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## OUTCOME OF THE COUNCIL MEETING

3427th Council meeting

### General Affairs

Brussels, 17 and 18 November 2015

Presidents

**Jean Asselborn**

Minister for Foreign and European Affairs of  
Luxembourg

**Camille Gira**

Secretary of State for Sustainable Development and  
Infrastructure of Luxembourg

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

## **ITEMS DEBATED**

### **Preparation for the December European Council**

The Council examined an [annotated draft agenda](#) for the European Council meeting to be held on 17 and 18 December 2015.

The European Council will focus on:

- the fight against terrorism following the attacks in Paris
- migration: it will take stock of the implementation of its decisions taken in response to the migration crisis and agree further orientations in light of the situation on the ground
- economic and monetary union: the European Council will discuss the follow-up to the Presidents' report on completing the Economic and Monetary Union
- single market: the European Council will address the completion of the European single market in all its dimensions following the publication of the Commission communication "Upgrading the Single Market: more opportunities for people and business"
- United Kingdom: the European Council will revert to the UK plans for an (in/out) referendum
- other items: in light of developments the European Council will come back to relations with Russia and the situation in Ukraine.

The annotated draft agenda will serve as the basis for draft conclusions, to be prepared in the run-up to the meeting.

### **Rule of law dialogue**

The Council held its first annual rule of law dialogue.

The Council heard a presentation by the Commission on the results of its colloquium on fundamental rights "Tolerance and respect: prevention and fight against anti-Semitism and the anti-Islam hate in Europe" held on 1 and 2 October 2015.

Ministers shared examples of best practices and challenges faced at national level in the field of rule of law, and presented the approach chosen to respond to them.

Ministers also discussed the rule of law in the digital era, on the basis of a [presidency paper](#).

The rule of law dialogue was established in December 2014 to promote and safeguard the rule of law in the framework of the Treaties.

### **Interinstitutional agreement on better regulation**

The presidency informed ministers on the state of play of the negotiations on an agreement between the Commission, the European Parliament and the Council on better regulation.

Ministers exchanged views on the basis of a presidency note and provide guidance to the presidency in view of finalising the negotiations with the Parliament and the Commission.

The interinstitutional agreement on better regulation has been proposed by the Commission with the objective of securing a common commitment of the three institutions to improve the way the EU legislates.

### **Commission work programme for 2016**

In public session, ministers heard a presentation and exchange views on the [Commission work programme for 2016](#) adopted on 27 October.

### **2015 European Semester roadmap**

The Council took note of a presentation by the Luxembourg and forthcoming Netherlands presidencies of the [roadmap for the 2016 European Semester](#). The roadmap sets out how work will be taken forward in the coming months and in the first semester of 2016. The objective of the roadmap is to ensure that all relevant Council formations work in a coordinated manner and to enable the General Affairs Council to oversee the process.

The European Semester is a cycle of economic and fiscal policy coordination within the EU. Its task is to help the member states to coordinate their economic, employment and fiscal policies better and to make sure they reflect the EU-level goal.

### **Cohesion**

#### **Shift towards low-carbon economy**

In view of the UN climate conference in Paris in December the Council adopted the following conclusions ([13701/15](#)) on the contribution of the European structural and investment funds 2014-2020 to supporting the shift towards low-carbon economy:

## "THE COUNCIL OF THE EUROPEAN UNION:

- (1) RECALLING the Council conclusions on the Sixth report on economic, social and territorial cohesion: investment for jobs and growth<sup>1</sup>;
- (2) RECALLING the Council Conclusions on the implementation challenges of the cohesion policy 2014-2020 of 23 June 2015<sup>2</sup>;
- (3) RECALLING the Council conclusions on the preparations for the 21st session of the Conference of the Parties (COP 21) to the United Nations Framework Convention on Climate Change (UNFCCC) and the 11th session of the Meeting of the Parties to the Kyoto Protocol (CMP 11) (Paris, 30 November - 11 December 2015) of 18 September 2015, which underline the critical importance of the 2015 Paris Conference as a historic milestone for enhancing global collective action and accelerating the global transformation to a low-carbon and climate-resilient society and elaborate on the main elements of the EU position in view of the Paris Conference<sup>3</sup>;
- (4) UNDERLINING the need to pursue transformative pathways towards a long-term vision of global and sustainable climate neutrality and climate resilience in the second half of this century;
- (5) UNDERLINING, in reference to its conclusion of the COP 21 preparations, that Cohesion Policy, and more generally, the European Structural and Investment Funds (ESIF)<sup>4</sup>, contribute strongly to the fulfilment of the EU targets with respect to combatting climate change and supporting the shift towards a low-carbon economy by its targeted investment at national, regional and local level;
- (6) RECALLING the Council conclusions on climate finance of 10 November 2015<sup>5</sup>;

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<sup>1</sup> Doc. 15802/14, 19 November 2014.

<sup>2</sup> Doc. 9622/1/15, 23 June 2015.

<sup>3</sup> Doc. 11926/15.

<sup>4</sup> European Regional Development Fund (ERDF); European Social Fund (ESF); Cohesion Fund (CF); European Agricultural Fund for Rural Development (EAFRD); European Maritime and Fisheries Fund (EMFF). Cohesion policy includes ERDF, ESF and CF.

<sup>5</sup> Doc. 13478/15.

- (7) TAKING NOTE of the Communication from the Commission to the European Parliament and the Council on the Paris Protocol – A blueprint for tackling global climate change beyond 2020<sup>1</sup>;
- (8) TAKING NOTE of the Commission's Non-paper providing information on the ESIF 2014-2020 support for the shift towards a low-carbon economy<sup>2</sup>;
- (9) RECOGNISING that cohesion policy is the main investment policy at EU level for pursuing economic, social and territorial cohesion and one of the main investment policies to achieve the objectives of the Europe 2020 strategy for smart, sustainable and inclusive growth;
- (10) HIGHLIGHTS that in the context of growing awareness of the consequences of climate change and the needed transformation towards low-carbon and climate-resilient sustainable economies, the EU has committed itself to reducing domestic greenhouse gas emissions by at least 40% by 2030 compared to 1990 as well as increasing energy efficiency and the share of renewable energy by at least 27% by 2030<sup>3</sup> and confirmed its objective, in the context of necessary reductions according to the IPCC by developed countries as a group, to reduce emissions by 80-95% by 2050 compared to 1990<sup>4</sup>;
- (11) RECALLS the fact that the EU's far-reaching climate and energy policy is now matched with further increased and targeted ESIF investment support to accelerate Europe's shift towards a low-carbon economy. In the same spirit, RECALLS that the ESIF framework, with its reinforced focus on results, also introduces a legal requirement for the horizontal integration of the sustainable development principle in the preparation and implementation of all ESIF programmes and that mainstreaming of climate change aspects is becoming one of the significant instruments available in driving investment;

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<sup>1</sup> COM(2015) 81 final, 25.2.2015.

<sup>2</sup> Commission Non paper on European Structural and Investment Funds 2014-2020: Supporting the shift towards a low-carbon economy. All data provided by the Commission and used for this set of Council Conclusions are based on adopted or draft operational programmes as of October 2015.

<sup>3</sup> EUCO 169/14

<sup>4</sup> EUCO 2/1/11REV 1.

- (12) WELCOMES the fact that the ambitious political objective that climate change-related action would represent at least 20% of the EU budget for the 2014-2020 period is strongly supported by the ESIF for which the overall climate-related expenditure at EU level, estimated on the basis of the latest information from the Commission, will be 25%. HIGHLIGHTS furthermore that the methodology for determining the ESIF support for climate change objectives, has allowed streamlining the process of data collection whilst avoiding additional administrative burden;
- (13) HIGHLIGHTS therefore that the ESIF for the 2014-2020 period provide substantial funding of EUR 45 billion for supporting the shift towards a low-carbon economy (Thematic Objective 4), and more broadly, as estimated on the basis of the latest preliminary information from the Commission, of more than EUR 110 billion for climate-related measures in the EU (for mitigation and adaptation) across all thematic objectives, and that this spending is also complemented by significant national public and/or private co-financing and UNDERLINES that ESIF represent the largest allocation of the EU budget for 2014-2020 to support low-carbon investments;
- (14) STRESSES that the rules governing the European Regional Development Fund (ERDF) for 2014-2020 require a mandatory minimum spending to support the shift towards a low-carbon economy in all sectors;
- (15) WELCOMES the fact that Member States committed far beyond the legally required minimum, confirming the importance they attach to investments in this area, with an amount of around EUR 40 billion allocated to this objective from the ERDF and the Cohesion Fund (CF), as estimated on the basis of the latest information from the Commission, and HIGHLIGHTS that this corresponds to a more than doubling of funding in the low-carbon economy across the EU, compared to similar allocations in the 2007-2013 period. RECOGNISES nevertheless the difficulties found in certain regions, such as the outermost regions and islands, to identify investments in this area;
- (16) RECOGNISES the benefits of using financial instruments, where appropriate in combination with grants, under Thematic Objective 4 in order to increase the leverage and impact of the ESIF and HIGHLIGHTS the opportunities offered for Member States by the improved legal framework for the period 2014-2020 and the Investment Plan for Europe;

- (17) EMPHASISES that the ESIF contribution goes beyond funding opportunities by offering a policy framework for integrated territorial and urban development and a number of enabling conditions, such as capacity-building, technical assistance, cross-border cooperation, and support for rural, insular and coastal communities. RECALLS therefore that ESIF, and cohesion policy in particular, thanks to this territorial approach and delivery mechanisms, help regions and Member States to achieve the low-carbon emission goals in accordance with and building on their internal potentials;
- (18) UNDERLINES therefore that, in addition to allocations dedicated to investments under the Thematic Objective 4, the ESIF also contribute – directly and indirectly – to supporting the shift towards a low-carbon economy and sustainable growth of EU economies through other thematic objectives in a wide range of areas (e.g. research and innovation, ICT, SMEs, environment, creation and support of green jobs, and acquiring the respective skills for these jobs, sustainable transport and smart energy infrastructure) and through integrated urban development, thus increasing the leverage of the policy in progressing towards climate objectives;
- (19) EMPHASISES that the new elements of the ESIF implementation system strengthening their results orientation should allow a better monitoring of the results of the projects under the Thematic Objective 4 and facilitate the implementation process by creating the necessary prerequisites for the effective and efficient use of the EU funding;
- (20) EMPHASISES the Member States' strong commitment to strive for an effective and rapid implementation of their action plans related to the ex-ante conditionalities in the area of low-carbon economy, along the lines defined in the Common Provision Regulation<sup>1</sup>. STRESSES the need for the Commission to work closely together with Member States in the process of monitoring these related ex-ante conditionalities and their fulfilment progress;

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<sup>1</sup> Regulation (EU) No. 1303/13 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 (OJ L 347, 20.12.2013, p. 320).



- (21) UNDERLINES that development and implementation of high quality low-carbon projects is crucial for success and STRESSES that continuous involvement from local, regional and national authorities and stakeholders is important as regards the ESIF and also other EU and national programmes and schemes;
- (22) UNDERLINES the importance of Member States ensuring a continuous coordination between all ESIF and seeking to exploit the possibilities for complementarities and synergies with other EU and national programmes and schemes contributing to low-carbon investments. CALLS on Member States to make full use of the implementation support offered by the Commission. CALLS on the Commission to continue supporting and providing guidance for Member States in maximising these potential synergies and complementarities;
- (23) LOOKS FORWARD to examine the results of the 21st session of the Conference of the Parties (COP 21) to the United Nations Framework Convention on Climate Change (UNFCCC) in the context of the ESIF implementation in the field of transition towards a low-carbon economy."

### **European territorial cooperation**

The Council adopted the following conclusions ([13507/15](#)) designed to take stock of the 25 years existence of the European territorial cooperation, Interreg:

"THE COUNCIL OF THE EUROPEAN UNION:

- (1) RECALLING the aims of strengthening economic, social and territorial cohesion, as set out in the Treaty on the Functioning of the European Union, and the objectives of the European Structural and Investment Funds to achieve these goals;
- (2) STRESSING that achieving economic, social and territorial cohesion is particularly challenging in border regions;
- (3) STRESSING the significant contribution that European Territorial Cooperation (ETC), also referred to as Interreg, can bring in the framework of the European Structural and Investment Funds and as an integral part of cohesion policy;

- (4) RECALLING that Interreg exists for 25 years, and that the Luxembourg Presidency of the Council of the European Union, the European Commission and INTERACT organised a conference on 15-16 September 2015 to celebrate this anniversary, and consider the most effective implementation of 2014-2020 programmes and begin the discussion about the longer-term future of European Territorial Cooperation;
- (5) WELCOMING the initiative of the Luxembourg presidency which allowed for the first time to have a formal political debate on Interreg;
- (6) WELCOMING the Commission's EU-wide public consultation on the remaining obstacles to cross-border cooperation, launched on 21 September 2015 on the occasion of the European Cooperation Day<sup>1</sup>;
- (7) TAKING NOTE of the results of a first-ever Eurobarometer survey conducted by the Commission in 2015 to identify and map attitudes of citizens living in the border areas with a view to arriving at more targeted EU interventions<sup>2</sup>; STRESSING in that respect that efforts have to be done to enhance the visibility of Interreg;
- (8) TAKING NOTE of the declaration of the Committee of the Regions on "25 years of Interreg: new impetus for cross-border cooperation" of 2 September 2015<sup>3</sup>;
- (9) STRESSING the positive role that cross-border, transnational and Europe-wide cooperation of Interreg, can play in enhancing regional integration in larger functional areas and in supporting, where appropriate, a successful delivery of existing and future EU Macro-regional Strategies, as well as other EU-wide sectoral strategies;
- (10) HIGHLIGHTING the particular role of Interreg in outermost regions and in sparsely populated areas in the northernmost regions as an important tool for strengthening their regional integration; HIGHLIGHTING also the important role of ENI and IPA programmes sharing the benefits of cooperation with candidate countries and third countries;
- (11) CONSIDERS that the 25th anniversary of Interreg offers an opportunity to review its achievements, assess its impacts through rigorous analysis of past performance and start the discussion about its future;

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<sup>1</sup> European Commission - Press release IP/15/5686.

<sup>2</sup> Flash Eurobarometer 422. Cross-border cooperation in the EU.

<sup>3</sup> COR-2015-04462-00-00-DECL-TRA (EN).

- (12) TAKES NOTICE of the lessons learnt about Interreg, expressed by participants at the September 2015 conference:
- a) the socio-economic and sustainable development added value, initiating additional joint approaches, cooperative development processes and solutions, supporting the development of the Internal Market and tackling problems crossing national borders, such as connectivity, environmental, health and climate change related problems;
  - b) the cultural and institutional added value, establishing a cooperation culture between organisations and individuals from all-over Europe, introducing a European perspective into the day-to-day activities of public administrations at all levels, initiating new practices of cooperation between regions and local authorities from different EU and non-EU countries, which allows building up a considerable stock of new knowledge and enhances a better understanding across cultures and communities in Europe;
  - c) the political added value, supporting peace, stability and regional integration within the EU and outside, in the framework of the enlargement and neighbourhood policy, and across the world, as illustrated at the Conference on cases in Latin America and West Africa;
  - d) exploring factors for any successful cooperation on which Interreg can build, such as: trust building, communication, reputation, fairness, enforcement, "we-identity" and reciprocity;
  - e) the EU-wide diffusion of innovation through Interreg's character as a "laboratory" for experimentation and innovation, including social innovation;
- (13) INVITES the Commission, the Member States and all other actors in their different roles to ensure adequate visibility, communication and awareness raising about the objectives and results of Interreg programmes, and to enhance synergies with other Cohesion Policy programmes whilst promoting better capitalisation of territorial cooperation results by transferring them into national and regional policies and programmes, where appropriate;
- (14) REITERATES the relevance of the main elements of the Cohesion policy reform agreed for the 2014-2020 programming period and the role, which Interreg can play in contributing to the priorities of the Europe 2020 strategy;

- (15) REITERATES in particular its strong support for the new concept of “results-orientation”; UNDERLINES that it is important that Member States gather and process, with the technical support of the Commission, national, cross-border and transnational data to contribute to reinforcing the results-orientation of Interreg programmes; and INVITES the Commission and the Member States, in cooperation with Interreg programme managing authorities, to assess how results-orientation can be better implemented and targeted at the specificities of the European Territorial Cooperation objectives and its way of working;
- (16) STRESSES the significant role of Interreg programmes in enhancing the economic, social and territorial potential of regions, and in particular border regions, and in reinforcing their competitiveness, notably by fostering synergies between smart specialisation strategies, cluster collaboration, the development of innovation networks and of new industrial value chains across borders;
- (17) ACKNOWLEDGES the efforts done by the Commission to provide more flexible governance tools for the current programming period and INVITES the Commission, in cooperation with Member States, to consider the implementation challenges and complexity of Interreg programmes and to propose solutions, inter alia in the context of the findings of the High Level Group of Independent Experts on Monitoring Simplification for Beneficiaries of ESI funds; and therefore INVITES the Commission and the High Level Group on Simplification set up by the Commission to consider examining with particular attention the specificities of the Interreg programmes;
- (18) CONSIDERS that Interreg programmes, even though operating with a medium and long-term perspective, may support, where necessary and justified, and in complementarity with other appropriate funding streams, to help respond to migration related challenges within the framework of existing programme priorities and agreed intervention logic. RECOGNISES the potential role for the ESPON and the INTERACT programme within the scope of their agreed objectives of providing territorial evidence (ESPON) and supporting Interreg Managing Authorities and other programme bodies (INTERACT) in this;
- (19) ACKNOWLEDGES the importance of initiating a structured multi-stakeholder debate on EU level on the future of Interreg, providing wider attention to Interreg in the framework of the debate on the future of Cohesion policy, investigating the effectiveness of Interreg programmes, taking into account the previous and current programming period results and evaluations, the evidence generated for example under the ESPON programme on long-term trends and EU-wide developments, the revision of the Europe 2020 strategy and the discussions on the scenarios for the development of the EU territory;

- (20) REITERATES its recommendation that a regular debate in the General Affairs Council takes place among relevant ministers to discuss on the implementation and results of the ESI Funds<sup>1</sup> and REMAINS COMMITTED to discuss European Territorial Cooperation issues as an integral part of Cohesion Policy in the framework of General Affairs Council sessions dedicated to this policy."

### **Simplification for the European structural and investment funds**

The Council adopted the following conclusions ([13703/15](#)) setting out the priorities and expectations that member states attach to the simplification of the European structural and investment funds:

- "(1) RECALLING the Council Conclusions on the implementation challenges of the cohesion policy 2014-2020<sup>2</sup>;
- (2) RECALLING the Council Conclusions on the Sixth Report on economic, social and territorial cohesion: Investment for jobs and growth<sup>3</sup>;
- (3) ACKNOWLEDGING the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Better regulation for better results - An EU agenda<sup>4</sup>, outlining further measures to deliver better rules for better results;
- (4) TAKING NOTE that good governance is important for the efficient implementation of cohesion policy, and the European Structural and Investment Funds (ESI Funds) in general, and that the institutional and administrative capacity of authorities at European, national and regional level involved in the programming and implementation of the co-financed interventions is one of the key prerequisites for the effectiveness of the policy;
- (5) TAKING NOTE of the Commission's decision setting up the High Level Group of Independent Experts on Monitoring Simplification for Beneficiaries of the European Structural and Investment Funds<sup>5</sup>;

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<sup>1</sup> General Affairs (Cohesion) Council Conclusions, Brussels, 19 November 2014.

<sup>2</sup> Doc. 9622/15, 23.06.2015.

<sup>3</sup> Doc. 15802/14, 19.11.2014.

<sup>4</sup> COM(2015) 215 final, 19.05.2015.

<sup>5</sup> C(2015) 4806, 10.7.2015.

- (6) TAKING NOTE of the setting-up by the Commission of the Task Force for Better Implementation, which has concentrated on enhancing implementation of the 2007-2013 programmes and prepared grounds for extending the applied approach to the 2014-2020 programmes, in particular through supporting administrative capacity and learning the lessons from the past;
- (7) REITERATES its support to the new principles of cohesion policy and ESI Funds reform, and STRESSES that simplification, together with certainty and clarity over the interpretation of the rules governing the use of the ESI Funds, remains necessary more than ever to ensure a successful and efficient contribution to smart, sustainable and inclusive growth and to the growth and job creation strategy of the Union and to bring the policy closer to the citizens of the EU. STRESSES also the need to ensure sound financial management and the implementation of the result oriented approach;
- (8) HIGHLIGHTS that the regulatory framework for the programming period 2014-2020 includes a number of opportunities for simplification. INVITES the Commission to continue supporting Member States, and in particular managing authorities, to make full use of the possibilities offered by the new regulations, in particular the simplified cost options, e-cohesion, the new procedures related to major projects, the use of flat rates for revenue generating projects, risk management exercise and financing of operations located in different categories of regions etc. and to further develop these tools;
- (9) CONSIDERS nevertheless that the new regulatory elements for the period 2014-2020, at the EU, national, and sometimes regional levels, to adapt, improve and secure the management of Funds, poses new challenges for Member States' administrations, resulting often in the setting-up of complex administrative systems, with a possibly deterring effect on potential beneficiaries;
- (10) STRESSES that cohesion policy and ESI Funds in general are based on shared management and responsibility, and that simplification can only be achieved and provide its full benefits if undertaken as a common challenge of the Commission, the Member States and all the bodies involved in management and control, also inviting SME's and other groups of beneficiaries to contribute, and therefore CALLS UPON the Commission and the Member States, in that spirit, to ensure full commitment to implement cohesion policy as reformed for the 2014-2020 programming period, to ensure consistency with the adopted provisions, to avoid additional obligations or burdensome application of the rules, and to use also the experience and lessons learnt from the previous programming periods;

- (11) ECHOES concerns from beneficiaries, especially SME's, and from practitioners on the ground, involved in the implementation and management of these funds, about the density and complexity of applicable rules and procedures, and sometimes their instability and overlaps and inconsistency with other EU policies, funds and directly managed instruments. NOTES that this situation has increased their feeling of legal uncertainty, hampered their good ownership and understanding of the rules, or interpretation thereof, and often led them to "over-secure" their work;
- (12) AGREES that the beneficiary is a focal point of the simplification process, however unnecessary burdensome provisions of the management and control system and audit might be to the detriment to this objective, therefore INSISTS that simplification measures should apply to the entire cycle of policy programming and implementation, taking into consideration the needs of all bodies involved in management and control and beneficiaries. RECOGNISES that the objectives of simplification, effectiveness, efficiency and regularity must be treated in a coherent manner and actions to address deficiencies have to be examined from all aspects, avoiding isolated solutions;
- (13) HIGHLIGHTS the Commission's role in ensuring timely, coordinated, clear and stable interpretation of regulations, coherent with arrangements adopted in programming documents. CALLS for strengthening coordination at all levels, in Member States and within the Commission services which can promote this stability and coherence in the interpretation of rules and simplification;
- (14) EMPHASISES that preventive measures are a very important part of simplification and STRESSES that auditors at European and national level, including the Court of Auditors, are well positioned to contribute to the simplification effort by detecting redundant processes and procedures, whether or not resulting from the regulation, and suggesting more effective solutions based on good practices; SUGGESTS that auditors are consulted about simplification proposals before they come into force to ensure there is a clear and common understanding on all sides;
- (15) INVITES the Commission to inform the Council on the work of the Task Force for Better Implementation, and the expected simplification effects;
- (16) ACKNOWLEDGES that the Commission's "Better regulation" initiative, including the REFIT measures to come, covers all policy areas, including cohesion policy and ESI Funds in general, and CALLS on the Commission to adequately take into consideration cohesion policy needs in the implementation of this initiative; NOTES that simplification in the implementation of ESI Funds is also a building block of the Commission initiative "An EU Budget Focused on Results";

- (17) CONSIDERS that the Council should express its priorities and expectations for the work of the High Level Group on Simplification and ASKS that the Council, as of 2016, is informed regularly on the work of the group to discuss its recommendations and that Member States are fully involved in order to respond to commonly identified challenges and obstacles, and to seek solutions together;
- (18) RECALLS the principle of proportionality as a general principle of Union law, governing also Union action in the field of ESI Funds;
- (19) CALLS on the Commission to consider the following, also inviting the High Level Group on Simplification to provide expertise accordingly on:
- a) how simplification can contribute to ensuring that the administrative efforts required to manage programmes are proportionate to the level of support, the financial risks involved, the importance of the issues at stake and the expected benefits, thus improving cost-efficiency, while maintaining the quality of the programmes;
  - b) the domains of public procurement and state aid, which are the main sources of error, and the way they could contribute to the streamlining of ESI Funds;
  - c) the simplification of programme management and implementation systems of Interreg, including simplified cost options and irrecoverable amounts;
  - d) the potential for simplifying procedures with respect to financial instruments;
  - e) the potential for using simplified cost options and joint action plans;
  - f) the extension of the use of flat rates for revenue generating projects to the fields of ICT and energy efficiency, once the relevant data is available;
  - g) ways to streamline and harmonise reporting requirements based on an assessment of the use of data and its value added as well as timing of reporting;
  - h) simplification of rules for projects covering different categories of regions;
  - j) the question whether audit practices, findings and responses, based on the provisions of the regulations, support simplification, as well as to find solutions how the requirements of regularity and assurance could be met with minimal administrative burden, in a simpler manner;



- i) good practices in the implementation and control of other EU funds that could be adapted to the implementation of cohesion policy and the ESI Funds in general;
- (20) STRESSES that simplification may not be pursued at the detriment of the justifiability of expenditure ("each euro counts"), and that proposals for simplification can entail trade-offs, therefore both the benefits and costs linked to such proposals should be considered;
- (21) WELCOMES the intention of the Commission to share all conclusions and outcomes from the High Level Group as well as to hold thematically oriented hearings of the High Level Group with beneficiaries, managing and control authorities, and ENCOURAGES that relevant proposals of the High Level Group are discussed with Member States in view of their application. In the context of this discussion on simplification, INVITES the upcoming Presidencies to explore with the Committee of the Regions possible cooperation on this matter;
- (22) CALLS on the Commission, the Member States and all the bodies involved in management and control to cooperate closely to:
- a) establish a common and shared diagnosis of the main sources of complexity, of excessive administrative costs and burdens, including over-regulation put in place at European, national, and regional levels, also in the context of European Territorial Cooperation programmes;
  - b) identify and propose some concrete simplification measures for the current programming period, which could be rapidly endorsed, within the scope of the existing legislative framework, where it provides an immediate added value without undermining the stability of the general rules and the programmes' strategies, and suggesting legislative changes only where this is not possible otherwise and where they would provide substantial improvements to authorities and beneficiaries;
  - c) review existing legislation and non-legislative acts in the perspective of simplification solutions for the post-2020 programming period in order to reduce administrative burden and costs for beneficiaries;
  - d) share experiences and best practices in order to support successful implementation of agreed measures at all levels;
- (23) REMAINS COMMITTED that a regular debate takes place among relevant ministers to discuss on simplification issues in the framework of the General Affairs Council sessions dedicated to cohesion policy."

## **OTHER ITEMS APPROVED**

### **ECONOMIC AND FINANCIAL AFFAIRS**

#### **Derogation from the VAT directive - United Kingdom - Business cars**

The Council adopted a decision authorising the United Kingdom to continue to apply value-added taxation (VAT) measures that derogate from articles 26(1)(a), 168 and 168a of directive 2006/112/EC ([13254/15](#) + [13255/15](#)).

The decision concerns simplified measures to determine, on a flat-rate basis, the proportion of non-deductible VAT relating to expenditure on fuel in business cars not exclusively used for business purposes.

The UK may continue to apply the measure until 31 December 2018.

### **BUDGETS**

#### **EU-funding of urban waste water treatment - European Court of Auditors' report**

The Council adopted the following conclusions on the European Court of Auditors' special report entitled "EU-Funding of Urban Waste Water Treatment plants in the Danube river basin: further efforts needed in helping Member States to achieve EU waste water policy objectives" ([13008/1/15 REV 1](#)):

"THE COUNCIL OF THE EUROPEAN UNION:

- (1) WELCOMES the special report from the European Court of Auditors (hereinafter referred to as "the Court") and TAKES NOTE of its observations.
- (2) UNDERLINES that the Danube river basin is the EU's largest river basin (801 463 km<sup>2</sup>) and touches 19 countries, including 9 Member States, and RECALLS that 14 countries (9 Member States and 5 non-EU countries) have committed to continue major investments in building and upgrading urban waste water treatment plants across the Danube Basin, in the framework of the EU Strategy for the Danube Region.

- (3) NOTES that the audit covers an illustrative sample of 28 EU funded waste water treatment plants in four Member States of the Danube river basin (the Czech Republic, Hungary, Romania and Slovakia). The total amount audited was about EUR 1,614 million including EU funding of EUR 1,022 million, which represents a co-financing rate of 63.3%;

NOTES also that the total EU funds allocated to waste water infrastructures under the European Regional Development Fund (ERDF) and the Cohesion Fund (CF) were approximately EUR 12.9 billion for the 2000-2006 programming period and EUR 14.6 billion for the 2007-2013 programming period.

- (4) WELCOMES the overall conclusion of the Court that ERDF/CF spending during the 2000-2006 and 2007-2013 programming periods played a decisive role in improving waste water collection and treatment, as well as the quality of water.
- (5) RECALLS that the Urban Waste Water Treatment Directive (UWWTD) from 1991<sup>1</sup> requires Member States to ensure by a certain deadline that agglomerations with a population equivalent (p.e.) of more than 2 000 are provided with collecting systems for urban waste water and that the collected waste water is subject to appropriate treatment. It addresses also the disposal of sewage sludge;

RECALLS furthermore that the Water Framework Directive (WFD)<sup>2</sup> aims to achieve, throughout the European Union, a good status of surface water and groundwater by 2015 by requiring Member States to establish a programme of measures to reach these objectives.

- (6) RECALLS that costs for the construction, upgrading and modernisation of waste water treatment plants and sewage networks were eligible for EU co-financing from the ERDF and CF and for those Member States that joined the Union in 2004 and 2007 (which is the case for the 4 audited Member States) from 2000 till the date of accession under the Instrument for Structural Policies for Pre-accession (ISPA).

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<sup>1</sup> Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.05.1991, p. 40).

<sup>2</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for the Community action in the field of water policy (OJ L 327, 22.12.2000, p.1).

(7) UNDERLINES that for the audited Member States, the (EU and national) funds provided in the context of operational programmes are the main source of financing for waste water related projects.

*Court's findings*

(8) NOTES the finding of the Court that, despite ERDF/CF spending playing a decisive role, the above deadlines regarding waste water treatment were not always met;

STRESSES however that waste water treatment is an issue where there is an obligation on Member States to deliver results based upon an EU directive, which is not necessarily the case in other areas;

UNDERLINES furthermore that the main objectives of the ERDF and CF in the 2000-2006 and 2007-2013 programming periods were to reduce the gap between the levels of socioeconomic development of the EU regions and not necessarily to contribute to meeting the above WFD deadline.

(9) NOTES also the finding of the Court that around one third of the audited plants are in its view oversized;

STRESSES however that waste water treatment plants are built for a period of about 30 years and have to be dimensioned to also cope with the waste water related to future developments such as population growth, economic development, etc.;

HIGHLIGHTS furthermore that other factors may also influence the size of newly constructed plants such as overflows, seasonal variations (for instance tourist areas) and high temperature variations between seasons, and that Member States are best placed to evaluate these factors;

CONSIDERS therefore that the actual number of population equivalents connected to the size of the projected plant may not be a sufficient indicator for measuring whether the plants are or not oversized.

- (10) NOTES furthermore the finding of the Court that the degree of financial sustainability attained by the audited EU co-financed infrastructures was not fully satisfactory;

CONSIDERS nevertheless that the financial analysis underlying EU co-financed waste water projects is based on EU guidelines and, in the case of major projects, approved by the European Commission and JASPERS experts, and NOTES that attaining full cost pricing in time is in this respect fully taken into consideration;

UNDERLINES in addition that setting a pricing policy to meet the required financial sustainability standards is a sensitive issue for which Member States have to take into account different socio-economic considerations.

- (11) NOTES that the small audit sample, particularly at the level of the four individual Member States concerned, where in one case for instance only 4 plants out of a total of about 600 have been audited, requires care to be taken with regard to generalising the conclusions drawn.

*Court's recommendations*

- (12) TAKES NOTE of the Court's recommendations that:
- 12.1. Member States and the Commission should make efforts to reduce the reporting deadlines, especially in cases of significant changes in the number of waste water treatment plants falling under the Directive and in the cases of population changes;
  - 12.2. Member States should make all efforts to reduce delays in implementing their projects and fully benefit from available funds and thus reducing the risk of decommitments;
  - 12.3. Member States should take care that the waste water treatment plants correspond to the latest State of the art to avoid too high concentrations in the effluents, reduce overflows and ground water infiltrations and use, where possible, efficient and sustainable, the energy production potential of sewage sludge as well as encourage the recovery of phosphorus from sewage sludge;

- 12.4. the Commission should make the projects' final payment conditional to the existence of an appropriate solution for treating or re-using the sewage sludge;
  - 12.5. Member States should apply, in accordance with the polluter pays principle, an adequate level of pricing allowing also necessary maintenance and renewal, and take all necessary action to ensure a robust monitoring of pollutants;
  - 12.6. The Commission and the Member States should address the issue of storm water overflows.
- (13) STRESSES that the affordability ratio of 4% referred to by the Court is based on a single non-representative examination in one region of a single Member State and cannot therefore be considered as a commonly accepted benchmark;

CONCURS therefore with the Commission that this ratio can only be indicative and that Member States shall be responsible for setting the final ratio for each project.

- (14) CONSIDERS that the Court's recommendations, as far as EU-funding is concerned, are properly addressed by the new European Structural and Investment Funds (ESIF) regulatory framework for the period 2014-2020, in particular the fulfilment of applicable ex-ante conditionalities for defining the best approach to waste water treatment policy.

*Policy actions*

- (15) TAKES NOTE of the Commission's intention to launch a broad review of environmental reporting requirements in the framework of the "Better regulation" agenda, but not to introduce new reporting obligations for agglomerations below 2 000 inhabitants.
- (16) UNDERLINES the need to strengthen, where appropriate, the technical, legal and administrative capacity at all levels to ensure that only the best quality projects are selected and financed, in particular at local and regional level to enable a consistent implementation of the relevant strategies.
- (17) RECALLS the important added-value of the involvement of JASPERS (Joint Assistance to Support Projects in European Regions) when assisting Member States to improve the quality of project applications in general, and major projects in particular, including their technical characteristics and when providing them with horizontal support covering the whole programming cycle.

- (18) UNDERLINES the necessity of adequate technical and administrative analysis for the allocation of EU funding to waste water treatment plants.
- (19) STRESSES that there are many reasons for delays in implementation and thus risks of not fully using available funds. Overall delays in meeting the deadlines may also result from the absence of mature projects ready to be submitted. Risk factors in this respect include notably technical, administrative and property questions.
- (20) RECALLS furthermore the capital intensive nature of investments in waste water treatment plants and the economic situation after the 2008 financial crisis on the slow recovery of public finances, which had a negative effect on the pace of building.
- (21) TAKES NOTE of the establishment by the Commission of a Task Force focusing on ways how to speed up implementation by Member States, including the four Member States concerned, in order to ensure the full use of available resources.
- (22) WELCOMES the Commission's revised closure guidelines<sup>1</sup>, in order to ensure the smooth finalisation of a number of projects and introduce more flexibility in some areas, including the "phasing" of the unfinished projects from 2016 onwards.
- (23) WELCOMES also the Commission's improved approach concerning the management of major projects, defining a quality review process and the quality elements of the cost benefit analysis to be respected.
- (24) CALLS on Member States and the Commission to build on lessons learned from previous experiences of investments in similar infrastructure.
- (25) INVITES the Member States concerned and the Commission to make use of the EU Strategy for the Danube Region to promote exchange of experiences, leverage of investments, synergies and effectiveness in the system of urban waste water management."

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<sup>1</sup> Commission decision C(2015) 2771 of 30.4.2015 amending Decision C(2013) 1573 on the approval of the guidelines on the closure of operational programmes adopted for assistance from the European Regional Development Fund, the European Social Fund and the Cohesion Fund (2007-2013).

## **EU financial support for micro-entrepreneurs - European Court of Auditors' report**

The Council adopted the following conclusions on the European Court of Auditors' special report entitled "Is EU financial support adequately addressing the needs of micro-entrepreneurs?" ([13023/1/15 REV 1](#)):

"THE COUNCIL OF THE EUROPEAN UNION:

- (1) WELCOMES the special report from the European Court of Auditors (hereinafter referred to as "the Court") and TAKES NOTE of its observations;
- (2) NOTES that the audit results are based notably on the examination of an illustrative sample of 27 projects providing financial support to micro-entrepreneurs and representing a total of approximately EUR 1.6 billion committed in five Member States (Germany, Greece, Italy, Poland and Romania) and a survey of 18 managing authorities in 14 Member States;
- (3) HIGHLIGHTS that the EU's intervention is justified by the fact that micro-entrepreneurs are experiencing problems throughout the Internal Market gaining access to the conventional credit markets, which hampers the creation of new micro-enterprises and self-employment, and undermines the EU's economic growth;
- (4) CONCURS with the Court that the EU's financial support to micro-entrepreneurs during the 2007-2013 programming period was, in most Member States, mainly provided through grants and financial instruments from the European Social Fund (ESF) and, since 2010, financial instruments from the European Progress Microfinance Facility (EPMF), including loans and guarantees;
- (5) REGRETS however that the financial instruments for Small and Medium Sized Enterprises (SMEs) falling under European Regional Development Fund (ERDF) operational programmes and in particular the JEREMIE (Joint European Resources for Micro to Medium Enterprises) initiative were not part of the Court's audit scope, despite their substantial focus on micro-enterprises in several Member States, thereby preventing from getting a full picture;



- (6) RECALLS, with regard to loans managed by the European Investment Bank (EIB) under the Competitiveness and Innovation Programme (CIP), that in accordance with Article 287(3) of the Treaty on the Functioning of the EU (TFEU), the Court can audit loan operations under the mandate conferred by the EU on the Bank as well as the operations managed by the Bank that are guaranteed by the general EU budget and therefore equally regrets that these were not included in the audit scope;
- (7) TAKES NOTES of the Court's finding that no investment strategy had been developed in three out of the six ESF financial instruments audited, no portfolio-at-risk in five out of the six, no winding up provisions in three out of the six, that only one of the six attracted additional private funding, and information on whether the recipients were part of a vulnerable group was not available for 11 out of 17 ESF operational programmes examined, as well as of the Court's conclusion that there were weaknesses in the programming and design of the EU support that may have had a negative impact on its effectiveness;
- (8) UNDERLINES that the EU Structural and Investment Funds Regulations have improved the design, evaluation and implementation of the programmes in the current programming period;
- (9) CONCURS with the Court that the elaboration of an investment strategy is essential to properly address the needs of the micro-entrepreneurs;
- (10) WELCOMES the Court's finding that individual financial support measures were of a size which could be considered commensurate with the needs of a micro-entrepreneur, that micro-entrepreneurs who had previously been unemployed were targeted in a majority of ESF and EPMF projects examined, and that most of the micro-enterprises supported by the EPMF were start-ups;
- (11) Considering the Court's recommendations, ENCOURAGES the Member States, where appropriate, to perform proper needs assessments, enhance the efficiency of risk management and operational systems, and define eligibility criteria that aim at reaching the relevant target groups, including - in the case of the ESF - the unemployed and vulnerable persons, when designing funding instruments and preparing operational programmes that include EU financial support for micro-entrepreneurs;

- (12) **CONCURS** with the Commission that carrying out a full comparative analysis of the implementation costs of ESF grants, ESF financial instruments and Employment and Social Innovation (EaSI) programme<sup>1</sup> financial instruments with a view to establishing their actual levels would be difficult, but **NOTES** that there is an obligation since 2011 for the Member States to provide data about the management costs and fees related to the implementation of financial instruments, and **ENCOURAGES** the Commission to nevertheless provide a better comparative analysis of the implementation costs and effectiveness of both EU and national financial instruments;
- (13) **RECOGNISES** the potential effectiveness of using financial instruments to increase the impact and leverage of European Structural and Investment (ESI) Funds, underpinned by an ex-ante assessment as well as by specific objectives defined in operational programmes, and additional to and coordinated with already existing regional, national and EU level financial instruments, both public and private, and **REITERATES** its invitation to Member States to continue exploring how to further enhance and widen their use, but **RECALLS** at the same time that grants within cohesion policy are an effective form of support for many types of projects and programmes on their own and in combination with financial instruments;
- (14) **STRESSES** that conditionalities are defined in the funds' regulatory framework and that the Commission can in no case go beyond the scope of the legal provisions agreed by the co-legislators by creating additional obligations;
- (15) **UNDERLINES** nevertheless that several of the Court's recommendations are already addressed in the new 2014-2020 regulatory framework, notably through the requirement to perform ex ante assessments for financial instruments (article 37(2) of Regulation No 1303/2013), which shall identify market failures or suboptimal investment situations, as well as investment needs;
- (16) **WELCOMES** in this respect the Commission's commitment to give advice on the ex ante assessment, in particular in the context of monitoring committee meetings, and provide guidance on the implementation of financial instruments to the Member States;
- (17) **REITERATES** its call on the Commission to provide guidance on the use of financial instruments and on the synergies between different instruments in a timely, coherent, consistent and clear manner and to explore all opportunities to provide more clarity;
- (18) **REGRETS** finally that the Court was not able to provide a clear response to its audit question as to whether EU financial support is adequately addressing the needs of micro-entrepreneurs and **WOULD WELCOME** an economic analysis of the latter."

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<sup>1</sup> which incorporates the EPMF as from 2014.

## **FISHERIES**

### **Fishing opportunities in the Baltic Sea for 2016**

The Council adopted a regulation on fishing opportunities for 2016 for certain fish stocks in the Baltic Sea ([13403/15](#)).

A political agreement was reached on this regulation at the Agriculture and Fisheries Council meeting in October. The agreement lays down for 2016 the maximum quantities of fish from specific stocks that can be caught in the Baltic Sea (total allowable catches (TACs) and quotas). The proposed measures have been established taking into account available scientific advice and, in particular, the reports drawn up by the International Council for the Exploration of the Sea (ICES).

In addition, the landing obligation for stocks caught in certain fisheries introduced by the recently reformed common fisheries policy (CFP) was taken into account. These fisheries should be open on 1 January 2016.

Under article 43(3) of the Lisbon Treaty, it is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities within the framework of the CFP.