



EUROPEAN COMMISSION

*Brussels, 13.5.2020
C(2020) 3181 final*

Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the proposal for a Regulation of the European Parliament and of the Council establishing the Just Transition Fund {COM(2020) 22} and the amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument {COM(2020) 23}.

The Just Transition Fund constitutes one of the three pillars of the Just Transition Mechanism, which aims at providing targeted support to the most negatively impacted territories by the transition towards climate neutrality.

The Commission overall welcomes the Bundesrat's broad support for the proposal. Regarding the concerns raised in the Opinion, the Commission is pleased to provide a number of clarifications on these issues.

First, regarding the eligible territories, the Commission proposed for effectiveness purposes to concentrate the support on the territorial units for statistics (NUTS) 3 level regions or parts thereof. The economic and social impacts of climate transition are locally concentrated and should be tackled accordingly. This requirement is in line with the programming of resources of cohesion policy at NUTS 2 level.

The requirement to prepare territorial just transition plans is justified by the need to identify the most negatively impacted territories and assess, in a tailored manner, the development challenges triggered by climate transition. The template proposed for these plans is succinct (around 20 pages). In addition, pursuant to Article 7(1), Member States have the flexibility to provide territorial just transition plans covering several territories. In this respect, there should be no additional administrative burden and delays on the programming related to the just transition plans. In particular, it is proposed that the

*Mr Dietmar WOIDKE
President of the Bundesrat
Leipziger Straße 3 - 4
10117 BERLIN*

partnership agreements only include the indicative transfers to the Just Transition Fund to provide programming authorities sufficient visibility for the calculation of thematic concentration, applied to the allocation of European Regional Development Fund, net of this transfer. It does not require, however, that the territorial just transition plans are prepared before the adoption of the partnership agreement, so they should not therefore delay its preparation.

Similarly, the Commission takes note of the Bundesrat's concerns on the need to provide an exhaustive list of envisaged operations to support productive investments in large enterprises. However, it is noted that such investments are not eligible for support from the European Regional Development Fund. Such support needs to be duly justified regarding the expected job creation. The list of investments included in the territorial just transition plans, together with their justification, will enable the Commission to verify the eligibility of the operations. However, given the conditions for support, the financial volume and the complexity of such operations, it is not expected to have a sizeable number of operations. Therefore, the corresponding administrative burden is expected to be insignificant.

The Commission takes note of the Bundesrat's concerns on the proposed transfers of resources from the European Regional Development Fund and the European Social Fund Plus. These transfers aim at leveraging the impact of the Just Transition Fund in the eligible territories as derived from the close dialogue with Member States in the framework of the European Semester process and the detailed (regional) analysis provided in the country reports of territories facing serious socio-economic challenges. The minimum proposed amount for transfer corresponds to EUR 11.5 billion, i.e. 4% of the overall allocation of European Regional Development Fund and European Social Fund Plus. This effort, when well-designed, should not undermine the ability of the cohesion policy to support other regions and policy areas. Similarly, as the thematic concentration is calculated with the European Regional Development Fund allocation net of transfers, transfers can only reduce by 4%, ceteris paribus, the amounts available under policy objectives 3, 4 and 5. Hence, these transfers do not challenge the ability of regions to address specific needs under these objectives.

It should be also recalled that the transferred resources should originate from the allocation of the concerned region or the same category of regions.

The proposed eligible scope of the Just Transition Fund, concentrated on economic diversification and support to affected workers and jobseekers, echoes the political objective of the instrument, aiming at alleviating the economic and social costs triggered by climate transition. In this regard, rehabilitation and restoration of mining sites are in principle eligible, which may include water management measures that would directly stem from rehabilitation activities. However, generic water management operations do not contribute to the achievement of the objectives pursued by the Just Transition Fund and should therefore only be eligible for support from European Regional Development Fund.

As regards the management and control system, the Commission stresses that, for simplification purposes, the provisions of the Common Provisions Regulation¹ apply to the Just Transition Fund, without any additional or derogatory provisions. Monitoring indicators proposed for the Just Transition Fund are also similar to those applicable to the European Regional Development Fund and European Social Fund Plus. There is therefore no incremental administrative burden for the management and control bodies. The Bundesrat's proposal to revise output and results indicators RCO11 ('Enterprises cooperating with research institutions'), RCO38 ('Surface area of rehabilitated land supported') and RCR52 ('Rehabilitated land used for green areas, social housing, economic or community activities') would create a divergence, which would increase monitoring burden for the managing authorities and make aggregation across funds difficult.

On State aid, the proposed regulation is not the appropriate legal instrument to introduce any derogations. As for other cohesion policy funds, the implementation of the Just Transition Fund needs to comply with the applicable State aid rules. In this regard, under its communication on the European Green Deal Investment Plan², the Commission has committed to revise State aid rules with a view to fostering the transition. If regional aid guidelines regulating public support to productive investments are revised, the implementation of the Just Transition Fund will follow the applicable provisions.

Lastly, on the allocation methodology, the Annex I entails a very detailed and transparent description of the methodological steps in order to establish the national allocations. The corresponding intermediate and final calculations have been distributed to Member States and stakeholders, together with the details on the underlying databases.

The Commission hopes that these clarifications address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Elisa Ferreira
Member of the Commission*

¹ COM (2018) 375 final

² COM(2020) 21 final