European Structural and Investment Funds and sound economic governance: guidelines for the implementation of Article 23 of the Common Provisions Regulation

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PURPOSE: to provide guidelines on the application of the measures linking effectiveness of the European Structural and Investment Funds to sound economic governance.

BACKGROUND: in the period 2014-2020, support from the **European Structural and Investment Funds (ESI funds) is closely linked to the respect of EU economic governance**.

Regulation (EU) No 1303/2013, the Common Provisions Regulation (CPR) on the five ESI funds, lays down the provisions linking the effectiveness of the funds to sound economic governance. This conditionality applies through two distinct mechanisms:

- **a first strand**, whereby the Commission may request a Member State to **reprogramme** part of its funding when this is justified by the economic and employment challenges identified under various economic governance procedures; and
- **a second strand**, whereby the Commission is obliged to propose a **suspension of ESI funding** when certain stages in the various economic governance procedures are reached.

In 2014, Member States are negotiating their Partnership Agreements and programmes with the Commission. These will determine the multiannual strategy for implementing the Member State's allocation from the five ESI Funds over the seven years of the programming period (2014-20). The Commission expects to approve Partnership Agreements and most programmes in the course of 2014.

Reprogramming under the Common Provisions Regulation is only possible as of 2015 and until 2019 . This should only be used in cases where it could have a higher impact than the existing allocation of the funds in the implementation of the relevant CSRs, relevant Council recommendations or in the economic adjustment programmes.

CONTENT: this Communication follows up on the commitment given by the Commission to issue, not later than 6 months from the entry into force of the Common Provisions Regulation, **guidelines** in the form of a Communication of the Commission explaining how it envisages that the provisions on measures linking effectiveness of ESI Funds to sound economic governance will be applied.

These guidelines may be summarised as follows:

Review and types of amendments to Partnership Agreements and programmes:

- in cases where a reprogramming request is triggered in the context of the European Semester, it will be as soon as possible after the adoption of the relevant CSRs by the Council and, in any case, no later than **four months** after the Council's adoption. This will be compatible with the indicated reprogramming deadlines and avoid interference with the subsequent round of CSRs. In case of reprogramming requests to address Council recommendations in the context of excessive macroeconomic imbalances, the Commission will consider similar deadlines;
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- the Commission will **duly justify** any reprogramming request and provide sufficient details regarding the programmes and priorities to be reinforced or downsized according to the specific case, including an indication of the expected financial implications;
- in any reprogramming request, **the Commission will ask a Member State to review its Partnership Agreement and programmes**. This will serve to respond adequately to the economic and employment challenges identified in the relevant CSR, relevant Council recommendation, or memorandum of understanding (in the case of Member States under financial assistance);
- the first, clear-cut case of failing to take effective action is when a Member State simply fails to submit — within the deadlines provided for by the Regulation — either a **preliminary response** or a proposal for amendment of its Partnership Agreement and the programmes concerned;
- the action undertaken by the Member State will be **assessed on the basis of objective criteria**. In case of failure to take effective action, the Commission will explain in detail why amendments proposed by the Member State are considered to be insufficient.

Suspension of payments: if the Member State fails to take effective action within the deadlines set by the Common Provisions Regulation (CPR), the Commission can make a proposal to the Council to suspend part or all of the payments for the programmes or priorities concerned. The Commission may propose to the Council a suspension:

- the Commission would consider proposing suspension in the **case of 'no action'**, i.e. if the Member State fails to provide any preliminary response to the Commission request or any proposal to amend its Partnership Agreement and programmes within the deadlines provided for by the Regulation;
- the suspension will be set at the amount necessary to provide the **right incentives** to the Member State to comply with the Commission request;
- any suspension will take account of mitigating factors: (i) the size of the suspension as a share of national **GDP** to ensure equality of treatment across Member States; (ii) the economic and social circumstances of Member States, taking into consideration **exceptional circumstances**;
- the Commission will **not propose any suspension** of those programmes or priorities that are to be increased as a result of a reprogramming or considered to be of critical importance.