“Annex D bis”: Where should the JTF money go to?”

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In a nutshell

After the presentation of the Just Transition Fund (JTF) legislative proposal earlier in January, the European Commission has presented the so-called “Annex D Bis”, a series of recommendations on priority areas and investments that could be supported via the Just Transition Fund.

The “Annex D bis” gives further details on the intentions of the European Commission on the Just Transition Fund. It’s the starting point of the dialogue between the Commission and Member States on the programming of the Just Transition Fund and provides the basis to develop the Territorial Just Transition Plans for the territories identified.

This note complements the CPMR General Secretariat analysis on the Just Transition Fund and looks at the investment guidance provided by the European Commission for each Member State on the Just Transition Fund to analyze the extent to which:

- Employs the allocation methodology criterion for the identification of the territories.
- Describes the investments to be supported by the Fund and its additionality to cohesion policy.
- Affects the programming process of the Cohesion Policy Funds 2021-2027.

1. Introduction and context

The expectations were running high among regions since the European Commission President, Ursula Von der Leyen, presented in her mandate’ political guidelines the Just Transition Fund (JTF) as one of her most remarkable initiatives with a territorial dimension in order to assure a fair and just transition.

The legislative proposal of the Just Transition Fund (January 2020) and the presentation of the so-called “Annex D bis” in the European Semester Country Reports (February 2020) have set the framework and details on which territories and objectives the JTF should invest.
→ **What’s in the Annex D bis?**

- **100 territories from the 27 Member States** have been identified as the eligible territories to receive funding. *(See the list and map of the territories here)*

- **A range of 11 priority investments** have been established in line with the specific objective established for the JTF ‘enabling regions and people to address the social, economic and environmental impacts of the transition towards a climate neutral economy’. Each of the eligible territories has some of this ranged priority investment assigned.

*Table 1: Table with the priority investments of the JTF*

<table>
<thead>
<tr>
<th>Economic transformation†</th>
<th>Social support</th>
<th>To promote environmental sustainability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investments in research and innovation activities and fostering the transfer of advanced technologies</td>
<td>Job-search assistance to jobseeker</td>
<td>Investments in regeneration and decontamination of sites, land restoration and repurposing project</td>
</tr>
<tr>
<td>Investments in the creation of new firms, including through business incubators and consulting services;</td>
<td>Active inclusion of jobseekers</td>
<td>Investments in the deployment of technology and infrastructures for affordable clean energy, in greenhouse gas emission reduction, energy efficiency and renewable energy</td>
</tr>
<tr>
<td>Investments in digitalization and digital connectivity</td>
<td>Upskilling and reskilling of workers</td>
<td>Investments in enhancing the circular economy, including through waste prevention, reduction, resource efficiency, reuse, repair and recycling</td>
</tr>
<tr>
<td><strong>Productive investments in SMEs, including start-ups, leading to economic diversification and reconversion</strong></td>
<td>Technical assistance</td>
<td></td>
</tr>
</tbody>
</table>

2. **A closer look**

As part of its analysis on the Just Transition Fund, the CPMR raised a certain number of concerns and questions on the structure and definition of the Fund. The presentation of the “Annex D bis” has allowed us to respond to some of the concerns.

1. **The allocation criteria is based at NUTS 2 level whereas the fund targets NUTS 3 level regions**

The allocation formula to determine JTF envelopes at national level is established based on two main criteria per NUTS 2 territories:

- **Share of the greenhouse-gas emissions of industrial facilities** (in regions where carbon intensity exceeds EU average or in the highest carbon intensity region in the Member State)

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† Strong reference to smart specialisation strategies as tools to provide an important framework to set priorities for innovation in support of economic transformation.

‡ It has to be noted that the European Commission has established corrections for an appropriate concentration of resources among Member States: national GNI per capita, capping to an upper limit fixed at €2 billion and minim aid intensity of €6 per inhabitant.
• Impact of the transition on the employment opportunities in the region (direct and indirect job losses in mining of coal and lignite, and carbon intensity industry sectors).

→ Whereas the money has been allocated to Member States applying the criteria at NUTS 2 level, the national allocations will have to be distributed among NUTS 3 regions. How have the territories been identified?

According to the European Commission there is no harmonized statistical data for the NUTS 3 territories in the European Union. As a result, the European Commission was not able to determine the allocations of the JTF based on data for NUTS 3. This has possibly generated distortions in both the determination of the national envelopes and the identification of eligible territories. For example, a number of NUTS 3 territories fulfilling the criteria but diluted in a NUTS 2 region could not have been considered in the establishment of the national allocations as suggested by the think-thank Bruegel. Furthermore, the Commission did not make public aggregated data per NUTS2.

This lack of information makes even more difficult to evaluate the identification of the eligible territories and the distribution of funding. In fact, in the “Annex D bis” the European Commission identifies the eligible territories at NUTS 3 level even if they are not being directly considered in the allocation methodology. For their identification, the European Commission services used the criteria established for the allocation methodology to justify the selection. By this we mean that per territory identified, the European Commission looks at the economic and social circumstances and challenges of the territory in relation to the criteria.

Looking carefully at the Annex D bis of the 27 Member States, we see the following references to justify the eligibility of the territory: the highest share of greenhouse gas emissions with respect to the Member State, significant source of employment (and potential unemployment) in the region of the high carbon intensive companies, high share of the coal intensive industries in the region’ economic sector.

Message:
The CPMR General Secretariat has received several concerns and questions by its members on the reasoning behind the identification of the eligible territories. There’s a general belief that there is a need for clarification on the methodology used by the European Commission to identify eligible areas.

The CPMR has neither the resources nor the knowledge to question the justification given by the European Commission per territory with the national data per Member State on each of the criterion used on the justification. Having said that, to our understanding, a public ranking of the NUTS 3 territories that fulfil the criteria established for the allocation methodology would give greater assuredness on the final identification of the eligible territories. In this sense, the lack of it, makes our concern remain valid. There is still a risk that the decision on the final eligible areas, leads to a discriminatory approach where some regions are favoured over others with no objective reason given the role that Member States play on the final decision of the territories eligible.

2. Transition related investment priorities under the Just Transition Fund and Cohesion Policy specific regulations.

→ Investment priorities under the JTF and cohesion policy both tackle climate and transition related investments. How do priority actions to be funded via the JTF complement cohesion policy funding?
• The JTF’ priority investments to face social costs of the transition are already embraced by the scope of support of the ESF+³ contributing to policy objective 4 “A more social Europe “:
  – improving access to employment of all jobseekers
  – modernising labour market institutions and services to assess and anticipate skills needs and support to labour market matching, transitions and mobility
  – improving the quality, effectiveness and labour market relevance of education and training systems, to support acquisition of key competences including digital skills;
  – promoting lifelong learning, notably flexible upskilling and reskilling opportunities for all taking into account digital skills, better anticipating change and new skills requirements based on labour market needs, facilitating career transitions and promoting professional mobility

• The JTF’ priority investments to promote economic transformation to the territories could have already been funded via ERDF⁴ specific objectives’ specifically those who fall under specific Policy Objective 1 “A smarter Europe” and under Policy Objective 3 “Connected Europe”:
  - Enhancing research and innovation capacities and the uptake of advanced technologies
  - Enhancing growth and competitiveness for SMEs
  - Reaping benefits of digitalisation for citizens, companies and governments
  - Enhancing digital connectivity

• Additional investments JTF’ priority investments that focus on promoting environmental sustainability expand the scope of activities to be funded via already existing cohesion policy Funds. The investments listed for the JTF extend the scope to those mentioned in the ERDF Regulation to develop Policy Objective 2 “A Green Europe” (promoting energy efficiency measures and the transition to a circular economy). Investments in regeneration and decontamination of sites, land restoration and repurposing projects as well as investments in the creation of new firms, business incubators and consulting services bring additionality and broaden the scope of investments regarding those under cohesion policy regulations.

• For some identified eligible territories, there’s a reference to the potential consideration of:
  – Productive investments in large enterprises, if the substantial job losses are not to be offset by development of SMEs.⁵
  – Support to investments to reduce the emissions, provided that they achieve a substantial reduction of greenhouse gas emissions and on the condition that the investments are compatible with the European Green Deal.⁶

Message:
Regarding the objectives of the Just Transition Fund, the CPMR General Secretariat raised its concerns that the objectives of the Just Transition Fund could already be supported through the ERDF and ESF+. Indeed, analysing the range of priority investments of the Just Transition Fund we reiterate that those can mostly be found in the ERDF and ESF+ specific objectives.

Only, few actions related to land restoration and creating of new firms do complement and broaden the scope of cohesion policy activities. Specific attention hast to be put on the productive investments in large enterprises and the support to investments to reduce greenhouse emissions as

³ Based on the European Commission’ proposal for a European Social Fund + Regulation - COM(2018) 382 final
⁴ Based on the European Commission’ proposal for a European Regional Development Fund Regulation - COM(2018) 372 final
⁵ For specific territories in Bulgaria, Chezck Republic, Poland, Portugal, Romania and Slovakia.
⁶ Specific territories in Belgium, Denmark, France, Croatia, Italy, Slovakia, Sweden, Portugal, Romania, Cyprus, Lituania, Luxembourg, Hungary, Austria, The Netherlands.
both actions are excluded from support via the ERDF as per the European Commission proposal (May 2018), emphasizing the idea that those funds transferred from the ERDF and the ESF+ to the JTF will follow JTF rules.

3. **Consideration of specific territories and CPMR policy areas of interest**

- **Specific types of territories** represented in the CPMR membership are addressed in the following cases:
  - **Islands**
    - Island territories subject to funding are only the Aegean islands and Crete. Greece’s Annex D bis is the only “Annex D bis” that addresses island related challenges for energy transition and makes reference to the “Clean energy for EU islands” initiative.
    - The area of Sulcis-Iglesiente in Sardegna is an eligible territory to receive funding but the justification is linked to the existence of a coal mine in the area rather than to its island condition.
    - Cyprus’ “Annex D bis” does not mention any challenge related to its specific condition as island Member State on the establishment of the priority investments that the eligible territories should focus on.
    - In the other hand, Malta’s “Annex D bis”, while not referring it as an island challenge per se, it does consider investments related to island specificities to face the transition, as the areas identified as eligible cover the two main Maltese ports.
  - **North sparsely populated areas**
    - Some northern sparsely populated areas are eligible territories as established in the Annex D bis for Sweden and Finland (East and North Finland and the Swedish regions of Norrbotten and Västerbotten). The need to transition from peat to carbon neutral energy production and the carbon intensity of the steel industry, respectively, make them eligible according to the European Commission.
  - **Outermost regions**
    - No outermost region territory has been subject of eligibility under the Just Transition Fund.

- **CPMR policy areas of interest.** The Just Transition Fund covers cohesion policy and climate policy spheres of work but other CPMR policy areas of interest as transport and maritime policy can have a strong related climate approach in order to help regions to assure to achieve a just and fair transition.
  - The general approach of the priority investments established for the Just Transition Fund open the possibility to fund actions under transport policy or maritime policy, even there’s no explicit reference.
  - It is only in Malta’s Annex D bis where there’s a reference that for the island the largest source of non-ETS GHG emissions comes from transport and need that the JTF focus on the two main Maltese ports.

**Message:**
Even having a marked territorial dimension, there’s no specific consideration in the “Annex D bis” to those areas that face geographical challenges and tend to rely heavily on diesel fuel and oil to generate electricity, with significant negative impacts on emissions and the competitiveness of businesses. In the case of islands, it’s remarkable that EU islands are not identified in the JTF when there’s in place the “Clean Energy for EU islands” initiative to help islands energy transition.

The general approach of the different investment priorities under the Just Transition Fund allow the possibility that actions under transport and maritime policy could be financed via the Just Transition Fund. It’s worth to note that the challenges or the use of fossil fuels on transport has not
been considered for the allocation methodology. Specific attention to the contribution to EU funds to innovative and sustainable European transport system in order to meet targets on carbon neutrality and sustainable blue growth could have been highlighted.

4. The “Annex D bis” in the Programming of the JTF

The possibility that the JTF resources can be programmed as priorities within a cohesion policy funding programme, together with the establishment of specific transfers from cohesion policy allocations (ERDF and ESF+), makes the legislative framework as well as the programming of the JTF a key element to be considered on the ongoing programming meetings between the European Commission and the Member States on the Cohesion Policy Funds 2021-2027.

JTF: THE LEGISLATIVE PROCEDURE

The programming of the actions to be funded under the JTF will depend on the advancement of the legislative procedure between the European Parliament and the Council of the EU for the approval of the Regulation.

The European Parliament

MEP Manolis KEFALOGIANNIS (EPP, EL) has been appointed as the REGI Committee rapporteur on the file. His report will be presented in the next REGI Committee meeting followed with a procedure of amendments. The report should be voted at REGI Committee level late June and in the EP plenary in July*. According to our information, the rapporteur intends to amend the regulation on these specific points:

- Reinforcement of the need that the selection of eligible regions at national level must be based on an objective method.
- No mandatory minimum on the ERDF/ESF+ transfer mechanism.
- Calculation of national allocations should be based on NUTS 3 level data.
- Inclusion of references to pay attention to insular or remote areas (in the allocation methodology and on the priority investment on clean energy).

The Council of the EU

First discussions have already happened at the Structural Measures Working Party which is the configuration leading in the Council of the EU. Article 3 (Geographical coverage and resources for the JTF) and Annex I (Allocation methodology) are not being discussed as to our information this provision will be discussed as part of the MFF negotiations.

The negotiations between co-legislators on the legislative proposal could take until 2021, perhaps even later than the Cohesion Policy Regulations, notwithstanding the need for an agreement on the Multiannual Financial Framework 2021-2027.

*The timeline could fall behind schedule as a result of the coronavirus crisis. So far, the REGI Committee meeting in which the report was supposed to be presented (April 2nd) has been cancelled as all parliamentary activities until the end of April.

1. For those eligible territories identified:
• Member States will elaborate the **Territorial Just Transition Plan** determining the territories to be targeted and the distribution of resources among them. The plan will form the basis for programming the Just Transition Fund and will be discussed between the European Commission and the Member States.

• Feeding into the already ongoing programming process, the **Member State will have to establish a specific JTF operational programme or to introduce JTF priorities under other cohesion operational programmes**. The potential approval of the JTF Regulation at a later stage than the relevant Cohesion Policy Funds Regulations (CPR, ERDF-CF, ESF+) could imply:
  a) The postponement of the approval of the Operational Programs until the JTF Regulation is approved, so operational programmes can already include the priorities targeted under the JTF.
  b) The amendment of the Operational Programs in order to introduce the actions under the JTF. Most probably, the Operational Programs will have to be amended after being in place for few months.
  c) The establishment of a National Operational Programme for the JTF. Due to the small budget it would make sense to establish a national operational programme rather than a regional operational programme for each of the eligible territories. This option would imply losing out the regional and territorial approach of the JTF.

2. **For the non-identified territories in the Annex D bis:**

The non-identified territories under the Annex D bis are not subject to receive support from the Just Transition Fund nor the other pillars of the Just Transition Mechanism. In this sense:

• Territories should proceed to the programming of the cohesion policy funds.
• According to the European Commission, **territories that have not been identified as eligible could receive funding via the Pillar 3 “EIB public sector loan facility” if there’s an initiative put in place in the territory that affects positively to the transition of an eligible territory.**

  → The legislative text of the JTM third pillar “EIB public loan facility” should be presented by the European Commission in April.

• To our information, some Member States will try to expand the list of eligible territories compared to the “Annex D bis”, potential changes on eligibility could happen in some Member States.
Main messages from the CPMR General Secretariat

We welcome the marked territorial dimension of the Annex D bis. The Annex D bis gives a clear view of the intentions of the European Commission on the Just Transition Fund.

We are concerned that despite the high ambitions and expectations generated by the European Commission the implementation of the JTF will result in a limited number of beneficiaries. The CPMR supports the need to ensure a fair and just transition that considers every region’s challenges and conditions to reach to climate neutrality, as underlined in its recently approved Policy Position “CPMR at heart of the European Green Deal”.

However, we note that the additional EUR 7.5 billion proposed for the Just Transition Fund is a modest budget to put in place a fair transition for all European regions. The preservation of an ambitious budget for cohesion policy post-2020 must remain the main priority to fight climate change at territorial level.

Although the harmonized justification of the territories identified in the Annex D bis is in line with the allocation methodology criteria, we consider that the lack of EU harmonized NUTS 3 data undermines the exercise done as does not allow the comparison between territories and weakens the final identification done of the eligible territories. This is further complicated by the fact that the Commission did not publish the break-up per NUTS2 regions used to determine the national allocations. There is a risk that the lack of transparency on the data could be exploited by Member States to unbalanced determination of territories and distribution of funds.

We are concerned on the decisive role that Member States take on the identification of the eligible areas and on the distribution of resources among them, no matter the identification of eligible areas done by the European Commission in the Annex D bis.

Concerning the scope, the “Annex D bis” seems to confirm our impression that most activities eligible under the Just Transition Fund could have already been supported through the ERDF and ESF+. The scope and the implementation of Just Transition Fund should be better clarified to avoid overlaps with existing cohesion funding and ensure smooth synergies to maximize the impact.

The stronger link between Cohesion Policy (including the JTF) and the European Semester generates the need to reconcile cohesion policy’ partnership and multilevel governance with the logic of the European Semester. Local and regional authorities must be effectively involved at national level as partners of the European Semester dialogue in which cohesion policy priority investment policies are shaped.

An acknowledgment on the role that the European Semester plays in the programming and implementation of Cohesion Policy must be highlighted on the recently launched debate on the review of the EU economic governance.

We ask the European Commission to ensure that Cohesion Policy operational programs that are already under preparation will not be further delayed nor suffer from additional bureaucracy complexity because of the introduction of the JTF under these programs.
The Conference of Peripheral Maritime Regions (CPMR) represents more than 150 regional authorities from 24 countries across Europe and beyond. Organised in geographical commissions, the CPMR works to ensure that a balanced territorial development is at the heart of the European Union and its policies.

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