

**3rd MEETING of the High Level Expert Group
on Monitoring Simplification for Beneficiaries of ESI Funds**

2 February 2016

Note and Actions Points

1. Opening remarks from Chairperson

The Chairperson opened the meeting and noted that all the members of the high level group were present.

The Chairperson reminded the members' of the online platform, Simplify ESIF, established in order to engage directly with the different stakeholders, and encouraged members to be as active as possible on the platform. The Secretariat would provide advice and assistance and would also liaise with the rapporteurs to share the group's conclusions and recommendations on the platform.

He also drew the members' attention to several background documents circulated before the meeting and have also been added to the CIRCA BC site where all the documents for the members of the group can be accessed.

2. Discussion on synthesis report on e-Governance and endorsement of conclusions and recommendations from the high level group

The Chairperson recalled the very intensive evidence session on e-Governance at the previous last meeting and the very clear messages from the experts on the ground. He asked the rapporteur for e-Governance, Terri Thomas, to present the synthesis report on e-Governance and the proposed conclusions and recommendations.

The rapporteur presented the synthesis report on e-Governance and the proposed conclusions and recommendations. She noted the comments that had been received in advance from the members and considered that there was a consensus on the key issues but some points would be further clarified on the scope of e-Governance, audit consistency and operability.

It was agreed that the conclusions and recommendations would be amended to highlight the main recommendations in a summary at the start of the document. This would be the main messages on the topic and would be followed by the detailed conclusions and recommendations including more technical comments and suggestions.

The rapporteur summarised the main messages agreed by the group as follows:

- The recommendation to facilitate a single system across funds that would help audit consistency and information security. Any differences should be behind the scenes so the beneficiaries don't have to navigate different portals;
- Audit consistency – it should be clear that electronic documents were acceptable for all funds; and,
- More of a partnership approach was need for training and understanding e-Governance.

The Chairperson asked the Secretariat to make the appropriate changes to the conclusions and recommendations paper and circulate to members for agreement by written procedure after the meeting.

3. Discussion on synthesis report on Simplified Cost Options and endorsement of conclusions and recommendations from the high level group

The rapporteur for Simplified Cost Options (SCOs), Louis Vervloet, presented the synthesis report and the proposed conclusions and recommendations. He said that there needed to be an emphasis that SCOs are based on results and if the results were achieved then payment should be made. Some members highlighted issues that needed further reflection such the complexity marrying state aid rules and SCOs and interpretation of similar operations in the case of the Horizon 2020 programme.

The group discussed further the details conclusions and recommendations and the rapporteur summarised the main messages agreed as follows:

- the need for legal certainty including legislative changes to extend "off the shelf" possibilities, and resolving the questions around state aid;
- more hands on support ex-ante at EU and national levels;
- a fast track process for Article 14 ESF; and,
- the need for a mediator between all parties concerned. .

The Chairperson asked the Secretariat to make the appropriate changes to the conclusions and recommendations paper and circulate to members for agreement by written procedure after the meeting.

The Chairperson also asked the Commission to react verbally to the recommendations at the next meeting of the High Level Group in June.

4. Presentation by the rapporteur for Access to EU funding for SMEs

The Chairperson announced that the first new topic to be considered was access to EU funding for SMEs. He explained that small and medium-sized enterprises (SMEs) represented over 99% of businesses in the EU so it was crucial to support their growth and innovation. However, one of the most important issues facing SMEs was difficulty accessing EU fund. He gave the floor to Massimo Sabatini as rapporteur to make his presentation on this topic.

The rapporteur highlighted the importance of SMEs in EU economy as they employed 90 million people yet only 1% of SMEs received direct aids in the 2007/13 programming period. His presentation outlined the following obstacles for SMEs:

- Complexity of aid schemes - beneficiaries only had limited skills in this type of administration and it was difficult for an enterprise to find its way through the aid complexity; on the other hand, lack of "entrepreneurial" skills in the public administration;
- The ESIF management system was too complex and distant from the needs of the company. This was a particular issue for mono-fund programmes which reduced the possibility to provide a single solution for complex needs, and compounded by insufficient collaboration among all the subjects and stakeholders involved;

- State Aid limitations – the dominance of competition rules over the Funds and an incomplete harmonisation between state aid and ESIF regulations;
- This is particularly the case for ERDF and EAFRD, which have different bases: the food industry could be on the border between production and transformation, and it was not always clear from which fund the appropriate funding should come. (This could have an impact on State aid as well given that under the EAFRD the State aid rules do not apply to payments made within the scope of Article 42 TFEU (i.e. agricultural products). However, it's difficult for SMEs to determine whether their activities fall within the scope of Article 42 or not);
- Administrative burden – the cost of completing the necessary information is off putting to companies and the ESI Funds did not always "think small first" (as per Small Business Act). The amount of administration for an SME is the same for a public administration such as a Government Ministry who is a beneficiary and this was a costly process for SMEs

He also suggested that each of these hurdles should be addressed, by:

- Promoting an aid selection mechanism more oriented to business than to formal compatibility or financial viability of the enterprise; A standardisation of aid schemes and a single entry point for SMEs;
- A stronger role for national or regional agencies that can assist with aid and support;
- Timely adoption of legislation and implementing rules at European, national and regional level;
- Promoting a single monitoring committee and greater co-ordination between managing authorities and an effective involvement of stakeholders;
- Concrete coordination and harmonization with other European policies and instruments related to SMEs; and,
- Specific action aimed at reducing administrative burdens and costs on SMEs.

5. Evidence gathering session with stakeholders on Access to EU funding for SMEs

The Chairperson welcomed to the meeting the experts in the field of access to EU funding for SMEs and explained that it was crucial for the high level group to understand what was happening on the ground and to get the full picture of not just the benefits the simplification measures can bring but also the challenges in implementing them.

During the evidence gathering session there were presentations from UEAPME on the Europe wide challenges for SMEs; a case study from the region of Emilia-Romagna in Italy on how they overcome the barriers for SMEs and from EASME on how the EU level support for SMEs is managed in the case of the SME-Instrument in the Horizon 2020 programme.

The first presentation from EASME on the SME instrument explained the process for SMEs applying for and receiving a grant from the Horizon 2020 programme. Some of the good practice elements noted by the members of the High Level Group were:

- A phased approach to support with the time from submission of application to receiving the grant of 3 months for phase 1 and 6 months for phase 2;
- A fully digital systems where all processes are online;

- The seal of excellence for projects who could not be supported due to budget and liaison with national agencies who wish to follow the EASME model; and,
- The use of lump sums in phase 1.

The presentations from UEAPME and Emilia- Romagna stressed the importance of partnership and providing support to SMEs to navigate the administrative channels of ESIF. Some of the suggestions for addressing the challenges were as follows:

- Support for capacity building should be opened up to SMEs to assist them and facilitate the relationship between them and the programme authorities;
- A mechanism for resolving disputes between SMEs and programme authorities such as the ADR;
- A helpdesk at regional or national level that could act as an intermediary and help companies to engage with ESI Funds; and,
- Single calls for proposals for SMEs that bring together different funding streams and would allow SMEs to apply for an overall investment that might cover different activities such as research, training and energy efficiency.
- A full dematerialisation of document flows between beneficiaries and MAs in order that exchanges are only electronic

6. Summary discussion and initial conclusions from the rapporteur

Following the evidence presented at the meeting and the discussion between the members of the High Level Group, the rapporteur summarised the key points as follows:

- The ESIF should take into account good practice examples in a wider sense and such as EASME;
- There should be more consistency with the needs of the SME in the design of the programmes, systems and aid instruments;
- The Commission should ask Member States to promote a greater integration between different funds, and find a solution to the question of the state aid rules under ESI Funds;
- More effort is needed from both the EU and national levels to address the administrative burden such as through additional ex-ante conditionality and commitment at national level to targets to reduce administrative burden and costs;

The Chairperson concluded that the Secretariat would liaise with the rapporteur to prepare the conclusions and recommendations which would be sent to members for comments before the next meeting.

7. Presentation by the rapporteur for financial instruments

The Chairperson stressed the importance of financial instruments and that they should imply reduced administrative burden, especially for final recipients, but explained that there were some obstacles to using financial instruments that needed to be overcome if their take up was to be improved.

The rapporteur, Pawel Chorąży presented an overview of this topic. He considered the main challenges to be that for the final recipients of financial instruments, the administrative requirements are largely the same as if they had received a grant, and a flexible approach taking into account the specificities of financial instruments was necessary. He saw room for improvement in the following areas:

- Address recommendations from ECA with efficiency and new requirements should not be imposed without taking into account the differentiation of particular forms of financial products;
- The Commission should concentrate more on good practices rather than guidance for example the guidance on selection which requires the use of public procurement which was considered by many Member States as not a flexible solution;
- A specific problem in a specific Member State should not be solved by legislation or guidance at the EU level;
- Legal and procedural requirements for establishing financial instruments should be made conditional on the size, scope and complexity of the financial instrument to be established;
- The decision to set up a financial instrument should be preceded by the analysis of existing instruments in the region / instruments aimed at supporting the same categories of recipients to avoid "cannibalism" among financial instruments;
- Final recipients should not be subject to audit work that does not take into account specificity of support;
- Monitoring and evaluation to see how financial instruments are implemented in practice is important; and,
- A working group of practitioners should be established to review and consider concrete issues related to financial instruments.

Some additional issues raised by the members of the High Level group included stability of the rules and avoidance of overregulation, gold plating due to audit recommendations, , capacity building for public authorities in this area and a risk averse approach from the EIB.

8. Evidence gathering session with stakeholders on Financial instruments

Evidence was provided by experts in the field of financial instruments from the Greater London Authority, UK, Amber Infrastructure – the Investment Manager for the London Energy Efficiency Fund, the META Group who managed venture capital funds in Italy, Slovenia and Croatia, and the Estonian Ministry of Rural Affairs.

The main points raised by the managing authorities who are tasked with setting up the financial instruments were as follows:

- The setting up of a financial instrument for a managing authority should be at least as straight forward as providing support by grant, and the selection of the fund manager should be as easy as possible, especially in the case of in-house providers. For the final recipient, it was considered that the financial instrument should be simpler than receiving a grant to be successful;

- Capacity building in the area of financial instruments was considered necessary, as well as flexibility in ESIF programmes to allow deployment even in changing circumstances;
- Having clearer rules for financial instruments could also lead to a more prescriptive approach and a loss of flexibility. This was particularly noticed when it came to navigating between the EU rules, commercial norms and financial regulation;
- The complexity of the Ex-ante assessment created delays in setting up the instruments and also risked the assessment becoming out of date due to changes in economic circumstances;
- The Commission received a lot of information from financial instruments in terms of audit and control but there was still a need for greater understanding and awareness from those looking at compliance and audit of the differences between grants and financial instruments. A specific FI-compass event for auditors was recommended to address this; and,
- Rules between ESI Funds should be further harmonised, as should the rules between ESI Funds and other Commission resources (Horizon 2020, EFSI etc.) and the possibility of own contribution by the final recipient explored.

Those involved in administering the financial instruments as fund managers drew the following conclusions based on their experience:

- The Commission initiative to develop 'off-the-shelf' instruments for equity was positively viewed, but a lot of awareness raising was still necessary to improve knowledge about equity financial instruments on the ground;
- Despite some improvement, the perception was still that financial instruments had to fit into the mould for grants when it came to management and control. There was a strong need to design systems that would reflect the requirement of financial instruments and not just adapt the existing grant systems;
- Audit and reporting obligations were seen as burdensome and sometimes not aligned (e.g. reporting obligations under ESIF and under the Directive for Alternative Investment Fund Managers);
- For the final recipient (a SME most of the time), financial instrument should be simpler than receiving a grant, in particular on audit and control issues but also on reporting issues.
- Some examples of where the system seemed incompatible with the commercial norms for financial instruments included frequency of audits, understanding that financial structuring was about a scale or range of risk rather than clear cut products such as loan and guarantee; impact of the clause on repaying in case of irregularity and the inherent moral hazard in the fee structure which created the incentive to defray money as fast as possible and not necessarily to make the best investments; and,
- As regards public procurement, many Member States intended to use the exceptions from the Public Procurement Directive (in-house and inter-administrative cooperation), which was viewed by private managers as limiting competition and crowding out the private sector. In addition, some examples of unnecessary barriers in the tendering process for potential fund managers were cited. The guidance of the European Commission on selection of fund managers which requires the use of public

procurement rules is not a flexible solution, especially in the case where the expected fund managers are also private co-investors in the funds.

9. Summary discussion and initial conclusions from the rapporteur

The rapporteur concluded that while there had been some clear messages in the evidence and discussion, this was an extremely complex area that required further discussion including those with expertise in the area. There was a strong agreement from the members that these instruments had potential for simplification and therefore there should be more discussion on how to make the provisions governing them more efficient. Certain privileges that seemed to be offered to the EIB should also be offered to Member States when managing nationally ESI Funds.

The Chairperson concluded that the rapporteur and the Secretariat should reflect on what further discussions would be needed on this topic.

10. Any other business and close of meeting

The Chairperson concluded that the Secretariat would liaise with the rapporteurs to prepare the conclusions and recommendations reports on the themes discussed that day. He added that there were two items under any other business:

- European Parliament REGI Committee meeting on 16 February: The Chairperson reported on his meeting with the chair of the REGI Committee following the last meeting of the group in December. Ms Mihaylova had stressed how important the issue of simplification was to the European Parliament and invited him to report on the work of the group at the REGI Committee meeting on 16 February here in Brussels. He added that he considered it important that the group engage at the political level on these issues as real change could only happen if there was political support and in particular from the co-legislators.
- Report from the Visegrad meeting: Olga Letáčková gave a brief report from the recent meeting of Visegrad group plus Croatia, Bulgaria, Romania and Slovenia on cohesion policy where the subject of future shape of cohesion policy and simplification had been discussed. She provided members with a copy of the joint statement issued after the meeting and a report from the IQ net on simplification which had been presented at the meeting.

The Chairperson confirmed that the next meeting would take place on 7 June 2016 on the subject of gold plating. Some member suggested that an additional ad-hoc meeting in April or May could be useful to consider the different strands of the discussion on simplification that had been triggered by the setting up of the group. A number of members supported the idea of publishing an additional interim report on the numerous simplification measures that the Commission could consider without necessarily requiring legislative changes. The Chairperson asked the Secretariat to look into the possibility of an additional meeting.

As there was no further business, the Chairperson closed the meeting.