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WORKING PAPER

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NOTE

From:	European Commission
To:	Working Party on Structural Measures
N° Cion doc.:	COM(2018) 375 final
Subject:	Cohesion Policy legislative package 2021-2027: Fiche 2 "Links between the proposed Common Provisions Regulation 2021-2027 and other sectoral legislative proposals"

Delegations will find attached fiche number 2 "Links between the proposed Common Provisions Regulation 2021-2027 and other sectoral legislative proposals", as prepared by the Commission services.

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12 July 2018

WORKING DOCUMENT OF THE COMMISSION SERVICES

Subject: Links between the proposed Common Provisions Regulation and other sectoral legislative proposals 2021-2027

1. Introduction

This fiche describes the areas and corresponding provisions across the proposals on funds and Union instruments for 2021-2027 where linkages exist with the proposed Common Provisions Regulation (proposed CPR). The legislative proposals for the 2021-2027 Multiannual Financial Framework build strongly on the flexibility and interrelations between the funding sources and instruments. Therefore linkages are numerous. This fiche regroups them from the perspective of cohesion policy along four areas: linkages at strategic level, budgetary transfers, links at programme level and links at project level.

2. Basic principles for harmonisation of rules and complementarities

One of the guiding principles underlying the preparation of the legislative proposals for the 2021-2027 period was to harmonise EU rules and strengthen complementarities between the Funds covered by the proposed CPR and other Union programmes. This was done by:

- minimising overlaps between the different funds and instruments in particular as regards the topics, target groups and types of support;
- carefully aligning the proposed CPR provisions with the relevant provisions of the Financial Regulation (e.g. on the forms of Union contribution), which limits scope for negotiations at the expense of inconsistencies;
- establishing clear regulatory links with other sectoral legislative proposals, as described below.

It is necessary to recall the limitations to the scope of the proposed CPR for Interreg, AMIF, ISF and BMVI and the directly and indirectly managed parts of the ESF+ and EMFF, as indicated in Article 1 (see fiche no. 1 for further details). In addition, the proposal for the regulation on the CAP Strategic Plans (COM(2018) 392) sets out that some parts of the proposed CPR shall also be mirrored and applicable also in relation to the EAFRD, i.e.:

- Chapter III of Title II proposed CPR – macro-economic conditionality
- Chapter II of Title III proposed CPR – territorial development
- Articles 41 and 43 proposed CPR – on visibility of EU support

- Articles 52-56 proposed CPR on the financial instruments and Article 10 proposed CPR on contribution to InvestEU.

3. Explicit strategic links and synergies at Partnership Agreement level

The **Partnership Agreement will cover the seven Funds under shared management covered by the proposed CPR**. However, the five policy objectives listed in Article 4 are not to apply to AMIF, ISF and the BMVI. Instead, the policy objectives listed in their Fund-specific Regulations are to apply (Article 3 of each of the three proposed regulations)¹. Coordination and complementarity provisions are also established between the Partnership Agreements and the CAP Strategic Plans (see in particular Article 98(d)(iii) of the proposal for the regulation on the CAP Strategic Plans and Article 8(b) proposed CPR²).

Regarding the InvestEU programme³, Member States can choose at the stage of the Partnership Agreement to use InvestEU to implement the policy objectives in line with Article 8 and 10 of the proposed CPR, on the basis of a contribution agreement to be negotiated and agreed with the Commission. (It may also be requested later through a parallel amendment of the programme concerned.) This option is different from the possibility of transferring amounts among shared management funds and other Union instruments (cf. point 4 below). However, in both cases the funds are implemented in a direct/indirect management mode.

Article 10 of the proposed CPR envisages a voluntary contribution of up to 5% (which may be higher in duly justified cases) of the Fund's allocation to the InvestEU (Article 4(1) and 9 of the proposed regulation on InvestEU Programme) "for the provisioning of the part of the EU guarantee under the Member State compartment covering financing and investment operations in the Member State concerned". This possibility is only provided for the ERDF, ESF+, the Cohesion Fund and the EMFF, i.e. not the AMIF, the ISF and the BMVI. Article 10 of the proposed CPR further contains deadlines (these deadlines are mirrored in Article 9 of the proposed Regulation on the InvestEU Programme) clarifying that if InvestEU cannot make use of the transferred resources within a reasonable and fixed time period, then the allocation must be returned for use under shared management programmes.

Regarding **other Union programmes**, in line with Article 8(b) of the proposed CPR for each selected policy objective the Member State will have to present coordination, demarcation and complementarities between the Funds as well as the complementarities between the Funds and other Union instruments. For the **LIFE+ programme**⁴, these synergies are recognised in Recital (14) and Article 7 of the corresponding proposal.

Explicit strategic links are also present in **Horizon Europe**. The ERDF focuses on regional relevance, economic transformation, diffusion of existing knowledge and technology to places that need it, based on smart specialisation strategies. Horizon Europe on the other hand focuses on European research and innovation excellence, the generation and exploitation of new knowledge and disruptive, market-creating innovations. These links are set out in:

- the proposal for a Regulation establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down the rules for participation and dissemination ("Horizon

¹ COM(2018)480

² COM(2018)392

³ COM(2018)439

⁴ COM(2018)385

Europe Regulation")⁵, ie Annex I on Broad Lines of Activities establishes links with smart specialisation strategies and Annex IV on Synergies with Other Programmes describes those with the ERDF and ESF+;

- the proposal for a Decision on establishing the specific programme implementing Horizon Europe – the Framework Programme for Research and Innovation⁶ ie
 - direct references to smart specialisation strategies (Annex I);
 - the strategic planning for Horizon Europe providing synergies with other Union programmes (Annex I) and
 - the Horizon Europe programme committees will be informed regularly on synergies (Art 12(6) and Annex III).

In the legislative proposal for the **Reform Support Programme**⁷, Article 33 describes the complementarity and coordination with other Union programmes, in particular with the Funds under the proposed CPR. The Commission and the Member States will need to:

- ensure complementarity, synergy, coherence and consistency among different instruments at Union, national and, where appropriate, regional levels, in particular in relation to measures financed by Union funds, both in the planning phase and during implementation;
- optimise mechanisms for coordination to avoid duplication of effort; and
- ensure close cooperation between those responsible for implementation at Union, national and, where appropriate, regional levels to deliver coherent and streamlined support actions under each of the instruments established under this Regulation.

4. Flexibility between programmes and Funds

There are two types of transfers included in the proposed CPR:

- (i) **an obligatory transfer** of a part of the Cohesion Fund resources from the national envelopes of Member States eligible for the Cohesion Fund to the **Connecting Europe Facility**, and
- (ii) **a voluntary transfer** of up to 5% of a programme's financial allocation from any of the 7 shared management funds under the CPR to any of the funds under shared management or to any Union instrument under direct or indirect management (Article 21 of the proposed CPR).

The legislative proposals for the following programmes contain mirroring provisions that allow for receiving such voluntary transfers: Horizon Europe, Digital Europe⁸, Single Market Programme⁹, Creative Europe¹⁰, Erasmus+¹¹, Space Programme¹², the Connecting Europe Facility (CEF), Rights and Value Programme¹³, Justice Programme¹⁴ and the Reform Support Programme.

The transfers are to be governed by the following rules:

⁵ COM(2018)435
⁶ COM(2018)436
⁷ COM(2018) 391
⁸ COM(2018)434
⁹ COM(2018)441
¹⁰ COM)2018)366
¹¹ COM(2018)367
¹² COM(2018)447
¹³ COM(2018)383
¹⁴ COM(2018)384

- The obligatory transfer from the Cohesion Fund to the CEF is done before programming,
- All voluntary transfers can be proposed by Member States at any time by submitting a request to amend the programme from which the resources would be transferred (Art 17(3)(f)(i) and relevant tables in Annex V of the proposed CPR). Only resources of future calendar years may be transferred.
- The Commission may object to a request for the voluntary transfer if the achievement of the programme objectives would be undermined by this transfer.
- Rules of the receiving Fund or instrument shall apply to the voluntarily transferred resources, including eligibility and State aid rules, provisions concerning implementation and audits as well as reporting on the use of transferred resources.
- Investments have to be for the benefit of the transferring Member State, with the exception of the CEF, where only 70% of the transfer will be ring-fenced for the given Member State until 31 December 2023 while the remaining 30% will be open for all Member States as well as the remaining amount after that date.

5. Links at programme level

The seven shared management Funds under CPR share many proposed provisions on **the content of the programme** (Article 16 and 17), however, there are some specificities which result in some differences. That is why the proposals envisage separate templates for programmes:

- Annex V of the proposed CPR – template for programmes under the ERDF Investment for Jobs and Growth, the ESF+, the Cohesion Fund and the EMFF
- Annex VI of the proposed CPR – template for programmes under the AMIF, the ISF and the BMVI
- Annex to the proposed ETC regulation – template for Interreg programmes.

However, only the ERDF, the ESF+ and the Cohesion Fund can be placed under the same **multi-fund programme** (Article 20 of the proposed CPR), either in separate mono-Fund priorities or in joint multi-Fund priorities. The specific objectives of the ERDF under policy objective 4 (“more social Europe”) are compatible with the ESF+ specific objectives. In addition, the Cohesion Fund supports the same specific objectives as the ERDF under policy objective 2 (“a greener, low-carbon Europe”) as well as three out of four specific objectives under the policy objective 3 (“a more connected Europe”) (see Article 2 of the proposed ERDF/CF Regulation).

As regards **InvestEU**, there is a possibility to modify the programme during implementation with a view to making a contribution to InvestEU (see Article 10 of the proposed CPR and explanations above).

Provisions are also proposed to further strengthen the **links with Horizon Europe**. Firstly, **smart specialisation strategies** are maintained as an enabling condition for support from the ERDF to policy objective 1. Secondly, a Member State or a region wanting to use ERDF resources to support a **Horizon Europe "European Partnership"** where private and/or public partners commit to jointly support the development and implementation of a Research and Innovation programme (Article 8(1) of the proposed Horizon Europe Regulation) may do so by delegating its competences to an implementing body of the relevant partnership and identify it as an intermediate body responsible for a

part or the whole priority (Article 65(3)¹⁵ and (5) of the proposed CPR). This aims to facilitate launching coordinated or joint calls for projects financed from the ERDF and from the Horizon Europe as well as for combinations or alternative funding of the selected projects (see below).

The proposed CPR provides legislative framework for the implementation of **territorial development** (Articles 22-28) not only for the ERDF, the ESF+ and the EMFF, but also for the EAFRD (through the referral proposed under Article 2 of the proposed CAP Strategic Plan). This should promote synergies and integrated approach on the ground especially when support for a project or set of projects come from multiple funding sources (including the EAFRD).

6. Links at project level

The possibility to provide financing for high quality assured projects through the **Seal of Excellence approach** was expanded to other Union programmes beyond Horizon Europe. In accordance with Article 67(5) of the proposed CPR, operations which are awarded a Seal of Excellence certification may receive financing from the relevant ERDF or ESF+ programme without having to organise a call or go through a selection process, as long as these operations are consistent with the objectives of the programme. The rules of the proposed CPR and the specific rules for the ERDF or the ESF+ would still apply. For example the operations would have to be consistent with the strategic documents fulfilling the relevant enabling conditions or the beneficiary cannot be an undertaking in difficulty.

There is only one exception to this rule: the co-financing rate of the instrument that provided the Seal of Excellence label to the operation will need to be applied. This is necessary so that these projects are treated in the same way under the State aid regime that applies for the ERDF and the ESF+ but does not apply to similar operations financed from the centrally managed instruments.

Apart from Horizon Europe, the legislative proposals of some other Union programmes contain provisions allowing the possibility to award a Seal of Excellence – a label which may be used in other programmes than Horizon Europe i.e.: Digital Europe, Single Market Programme, LIFE, Creative Europe, Space Programme, Defence Fund, CEF2, Rights and Value Programme, Euratom, AMIF, ISF and BMVI (parts managed in direct or indirect management). This expansion creates an important opportunity for flexibility: the ERDF and the ESF+ would be able to finance high quality projects selected in a competitive EU level process without the burden of carrying out an additional selection process at national/regional level. So far only Horizon Europe envisages explicitly the possibility to identify in its work programmes the calls for proposals where Seal of Excellence would be awarded (Art 20(5) of the proposed Horizon Europe Regulation). The managing authority of the ERDF or ESF+ programme may receive information on Seal of Excellence recipients subject to the conclusion of confidentiality agreements.

Similarly, the possibility to **combine funding** from the different Funds under the CPR and from the different other Union programmes or instrument was widened through Articles 57(9) and 67(5). In line with Article 57(9) of the proposed CPR, in order to avoid double financing, the costs should either be split one-by-one between the different Funds/programmes or they should be divided **pro rata** in accordance with the document setting out the conditions for support provided to the beneficiary (the pro rata is to be introduced for the 2014-2020 programming period by the 'Omnibus Regulation'). The same option was mirrored in the legislative proposals for the following Union programmes: Horizon Europe, Digital Europe, Single Market Programme, LIFE, Creative Europe, Space Programme, CEF2,

¹⁵ Article 65(5) and Article 67(5) CPR refers to “programme co-fund” because the legislative proposal for the Rules for Participation of Horizon was adopted by the Commission later than the CPR.

Rights and Value Programme and Euratom. The rules of each contributing Union programme apply to its respective contribution and the cumulative financing cannot exceed the total eligible costs.

In addition, Article 67(5) of the proposed CPR, enables ERDF and ESF+ contributions to the **programme co-fund under the Horizon Europe** thus providing support to projects in this framework. They can also be financed through the combined funding, in line with Article 57(9) of the proposed CPR and Article 23 of the proposed Horizon Europe Regulation. Also a combination of a financial instrument support from Horizon Europe (e.g. VC under the European Innovation Council's "Accelerator"), may be combined with an ERDF grant under a "Seal of Excellence".

As regards **financial instruments in EAFRD**, the proposal for a Regulation for the CAP Strategic Plans makes direct references to the CPR in order to ensure harmonised approach, i.e. Article 74 of that proposal refers to the definitions in Article 2 of the proposed CPR ('financial instrument', 'financial product', 'final recipient', 'holding fund', 'specific fund', 'leverage effect', 'multiplier ratio', 'management costs' and 'management fees') and to Section 2 of Chapter II of Title V of the proposed CPR on the financial instruments. In addition, Article 75 of that proposal refers to Article 10 of the proposed CPR on the contribution from the EAFRD to InvestEU.

Annex: List of the explicit regulatory links to the CPR in the legislative proposals for the other Union policies¹⁶

Legislative proposal for the Union policy	Strategic links		Budgetary transfers to other Union programmes CPR A21 CPR 104(4)	Links at programme level				Links at project level				Outermost regions	Provisions in other areas
	The Funds and Union policies CPR A8 (b)(ii) & (iii)	Contribution to InvestEU CPR A 8(a),(b)(i) 10		Contribution to InvestEU CPR A10	Strategic links, specific objectives	Programme co-fund – CPR 65(5)	Territorial instruments A22-28	Seal of Excellence approach – CPR A67(5)	Combined funding – CPR A57(9)	Programme co-fund / European Partnership – CPR 65(5) and 67(5)	Financial instruments A52-56,62,75		
ESF+					A 4							(25), A 5 (2), 7(5) & (6), A14(3)	A 2(2), 5, 4, 7(5), 13, 14
European Globalisation Adjustment Fund (EGF)	A 2											(14)	A 20(1)(e)
EMFF		A 23, 25			A 9		A 26				A 23, 25	(8), (29), (38), (49), A 3(9) & (15), 6(2), 9(3) & (4) and A21 Annexes II and III	A 1, 3, 5, 6, 8,17, 30, 33-6, 38,
Asylum & Migration Fund					A 13(9),			A27(2)	A 27(1)			(53)	(47), (48), (54), A8(3), A9(4), A10(2), A14, 30, 31,
Integrated Border Management Fund (Borders and Visa)					A12(15)			A 24(2)	A 24(1)				(14), (49), (50), (58), A 8(4), 9, 12, 13, 26, 27, 28
Internal Security Fund					A12(9)			A 23(2)	A 23(1)			(43)	(20),(37), (38), (46), A 8(4), 9, 12, 13,
Erasmus+, European Solidarity Corps			A 14(6)					A 29(4)	A 29(3) and indirectly (2)			Erasmus (38) ESC: (28), (35)	
Rights & Values Programme			A 6(5)					A 11(3)	A 11(2) and indirectly (1)			(5)	
Justice Programme			A 4(4)					A9(3)	A9(2) & indirectly (1)				
Creative Europe			A 7(4)					A 16(2)	A 16(1)				
European Investment Stabilisation Function													A 2(3)
Reform Support Programme incl Delivery Tool & Convergence Fac.	(8), A33		(17), A 7(4) A 21(2)										A 2(4)
EAFRD (the Regulation for the	A 2(2)						A 2(2), 71(1) &				A 74, A111 (3),	(49), (56), + A16(3), A46(3f),	

¹⁶ Numbers in brackets refer to recitals and numbers preceded by an "A" to articles of the corresponding legal act.

Legislative proposal for the Union policy	Strategic links		Budgetary transfers to other Union programmes CPR A21 CPR 104(4)	Links at programme level				Links at project level				Outermost regions	Provisions in other areas
	The Funds and Union policies CPR A8 (b)(ii) & (iii)	Contribution to InvestEU CPR A 8(a),(b)(i) 10		Contribution to InvestEU CPR A10	Strategic links, specific objectives	Programme co-fund – CPR 65(5)	Territorial instruments A22-28	Seal of Excellence approach – CPR A67(5)	Combined funding – CPR A57(9)	Programme co-fund / European Partnership – CPR 65(5) and 67(5)	Financial instruments A52-56,62,75		
CAP Strategic Plans COM(2018)392)							(5) 73 (2), 85(3), 86(1), A 112(2), 113(4)				121(6)	A53(2c,d)(5c), A72(4), A85(2a), A86(2), A96(d), A 135	
Reg. Common organisation of agriculture markets and specific measures for outermost regions COM(2018)394												(34), footnote 20, A 4 - POSEI budget-	
LIFE programme	A 7							A 15(2)	A 15(1)			(25) + A(13g) award criteria	
Connecting Europe Facility			A 4(2)(iii) & (9)					A 18(2)	A 18(1)			(15), A9(2a) A14(2a)	
Digital Europe			A 9(5)					A 22 (2)	A 22(1)			(11) +Art 16(4): OR in DIH network A 20(g) award criteria	A 13 (2) coordination mechanisms & monitoring tools
Invest EU Fund		(19), (20), A 4(1), 8, 9,		(19), (20), A 4(1), 8, 9,								(19)	A 2(5), A 22 on reporting of the MS compartments
Space Programme			A 11(6)					A 22(2)	A 22(1)				
Horizon Europe: Framework Programme (FP) Specific programme: SP			A 9(8) FP			A 8(1) FP		A 11 FP A 20 (5) FP A 43(6) FP Annex I to SP, point 1.1.3	A 23 FP			(27) Horizon Europe Annex I to SP, p.76: OR in "sharing excellence"	A 12 (6) SP: inform programme committee on synergies
Euratom									A 10(2)				
Single Market Programme			A 4(6)					A 14(2)	A 14(1)			(63) Annex II	
Customs control equipment									A 9(2)				
European Defence Programme								A 9				(4) A 5c	