

16.12.16

DecisionOf the Bundesrat

Communication from the Commission to the European Parliament and the Council: Mid-term Review/Mid-term Revision of the Multiannual Financial Framework 2014-2020—An EU Budget focused on Results**COM(2016) 603 final**

In its 952nd session on 16th December 2016 the Bundesrat adopted the following Opinion pursuant to §§ 3 and 5, Act on Cooperation between the Federation and the Federal States in European Union Affairs (EUZBLG):

Strategic Orientation

1. The Bundesrat emphasises the importance of an efficient EU budget focused on results and on European added value. Against this backdrop, the Bundesrat calls for continued orientation of the Multiannual Financial Framework (MFF) after 2020 to long-term political strategies and the associated European objectives. Sufficient importance must also be accorded to regional strategies, for example within the context of the European Structural and Investment Funds (ESIFs), and the corresponding provisions must be made within the budget.

The Member States and their sub-divisions must be granted sufficient scope to shape implementation on a decentralised basis to ensure that they can contribute, in the manner most effective for them in each instance, to achieving European added value in the spirit of shared European values and goals.

2. In this context Cohesion Policy is of particular significance as the EU's most

important investment policy. Consistent simplification is required to further augment its effectiveness. Furthermore, the Bundesrat is concerned to observe that the Commission tends to accord greater priority to centrally administered instruments than to shared management instruments.

3. At the same time, growing challenges must be taken into account to a sufficient degree in order to safeguard the viability, dynamism and inclusiveness of rural areas, guarantee a secure and sustainable supply of high-quality food and raw materials, protect natural resources, meet the challenge of climate change, environmental protection and animal welfare, and also to preserve diverse natural and cultural landscapes across Europe.

Budgetary Ceiling

4. The Bundesrat considers that a discussion on raising budgetary ceilings would not be helpful at present, given the backdrop of the increased flexibility proposed in the Commission Communication on Mid-term Review of the MFF, and in the light of the uncertain impact of the United Kingdom's decision to leave the EU. The Bundesrat points out that it sees no fiscal leeway to raise budgetary ceilings within the framework of review of the MFF.
5. Strict budgetary discipline should also be upheld in future. Additional expenditure should be financed primarily by reallocation of funds within the budget.

Reform of Own Resources

6. The Bundesrat supports the call for reform of EU own resources.
It supports the call to abolish the Value-Added-Tax-based own resource, in particular because it does not provide an objective picture of the economic circumstances in the Member States, as well as involving complex calculations and giving rise to a high administrative burden.

7. The Gross-National-Income-based (GNI-based) own resource provides a reliable representation of the Member States' economic performance: it is simple and equitable, can be flexibly adjusted to the EU's financial needs and can be ascertained without a significant administrative burden. It thus ensures stable financing of the EU budget.
8. Furthermore, the Bundesrat advocates—in particular due to the forthcoming cessation of the British rebate—scrutinising options to abolish all existing rebates for specific Member States. The Bundesrat calls instead for a general corrective mechanism that would benefit all Member States facing an unusually high net-contribution burden and would make special provisions for individual Member States superfluous.

Duration of the MFF of EU Funding Programmes

9. The Bundesrat underscores the need to ensure as much planning security as possible and therefore advocates maintaining the seven-year programme duration after 2020. Congruence between the MFF and the duration of EU funding programmes should in any event be maintained to ensure secure programme funding.

In addition, the Bundesrat draws attention to the fact that the Mid-term Review of the MFF provides an opportunity to adjust the MFF to economic and political developments within the funding period, should such adjustments be required, as well as offering an opportunity to establish the long-term orientation for the next financial period.

Flexibility

10. The Bundesrat views the existing scope for flexibility in the current MFF as essentially positive. It must be possible to make funding available within the MFF at short notice if this is necessary to address current political challenges. The Bundesrat therefore advocates authorising optimum utilization of the full scope of the overall budget ceilings within the MFF in future.

11. In particular, sufficient financial leeway should be available to respond to extraordinary crises.
12. In addition, the Bundesrat draws particular attention to the need for planning security and reliability, in particular for multi-annual EU funding programmes, to ensure programme goals can be attained. Greater flexibility in the MFF must therefore not signify that reallocations of budget funds or funding of new political initiatives are authorised to the detriment of programmes that have already been approved.

Financial Instruments

13. The Bundesrat takes the view that financial instruments can be a useful alternative or a complement to grants. However, this does not apply equally in all policy areas or in all regions. In addition, the effectiveness of financial instruments depends to a considerable degree on general macroeconomic conditions, which are currently highly varied in the various regions across Europe.
14. Deployment of financial instruments should not be the preferred option as a general rule but should only occur where utilization of such instruments is considered on the ground to be expedient or necessary.

The Commission made the requirements for deploying financial instruments significantly more stringent in the run-up to the 2014-2020 funding period. There should be consistent simplification in this context too to make the financial instruments more effective and more attractive.

The Bundesrat is opposed to any mandatory further increases in the percentage of financial instruments deployed in the forthcoming funding period. The Bundesrat is also opposed to stipulation of a generalised minimum level of use of financial instruments for the ESIFs.

Linking the EU Budget to Economic Policy Coordination in the Framework of the European Semester

15. The Bundesrat recognises that it may also be appropriate to support essential structural reforms by linking the European Semester more closely to the ESIFs under certain circumstances, and in particular with strict respect for the Member States' spheres of competence.

The Bundesrat notes however that the annual Country-specific Recommendations directed to the Member States are difficult to reconcile with the medium and long-term programme planning strategy for the ESIFs, both substantively and procedurally.

Furthermore, the Bundesrat also draws attention to the fact that the ESIFs can only provide support for implementation of the Country-specific Recommendations if there is an objective link to the contents of the ESIF programmes. In addition, the regions (in Germany: the federal states) are often responsible for ESIF programme implementation, whereas the Country-specific Recommendations are directed to the Member States.

The Bundesrat therefore maintains its opposition to using macroeconomic conditionalities as a condition of funding eligibility (cf. BR Official Document 399/11 (Decision) and BR Official Document 629/11 (Decision)).

The Common Agricultural Policy after 2020

16. The Bundesrat underlines emphatically that after 2020 the Common Agricultural Policy (CAP) must remain an integral component of the European project in order to meet current challenges, such as food security, climate change, animal welfare, environmental protection and resource preservation, biodiversity, ensuring the vitality of rural areas, responding to demographic change and securing long-term prospects for young people and families to live in the countryside. As an indispensable pillar of stability and solidarity, the CAP makes an important contribution to employment and growth within the framework of the Europe 2020 Strategy and at the same time is confronted with complex new societal challenges.

17. A strong and well-funded CAP must ensure that sustainable agriculture, characterised by competitive agricultural undertakings, can be maintained across the EU as the backbone of rural areas. At the same time, the CAP must become able to respond less bureaucratically to global, European and national challenges, thus actively maintaining public acceptance for its policies. The CAP must enable agricultural undertakings to meet growing societal expectations concerning sustainability, animal welfare, high-quality production, environmental protection and innovation to an even higher degree than at present.
18. The Bundesrat notes that the last greening reform is currently at the start of the implementation phase and that the results of evaluation should be awaited before discussing new fundamental reforms. Consistent simplification should be the principal focus in seeking to make the measures more efficient.

Environmental Protection, Nature Conservation and Climate Protection

19. The Bundesrat commends the EU's intention to rise to the challenge of fulfilling its international commitments on climate protection and biodiversity and to play a pioneering role in these areas.

Promoting Research, Development and Innovation, and the Connecting Europe Facility

20. The Bundesrat agrees with the Commission's positive appraisal of the Horizon 2020 programme and the Connecting Europe Facility (CEF).
21. European support for research, development and innovation (R&D&I) makes an important contribution to securing long-term growth and employment. The Bundesrat therefore emphasises that continuing appropriate financial support is vital for the competitive Framework Programmes for R&D&I, that funding should continue to be allocated on the basis of the current criteria (excellence, impact, and the quality and efficiency of implementation), and that there must be straightforward financing rules, rapid decision-making processes and readily comprehensible reporting obligations. It is also important to ensure that R&D&I is better protected from financial

interventions that reallocate funds to other items of expenditure.

22. The latter point also applies to the CEF, which has proved its worth as a goal-oriented investment programme for important infrastructure projects and makes a successful contribution to closing the gaps in European transport, energy and digital networks, while also boosting territorial cohesion, thus providing significant European added value.

The Role of Cohesion Policy

23. The Bundesrat expresses its explicit support for measures to safeguard the prominent role of Cohesion Policy in the MFF after 2020: Cohesion Policy is indispensable to reduce the development differentials between European regions and to consolidate economic, social and territorial cohesion.

24. The ESIFs are essential instruments to support innovation, the economy, employment, urban development, environmental and climate protection and to strengthen development of rural areas.

They make a significant contribution to strengthening the Single Market and foster policy rooted in the long-term strategic goals of smart, sustainable and inclusive growth. They are consequently not simply an expression of European solidarity in action but also a manifestation of Europe's shared interest in ensuring that development is as harmonious as possible, with no region left behind.

25. Against this backdrop, the Bundesrat considers that the particular significance of Cohesion Policy stems from its combination of strategic targets designed to respond to pressing European and global challenges, and long-term development strategies at the regional level. Implementation of these policies on the ground can boost their effectiveness and lead to stronger identification with European policies and projects thanks to greater proximity to citizens. That constitutes the—often underestimated—European added value of this policy.
26. Sustainable urban development should also be supported through strategies with integrated measures to address the particular challenges in urban areas. In

this context, it is important to build on the results attained through partnerships that have been built up under the aegis of the EU Urban Agenda.

27. The Bundesrat recalls that Cohesion Policy within Germany over the past 25 years has made a significant contribution to Germany's positive economic and social development across the entire country.

Appropriate Funding Provision for all Regions

28. The Bundesrat calls for a strategic, coherent, differentiated, Cohesion Policy based on economic strength to be continued for all regions in the post-2020 period. Regional GDP, measured in purchasing power parity in relation to the EU average, has proved to be a viable indicator for delimiting areas and should be maintained. Adequate allocation of funding in the future MFF is a crucial prerequisite for credible EU-wide implementation of this policy.

The Bundesrat reaffirms its view, in compliance with Article 174 TFEU, that support for the least developed areas should continue to be the central Cohesion Policy priority in order to eradicate the structural shortcomings of these areas in the medium and long term. The Structural Funds are the right instrument for this purpose and provide support for the structural reforms that are often needed in the regions.

29. However, transitional and more developed regions also face substantial structural challenges (inter alia due to migration, demographic change, digitalisation, climate change and decarbonisation). At the same time, existing economic and social problems in these regions must also be addressed and funding must be made available to tackle these issues. In parallel, it is important to strengthen these regions as a driving force for innovation and regional development. Progress that has been made to date in the transitional regions must be consolidated and nurtured to ensure that these regions—like the more developed regions—are able to continue dynamically developing their pioneering capacity, drawing less developed areas along with them, both within the EU and in the global context ("strengthening strengths").

The Bundesrat therefore considers that insufficient funding has been earmarked for transitional and more developed regions as a proportion of the Cohesion Policy budget. This funding should be increased after 2020.

30. The Bundesrat considers in this context that continued deployment of Cohesion Policy is needed in all regions to consolidate economic, social and territorial cohesion and make a greater contribution to smart, sustainable and inclusive growth; future allocation of funds to individual regions must continue to take account of the economic and employment situation in each region.
31. When the United Kingdom leaves the EU, the ensuing impact on EU statistics must not mean that the regions affected are left in a more difficult position, without appropriate transition periods, than if the United Kingdom were to remain in the EU. The socio-economic situation of these regions remains the same, irrespective of whether the United Kingdom is still an EU Member State.

Planning Security

32. The Bundesrat emphasises the importance of planning security particularly in the realm of Cohesion Policy and urges that this be safeguarded even if there is flexibilization of the EU budget in future. Cohesion Policy aims to make all regions stronger structurally and to foster dynamic and sustainable development processes, and depends on reliably funded medium and long-term programmes and measures to attain these goals.

Relationship between the ESIFs and the European Fund for Strategic Investments (EFSI)

33. The EFSI and the ESIFs have fundamentally different goals. Whereas the EFSI focuses exclusively on stimulating investments, the ESIFs are oriented towards long-term, systematic regional development processes and aim to flank structural reforms with the corresponding targeted investments on the ground. Consequently, EFSI does not have a regional basis and affords limited opportunities to steer its programmatic thrust. It therefore does not constitute an alternative to Cohesion Policy. It remains to be seen whether the Commission proposals improve the complementarity of the ESIFs and EFSI. The Bundesrat insists that the EFSI and the ESIFs should not be set in competition to each other.

34. The Bundesrat points out that it is not at all certain that EFSI actually attains the goals set for it: additionality in the framework of the projects supported by EFSI does not appear to be unequivocally assured. The general lack of programmatic orientation is also apparent in the unbalanced geographical and sectoral distribution of EFSI-funded projects. In some Member States there have not yet been any projects funded by the EFSI. Member States that are still suffering from the consequences of the financial crisis have to date only benefited to a limited degree from the fund, whereas in Germany there is little demand for EFSI due to low interest rates.
35. The Bundesrat is therefore opposed to proposals to increase the EFSI budget immediately and extend the duration of EFSI, as it feels that such steps would be premature.

Partnership-based Programming and a Focus on Results

36. The Bundesrat avocates maintaining strategic focus on results in the future orientation of EU Cohesion Policy. Cohesion Policy can only succeed if actors on the ground are granted the trust and flexibility needed to pursue objectives that are in our common interest. This policy should be characterised by respect for the autonomy of smaller administrative units, within the framework of the subsidiarity principle, and, through funding incentives that encourage and strengthen the initiative, creativity and focus on the common good of these administrative units.

37. In contrast, the current high level of management instruments, the ensuing regulatory difficulties and a lack of legal and planning security in the current funding period have produced excessive complexity, which threatens to make this policy incompatible with the principles of subsidiarity and partnership, and is counter-productive for the goals of Cohesion Policy. In particular, these phenomena constrain the innovative potential of the Structural Funds. A concentration on specific topics and restrictive enforcement of these topics in negotiations on the programmes and partnership agreements must not limit scope to adopt coherent programmes devised by the regions.

The Bundesrat therefore urges that programming for the new funding period be organised in a clear, logically structured, streamlined and partnership-driven process involving the Commission, the Member States and the regions. The individual responsibility of the Member States and regions should be reinforced in keeping with the subsidiarity principle, within the framework of European strategic guidelines. The outcome of this negotiation process should be programmes that function as brief strategic guidance documents.

The Bundesrat advocates that the Commission should accompany future implementation of these programmes solely through a dialogue with each region based on the idea of a strategic partnership. This dialogue should also contribute to simplifying programme implementation and reporting. Programme effectiveness should be appraised primarily on the basis of the results achieved.

Strengthening European Territorial Cooperation

38. In the light of the Bundesrat's extensive and varied relations with its European partner regions and neighbouring regions, the Bundesrat advocates continuing and reinforcing efficient and targeted funding for cross-border, transnational and interregional cooperation within the framework of the European Territorial Cooperation (ETC/Interreg) objectives.

The Bundesrat notes that European added value in this funding area is particularly visible, thanks to the direct realisation of integration policy goals and promotion of good neighbourly cooperation.

With a view to deepening European integration and strengthening territorial

cohesion, cooperation between project partners in different European countries, the potential for Europe-wide exchange of knowledge, and joint development of new solutions to optimise public and private administrative and development services all play an important role. These programmes must therefore continue to strengthen European border regions and cooperation in larger areas that have similar strengths and face similar challenges, for example in transnational programme areas, and must foster synergy effects with macroregional strategies in the spirit of a Europe of the regions in action.

However, the Bundesrat also advocates that future legislation on ETC implementation focus more consistently on specific administrative and legal challenges that arise in implementing and managing binational or multinational funding programmes.

Given the complexity of programming, a state aid exemption and the establishment of indicators that offer an adequate reflection of the ETC's requirements and challenges would have a particularly positive impact in this context.

Small projects and measures focused on promoting contacts (people-to-people projects) contribute significantly to ensuring that people in the regions become directly aware of the European idea and the EU's actions; funding for such projects and measures should be maintained in future.

Excessive Regulation and Administrative and Oversight Burdens

39. The Bundesrat stresses emphatically that implementation of the ESIFs is now highly overregulated and clearly exceeds the threshold for an acceptable level of oversight and administrative effort arising from programme implementation, both for the bodies that run projects and for the administrations involved. It is vital to ensure that the heavy workload involved in settlement of accounts and organisation of oversight measures does not thwart implementation of viable, useful projects. Administrations dealing with implementation face a plethora of additional obligations, causing pronounced, time-consuming and costly additional administrative burdens, which also indirectly have a highly detrimental impact on beneficiaries.

The growing complexity of programme implementation increases the likelihood of error and the error rate.

40. Furthermore, the system of subsequent adoption of implementing legal acts and guidelines, which in addition were adopted at a very late stage, has caused massive delays in operational initiation of the programmes, while the ensuing burden on administrative systems makes it virtually impossible to ensure implementation in conformity with the legislation. As a consequence, there have been increasing delays in programme implementation from funding period to funding period. This does not only jeopardize Cohesion Policy per se, but is also damaging to overall perception and credibility of the EU as the policy is highly visible and experienced first-hand by citizens.
41. The Bundesrat therefore considers it advisable to conduct a comprehensive review and to limit the requirements stipulated at the European level concerning ESIF programming, administrative and oversight systems, including the ETC programmes.
- Greater legal security, legal clarity and continuity are also of particular importance for the Bundesrat in this context. Timely submission of the new legal framework and all the documents in the respective official languages well before the start of a funding period is thus also of particular importance; it is also essential to avoid applying and interpreting provisions retroactively. There is an urgent need to ensure that the legal framework is streamlined and that the details pertaining to administrative and oversight systems are stipulated for more than one funding period. This also applies to the eCohesion mechanisms, which have been developed at considerable expense.
42. Against this backdrop, the Bundesrat views the Commission's proposals to simplify ESIF funding and to convene the High Level Group of Independent Experts on Administrative Simplification as a positive indication that the Commission is aware of the extent of the problem.

Simplification endeavours must not de facto lead to further difficulties for the administration and beneficiaries, as has been the case in the past. It is not unusual for the Commission to respond to calls from Member States for greater administrative simplification by introducing further implementing regulations, provisions and guidelines, thus ultimately increasing the system's complexity and susceptibility to errors. Readily comprehensible rules and simplifications, in particular concerning administrative and oversight procedures, must therefore be an essential goal for the next MFF period.

Implementation Pursuant to National Law and a Consistent Single Audit Approach

43. The Bundesrat therefore calls for a fundamental change of course, guided by the subsidiarity principle, in programme planning and implementation, which would also correspond to a greater focus on results. Administrative aspects of programme implementation—with the exception of ETC—should in principle be governed by national law in future.

The Bundesrat calls in addition for a Single Audit approach to be applied consistently to avoid duplication of audits or contradictory appraisals by bodies involved in such audits, and to cut the costs of oversight mechanisms. Audits by the European institutions should be limited to audits focused on combatting fraud and corruption.

State Aid Regime

44. The Bundesrat firmly reiterates that it advocates further simplifying application of state aid provisions in deploying the ESIFs. Treating directly administered EU funds, such as EFSI and "Horizon 2020", differently from the ESIFs from a state aid perspective increases the administrative burden and hinders the Commission's stated goal of fostering synergies between the funds.

Proportionality

45. Overall the Bundesrat calls for a greater emphasis on the proportionality principle in future implementation and oversight of the ESIFs. The Bundesrat considers in particular that the level of programme funding, susceptibility to error, the quality of administrative enforcement and the level of own funding are the central criteria that should be incorporated into deliberations on configuring administrative and oversight systems for the post-2020 period.

Direct Transmission to the Commission

46. The Bundesrat shall transmit this Opinion directly to the Commission.