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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	COM(2018) 382 final
Subject:	ESF Plus Regulation: Update following the EUCO conclusions of July 2020 - Partial mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 30 May 2018, the Commission tabled the proposal for the European Social Fund Plus Regulation (ESF+ Regulation)[1], which is part of the Cohesion Policy legislative package for 2021-2027. The overarching policy objective of the ESF+ Regulation is to help create a more performing and resilient 'Social Europe' and implement the European Pillar of Social Rights as well as the social and employment priorities endorsed by the European economic governance process.

[1] Doc. 9573/18 + ADD1-2.

2. The ESF+ Regulation was presented to the Structural Measures Working Party in June 2018 during the Bulgarian Presidency. The detailed examination of the ESF+ Regulation took place under the Austrian and the Romanian Presidencies. The Permanent Representatives Committee endorsed a (partial) mandate for negotiations with the European Parliament on the ESF+ Regulation on 3 April 2019[2].

3. On 28 May 2020, following the COVID-19 outbreak, and as part of the revised MFF 2021-27 and of the Recovery Package, the Commission proposed various amendments to the Cohesion policy legislative package 2021-2027, including to the ESF+ Regulation[3]. On 22 July 2020, the Permanent Representatives Committee endorsed a (partial) mandate for negotiations with the European Parliament as regards the amended Commission proposal for the EFS+ Regulation[4].

4. The partial mandate for negotiations has to be updated to take account of the European Council Conclusions adopted in the special meeting of the European Council of 17, 18, 19, 20 and 21 July 2020.

II. WORK WITHIN THE COUNCIL

5. Updates reflecting the European Council Conclusions were discussed in the Structural Measures Working Party in its meetings on 8, 11, 15 and 18 September 2020.

6. Substantial progress has been made on those updates of the ESF+ Regulation at working party level. Following the Structural Measures Working Party on 18 September, **the Presidency is of the view that, based on the principle that "nothing is agreed until everything is agreed", a balanced compromise text has emerged which has been supported by a majority of Member States.**

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2 Doc. 7982/19.
3 Doc. 8394/20.
4 Doc. 9431/20.

III. WAY FORWARD

7. The Permanent Representatives Committee is, therefore, invited to agree on a partial mandate for negotiations with the European Parliament and to confirm the compromise proposed by the Presidency on the updates of the ESF+ Regulation reflecting the July European Council Conclusions, as set out in the Annex to this note.

ANNEX

European Social Fund Plus

Elements from EUCO conclusions

Article 5

Budget

1. The total financial envelope for the ESF+ for the period 2021-2027 shall be EUR 87 995 063 417 in 2018 prices.

2. The part of the financial envelope for the ESF+ strand under shared management under the Investment for jobs and growth goal shall be EUR 87 319 331 843 in 2018 prices of which EUR 175 000 000 shall be allocated for transnational cooperation supporting innovative solutions as referred to in Article 23(i) and EUR 472 980 447 as additional funding to the outermost regions identified in Article 349 TFEU and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the 1994 Act of Accession.

3. The financial envelope for the Employment and Social Innovation strand for the period 2021-2027 shall be EUR 675 731 573 in 2018 prices.

[Paragraph 4 is deleted in latest ESF+ mandate]

5. The amount referred to in paragraph 3 may also be used for technical and administrative assistance for the implementation of the programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

Article 7

Consistency and thematic concentration

[…]

3. Member States shall allocate at least 25% of their ESF+ resources under shared management to the specific objectives for the social inclusion policy area set out in points (vii) to (xi) of Article 4(1), including the promotion of the socio-economic integration of third country nationals.

4. Member States shall allocate at least 2% of their ESF+ resources under shared management to the specific objective of addressing material deprivation set out in point (xi) of Article 4(1).

   In duly justified cases, the resources allocated to the specific objective set out in point (x) of Article 4(1) and targeting the most deprived may be taken into account for verifying compliance with the minimum allocation of at least 2% set out in the first subparagraph of this paragraph.

5. Member States having a rate of young people aged 15 to 29 not in employment, education or training above the Union average on the basis of the latest annual available Eurostat data, shall allocate at least 10% of their ESF+ resources under shared management for the years 2021 to 2025 to targeted actions and structural reforms to support youth employment, vocational education and training, in particular apprenticeships, and school-to-work transition, pathways to reintegrate into education or training and second chance education, in particular in the context of implementing Youth Guarantee schemes.

   At mid-term in accordance with Article [14] of [the future CPR], Member States having a rate of young people aged 15 to 29 not in employment, education or training above the Union average on the basis of the latest available annual Eurostat data, shall allocate at least 10% of their ESF+ resources under shared management for the years 2026 to 2027 to those actions.

Outermost regions meeting the conditions set out in the first and second subparagraphs shall allocate at least 10% of the ESF+ resources under shared management in their programmes to the targeted actions set out in the first subparagraph. This allocation shall be taken into account for verifying compliance with the minimum percentage at national level set out in the first and second subparagraphs.

When implementing such actions, Member States shall give priority to inactive and long-term unemployed young people and put in place targeted outreach measures.

[…]

Article 9

Support to the most deprived

[…]

2. The co-financing rate for the support to the most deprived shall not be higher than 85%.

Article 13

Innovative actions

[…]

4. Each Member State may dedicate at least one priority to the implementation of paragraphs 1 or 2 or to both. The maximum co-financing rate for these priorities may be increased to 95% for the allocation of maximum 5% of the national ESF+ allocation under shared management to such priorities.

Article 25

Eligible entities

[…]

2. Legal entities established in a third country which is not an associated country are exceptionally eligible to participate where this is necessary for the achievement of the objectives of a given action.

3. Legal entities established in a third country which is not an associated country should in principle bear the cost of their participation.

Article 30

Participation of third countries

1. The Employment and Social Innovation strand shall be open to the following associated countries:

   (a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement;

   (b) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

   (c) third countries, in accordance with the conditions laid down in a specific agreement covering its participation to the strand, provided that the agreement

      (1) ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;

(2) lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes or strands of programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation];

(3) does not confer to the third country a decisional power on the strand;

(4) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

[Paragraph 2 is deleted in the latest ESF+ mandate]

Article 42

Transitional provisions for the Employment and Social Innovation strand

[…]

3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 5(5) technical and administrative assistance, to enable the management of actions not completed by 31 December 2027.

4. Repayments from financial instruments established by Employment and Social Innovation programme (EaSI 2014-2020) shall be invested in the financial instruments of the "social window" of the InvestEU Fund established under Regulation XXX.