number of recommendations with a territorial impact is on the increase. A central issue is therefore that of LRA and the CoR participation in the ES. Two fundamental problems exist: the uneven treatment of LRAs in the ES between Member States; and their categorisation as 'stakeholders', while they are actually a substantial part of general government. By denying LRAs a sufficient say, and by placing most ES-related powers in the hands of central governments and the Council (which mainly represents central governments), basic principles of multi-level governance are infringed, trending towards a top-down approach, which may be at odds with the principle of subsidiarity. Country-specific reports, including those on reforms, are issued in policy fields that primarily relate to areas where the EU and Member States have shared competence, which should legally restrict the EU's actions to a supporting role. While LRAs are part of general government, they therefore risk exclusion from decision-making, which favours central governments and some European institutions.

There is little in the Treaties on which to build a strong position for CoR and LRA participation, especially concerning the ES. In relation with ES executive powers, the CoR is mentioned just once as an institution that needs to be consulted in relation with the Employment Guidelines. In the

absence of a legal basis, its opinions on executive acts such as the annual growth survey or the country reports cannot become a formal part of the executive procedures. Participation, e.g. in form of a possible invitation to events such as the annual meeting between the EP and the national parliaments in relation with the ES, entirely resides on the goodwill of those in a position to invite the CoR.

For LRAs, which are not mentioned as a category in the Treaties in conjunction with the ES, effective participation depends on the quality of national arrangements, mainly relating to how the central government accepts involvement of sub-central levels in the Semester. In principle, they could be on an equal footing with their respective central government. However, this does not preclude that they (or representatives they selected) are included in the delegation that meets the Commission and other institutions, or that they are involved in preparatory work by the central government in a significant way, such as participating in the drafting of national reform programmes.

At European level, in relation with economic governance, the role of LRAs and the CoR cannot be elevated without substantial parts of the Treaties being changed, something that would require a very high level of consensus between all Member States in favour of conferring them with powers. In the absence of any change to EU primary law, and to establish high quality multi-level governance, a redefinition of the respective role of government can only be carried out at national level, in each Member State. Although it would not be of binding character, the Code of Conduct requested by the CoR, outlines a possible direction, and could help create an environment conducive to a commensurate involvement of LRAs and the CoR.

A division of tasks may also be sought: the CoR's main role may consist in raising EU-wide awareness in relation to territorial aspects, while the LRAs directly influence the ES proceedings, as part of their national delegation or as a privileged partner of central government.

Concerning the LRAs' role, rather than requesting to be involved at all stages of the ES, several of which are by their nature not remotely concerned with territorial aspects, concentrating on those stages where they could exert real influence could be considered; which would involve the elaboration of the national reform programme as well as the stability/convergence programme. This is where national governments have the greatest say and the largest margin of manoeuvre. Being highly involved would allow LRAs to cover territorial aspects as deep and wide as deemed necessary. In addition, they would benefit from focusing their attention on two other steps: the country reports and the CSRs.

The Commission has already fulfilled a number of requests in relation to the CoC, concerning the analytical part of the ES, namely by increasing regional analysis and adding a chapter on regional disparities to the country reports.

Current infringements of central aspects of multi-level governance within the ES have an immediate effect in fields pertaining to structural reforms and other measures. By not allowing appropriate LRA participation in the formulation of policies and recommendations, a top-down governance may be established, reducing the LRAs' role to that of 'execution', and depriving them of their legitimate government functions. The effects on LRAs of linking cohesion funds to the ES may be rather different, however. It is useful to differentiate between the role of LRAs in influencing the ES proceedings, with the aim of guiding funding in a desired direction, and the general impact of establishing a link between the two policies on cohesion policy.

The various ES documents, whether analytical, reports or recommendations, make it clear that the level of specificity as to where to invest and what to fund is so low that the ES cannot be used as a

suitable basis for matching funds with projects or territorial entities. In other words, the ES does not define: 'In region X, problem Y was identified, which is to be solved by allocating money to project Z'. Nor does it define: 'Region X needs financial support to carry out reforms' – At least not in the 2019 ES exercise. Therefore, as there is no mention of specific amounts of money, when it comes to funding allocation there could well be limited incentive for actors at LRA level to influence the drafting of ES documents. Even if multi-level governance was to be optimally implemented, LRAs may gain little in relation to funding. The relevant funding decisions will continue to be taken within the usual framework of cohesion policy.

The issue for cohesion policy stemming from its increasing relationship with the ES is of a different nature. There is a level of concern that the links will end the standalone policy status of cohesion, and that cohesion policy would be diverted from its initial objectives as envisaged in the Treaties. The ES's structural reforms are mainly an instrument to increase the resilience of an economy, much of it being geared towards ensuring there will be no further crisis. In contrast, cohesion policy aims at diminishing economic and social divergences between countries and between territorial entities. Re-allocating money from cohesion policy to the support of structural reforms or other measures may weaken cohesion policy and use cohesion funding to carry out structural reforms in areas with no link to regional policy. Combining the two policies may establish a hierarchy, with the ES partially precluding the allocation of financial resources of cohesion funds.

There is general consensus that increasing ownership at all levels of government will have a positive impact on EU policies, especially on the implementation of the CSRs. Putting an effective multi-level governance in place, inspired by the proposal for a Code of Conduct, would assist in many ways. The issue is not only to increase LRAs' awareness of the CSRs which concern them, but is primarily about acknowledging their role as part of general government, and providing them with the appropriate rights and means to shape policies in the first place, especially within the framework of the European Semester.

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Multi-level governance requires the involvement of all levels of government, central, regional and local, in decision-making. Obstacles to appropriate and adequate involvement may lead to infringements of the principles of subsidiarity. However, under the cycle of EU economic and fiscal policy coordination known as the European Semester, local and regional administrations are considered to be 'stakeholders' – that is, they are not categorised as part of general government. Recent extension of the European Semester to aspects of cohesion policy may consequently strengthen a top-down policy approach. A Code of Conduct, such as that proposed by the European Committee of the Regions, may help correct this imbalance.

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