BETKOSOL
Better Knowledge for Better Solutions

Newsletter n. 1/2021 BETKOSOL

Section 1. Last updates

→ Communication: LUISS has been awarded EU funding under the Hercule III Programme for its 'BETKOSOL' project (see the news here)

The *Better Knowledge For Better Solutions* Project (BETKOSOL project, EU-101015421) aims to investigate the limits and perspectives concerning improvements to the current regulatory framework in order to combat fraud affecting the EU's financial interests, in particular in the social, health, and economic sectors. It also seeks to assess the possible effects of the COVID-19 crisis on the status quo.

→The BETKOSOL – Kick-off online meeting has taken place on 28th January 2021 (8:50 am/4:45 pm CET).

Visit our homepage to view the fleyr!

→ Dissemination (Newspaper interview): Sandulli (LUISS): spendere bene il Recovery Fund e vigilare sulle frodi, Askanews, 27 January, 2021, for more information, click here.

Section 2. Flash news

—> *Fighting fraud: are Member States continuing their efforts to strengthen their national systems and procedures?*

Directive 2017/1371/EU ('the PIF Directive'), which was supposed to be transposed by 6th July 2019, increases the level of protection of the EU budget by harmonising the definitions, sanctions, and time-barring related to criminal offences affecting the European Union's financial interests. Not only is the Directive an essential instrument for the harmonisation of the criminal law systems in the Member States regarding crimes against the Union budget, but it is also the key to the operations of the future European Public Prosecutor's Office (EPPO), which will investigate, prosecute, and enforce these kinds of offences.

On 2nd July 2020, the Commission decided to send a reasoned opinion to Italy following the failure to refer the measures taken in this country to transpose into national law the EU rules on the fight against fraud regarding the Union budget by means of Criminal Law.

Few days later, Italy adopted Legislative Decree no. 75/2020, which substitutes and updates the previous PIF Convention, transposed by Law no. 300/2000.

On 3rd December 2020, the Commission also urged Ireland and Romania to refer their transposition measures on the EU rules to fight fraud concerning the Union budget.

See here for National transposition procedures.

On 3rd September 2020, the European Commission adopted its 31st annual report on the protection of the European Union's financial interests (PIF report).

GHENT UNIVERSITY LUISS LIISA LAB FOR INTERNATIONAL AND INTERDISCIPLINARY SOCIAL AFFAIRS

According to the report, Member States are continuing their efforts to strengthen their national systems and procedures, focusing on prevention and detection, but also on measures to enhance transparency and to fight corruption and conflicts of interest.

Detected fraud and related financial amounts declined in 2019 compared with the previous year. 939 fraudulent irregularities were reported, to a financial value of roughly less than half of the result for 2018, confirming an overall declining trend over the last five years. Detected non-fraudulent irregularities remained stable but declined in value by 8% (see here).

→ *OLAF opens an investigation into Frontex: is there horizontal control among agencies?*

Both agencies confirmed that the investigation is taking place but did not provide details (see the article here).

OLAF visited the offices of the Frontex Executive Director (Fabrice Leggeri) and his head of Cabinet (Thibauld de La Haye Jousselin), on 7th December 2020 as part of an investigation into allegations of migrant pushbacks (see the news here).

Articles from *Euobserver* and *Euronews* are also available.

Section 3. Recovery Fund – work in progress

A pandemic can be considered a black swan event, with contingencies that call for and can justify a certain kind of (temporary) policy response. However, it can also kick off structural changes. The health crisis is pushing EU integration forward (for example in the social pillar or toward a future common fiscal policy). The constitutional implications of a health crisis on human rights are more direct than those of a financial crisis (such as that of 2012). Addressing them proactively can increase the social legitimation of the EU. At the same time, new rules must be effective and efficient if the new budget is to be a real opportunity.

On 21st July 2020, the European Council agreed on a 750 bn euro recovery plan and a 1,074 bn euro seven-year budget covering the 2021-2027 cycle. Different segments of previous policies started to collapse on top of each other, namely the management of indirect and direct funds, European investments, actions to protect the EU's financial interests, and the coordination of national budgetary policies in favour of structural reforms and economic sustainability under the supervision of the European Commission (the so-called European semester). The last policy area is now two-tiered: financial stability provisions and Recovery fund purposes.

On the one hand, the European Union should continue to coordinate the reform packages in Member States towards common objectives. On the other, the new budgetary policy has to guide the implementation of programmes. "Good spending" must be guaranteed.

Many resources will still pass through the multiannual financial framework (MFF) despite it having been partially redesigned. Even before the Covid-19 crisis, some changes were needed in the management of direct and, especially, indirect funds. In fact, Member States have different administrative capacities to deal with the management of EU funds, which may also depend on the form of government or co-

financing with national funds. The expectation is that extreme historical contingencies will present unprecedented challenges and give rise to new risks of bad spending. Consequently, it will be even more urgent to improve shared administration practices and to strengthen the coordinating role of the Commission, the European Anti-Fraud Office, and European Public Prosecutor's Office.

Will the same or similar system apply also to the part of the Next generation EU programme called *Recovery and Resilience facility* (RRF)? It appears that similar rules might indeed be applied, though exactly how remains to be clarified.

Hence, awaiting the European Parliament (EP)'s assent to the MFF, questions about its governance and implementation take on increasing importance. As affirmed in this article: "[...] the current Semester processes have a number of inherent weaknesses. *One*, the Country Specific Recommendations (CSRs) have a tendency to be a catch-all of different priorities of different DGs of the Commission. *Two,* the genuine main reform needs are – per definition – of a long-term nature, and cause and effect of reforms (or their absence) may be difficult to discern. *Three*, importantly, the recommendations have often not been taken as seriously by national policy makers as they would have deserved, and thus lacked national ownership" (p. 8).

Full reform, the recovery impact of the programmes, and the funds they will unlock can only be achieved thanks to precise national Plans with a broad political consensus in the respective Member States, at all levels of government. The same article also affirms that "The potential loss of funds due to badly administered and implemented projects should be a significant incentive for national policy makers to ensure that this does not happen. Experience tells us that there are at least two risks. *One*, that funds are indeed not called, due to lack of planning or implementation capacity, or lack of political interest in certain projects. *Two*, political pressure on the Commission, or Commission services, to agree that there has been positive implementation may be significant" (p. 8).

Hence, as suggested, a significant institutional change in view of the RRF might be that of stronger EP involvement, together with the Presidents of the Commission, the European Council and the Head of State or Government of the Member States. On 18th December 2020, the EP's negotiators reached a provisional agreement with the Council on the instrument designed to help EU countries tackle the effects and consequences of the COVID-19 pandemic (see here). The negotiators agreed that national recovery and resilience plans would be eligible for financing if they focus on six policy areas of European relevance and that the RRF will only be made available to Member States committed to respecting the rule of law and the European Union's fundamental values. The EP will be more closely involved throughout the lifespan of the implementation of the facility, including through a Recovery and Resilience Dialogue.

Another innovative element, compared to the previous European Semester experience, concerns Member States' political engagement. It appears that Member States will have the clear benefits of producing ambitious, targeted, and practicable plans. It would therefore be advantageous if national plans were finalised after a broad public and political consultation process. Given what is at stake for Member States, national parliaments, for example, could play a stronger role than usual in scrutinising their governments (here, p. 19).

→ *Italy*

At the time of writing, Italy is going through a time of political crisis since Matteo Renzi's withdrawal of his party from the governing coalition. The "Prime Minister" (PM) Giuseppe Conte resigned on January 26, 2021, paving the way for the possible birth of a new executive or else for national elections to be held in the spring. However, among the reasons illustrated by Matteo Renzi is the PM's tendency to concentrate powers and sidestep Parliament, especially on matters concerning the RRF debate.

There is evidence to show that the role of the Government more than usually overwhelmed that of Parliament in 2020 (for example, there was a sharp increase in the number of Law Decrees in 2020 compared with past year: 2017, 13, 2018, 15, 2019, 24, 2020, 38). However, this is justified, also in legal terms, by the effects of the health emergency. It is also reasonable to think that there should be more public debate and transparency on key topics, such as that of the RRF.

Notwithstanding the political *impasse*, there will be many "old problems" to face once the April step with the Commission has been overcome. As explained in this comment, Italy has at least two structural weaknesses that affect its spending capacity. First, there is a lack of project-management skills both at central and regional governmental levels. Secondly, there is the problem of administrative inefficiency, outweighing the incidence of fraud and irregularities.

Despite the Government crisis, Conte's Government has proposed a draft spending plan of the 209 billion allocated by the Next Generation EU (65.4 billion euros in grants and 127.6 billion euro in loans). In particular, the Italian National Recovery and Resilience Plan envisages three strategic axes: digitization and innovation, ecological transition, and social inclusion, to which are added the three transversal priorities for women, young people, and the recovery of Southern Italy. A likely change of government could lead to a new modification of the Italian proposal.

→ *Belgium.*

Belgium remains in political harsh weather since it broke the world record to form a national government between 2010 and 2011. The growing gap between the Flemish region and Brussels Capital-Region, on one side, and the Walloon Region, on the other side, hampers political innovations. With regard to the topic, the federal structure of the country influences the capacity of an overall policy to deal with frauds. However, a national and regional level means exist to detect and sanction frauds.

Under EU Recovery and Resilience Facility (RRF), a total of € 5.9 billion is foreseen for Belgium. Despite the political difficulties, on 11 January 2021, the Belgian authorities reached an agreement on how to divide this amount among their local governments. Flanders will receive approximately € 2.25 billion, while Wallonia will receive € 1.48 billion and the federal government € 1.25 billion. Brussels, the French and German communities will receive 495 million euros, 395 million euros and 50 million euros respectively. Under this proposal, these funds will be used to invest in projects related to sustainability, digitization, mobility, welfare and productivity. In the coming weeks, each regional authority will determine how to distribute, effectively, the amounts of funding on these issues. In April, the Commission will revise

the Belgian proposal together with the other proposals from the EU Member States. For more information, click here.

→ *Poland*

Over 23 billion euro in subsidies and over 34 billion euro in loans are to go to Poland from the Recovery and Resilience Facility (RRF). To use these funds, each State must prepare its own National Recovery Plan (NRP). In Poland, this process is managed by the Ministry of Funds and Regional Policy (MFiPR), which received over 1,200 project proposals sent by ministries, regions, and social and economic partners by the end of 2020. These are projects concerning various areas, including energy, environmental protection, transport, innovation and entrepreneurship, health, digitisation, or territorial cohesion. Projects submitted to the NRP are evaluated by eight thematic working groups. These groups are composed of representatives of the institutions managing national operational programmes, ministries, regions, socio-economic partners, and external experts. In the process of project verification and evaluation, MFiPR evaluates the following criteria: readiness for implementation (the "maturity" of the project), compliance with EU requirements, relevance, the state of project preparation, feasibility, the support for economic growth and new jobs, and its effects on the economy. The NRP matrix will be updated with the progress of work on budgetary regulations carried out by the European Commission, the European Council, and the European Parliament. Polish government will submit the completed National Recovery Plan to the European Commission in the first quarter of 2021. For more information, click here.

→ Germany

The Recovery and Resilience Facility (RRF) will allocate 28.8 billion euro through subsidies to Germany. The German government will not take out loans, believing that it will be able to draw resources from financial markets in a more advantageous way than that proposed by the European Commission's plan. Germany's 2021 draft national budget contains the possibility of accessing 2.25 billion euro from the sum allocated to Germany by the Recovery and Resilience Facility. To counter the effects of last June's crisis, Germany invested heavily during 2020. It launched a 130-billion-euro plan, with which it reduced the standard VAT rate from 19 to 16 percent and the reduced rate from 7 to 5 percent, guaranteed a bonus of 300 euros for each child, and poured 50 billion into incentives for sustainable mobility and digital innovation. For more information, click here.

The BETKOSOL team