EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Senat for its Opinion on the proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund {COM(2018) 372}.

On 2 May 2018, the Commission adopted a proposal for the next Multiannual Financial Framework for the period 2021-2027 {COM(2018) 322 final}. The proposal on the European Regional Development Fund and the Cohesion Fund forms part of that broader package and offers ambitious measures designed to tackle inequalities in Europe between the different regions in terms of their economic, social and territorial cohesion.

The proposal for a Regulation on the European Regional Development Fund and on the Cohesion Fund sets out provisions detailing the specific objectives supported by the Funds, the corresponding thematic concentration mechanisms applicable to the European Regional Development Fund, the scope of support by the Funds and the limited list of ineligible measures. It also includes provisions regulating the treatment of particular territorial features and an annex detailing the corresponding output and result indicators.

Enhancing transparency and abiding by the principles of proportionality and subsidiarity in the decision-making process are priorities for the Commission in general. The principle of subsidiarity in particular is enshrined in the legal basis for the Common Provisions Regulation proposal and forms part of the overall decision-making process for the shared management of European Funds.

A European Union action is justified by Article 176 of the Treaty on the Functioning of the European Union (TFEU) setting up the objectives of the European Regional Development Fund: 'The European Regional Development Fund is intended to help to

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redress the main regional imbalances in the Union through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions'.

The objectives of the Cohesion Fund are set out in Article 177 TFEU: 'A Cohesion Fund set up in accordance with the same procedure shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure'.

In this regard, action at European Union level adds value to action at national level, as in many countries the European Regional Development Fund and the Cohesion Fund represent at least 50% of public investment – whereas these Member States would not otherwise have the financial capacity to make such investments.

In addition, there are significant potential spillovers across national and regional boundaries, for example for investments in innovation and Small and Medium Enterprises. The European Union level has therefore an important and legitimate role in delivering these spillovers and preventing underinvestment.

The Commission has taken due note of the positive assessment expressed by the Senat in its Opinion, regarding the compliance with the subsidiarity principle.

The Commission has also taken note of the concerns raised by the Senate on specific proposals and is pleased to have this opportunity to provide a number of clarifications regarding its proposal hereinafter.

On the scope of funding dedicated to basic infrastructures, the Commission has made the political choice of concentrating the European Regional Development Fund resources, through the proposed thematic concentration, on operations addressing European challenges and priorities, such as innovation and economic transformation, together with adaptation and mitigation of climate change. The proposed concentration is nonetheless proportionate to the development level of Member States and therefore to their actual needs and challenges.

On the other hand, significant resources remain available, under the third policy objective 'A more connected Europe - mobility and regional information and communications technology connectivity' covered by the Commission proposal for a Common Provisions Regulation for the post-2020 period. In particular, the Cohesion Fund will continue financing similar measures, which can complement the support of national budgets. Further support will also be available under the Connecting Europe Facility.

The proposed Regulation includes several references to infrastructures, under Article 2 detailing the specific objectives, tailored to the concerned sectors. These references are then echoed in Article 4 detailing the scope of intervention by a necessarily generic reference to infrastructure investments.

Recital 14 of the proposed Regulation refers to the political commitment to devote 25% of the Union's budget expenditure to supporting climate objectives. In this regard, it specifies, for estimation purposes, that the European Regional Development Fund and Cohesion Fund are expected to contribute to these objectives for respectively 30% and 37% of their resources. This estimation stems from the expected expenditure pattern and the categorisation of expenditure, detailed in Annex I of the proposed Regulation 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 (2018) 375}. This categorisation largely continues the categorisation used under Annex I of the Commission Implementing Regulation (EU) 251/2014 and values the support to climate change objectives of several types of investments, including in environmental sector. It cannot therefore be concluded that this recital could trigger further limitations to infrastructure investments.

The Commission has also taken note of the invitation by the Senat to address the need for a decentralized territorial approach through flexibility in programming the allocations. This objective is commonly shared and has steered the proposal for the Common Provisions Regulation {COM (2018) 375} which includes numerous provisions aiming at increasing flexibility for programming through a less prescriptive thematic menu, structured around fewer and larger specific objectives, simplified content of programmes, application of thematic concentration at national level and enhanced flexibility for transferring resources within categories of regions. The underlying goal is to strengthen the capacity of Member States and regions, through tailored allocation of resources, to better address their specific sectoral and territorial challenges.

The Commission has also taken note of several concerns pointed out by the Senat in the Opinion regarding thematic concentration, decommitment rules, co-financing rates, pre-financing and the proposed eligibility of value added tax for operations under EUR 5 millions. All those provisions relate to the above-mentioned proposal for the Common Provisions Regulation {COM (2018) 375}.

The proposed thematic concentration aims at focusing EU resources on fewer areas matching European political priorities and triggering effective convergence.

Decommitment rules are proposed to come back to the previously applicable N+2 rule, with a view to stimulating the efficiency of management and control systems and disciplining and accelerating implementation.

The proposed reduction of national co-financing rates primarily aims at preserving the volume and impact of public investments in a context of reduced budget for the cohesion policy. The rates will narrow those applicable before the economic crisis, as Member States have since then successfully consolidated their budgetary situation and recovered investment capacity. It is also expected to further improve the pertinence and quality of operations through enhanced ownership of beneficiaries.

The proposed reduction of pre-financing is motivated by budgetary considerations, with regard to the applicable payment thresholds under the Multiannual Financial Framework. However, the sharp increase of reimbursement flows related to the implementation of the 2014-2020 programmes, together with the faster take-up of future programmes, made possible through the targeted simplification measures, are expected to meet any potential cash flow needs.

The Commission has also proposed, for simplification purposes, to render value added tax eligible for operations below EUR 5 million, even when value added tax is recoverable by beneficiaries under national rules. In this latter regard, the financial burden on beneficiaries can only be reduced, compared to the rules applicable under Regulation 1303/2013. In addition, the proposed eligibility leaves Member States the option to recourse or not to this flexibility.

With regard to the above, the Commission firmly believes that the proposed modernised framework for the cohesion policy, together with the ambitious simplification measures envisaged, will instead increase attractiveness for beneficiaries.

Lastly, as regards the amount proposed to be transferred from the Cohesion Fund to the Connecting Europe Facility, the Commission aims at preserving investment resources under the Connecting Europe Facility, given the remaining substantial investment needs on the core TEN-T network and its added value for the whole European territory and competitiveness.

Discussions between the Commission and the co-legislators, the European Parliament and the Council, concerning this regulatory proposal are now underway and the Commission remains hopeful that an agreement on the legislative package concerning cohesion policy will be reached in the near future.

Yours faithfully,

Frans Timmermans
First Vice-President

Corina Creţu
Member of the Commission