Delays in the MFF post-2020: Implications for Cohesion Policy

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In a nutshell

This note looks at the timing of the negotiations over the Multiannual Financial Framework (MFF) for 2021-2027 and its implications for Cohesion Policy. Delays in the legislative process coupled with the disruption of administrative activities due to the Covid-19 outbreak could cause the first post-2020 cohesion policy programmes to start the implementation no earlier than late 2021 or even early 2022.

The upcoming publication of a revised MFF proposal by the Commission is likely to have little or no bearing on this situation.

This note presents different scenarios related to the adoption of the MFF for 2021-2027. It argues that a prologation of current cohesion policy programmes – preferably under an extended MFF 2014-2020 – is needed to avoid a disruption of funding.

1. The Context: No deal in sight?

To date, no agreement has been reached by Member States on the next Multiannual Financial Framework (MFF), the long-term budget of the EU. Two EU summits, in December 2019 and February 2020, failed to strike a deal. The novel coronavirus outbreak has complicated the situation further. The negotiations, which were originally expected to resume at the European Council held on 26 March, have been pushed back instead. On 28 March, the Commission announced that it would propose modifications to the proposal in view of addressing the fallout of the Covid-19 crisis. At the time of writing, it is still unclear when the new proposal will be presented.

Even before the Covid-19 emergency came to disrupt the EU agenda, it had become clear that the negotiating process would have lasted longer than in any previous period. The Treaty requires that the MFF is unanimously agreed by the Council and approved by the European Parliament (Art. 312, TFEU). Looking at past experiences, this means that once an agreement is found in the Council, months of tough
negotiations with the European Parliament (EP) will likely ensue. For comparison, the current MFF (2014-2020) was agreed upon by Member States in February 2013 but the European Parliament gave its consent only on 19 November 2013.

Under such exceptional circumstances, the Council and the EP may still resolve to put aside their divergences and adopt the revised MFF proposal in a short period of time, so that the framework is in place from day one of the new period. This is far from granted, however. So far, the negotiations have put on display the existence of profound differences, if not opposing visions. It would be naive to think that they would all disappear overnight, irrespective of the content of the new proposal.

WHAT THE DEADLOCK MEANS IN PRACTICE

The current impasse has important implications for the post-2020 programmes of the EU, all the more those under shared management. Once the MFF is adopted its elements will have to be incorporated into the various specific regulations (e.g. Common Provisions Regulation, fund specific regulations for ERDF, ESF+, etc.). Only after these legal texts are in turn adopted, the preparation of cohesion policy programmes can be finalized by national and regional authorities and approved by the Commission.

This process could take several additional months, even though the Commission has launched an informal dialogue with Member States since Spring 2019 – more than half a year earlier than for the 2014-2020 period – to ensure mature draft of programmes are ready by the time the MFF is adopted. Hence, the official negotiations leading to approval of programmes will have been much shorter – the preparation of programmes takes on average 2 years. More specifically, the Commission requested Member States to draw individual roadmaps according to which the bulk of programmes would have been adopted between the third and the fourth quarter of 2020.

This timeline has been torpedoed by the stalemate in the MFF talks. The Covid-19 represents a further leap into the unknown. As the ordinary activity of most national and regional authorities has been disrupted by the crisis (including regarding the implementation of 2014-2020 programmes) the preparation of new programmes will be slowed down or halted for several months generating additional delays. To which extent it is hard to tell at this stage.

As a result, it is a certainty that post-2020 cohesion policy programmes will start being implemented with severe delays, presumably no earlier than end 2021 or early 2022 in the best-case scenario. All EU programmes and funds will certainly be affected to varying degrees.

A CONTINGENCY PLAN

A smooth transition between the two financial periods looks unrealistic. For months now, an increasing number of stakeholders, including the CPMR, have called on the Commission to present a plan designed to avert the resulting disruption in the flow of EU funding. The European Parliament has formulated this request via a resolution adopted in October 2019 and an Own-initiative Report to be voted in the coming weeks. This text requests the Commission to table a MFF contingency plan by 15 June 2020 at the latest, unless an agreement between the EP and the Council is not found by that date.

The plan would consist in extending the time limit of current expenditure programmes by amending the relevant regulations. Under this temporary framework, current EU programmes would continue to

operate beyond the current deadline, having the possibility take new financial commitments until at least end 2021 with fresh funding.

The plan will apply not only in case a deal on the MFF is not found by end of 2020 but also if an agreement is reached before the end of the year. In this latter instance, the implementation of all EU new programmes would experience significant delays all the same, which would make the extension of current ones highly desirable. Therefore, the contingency plan appears to be the best option on the table, all the more considering that urgent investments will be needed to cope with the social and economic impact of the Covid-19.

The Commission has so far resisted the idea of a contingency plan, at least publicly. It rather supports an agreement on the MFF by the end of the year but without the extension of current programmes (with the exception of the CAP). The Commission argues that an extension of the current MFF – as per art. 312 TFEU – would entail addressing a series of contentious elements (i.e. extension of rebates; redefinition of national contributions to cover Brexit gap) which would stoke further tensions among Member States. This will ultimately lead to a similar deadlock as the current one. It must be noted that the contingency plan requested by the European Parliament envisages an extension of current programmes by one year, not necessarily of the current MFF.

2. Three possible scenarios

The MFF game is as open as ever. The revised proposal due to be published by the Commission will not resolve the issue of the delays. Bearing this in mind, what are the possible scenarios ahead and what are the implications for cohesion policy?

SCENARIO 1

MFF adopted by the end of the year, no extension for cohesion programmes

This scenario looks unlikely but still possible, especially with political pressure mounting on both the Council and the EP in the light of the current emergency. It would imply that Member States strike a deal on the revised MFF proposal before the Summer break and the European Parliament is willing to soften its position to approve it by November/early December at the latest. The compromise would be adopted before the end of December – at the eleventh hour.

The CPR and the fund specific regulations are likely to be adopted in early 2021. Most programmes are finalized and approved in the second half of 2021, which means they are up and running no earlier than 2022. However, the approval of a non-negligible number of programmes could well stretch into 2022.

This is not a new scenario. It would be similar to what happened in 2014-2020, when MFF and CPR were both approved in December 2013 effectively causing the implementation to start two years later. To put this in numbers: no expenditure was recorded in 2014, as programmes where still not ready, whereas payments to programmes in 2015 were worth only 1% of the total ESIF envelope.

A delay of 1 or 2 years appears to be a catastrophic scenario looking at the need to inject investment into the economy to weather the Covid-19 crisis.
MFF adopted by the end of the year, but current cohesion policy programmes – or all EU programmes – are extended to 2021

Under this scenario, the MFF is adopted in late 2020 but ad hoc rules are adopted to allow for an extension of current cohesion programmes (2014-2020) while post-2020 regulations and programmes are finalized.

This option is intended to avert the risk of a funding disruption between the two periods. The transition provisions would give Member States the possibility to prolong the programmes for 2014-2020 for 1 year. The extension will be financed from the corresponding budgetary allocation within the annual breakdown for the year 2021 (independently of which MFF is in place). Member States that decide to make use of this possibility will have to notify the Commission within 10 days after the entry into force of the regulation. A request to amend the programmes for the year 2021 will probably have to be submitted. The programmes would continue benefiting from the ample flexibility provided under the two packages “Corona Response Investment Initiative” to address the fallout of Covid-19 (i.e. 100% EU cofinancing; easier re-programmation; loosening of thematic concentration; direct support to SMEs working capital).

Member States that choose not to extend their programmes will carry over the budget allocation for 2021 adding it to their 2022-2027 allocations (the new period will in effect start for all programmes in 2022). Current rules allow programmes to run investments until 31 December 2023 provided that legal commitments are taken before the end of 2020 (under the so called n+3 rule). Therefore, certain Member States may not need to extend their programmes as they’ll still have funds to spend throughout 2021 – and potentially until end 2023.

This scenario is far from implausible. The Commission has already put forward transition rules applying to current EARDF programmes, originally due to slow progress in the negotiations over the CAP legislative texts for 2021-2027. The same framework could be adapted to the cohesion policy funds with only minor changes. One advantage is that the CAP transition rules provide already for (most of) the necessary amendments to the CPR to accommodate for the extension of all programmes spanned by the regulation. The cohesion transition rules will mainly have to amend the fund-specific regulations and define the annual breakdown by Member States for the envelope 2021.

A variant of this scenario is that the Commission presents a plan extending all expenditure programmes, direct management as well as shared management, as requested by the European Parliament.

MFF is extended by (at least) 1 year, so are all EU programmes

This scenario is becoming quite likely in the light of the Covid-19 emergency and the need to rely on an “emergency budget” to face the immediate impact of the crisis. In case no deal is reached by end 2020, the Treaty provides for an automatic extension of the ceilings and other provisions of the last year of the present framework.

There are a few caveats though. As explained in a note from the European Policy Centre³, an amendment to extend the time limit set in the MFF regulation is needed. In addition, further modifications are also

³ Pilati, Marta (2020), « Extending the MFF: The need for an ‘emergency’ 2021 budget »
needed to account for funding gap left by the UK contribution. The ceilings would need to be adjusted (or national contributions raised) and it is not granted that negotiations on these aspects go smoothly. Rebates, which a highly divisive matter, will expire and need to be renewed.

Secondly, almost all basic acts related to EU funds/programmes will have to be amended as they contain expiry dates (end 2020). For Cohesion policy the arrangement will be identical to that described in scenario 2. Modifications to the regulation will be put forward so that programmes are extended by one year. This option would ensure that current programmes are used to cope with the negative effects of the Covid-19. Member States and the European Parliament will have more time to negotiate on the revised proposal of the Commission.

The CPMR Secretariat considers that an extension of the current MFF by at least a year would appear to be the best option:

- It would provide much needed stability and certainty regarding programming ESIF for the 2014 – 2020 period to managing authorities.
- It would provide ample preparation time for post-2020 programmes to be developed and adopted in due course, thus avoiding risks of delays and disruptions when it comes to the delivery of funding to beneficiaries.
MAIN TAKEAWAYS

• Cohesion Policy is going to play a key role in addressing the social and economic fallout of the Covid-19 crisis. This is why it is paramount to ensure a smooth transition between the current and next programming period.

• Unfortunately, the stalemate surrounding the negotiations on the post-2020 MFF, coupled with the disruption of administrative activities in many regional/national authorities due to Covid-19, are likely to cause severe delays in the implementation of cohesion programmes for 2021-2027.

• According to the CPMR General Secretariat, the current impasse could result in programmes being up and running no earlier than late 2021-early 2022. Such disruption of cohesion policy investment between the two programming periods would have a ruinous impact on national and local economies, all the more given the current circumstances.

• In the light of this, the General Secretariat of the CPMR believes that an extension of the current cohesion policy programmes by 1 year is the most suitable and desirable option at this point in time. We think the Commission should quickly present such proposal which may also allow programmes to benefit more from the measures proposed under the CRII and CRII 2.0.

• The General Secretariat of the CPMR notes that the adoption of transition rules allowing to prolong the cohesion programmes does not pose particular problems from a legal standpoint. The Commission has already put forward a similar framework for the EARDF.

• The extension of cohesion programmes could take place irrespective of whether the post-2020 MFF is adopted by end of the year or an extension of the current one is agreed upon. The CPMR General Secretariat supports the extension of the current MFF by 1 year on the ground that it will give more time to negotiate a more ambitious MFF for 2021-2027 to best respond to the multiple challenges posed by this unprecedented crisis in the long term.

• Besides, the General Secretariat of the CPMR calls on the Commission to present a contingency plan, extending all EU expenditure programmes, along the lines of the proposal put forward by the European Parliament.