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NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Multiannual Financial Framework (MFF) 2021-2027 and Recovery package: Recovery and Resilience Facility - governance

Introduction

1. Delegations had a discussion in COREPER on 2 July 2020 on the eligibility and governance of the Recovery and Resilience Facility (RRF).
2. Delegations broadly shared the view that the eligibility criteria, particularly the consistency with the relevant country-specific challenges and priorities identified in the context of the European Semester and the contribution to the green and the digital transitions, play an important role in the assessment of the recovery and resilience plans of the Member States.
3. The questions raised by delegations have shown that further reflection is needed about the proposed decision-making procedure concerning the approval of the recovery and resilience plans and the corresponding financial contributions.

4. The RRF proposal provides for decisions to be adopted as concerns two different levels:
 - i) Planning level: approval and amendments of the recovery and resilience plans, including the reforms and investment projects, the milestones and targets and the financial contribution allocated (Articles 17(1) and 18 of the RRF proposal).
 - ii) Spending level: approval, suspension and cancellation of payments (Article 19 of the RRF proposal).
5. According to the Commission proposal, all decisions as concerns the two above levels are to be adopted by the Commission through an implementing act, subject to comitology (examination procedure) under the Comitology Regulation¹.
6. The Presidency proposes the following alternative model in order to strengthen the role of the Council without jeopardizing a speedy implementation:

I. Approval and amendments of the recovery and resilience plans

7. The Commission assesses the recovery and resilience plans submitted by Member States for the whole period during which funds can be committed under the RRF on the basis of the criteria listed in Article 16 (3) of the Regulation. The assessment of the plans should give the highest rating to the criterion of consistency with the country-specific recommendations and to the criterion of effective contribution to strengthen the growth potential, job creation, and economic and social resilience of the Member State². The country-specific recommendations of previous years, to the extent that they are relevant to the resilience challenges identified in the 2019 and 2020 country reports, should be taken into account.

¹ See Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

² See point 2.1 and 2.4 of Annex II of the RRF proposal.

8. The Commission proposes a decision for approval in view of the assessment within two months of the official submission of the plans. The draft decision sets out the reforms and investment projects to be implemented, including the milestones and targets, and the financial contribution allocated (or the amount of the loan, in case of loan support).
9. Both the decision on the approval of the recovery and resilience plans, and the decision on possible amendments thereof, are adopted through an implementing act by the Council acting by qualified majority on a Commission proposal. On the basis of the Council decision, the Commission will adopt subsequently the legal commitments within the meaning of the Financial Regulation (as provided for in Article 19 (1) of the RRF proposal).
10. In order to streamline the procedures, the RRF Regulation would specify that the Council would act within a short period of time to be determined by that Regulation itself.
11. Decisions could be prepared by a horizontal debate on the state of recovery, resilience and adjustment capacity in the Union as well as on submitted recovery and resilience plans in the Council in the framework of the European Semester, building on input by the Commission. This discussion would allow the Council to give political guidance early on in the process.
12. Member States will report twice-yearly within the European Semester on the progress made in the achievement of the recovery and resilience plans.

II. Approval, suspension and cancellation of payments (Article 19 of the RRF proposal)

13. Upon the fulfilment of the relevant milestones and targets a Member State submits to the Commission a duly justified request for payment of the financial contribution. The Commission shall assess within two months of receiving the request whether the relevant milestones and targets have been satisfactorily implemented. Where the Commission makes a positive assessment it shall prepare a decision authorising the disbursement of the financial contribution.
14. The Economic and Financial Committee (EFC) discusses the assessment by the Commission on the basis of all necessary information concerning its envisaged decision. The EFC may adopt an opinion by a majority of the members on the assessment of the Commission.
15. The Commission would then adopt the decision on the approval of payments by an implementing act, not subject to comitology. In case the Commission were not to follow the views expressed by the EFC, it should explain its reasons as part of the general duty to state reasons.
16. The same procedure applies to the suspension and cancellation of payments.
