Executive Summary

• In 2017 a proposal emerging from the debate over the future of cohesion policy was the establishment of a single territorial fund by merging all existing European Structural and Investment Funds (ESIF). The rationale behind this idea was to deliver full legal harmonization and efficiency across the board, thereby lightening the administrative burden on national and regional authorities in charge of managing the funds.

• Four years on, the EU seems nevertheless to be heading in the opposite direction. Not only have the funds or instruments hailing from the EU structural and cohesion policy increased in number. More worryingly, they are faced with growing fragmentation being scattered under different legal and/or strategic frameworks.

• This piecemeal approach is epitomized by the departure of the EAFRD (rural development) from the ESIF funds and their legal basis. The creation of the Recovery and Resilience Facility adds to the uncertainty as the new instrument will de facto pursue investment priorities very similar to cohesion policy’s but under a different legislation and governance.

• Fissures are also emerging within the cohesion family: the ESF+ and ERDF risk gradually parting ways in the absence of a common framework. At the same time, another new instrument, the Just Transition Fund, is joining the cohesion funds but its added value appears questionable. As part of the Fitfor55 package, the Commission has also proposed a Social Climate Fund whose implementation can be delegated to managing authorities of cohesion funds.

• The centrifugal trend affecting the EU cohesion and structural policy has negative effects both in the short and the long term. In the short run, it creates additional bureaucracy for managing authorities already overstretched as well as overlaps and duplications between the funds.

• In the medium term, this fragmentation is likely to harm core principles of cohesion policy such as the multi-level governance and the place-based approach. Ultimately, the current situation may heavily affect the design and budget of cohesion policy funds in the post-27 scenario. At a broader level, the multiplication of funds calls into question the efficiency of EU action to stimulate investment at territorial level.
1. Introduction

In 2017 a proposal emerging from the debate over the future of cohesion policy was the establishment of a single territorial fund by merging all existing European Structural and Investment Funds. The rationale behind this was to deliver full legal harmonization and efficiency across the board, thereby lightening the administrative burden on managing authorities. The idea did not come across as far-fetched. Even the then commissioner for regional policy, Corina Crețu, championed it. At the time, the Commission was making no secret of his intention to trim the number of EU spending programmes under the MFF 2021-2027.

Four years on, the EU seems nevertheless to be heading in the opposite direction. Not only have the funds or instruments contributing to the EU structural and cohesion policy increased in number. More worryingly, they are faced with growing fragmentation being scattered under different legal and/or strategic frameworks. The “structural funds family”, whereby all these funds used to be subject to the same set of general rules and objectives, has de facto ceased to exist under the 2021-2027 programming period.

The rural development fund (EAFRD) will no longer be governed by the common provisions regulation (CPR), having been incorporated into the CAP legislation in view of ensuring a better alignment with its first pillar. The ESF+ is now more geared towards serving the priorities of the European Pillar of Social Rights and the European Semester, though it remains under the cohesion policy legislation.

The EU response to the Covid-19 led to the creation of two temporary instruments: the Recovery and Resilience Facility (RRF), whose objectives include inter alia the social and territorial cohesion despite being governed by rules that are very different from cohesion funds’; the REACT-EU, whose resources have been challenged into 14-20 cohesion policy programmes.

Another new fund, the Just Transition Fund, has been established to tackle the social costs of the transition. As part of the Fitfor5S package, the Commission has recently proposed a Social Climate Fund whose implementation can be delegated to managing authorities of cohesion funds.

The result is that under the new period the structural and cohesion policy of the EU has been consigned to a piecemeal approach. The implications are far-reaching, in terms of additional redtape for managing authorities, overlaps and duplications between the funds, visibility of the financing. In the medium term, this fragmentation is likely to harm core principles of cohesion policy such as the multi-level governance and the place-based approach. It may also affect the design of the MFF post-27 at the expense of cohesion policy.

2. A different look at the Treaty

How can the growing fragmentation be seen from a legal point of view? To be sure, it does not run counter the letter of the Treaty. But it appears to betray somewhat its spirit.

The European Structural and Investment Funds as a whole are formally set out under article 175 of the Treaty on the Functioning of the European Union. Introduced first with the European Single Act in 1986, this article explicitly bundles together the three main funds (ERDF, EAFRD, ESF) under a common

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purpose: promoting a balanced territorial development by reducing regional disparities in accordance with the objectives spelled out in article 174.

Article 177 TFEU hints that the Structural Funds may be grouped under the same general provisions, thereby implying a preference for this configuration. Accordingly, the Commission opted for a single legal basis in previous budgetary periods (except for 2007-2013).

The departure of the EAFRD from the common framework breaks this convention and sets a different course. This signals a different reading - seemingly less rigorous - of both article 175 and 177. The legal obliteration of the term “European Structural and Investment Funds”, resulting from the “divorce” between rural development and cohesion, seems to confirm this direction. The new governance of the EAFRD, based upon national strategic plans, makes it harder to contribute to the objectives set out in article 174.

Article 175 has also provided the legal basis for the creation of the Recovery and Resilience Facility. The article stipulates, inter alia, that additional instruments, outside the structural funds, can be set up to contribute to the economic, social and territorial cohesion. Nonetheless, the Facility is only partially geared towards these goals whilst it focuses primarily on other priorities: namely the green and digital transition. Here again we are looking at a looser interpretation of the Treaty.

3. The big split

3.1 So long, rural development!

The EAFRD forms the second pillar of the Common Agricultural Policy (CAP). It is meant to deliver one of the three main objectives of the CAP, i.e. promoting a balanced development of rural areas. This has provided a compelling rationale for pairing the EAFRD with cohesion policy funds under a common framework (CPR) until the 2014-2020 period.

The two main benefits of a single legal basis were that the EAFRD sit on similar implementation procedures and thematic priorities – albeit with a strong agricultural angle – to cohesion policy. At national level all the funds were planned under the same strategic framework, the Partnership Agreement, which ensured coordination across them. It is worth mentioning that the EAFRD was in some Member States the largest territorially-oriented European Structural and Investment Fund.

The departure of the rural development from the CPR entails substantial changes. The resources of the fund will not be channeled any longer into programmes, but will be delivered through national plans also covering the first pillar. This is not a minor difference, especially in Member States which have set up so far rural development programmes at regional level. At the same time, the objectives of the EAFRD will not be aligned any more with cohesion policy ones. Up to 15% of EAFRD resources could be transferred to the allocation for direct payments (the other way round is also allowed but very unlikely).

It should be noted that the partnership principle will continue to apply to the EAFRD, regional authorities can be involved in the implementation as intermediate bodies and a small percentage of the fund will be earmarked for community-led development initiatives (LEADER). It is nevertheless hard to overlook the fact that the new set-up will affect the placed-based dimension of the rural development fund as well as its governance.
3.2 ESF+ and ERDF: separated under the same roof?

Despite incorporating a new direct-management strand, the ESF+ will remain a fully-fledged component of cohesion policy. There are however signs that it is gradually parting ways with the other two cohesion funds (ERDF and Cohesion Fund). In the 2014-2020, the three funds were underpinned by a common strategic framework: the agenda Europe 2020. Under the 21-27, the ESF+ is designed to implement the European Pillar of Social Rights and the social and employment priorities of the European Semester.

Conversely, the ERDF and cohesion fund do not specifically obey to any specific framework (sic!), although cohesion policy as a whole is linked to the European Semester process in multiple ways². This might produce a misalignment across the funds. The European Green Deal, to which cohesion policy is expected to contribute to a large extent, adds yet another layer. Furthermore, the ESF+ fund specific rules are designed in such a way to encourage further centralization.

3.3 Just Transition Fund, Just Another Fund

The Just Transition Fund was put forward in January 2020 as one of the flagship initiatives of the - then recently appointed - Von der Leyen Commission. The fund has joined the family of cohesion policy funds for 2021-2027, thereby integrating its legal framework. The main aim of the Just Transition Fund is to mitigate the socio-economic costs caused by the climate transition in areas with high dependence on fossil fuel and carbon-intensive industries, by supporting their economic diversification and reconversion.

The rationale for the JTF is clear. Yet its relatively tiny envelope pales in comparison to the magnitude of challenges it is intended to address. Moreover, the majority of activities eligible under the Just Transition Fund could be in principle supported through the ERDF and ESF+. Lastly, only a limited number of areas are targeted by the fund. These three aspects alone call into the question the added value of setting up a new fund to tackle the transition.

Early evidence in terms of implementation points to various issues. According to the Commission, the preparation of Just Transition Plans is progressing slowly, further delaying the programming process.

Many local and regional authorities lament either an inadequate involvement in programming the funds or increased administrative burden stemming from having to deal with another fund.

3.4 The Next Generation EU tsunami

The Recovery and Resilience Facility (RRF) is the centerpiece of the Next Generation EU instrument. Article 3 and 4 of the RRF regulation lays out that promoting the economic, social and territorial cohesion is among its primary objectives. The legal basis for its establishment is Article 175 which provides for the possibility of setting up new instruments with the same purposes of the structural funds.

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² E.g. Partnership Agreements and programmes should take into account country-specific recommendations.
The thematic scope of the RFF is in fact very similar to the ERDF (they even share the same list of categories of interventions) and, to a lesser extent, the ESF+. As the CPMR early spotted\(^3\), this has sparked concerns over the risk of overlaps and competition between RRF and the cohesion funds. The RRF sits on a governance as well as operational rules which differ a great deal from cohesion policy. Hence, it is likely that, despite similar objectives in terms of cohesion, the two will be implemented in parallel with little coordination. On the one hand, the lack of local and regional involvement has been thus far apparent in the definition of the recovery plans. On the other hand, the RRF implementation is subject to much less administrative constraints than cohesion policy.

4. Present and future implications

The centrifugal trend affecting the EU cohesion and structural policy has negative effects both in the short and the long term.

In the short term:

- Early signs and evidence collected from CPMR Member regions strongly suggest that Member States and regions are coping with considerable administrative burden having to manage or implement a growing number of funds or instruments governed by different legal bases. This may partially or entirely offset the benefits of simplification measures introduced under the new CPR.

- The administrative capacity of many authorities involved in managing or implementing the funds will come under heavy pressure. This could impact the smooth delivery of the funds and slow down their implementation. Current delays in the preparation of the partnership agreements for the cohesion policy funds are an illustration of that. In this moment, national and regional authorities are dealing at the same time with the implementation of the outstanding 14-20 funds, including the React-EU top-up, the national recovery and resilience plans, the planning of the 21-27 funds. It is easy to anticipate delays and bottlenecks.

- The sheer number of funds heightens the risk of double-funding, overlaps, possibly competition. The asymmetric governance across the funds may prevent effective coordination.

In the long term:

- The fragmentation and multiplication of funds appear to reinforce an existing trend towards centralization of certain management aspects at national level. The RRF has been designed with a firm top-down governance. Despite targeting NUTS3 areas, the JTF resources are being channeled to national programmes in several Member States. Likewise, the new strategic orientation of the ESF+ might lead to more of its resources being allocated to national programmes. As discussed above, the EAFRD is also becoming more centralized. The result is
that the multi-level governance will be undermined, though to a different extent, nearly everywhere across the EU. Similarly, the implementation of the funds, including the cohesion policy, is likely to be less place-based than in past periods.

- As an additional concern, the fragmentation and multiplication of funds runs counter to a long lasting objective to ‘simplify’ the delivery of European Structural and Investment Funds – or more broadly to increase efficiency when it comes to delivering EU funds at territorial level. In 2017, the CPMR had asked the European Commission to develop a framework conducive to delivering simplification not only for beneficiaries of EU funds, but also for managing authorities. Such a proposal should be reinstated for the post-2027, and perhaps reinforced to demand a more integrated framework for delivering EU funds.

- As mentioned above, the current bottlenecks and delays affecting the delivery of EU Structural and Investment Funds will no doubt generate a negative debate regarding the added value and efficiency of cohesion policy around 2023, ahead of the mid-term review and the preparation of the post-2027 period. The temptation will be great from the side of the European Commission to consider the merits of Cohesion policy solely via the absorption rates of the funds, which are likely to be at all time low.

- The emerging set-up may heavily affect the design and budget of cohesion policy funds in the post-27 scenario. There are early signs that the RRF may become a benchmark for the other EU instruments. Elements of its governance or delivery mode may be transferred into cohesion policy further weakening its core principles, in particular the partnership principle and multi-level governance. An option becoming more likely by the day is that the RRF is extended in some form into the next budgetary period. This may imply siphoning resources out of the cohesion budget or even absorbing it altogether (especially if ‘frugal countries’ veto financing the RRF 2.0 through additional borrowing on the markets or new own resources). This may spell the end of cohesion policy as we know it. The JTF may also secure much more funding at the expense of other cohesion policy funds as the priority in terms of cushioning the impact of transition will become even more pressing.

5. Conclusion: Three questions for the future

It seems at this stage premature to propose a reflection on post-27 MFF and cohesion policy. The current situation suggests nevertheless a few questions that should be taken into due consideration in the discussions on the future investment policies of the EU, once they will start in earnest.

First of all, should the current trend towards fragmentation be reversed through the creation of a single territorial fund by merging the structural funds? The pros and cons of this option should be carefully assessed and openly debated.

Secondly, should the partnership approach and multi-level governance be incorporated in any follow-up version of the RRF? There are indications that the RRF might be extended into the post-27 MFF, albeit it might take a different form or guise. If this is the case, it would be crucial to discuss how to make its governance less top-down.

Thirdly, should there be a clearer differentiation/demarcation in terms of what the RRF (or any future instrument with similar objectives) supports versus ESIF funds? The multiplication of instruments and funds increases the risk of overlaps. It would be important to discuss how to best differentiate the scope and objectives the funds.
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.