Workshop of the Commission for Economic Policy on

Delivering reforms, investments and cohesion: How to make the European Semester work

European Committee of the Regions, Rue van Maerlant 2, Brussels

11 December 2018, 14:30-17:30, room VMA 3

Background note and questions for discussion
The CoR will adopt an opinion in response to a referral by the Romanian Presidency of the Council (1st semester 2019), on "The result-oriented approach for the cohesion policy on the 2021-2027 programming period, focusing on the need for a balanced approach between regional development strategies and the Country-Specific Recommendations in programming".

The Rapporteur is Mr Rob Jonkman (NL/ECR), Member of the Executive Council of Opsterland. The CoR has been requested to focus on the following aspects: "do the upcoming legal provisions allow enough flexibility for regions? how to better associate the regions in the European Semester?"

The CoR decided that the opinion would also cover the 2019 AGS, which, for the first time, includes territorial disparities in its analytical framework.

After exchanges of views at the CoR's ECON and COTER Commission meetings in December 2018, the draft opinion will be voted at ECON on 14/2/2019 and adopted at the Plenary Session on 10-11/4/2019.

---

State of play

**The European Semester: performance and links with Cohesion Policy in 2014-2020**

The European Semester (ES)\(^1\) was introduced for the first time in 2011, to coordinate Member States' economic policies aimed at reaching the goals of the Europe 2020 strategy.

Delivery on the structural reforms needed to achieve the Europe 2020 targets (which are covered by the non-binding part of the CSRs\(^2\)) has slowed down after the end of the economic and financial crisis\(^3\), despite the Commission's attempts to revamp and streamline the ES.

The most common reasons mentioned for the low implementation rates of the structural reforms addressed by the CSRs (even when measured on a multiannual basis) are lack of enough political ownership at country level and lack of administrative capacity of the public administration at different levels.

Under the ongoing MFF 2014-2020, cohesion policy contributed substantially to the CSRs through ex-ante conditionality. A study commissioned by DG EMPL\(^4\) shows, among others, that 62% of all structural challenges identified in the context of the ES between 2012 and 2015 were within the intervention range of cohesion policy's Structural and Investment Funds (ESIF), and that the ESIF's Operational Programmes addressed 42% of those challenges.

---

Macro-economic conditionality - which the CoR opposes because it would hold regions and cities responsible for budgetary choices which are out of their control\(^5\) - was never used.

**The LRAs in the European Semester**

In 2018, 36% of all CSRs are directly addressed to the local and regional authorities (LRAs), and 83% of them are territory-related\(^6\), which reflects the current division of powers within the EU Member States (MS)\(^7\). Recent Eurobarometer surveys\(^8\) confirms that local and regional authorities are trusted by the citizens more than the other levels of government, and that they are those who can best explain the EU to their citizens.

However, several studies undertaken by the CoR\(^9\) show that the LRAs - though involved in the ES in all MS to a variable extent - fail to be taken on board as partners in the design of structural reforms since the initial stages of the ES.

On 11 May 2017, the European Committee of the Regions adopted an opinion\(^10\) proposing that the EU and its MS adopt a Code of Conduct (CoC) for the involvement of the LRAs in the ES as full partners. As part of the CoC approach, the CoR proposed that territorial analyses be included in all relevant ES documents. So far, the European Commission, while acknowledging the need for a stronger involvement of the LRAs in the ES, has rejected the CoR proposal of a CoC, on the ground that it is not needed and it would have no legal basis\(^11\).

---

### Key issues and CoR positions so far

**Setting a long-term perspective**

The annual exercise of the European Semester, and the seven-annual cycle of Cohesion Policy, aim at pursuing, respectively, the Europe 2020 strategy’s headline targets and the Treaty objective of social, economic and territorial cohesion.

---

\(^5\) COTER-VI/015 - The Future of Cohesion Policy beyond 2020 – rapporteur: Michael Schneider (DE/EPP)
http://webapi.cor.europa.eu/documentsanonymous/cor-2016-01814-00-00-ac-tra-en.docx


\(^7\) [http://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/France/Pages/default.aspx](http://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/France/Pages/default.aspx)


\(^11\) "Yet, the European Commission does not believe that it is necessary to establish a code of conduct on the matter. Focus should be on using and developing further existing good practices in the Member States on the involvement of regions and local authorities in the European Semester.” [https://cor.europa.eu/en/our-work/Documents/Opinions/75th-Report_CoR-Follow-up-opinions-May-2017_FINAL.pdf](https://cor.europa.eu/en/our-work/Documents/Opinions/75th-Report_CoR-Follow-up-opinions-May-2017_FINAL.pdf)
However, the Europe 2020 strategy was operationally discontinued after its mid-term review in 2014, which may have contributed to the current lack of ownership of the CSRs.

In its Resolution on the economic policies of the euro area and towards the 2019 AGS\textsuperscript{12} (adopted on 9/10/2018), the CoR stated that “the European Semester needs to be aligned with an EU long-term strategy translating the UN 2030 Agenda for Sustainable Development at EU level. The transition to a new European strategic framework succeeding the Europe 2020 strategy would be an appropriate juncture for reforming the governance of the European Semester”.

The CoR opinion on “Common Provision Regulation” for 2021-2027, adopted on 5/12/2018\textsuperscript{13}, states that the CoR “regrets that the Commission proposal is not embedded in a renewed long-term strategy succeeding the Europe 2020 strategy; would expect that such a new long-term strategy implementing the Sustainable Development Goals and based on a reformed governance fully building on multi-level governance will be presented by the Commission”.

The European Court of Auditors (ECA), in its opinion on the 2021-2027 CPR\textsuperscript{14} (published on 31/10/2018), states that “Unlike the previous two programme periods, the draft CPR for the next period is not supported by an EU-wide strategy or set of targets. Instead, the CPR proposes five high-level policy objectives which are not translated into measurable, quantified results at the EU level. Thus the CPR fails to articulate a clear vision as to what the EU wishes to achieve through its policies. Rather, it is for the Member States to define the main strategic goals. As a result, in our view, the proposal does not align funding with EU priorities and is less performance-oriented than in the period 2014-2020”.

**Defining structural reforms and their links with investment and cohesion**

In its Resolution on the economic policies of the euro area and towards the 2019 AGS\textsuperscript{15} (adopted on 9/10/2018), the CoR “stresses that reforms are needed in all Member States to foster competitiveness and growth and to increase economic, social and territorial cohesion and economic convergence, as well as resilience to external shocks, which is crucial for the stability of the euro area”.

The EPC Discussion Paper on “Strengthening cohesion in the EU: how can structural reforms contribute?”\textsuperscript{16} (published on 18/10/2018) observes that “A critical element of the post-2020 MFF debate is to assess the extent to which the new EU structural reform agenda will be able to modernise the European economy while supporting EU citizens in territories adversely impacted by the acceleration of globalisation and the advent of a new phase of technical change”.

---

\textsuperscript{12} https://memportal.cor.europa.eu/Agenda/Documents?meetingId=2142388&meetingSessionId=2188193
\textsuperscript{13} https://memportal.cor.europa.eu/Handlers/ViewDoc.ashx?doc=COR-2018-03593-00-00-PAC-TRA-EN.docx
\textsuperscript{14} https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=47745
\textsuperscript{15} https://memportal.cor.europa.eu/Agenda/Documents?meetingId=2142388&meetingSessionId=2188193
\textsuperscript{16} By Robin Huguenot-Noel, Alison Hunter and Fabian Zuleeg (18/10/2018).
In respect to the RSP, the CoR opinion on “The Reform Support Programme and European Investment Stabilisation Function”\(^{17}\) states that the CoR “believes that allocating the overall envelope of the Programme based on population would conflict with the Treaty objective of cohesion, which provides the legal basis of the programme (Article 175 TFEU)”. The same view was expressed by the Economic Policy Committee of the Council of the EU in its opinion on the RSP\(^ {18}\).

Clarity about the aims of structural reforms will be even more important under the 2021-2027 MFF. According to the CPR proposal, the CSRs will have to be taken into account in programming the ESI Funds in at least two occasions, at the beginning of the programming period and at the moment of the mid-term review (on this, see below).

Legislative amendments n° 7 and 21 in the CoR opinion on the “Common Provision Regulation”, mentioned above, suggest that only those CSRs should be considered which are relevant to the scope and mission of the Funds and only when they had been explicitly included in the National Reform Programmes following negotiation with local and regional authorities under art. 6 CPR.

In its opinion on “the amended SRSP and new budgetary instruments for the euro area”\(^ {19}\) (adopted on 22/3/2018), the CoR states that “the scope of these structural reforms eligible for EU support should be limited to policy areas that are relevant for the implementation of the EU Treaty objectives and relate directly to EU competences”.

And the above mentioned CoR opinion on the RSP, states that the CoR “regrets that the European Commission still has not provided a definition of "structural reforms" within the context of EU economic governance and possible support through EU programmes such as the Reform Support Programme. Reiterates against this background that according to the subsidiarity principle, the scope of structural reforms eligible for EU support should be limited to policy areas that are relevant for the implementation of the EU Treaty objectives and relate directly to EU competences”.

**Transferring financial resources from cohesion policy to other EU instruments**

The possibility for national governments to transfer financial resources from the ESI Funds to other EU instruments was recently put on the agenda in two distinct circumstances.

**First**, in December 2017, the EC proposed to amend the CPR to allow transfers of funds from the ESIF Performance Reserve to the Structural Reforms Support Programme (SRSP) 2017-2020, to cope with a higher-than-expected number of applications to the SRSP.

Both the CoR, in its Resolution adopted on 1/2/2018\(^ {20}\), and the EP (on 24/10/2018)\(^ {21}\), rejected the proposed amendment to the CPR based on similar arguments. The rationale put forward in the CoR

---

18 Speech delivered by Mr Wolfgang Merz, Chair of the EPC, at the CoR ECON Commission meeting on 23/10/2018.
Resolution is that “the objective of cohesion policy, as implemented by the European Structural and Investment Funds for which the Common Provisions Regulation provides the overall legal framework, is not to support structural reforms in the Member States but to reduce disparities between the levels of development of the various regions and the backwardness of the least favoured regions”, and that therefore the proposed transfer would “call into question the fundamentals of cohesion policy”.22

Second, the proposed regulation on the new CPR 2021-2027 2021 includes provisions to enable voluntary transfer of resources towards the five policy windows of the InvestEU programme to benefit from an EU-level budgetary guarantee mechanism. Furthermore, Member States could request the transfer of up to 5% of programme financial allocations from any of the funds to any other fund under shared management or to any instrument under direct or indirect management; among others, this would allow MS moving resources from the ESIF to the proposed Reform Delivery Tool, in the context of the Reform Support Programme.

The CoR opinion on the “Common Provision Regulation for the cohesion policy Funds 2021-2027”, mentioned above, states that the CoR “insists that any transfers between the Funds or from the Funds to the InvestEU Programme or to other Union instruments under direct or indirect management need to fully comply with the principles of subsidiarity and multilevel governance and must not weaken the place-based approach of the Funds”.

Strengthening subsidiarity, partnership and multilevel governance in 2021-2027

A) Subsidiarity issues in structural reform support

The fact that the Reform Delivery Tool (RDT) would be centrally managed by the EC, and that its financial contributions would be conditional upon reform commitments identified in the context of the ES, would make the governance of the ES substantially more relevant for EU regions and cities.

The CoR opinion on “the amended SRSP and new budgetary instruments for the euro area”23 (adopted on 22/3/2018) states that the CoR “deplores ... the Commission’s proposal that reform commitment and financial incentives be agreed bilaterally between the Commission and national governments and implemented in the context of the European Semester, without allowing for the formal involvement of regional or local levels of government in line with the internal division of powers within each Member State. There is a real risk that the proposed approach would end up jeopardising this division of powers and violating the principles of subsidiarity and local or regional self-government as defined in the corresponding Council of Europe charters”.

---

21 The EP motivation was substantially identical to the CoR’s: “Members considered that it is important that the funds in the performance reserve are spent as originally intended, on cohesion projects, and are not diverted to structural reforms” https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2017/0136(COD)

22 Both assemblies accepted, in separate decisions, that the initial endowment of the SRSP be doubled with resources coming from the EU budget.

The opinion also states that the CoR “insists ... that in light of the current division of powers, many EU-relevant structural reforms affect areas of shared competence of the national and sub-national levels of government. Therefore, to avoid infringements of the subsidiarity and proportionality principles, Member States must involve their regional and local governments as permanent partners in the design and implementation of structural reforms.

In this context, the asymmetry between shared management (of cohesion policy) and central management (of policies to support structural reforms, based on CSRs issued by the EC) create a subsidiarity concern which challenges both (a) the effectiveness of EU policies (because it does not ensure that regional disparities and territorial impacts are duly considered and makes it more complicated to generate synergies among them) and (b) the principles of partnership and multilevel governance.

This concern is addressed by the CoR in its Resolution on the economic policies of the euro area and towards the 2019 AGS24 (adopted on 9/10/2018), in which the CoR “reiterates that the involvement of the LRAs as partners in planning and implementing the European Semester, along with the adoption of multilevel governance arrangements and a structured, ongoing and explicitly recognised role for LRAs, would substantially increase ownership of CSRs at country level; stresses that this involvement is all the more important in the context of stricter links between cohesion policy and the European Semester under the 2021-2027 MFF and of the possible adoption of the Reform Support Programme, which would also be managed within the framework of the European Semester”.

The CoR proposal of a Code of Conduct for the involvement of the LRAs in the ES, along with a stronger analytical focus of the ES on regional disparities and related needs for long-term investments (in line, and in strict coordination, with the objectives of cohesion policy 2021-2027), would therefore help addressing these subsidiarity issues.

The Resolution “points out therefore a strong need to ensure better coordination and synergies between the European Semester process and the shared management approach, and the decentralized character of the ESI Funds; reiterates its proposal that the EU adopt a Code of Conduct to involve the LRAs in the European Semester”25, and stresses that such proposal is consistent with the subsidiarity principle and the current division of powers and competences across levels of government within the Member States; notes that the Code of Conduct should take into account the relevant experience of the European code of conduct on partnership in the framework of cohesion policy's ESI Funds26, as well as existing good practices of involving LRAs extensively in the Semester, in some countries”.

B) The partnership principle in the CPR 2021-2027

The CoR opinion on “the Common Provision Regulation for the cohesion policy Funds 2021-2027”, above mentioned, states that the CoR “welcomes the fact that the shared management approach is

24 https://memportal.cor.europa.eu/Agenda/Documents/meetingId=2142388&meetingSessionId=2188193
26 Delegated Regulation on the European code of conduct on partnership in the framework of the European Structural and Investment Funds (No 240/2014).
confirmed but points out that actions should continue to be taken at the “most appropriate territorial level” by bolstering local and regional authorities’ role in managing programmes as closely as possible to citizens in line with the principles of subsidiarity, multi-level governance and partnership”.

The opinion also states that the CoR “underlines the importance of the principles of partnership and multi-level governance and calls for the inclusion of the existing Code of Conduct as an Annex to the draft Regulation; calls for the full implementation of the Code of Conduct to ensure that the involvement of local and regional authorities amounts to full partnership”.

C) The EC subsidiarity Communication: a stronger role of LRAs in EU law-making

In its Communication on “The principles of subsidiarity and proportionality: Strengthening their role in the EU’s policymaking”27 (23/10/2018), the EC proposed, among others, to strengthen the role of regions and cities in EU law-making.

The Communication acknowledges that the LRAs “are different to other stakeholders because they are at the forefront of implementing Union law”, and that “there is scope in many cases for the views of national and regional parliaments and those of local and regional authorities to be reflected better by each Member State during the legislative procedure”.

The Communication encourages national governments to “examine how to involve local and regional authorities more effectively during the legislative procedure”. However, it falls short of actively promoting the fourth of the Task Force Recommendations annexed to the Communication, which states that “Member States should follow the European Commission’s guidance and engage meaningfully with local and regional authorities when preparing their national reform programmes and designing and implementing structural reforms as part of the European Semester to improve ownership and implementation of these reforms”.

In the context of the better regulation approach, the Communication emphasizes the need to assess territorial impacts of legislative proposals, and to increase transparency at all stages of the law-making process to ensure that the views of the LRAs and relevant stakeholders are considered.

Overall, the Communication could be seen as strengthening the reasons in favour of the CoR proposal of a Code of Conduct to involve the LRAs in the ES.

The 2019 Annual Growth Survey

Overall assessment

In the light of the CoR Resolution “on the economic policies for the euro area and in view of the 2019 Annual Growth Survey”28, as well as of the CoR Opinions above mentioned, the following points it should be noted that the 2019 AGS29, published on 21 November 2018,


8/10
• stresses that "regional and territorial disparities remain a key issue for concern",
• announces that "a greater alignment of the European Semester and EU cohesion funding" will be pursued by assessing investment needs at country level, "including – where relevant – sectoral and regional dimensions". This will be done in the Country Reports. To this aim, a new annex to the CRs will identify those investment needs that are relevant for the ESI Funds, which "... will provide a solid analytical input to the programming dialogue with MS".

Building on the CRs, the EC will include in the 2019 CSRs "priority areas for public and private investment to further facilitating the implementation of growth-enhancing reforms". In line with the proposed CPR 2021-2027, the CSRs will give guidance to cohesion policy planning in key moments: at the beginning of the new programming period and during the mid-term review (to allow reprogramming the allocations for the rest of the programming period until the end of the MFF). Taking a broader view, the AGS states that "Building on the country reports, the Commission also intends to identify, as part of its proposals for the 2019 CSRs, priority areas for public and private investment to further facilitate the implementation of growth-enhancing reforms".

It should also be noted that the 2019 AGS

• does not bring any clarification on the definition of structural reforms;
• does not mention the LRAs, and adopts governance arrangements which cut the LRAs out from the process which defines the MS' investment needs (including those to be addressed by the ESI Funds, in the "new annex"). Since the investment needs identified in the CRs will feed into (a) the PAs (ESI Funds) and (b) the RSP (reforms addressed in the CSRs), there is a fear that the key decisions of the process will be taken in a process in which the LRAs are not adequately, or not at all, involved – and will influence the implementation of cohesion policy;
• confirms the subsidiarity concerns expressed in the CoR October Resolution, as well as those on coordination between the Semester and cohesion policy expressed in the CoR opinion on the CPR (see above);
• does not (or only partially) address most of the other points raised in the Resolution, such as the unsatisfactory performance of the ES so far (in spite of which, it is charged with new substantial tasks, such as monitoring the RSP), the need to align the ES to "an EU long-term strategy translating the UN 2030 Agenda for Sustainable Development at EU level", the state of local and regional finances, the fact that "the challenge of the quality and capacity of the public administration is more serious in many Southern and Eastern European countries" and that there is a need for the EC "to encourage Member States to address the capacity building needs of sub-national governments".

A major open question concerns the strategic goals of the ES. In the CoR opinion on “the Common Provision Regulation”, above mentioned, the CoR “notes ... an insufficient analysis of the operational procedures for the connection of the European Semester to cohesion policy and a lack of clarity on the modalities of coordination between cohesion policy interventions and the measures of the Reform Support Programme and insists that the specific objectives of cohesion policy are always respected to enhance the regional dimension of the European Semester”.

**Possible questions for debate**

1) In your Member State, how are regions, municipalities and their associations involved in drawing up the NRP?

2) What needs to be done to align cohesion policy's principles of partnership and multilevel governance with the European semester?

3) What lessons can be learned from the Structural Reform Support Programme as regards the coordination between the CSRs and the cohesion programmes, which the Commission wishes to make more binding?

4) How can the subsidiarity principle be fully respected in this connection?

5) Do the current Commission proposals in the draft Common Provisions Regulation allow regions and municipalities sufficient room for manoeuvre to shape the cohesion programmes within the European semester, in accordance with their own possibilities and needs?

6) Under the 2021-2027 MFF, what kind of structural reforms should be prioritised to boost the long-term investments needed to ensure sustainable growth and cohesion in the long run? And how could the local and regional authorities be involved in identifying structural reforms in the context of the European Semester?

7) What should be the objectives attributed to the RSP, the ESI Funds and other EU funding instruments under the 2021-2027 MFF? And how could duplications be avoided and close cooperation between public authorities ensured at the EU and country levels, for these programmes and instruments to deliver effectively on investment and structural reform?

8) How to avoid that EU cities and regions are called to implement policies which are under their remits, but which they cannot contribute to design?

9) What would it take to extend the principles of partnership and multilevel governance which apply in Cohesion policy to the European Semester?

10) Would it be imaginable to bring cohesion policy and the European Semester process (including the identification, implementation and monitoring of structural reforms) under the common hat of a Code of Conduct and Partnership Agreement?