Local & Regional Europe

Cohesion policy

Simplification and cutting red tape in European Structural and Investment Funds

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FOREWORD

"Administrative burden and bureaucracy shouldn't be an obstacle to the use of European Structural and Investment Funds. Simplification is key to improve the access to the funds and their good use by public authorities, enterprises, universities, civil society organisations in our municipalities and regions.

The need for simplification has now been acknowledged at EU level and therefore, we need to move forward together to make it concrete. CEMR is committed to fully collaborate in the reflection process, which should also be at the heart of the negotiations of the new cohesion policy post-2020.

On behalf of local governments and regions, we thus ask the EU institutions to take into account CEMR's proposals:

- ***Harmonisation** - The EU should move towards common processes and procedures (guidance documents, rules, delegated acts, etc.) wherever possible;*
- *Setting up a **one-stop-shop** for beneficiaries, regardless the fund concerned or the Managing authority;*
- ***Flexibility** – the setting of investment priority themes and the percentages of the national programmes dedicated to these themes should be left to the Member States, Managing Authorities and local and regional authorities;*
- ***Cooperation -** It is crucial that Managing and Audit Authorities get together from the early stage of designing the schemes, so as to avoid contradictions;*
- ***Diversity** – audit schemes should be more tailored to each Member State and a differentiation be made between fraud and mistake."*

Carola Gunnarsson
CEMR spokesperson on economic, social and territorial cohesion
Mayor of Sala (SALAR, Sweden)

Assessment of the current situation

- For beneficiaries, simplification of *process* appears to have taken a step forward in the 2014-20 round with the flat rate costs approach, electronic documentation and bid submission, simplified reporting, and streamlined performance management, etc.
- It is too early to draw conclusions about the implementation of the programmes. Evaluation involving local partners will be necessary to see if these simplified processes have genuinely made a difference on the ground (or if administrative burdens have simply been transferred from beneficiaries to local bodies or Managing Authorities).
- There are still too many documents (rules, regulations, guidance documents, codes of conduct, delegated acts and other documents) for the Managing Authorities and local bodies to digest (especially once national guidance documents, plans are added in to those coming from the EU level).
- Simplification of *structures* is needed in parallel to simplification of *processes*. The Commission HLG, Council Presidency and REGI Committee etc. appear to only be considering the latter which is too narrow.
- In terms of simplification of *structures* this can be achieved by integrating and devolving EU funds more. There is frustration that the EU regulations already provide the framework for efficient territorial development via Intermediate Body status, Integrated Territorial Investments (ITIs) and Community-led Local Development (CLLD), but Member States are reluctant to integrate and devolve funds in this way in practice on the ground. Managing authorities cite EU Regulations as the main barrier to using the new instruments outlined in the EU Regulations.

Some concrete elements

1. *Harmonisation of rules*

The **multi-fund approach** in the current context is difficult to implement as there are different rules and different approaches to the different funds. ESF, ERDF, EAFRD are managed by different Directorates General of the European Commission and in the Member States different ministries are concerned. The number of guidance documents and rules has increased substantially, and national rules also often add additional requirements – this leads to more control at EU level, when the opposite should be the case: simplification through devolved control.

⇨ The EU should move towards **common processes and procedures** wherever possible; the CSF covering the five ESIF funds was a good first step but more needs to be done.

⇨ **As a long-term goal, t**here should be a 'one-stop-shop', which 'hides all the wiring' from applicants, and provides **a single funding source directly to regions/local areas** in exchange for delivering a set of outputs agreed between managing authorities, local and regional authorities and the European Commission. However, a consolidation of the different regulations would need to be handled with care.

⇨ **Instruments** such as Intermediate Body (IB) status, ITIs and CLLD are **helpful in terms of simplification** but have **not been widely adopted** (as CEMR studies shows). Greater use of these instruments would go some way towards simplification.

Example: **combining ESF and ERDF** into a single operational programme would allow an urban development programme to undertake construction work (ERDF) and run a builder training programme (ESF) to develop the skills of the individual workers involved, without having to apply to two separate funds (The cross-financing rule of 10% between ERDF and ESF is a welcome first step for some projects but not sufficiently flexible at programme level).

2. Flexibility

Flexibility is still not achieved: the Commission has set the priority themes and the percentages of the national programmes which must be spent on those themes. In particular smaller Member States have almost no flexibility to choose.

The Commission has picked a small number of thematic objectives and ring-fenced the majority of ERDF spending to three of these objectives: SMEs, R&D, and Low Carbon/Energy. Despite being allowed in the Regulations, the Commission steers spend away from other objectives which might directly address local need, such as transport infrastructure or broadband infrastructure.

Example: ERDF funding in the Netherlands: innovation as priority had to focus on transfer of knowledge, without taking into consideration other, more local needs.

3. Proportionality – control and audits

The Structural Funds continue to have a **multi-layered level of audit,** which leads to several checks of the same documents by different authorities at different levels and often results in different interpretations. This creates legal uncertainty for national and regional authorities but crucially for beneficiaries.

A key criterion of simplification for beneficiaries, including local and regional authorities, is the **reduction of the number of inspections required**; the current number of on-the-spot checks is often seen as too burdensome.

Some countries have introduced national declarations, which lead to **more internal control** and less reporting to the European Commission.

Example: Sweden, Denmark and the Netherlands have national declarations to reduce the controls and fights against fraud and mistakes.

The European Commission tends to increase controls and reporting in countries where the **European Court of Auditors** (ECA) finds a high error rate in an ERDF programme. This general approach can be disproportionately heavy in other Member States, with negative consequences for beneficiaries. The ECA assumes that all MS are homogeneous and a problem found in one country can also appear in another. However, this does not have to be the case.

⇨ **A more proportionate and outcome based approach** to inspections and audit would be welcome, focusing **less on penalties and more on improvement** and ensuring that the broader outcomes of the policies are achieved.

⇨ **There should be a minimum additional national audit rules**. These should be risk assessed on their consistency with EU audit rules and practices, and need to be developed with the prior advice of the EU auditors.

➪ It is crucial that **Managing and Audit Authorities get together from the early stage** of designing the schemes, so as **to avoid contradictions** later on and the need to perform multiple audit checks by different bodies on the same activity.

➪ There should be a more tailored approach to each Member State and a differentiation between fraud and an "honest mistake".

➪ A lighter process should be introduced by delegating more control to national audit bodies – safe in exceptional cases. For example a 'Single Information, Single Audit (SISA)' system could be introduced, which is adopted by all parties involved (from Commission to beneficiaries).

➪ Compliance can improve via **more transparency of the audit process.** The Commission could publish its audit findings at an early stage in the process and by results of conciliation and appeals.

➪ Any changes in the rules, or interpretations of the rules, which occur in mid-programme should **not be applied retrospectively** if they penalise Member States, managing authorities or local beneficiaries by suddenly placing them in a position of non-compliance, requiring funds to be returned to the EU.

4. Results-based management

The Commission and Member States have given up the possibility of developing **Joint Action Plans.** JAPs have the **potential of reducing bureaucracy and audit** in both ERDF and ESF as the body delivering JAPs is only accountable for the final outcomes. Sadly neither MS nor the Commission have been confident in launching JAPs in spite of the provisions included in the ESIF Regulations for that purpose.

One of the **main problems** is that **guidance provided by the EC to the practitioners on ESIF programmes[1] was not clear and was provided at a very late stage.** For the current programming period (and due to the difficult negotiations), DG REGIO drafted the guidance on ITIs and CLLDs in summer 2014, when Member States had already started with the preparation of their programmes and therefore it was much too late to be useful. Similarly, the Regulation on the code of conduct of central-local partnership arrived too late in the process, only after Member States had outlined their central-local partnership arrangements.

➪ Guidance documents need to be prepared in a timely manner. Example: In the Netherlands, the idea of ITI's was partly based on the city programmes of the 2007-2013 period. The four biggest cities wanted to continue these programmes in the new programming period and started already in 2012 preparing four ITI's. During summer 2012, the first talks between the Commission and the Dutch cities took place to discuss the ITI's. It turned out that the Commission did not have a clear idea what to expect from the cities; they only knew what they did *not* want.

The modest take up of the territorial development instruments (ITI and CLLD) is a missed opportunity for local communities. This is due to patchy coordination between the ESI funds,

[1] http://ec.europa.eu/regional_policy/en/information/legislation/guidance/

different reporting and audit rules still being applied to each fund, which are often run in separate management and ministerial lines.

➩ In the future, the Commission is asked to **draft technical guidance at the same time as the proposals for new legislation**. This would make life for practitioners a lot easier, because the Commission will then already have developed concrete ideas about what they expect from Member States, regions and cities.

The ESIF simplification process should be rooted in the Commission's **'Better Regulation'** agenda: i.e. seeking to implement the core principles of lesser and better regulation, subsidiarity, proportionality, and multi-level governance. Greater use should also be made of territorial impact assessments.

This will also be useful for the negotiations on the General Provisions Regulation (GPR) and fund-specific regulations, because Council and Parliament get a clearer picture of what the Commission wants to achieve with its proposals.

Local beneficiaries are asking for information and guidance about how to implement the funds, for instance on state aid or communication. In theory the guidance provided by the European Commission should be enough and the managing authorities should not "gold-plate" them. However, the guidance provided by the European Commission is targeted to the managing authorities and are all in English.

➩The Commission should provide more user-friendly guidance material in all EU languages.

5. General comment

There is a need for institutional capacity building in all Member States. Managing authorities should also make better and greater use of Thematic Objective 11 (institutional capacity building) and of technical assistance.

Conclusion

The core questions remain:

- What is simplification? Can we agree on a common definition?
- What is the goal of simplification?
- Who should be the main beneficiaries of simplification?
- How can we achieve these objectives?

We believe that it would be very beneficial to involve all actors concerned in the reflection process and to allow a courageous approach. For local and regional authorities, the solution should be established:

- on trust
- by delegated responsibility from central government
- within a clearly set framework
- with results-based targets.

CEMR, the European umbrella organisation of local and regional government associations, and its members are committed to contribute to a fruitful reflection process with the aim to find ways to really simplify European funding programmes and their implementation.

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About CEMR

The Council of European Municipalities and Regions (CEMR) is the broadest organisation of local and regional authorities in Europe. Its members are over 57 national associations of municipalities and regions from 41 European countries. Together these associations represent some 150 000 local and regional authorities.

CEMR's objectives are twofold: to influence European legislation on behalf of local and regional authorities and to provide a platform for exchange between its member associations and their elected officials and experts.

Moreover, CEMR is the European section of United Cities and Local Governments (UCLG), the worldwide organisation of local government.

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