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WORKING DOCUMENT

on Special Report No 15/2017 (2017 discharge): Ex-ante conditionalities and performance reserve in Cohesion: innovative but not yet effective instruments

Committee on Budgetary Control

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Introduction

For the period 2014-2020 the Common Provisions Regulation (CPR) 1303/2013 introduced two new instruments applicable to the European Structural and Investment Funds (ESIF): ex-ante conditionalities and performance reserve. Member States should use ESIF support to ensure a significant contribution to the achievement of Union objectives in line with their specific national and regional development needs. To this end, ex ante conditionalities, as well as a concise and exhaustive set of objective criteria for their assessment, are required, according to article 19 CPR, in order to ensure that the necessary prerequisites for the effective and efficient use of Union support are in place. In order to facilitate the focus on performance and attainment of the objectives of the Union strategy for smart, sustainable and inclusive growth (The Europe 2020 Strategy), a performance reserve consisting of 6 % of the allocation for ESIF is established in each Partnership Agreement and programmes of Member States according to article 20 CPR. Performance reserve will be definitively allocated subject to the outcome of a performance review in 2019.

The Court's observations

The Court defines the ex-ante conditionalities as an innovation in Cohesion policy. It found that they provided a consistent framework for assessing the Member States' readiness to implement EU funds at the start of the 2014-2020 programming period, but it is unclear to what extent this has effectively led to changes on the ground.

The Court also considered the performance framework and reserve is unlikely to trigger a significant reallocation of Cohesion spending during the 2014-2020 period to better performing programmes because the way the performance reserve has been designed provides little incentive for a better result orientation of the OPs since it is mostly based on spending and outputs.

The Court's recommendations

The Court does not believe that regulatory changes during the current 2014-2020 period in relation to either instrument would be cost-efficient. Nevertheless, it encourages the Member States to complete and the Commission to assess the agreed action plans and pursue the fulfilment of all ex-ante conditionalities. It considers that the existing provisions regarding the performance reserve should be used as far as possible to avoid that money is wasted. Thus the Court's recommendations are for the post-2020 period. If both instruments are maintained, they should be reinforced so that they are more likely to contribute to a more effective use of Cohesion funding.

1. Ex-ante conditionalities

For its legislative proposal for the post-2020 period, the Commission should further develop ex-ante conditionalities as an instrument to assess Member States' readiness to implement EU funds, and in particular:

- a. re-assess the relevance and usefulness of each of the ex-ante conditionalities for 2014-2020, eliminate overlaps and keep only those which can genuinely impact the effective achievement of policy objectives;
- b. ensure consistency of the ex-ante conditionalities for the post-2020 period with the European Semester;
- c. set clear assessment criteria with measurable targets wherever feasible to ensure a common understanding of what needs to be achieved;
- d. require the fulfilment and application of ex-ante conditionalities throughout the programming period and follow this up taking into account the potential administrative burden.

2. Performance reserve

For its legislative proposal for the post-2020 period, the Commission should develop the performance reserve into a more result-oriented instrument that allocates funds to those programmes that achieved good results, and in particular consider whether it should propose to:

- a. based on lessons learned further develop the performance reserve into an instrument better promoting and rewarding good performance where OPs need to demonstrate what they intend to achieve with the additional funding;
- b. make more use of immediate result indicators and turn the key implementation steps into tools which better demonstrate actual performance of long term infrastructure interventions when assessing performance;
- c. review the conditions for payment suspensions and financial corrections so that underperformance can be more easily addressed, at an earlier stage, with a view to further increasing the incentives to properly implement the funds.

The Rapporteur's Recommendations:

The European Parliament,

1. Takes note of the Court's findings and conclusions and invites the Commission to take them into consideration when preparing the proposals for respective regulations for the next programming period;

Ex-ante conditionalities

2. Invites, in particular, the Commission to consider whether maintaining ex-ante conditionalities for the post-2020 period would materially improve efficiency and effectiveness of the Cohesion policy;
3. Recalls that ex-ante conditionalities for the period 2014-2020 were introduced with the aim to facilitate the ESIF implementation by ensuring that the necessary prerequisites for the effective and efficient use of Union support are in place;
4. Draws attention, however, that the Court questioned whether the introduction of the ex-ante conditionalities had effectively led to changes on the ground despite, in the Court's

opinion, having provided a framework for assessing the Member States' readiness to implement Cohesion policy;

5. Underlines, in case ex-ante conditionalities are maintained in the next programming period, that they have to be appropriate for the national/regional context, incentive oriented and conducive to smooth implementation of regional development objectives, as well as excluding overlaps and room for ambiguity and differing interpretations;
6. Notes that around 75% of all applicable ex-ante conditionalities were fulfilled at the time of adoption of ESIF programmes, that 86% were fulfilled at the beginning of 2017 and that 98% - at the beginning of 2018, demonstrating that the fulfilment of ex-ante conditionalities was longer than the period envisaged in the CPR 1303/2013 and that by the deadline December 2016 around 15% ex-ante conditionalities remained unfulfilled;
7. Acknowledges that ex-ante conditionalities have represented an additional administrative burden and that, as recognised by the Commission, have been one of the possible reasons for the registered delays in implementation of the ESIF 2014-2020; acknowledges, as well, that although there have been no cases of suspension of payments to programmes by the Commission for non-fulfilment of ex-ante conditionalities by end 2016, managing authorities concerned refrained from submitting payment claims, thus imposing a kind of self-suspension and delaying implementation with the result that the absorption at the end of the fourth year of the current period (2017) was significantly lower than the absorption rate on the corresponding date (end 2010) of the previous period 2007-2013 (17% and 41% respectively), thus further putting into question the added value of ex-ante conditionalities as an instrument introduced with the aim to facilitate Cohesion policy implementation;
8. Underlines, as regards the time until the end of the current programming period, that it is crucial for the Commission to provide the necessary assistance to Member States in order to fulfil remaining ex-ante conditionalities, as well as to implement in practice the respective provisions in particular with regard to public procurement and state aid;

Performance reserve

9. Takes note of the Court's view that the inclusion of the performance reserve in the performance framework was intended to provide an effective incentive to reach the intended outputs and results;
10. Notes, however, the Court's opinion that, overall, the 2014-2020 performance framework is not significantly more results-oriented than similar arrangements in previous periods, remaining essentially focussed on spending and project outputs, with the large majority of indicators that constitute the basis for allocating the performance reserve representing output indicators (57.1 %), financial indicators (33.4 %) and key implementation steps (9.2 %), with only marginal use of result indicators (0.3 %);
11. Observes, in this regard, that as stipulated in Annex II, CPR, milestones for intermediate targets on implementation of results indicators were envisaged for application in the performance framework only "where appropriate", in contrast to the mandatory inclusion of milestones regarding implementation of output indicators closely linked to the supported policy interventions;

12. Is of the opinion that the time having been set for 2019 for undertaking the review of performance of the programmes for each Member States has resulted in preventing countries and regions that have achieved their milestones from accessing the funds allocated to them before the last year of the period, having been blocked in the performance reserve; calls, therefore, for providing the possibility for an earlier performance review and accession to such funds at an earlier date;
13. Calls on the Commission, in case the performance reserve is continued in the post-2020 period, to base its proposal on the lessons drawn from the 2014-2020 period, and to propose the corresponding revision of the performance framework in order to create real incentives for a results orientated system; such a system should also provide the necessary balance between simplification for unhindered project implementation and the necessary provisions for sound financial management and control;
14. Recalls that Cohesion policy is primarily about support and solidarity, thus enabling and incentive instruments being more appropriate than disciplinary and sanctioning innovations.