

SENATE OF THE REPUBLIC
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RESOLUTION OF THE 14th STANDING COMMITTEE
(European Union Policies)

(Rapporteur: COCIANCICH)

adopted at the sitting of 18 December 2014

on

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**GUIDELINES ON THE APPLICATION OF THE MEASURES LINKING
EFFECTIVENESS OF THE EUROPEAN STRUCTURAL AND INVESTMENT
FUNDS TO SOUND ECONOMIC GOVERNANCE ACCORDING TO
ARTICLE 23 OF REGULATION (EU) NO 1303/2013 (COM/2014/ 494)
(COMMUNITY ACT NO 46)**

in accordance with Article 144(1), (5) and (6) of the Rules of Procedure

Forwarded to the Prime Minister's Office on 8 January 2015

The Committee, having examined the Community Act,

- whereas:
- in the 2014-2020 programming period, support from the five European Structural and Investment Funds (ERDF, ESF, Cohesion Fund, EAFRD and EMFF, known as the ESI funds) is closely linked to compliance with EU economic governance;
- that linkage stems from Article 23 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 (the regulation concerning common provisions for the five ESI Funds), which lays down the provisions linking the effectiveness of the Funds to robust, sound economic governance;
- conditionality applies through two distinct mechanisms: a first strand, covering in particular paragraphs 1 to 8 of Article 23, whereby the Commission may ask 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, covering in particular paragraphs 9 to 11 of Article 23, whereby the Commission is obliged to propose a suspension of ESI funding when certain stages in the various economic governance procedures are reached;
- the Communication in question concerns the first strand and provides clarifications with regard to the notion of 'review' and the types of 'amendments' to Partnership Agreements, and an indication of the circumstances which may give rise to suspension of payments;
- the Partnership Agreement with the European Commission for 2014-2020 programming was approved in Brussels on 29 October 2014. The Agreement covers four European Structural and Investment Funds focusing on 11 thematic objectives: research and innovation, information and communication technologies, the competitiveness of small and medium-sized enterprises, the low-carbon economy, combating climate change, the environment and resource efficiency, sustainable transport, employment and mobility, social inclusion, more effective education and training and more efficient public administration;
- having heard the Government's representative;
- having considered the comments made on 10 November 2014 by the Legislative Assembly of Friuli-Venezia Giulia;
- having considered the comments made on 11 November 2014 by the relevant committee of the Legislative Assembly of Marche;

issues a favourable opinion, within its area of competence, with the following comments:

- the Guidelines which are the subject of the Communication in question reflect the political will expressed by the European legislative authority when it adopted the

regulations on the Structural Funds covered by the 2014-2020 programming, in which the principles of conditionality, especially macroeconomic conditionality, feature among the rules to be complied with in order to benefit from European funding;

- however, without prejudice to subsequent specific assessments relating to actual individual cases, the Senate recommends that the aforesaid Guidelines be applied with due regard for the principle of proportionality, thereby avoiding the possibility of the suspension of cohesion policy funding having a disproportionately negative impact on the regions of those Member States which are most dependent on such funding;
- taking a broader view, and with regard to better use of the Structural Funds, there needs to be an adjustment of the conditions determined by activation of the clause on productive public investment, thereby allowing the expenditure co-financed by the Structural Funds not to be included in the deficit and thus going beyond the tight limits set out in the letter of 3 July 2013 from the Commissioner for Economic and Monetary Affairs;
- in this connection, the General Affairs Council of 18-19 November (when a session on cohesion policy is planned) should take this approach;
- the Senate still considers it essential for the Agency for Territorial Cohesion to become fully operational as soon as possible so as to ensure increased effectiveness and efficiency in the management of the European Structural Funds in Italy, taking full account of the linkage with the Europe 2020 strategy and with the instruments of economic governance within the meaning of Article 23 of Regulation (EU) No 1303/2013.

With regard to the aspects highlighted by the regional Legislative Assemblies, the Senate points out that:

- (a) according to the Guidelines, 'frequent reprogramming' should be avoided and, more generally, the 'reprogramming powers granted to the Commission will be used carefully'. These are points which can be endorsed, not least in view of the fact that the negotiations with the European Commission on approval of the first version of the operational programmes are still in progress; those negotiations should lead to the final adoption of the programmes by the regions no earlier than the end of 2014 or, more likely, in the first few months of 2015;
- (b) Regulation (EU) No 1303/2013 does not spell out how much detail will be required in a request for reprogramming and/or amendments to the Partnership Agreement and to the operational programmes.

Should the Commission exercise that prerogative the request for an amendment in question will have to be appropriately substantiated and refer to the country-specific recommendation or the relevant Council recommendation which triggered the request. It will explain why there is a need for intervention at EU level, how EU funding can contribute to tackling the structural challenges identified and why the existing allocation of the Funds is inadequate. It will also refer to the thematic objectives and priorities envisaged by the framework regulation and by the specific

regulations. In any reprogramming request, the Commission will ask a Member State to review its Partnership Agreement and programmes.

As regards the nature of amendments, in order to maximise the effects of intervention by the Commission it is considered appropriate to propose that the recommendations drawn up also cover the results indicators relating to the specific measures to be reprogrammed and, where appropriate, the amendment of the implementing procedures set up by the Member States, should lack of effectiveness be identified;

- (c) in the Guidelines there is no mention of the Partnership being involved in the procedures for reprogramming and amending the Partnership Agreement and the operational programmes. It is worth emphasising, in this connection, that Article 5 of Regulation (EU) No 1303/2013 assigns a key role to public authorities (in the broad sense), to economic and social partners and to all the other bodies representing civil society and reminds the Member States of their duty to involve the partners in preparing and implementing the Agreement itself and the operational programmes.

Under Article 5 the Commission adopted Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds, which regulates in detail the role of partners in the activities associated with the implementation of the ESI Funds.

Accordingly, the Guidelines should be supplemented by an explicit reference to Delegated Regulation (EU) No 240/2014, in order to ensure its application.

In any event, the European Commission's reprogramming activity should not culminate in an imposed unilateral amendment of the conditions of the Agreements;

- (d) the suspension of commitments or payments provided for by Article 23 (9)-(11) of Regulation (EU) No 1303/2013 should be implemented only upon completion of a comprehensive and detailed assessment and, in any event, as an *extrema ratio*, ensuring that in every case both parties are heard as a preliminary step.

The Senate hereby reaffirms the need for the €300 billion of what is known as the Juncker Plan to be committed as soon as possible, in addition to the resources already earmarked for the 2014-2020 programming of the Structural Funds.