

## **AGENDA – morning session:**

- 1. Introduction
- 2. Programming and partnership
- 3. European Maritime and Fisheries Fund in CPR
- 4. Migration and Security Funds in CPR
- 5. Negotiations on the legislative proposals
- 6. Strategic basis for programming
- 7. Administrative capacity building
- 8. Forms of Union contribution and forms of support by Member States
- 9. Horizontal enabling conditions
- **10. Communication and visibility** *Q&A session*







## Marc Lemaître, Director General for Regional and Urban Policy

- Early launch of 2021-2027 programming:
  - Legislative proposals for all seven Funds earlier than in current period
  - > Annex D of the Country Reports in early 2019
  - > Launch events earlier
- We look forward to your Cohesion policy roadmaps with programming plans
- Some important elements for programming:
  - \* Horizontal principles
- \* Cooperation
- \* InvestEU
- \* Carry-over of programme authorities \* Enhanced proportionate arrangements
- Aim to have programming documents ready for adoption before the end of 2020
- COM ready to help





## **Partnership**

- The partnership principle and the Code of Conduct on partnership (ECCP) – a joint responsibility
- 2014-2020: lessons learnt and remaining challenges
- Post 2020 framework on partnership
  - > Art 6 CPR: key novelties
  - > Art 8 ESF+
- Capacity building





## **European Maritime and Fisheries Fund in CPR**

#### A small, simple and specific Fund

#### SMALL:

- A very limited budget (EUR 6.14 billion)
- Part of the big CPR family with proportionality arrangements

#### SIMPLE:

- Clear priorities
- No more prescriptive measures

#### **SPECIFIC:**

- Targeted scope linked to the implementation of a policy (CFP, maritime policy, international ocean governance agenda)
- Specific conditions and arrangements are needed to ensure consistency with this policy





## Migration, Border Management and Security Funds in CPR

The EU is facing common challenges across policies

- Coordinated policy responses
- Synergies between Union Funds
- Implementation of Funds through a set of single rules
- In-built flexibility



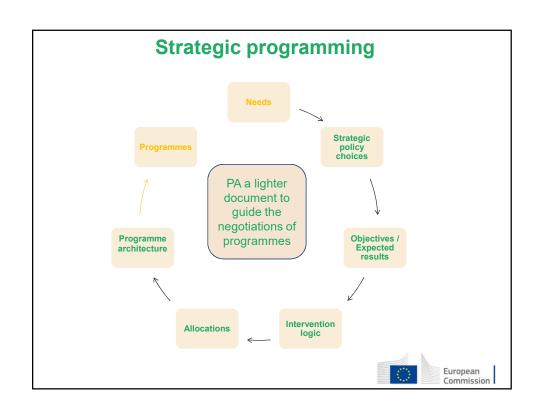


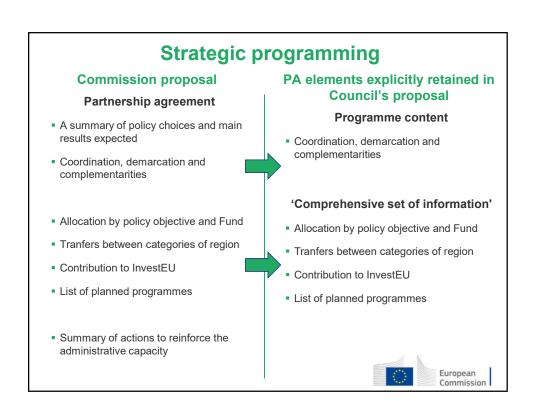
## Negotiations of the legislative package

- The EP adopted its 1st reading position on all the elements of the legislative package for the post-2020 (CPR and all fund-specific regulations)
- The Council's partial mandate covers majority of CPR provisions except for:
  - ➤ Financial framework (Block 8) part of the MFF Negotiating Box
  - Annexes to the CPR
- Fund-specific Regulations: the Council's partial mandate (except 'financial framework' elements) was adopted for:
  - ➤ ERDF & CF regulation (annexes on indicators: mandate expected end of June)
  - ESF+ regulation
  - > Interreg regulation
  - EMFF (PGA expected on 18 June)
  - ➤ ISF, AMIF, BMVI (PGA for all three funds 7 June)
- Missing element: ECBM Regulation (to be finalised by the FI PRES)
- Trilogues may (re)start September / October 2019









Policy choices and expected results – example					
Policy objective	Programme(s)	Fund	Justification		
Smart Europe	Smart MS (a national programme)  Regional programmes	ERDF	<ul> <li>Low R&amp;I and capital expenditure in companies</li> <li>Low internationalisation of science</li> <li>Small number of international enterprises and relatively low exports</li> <li>Contribution to CSR on coordination of policies in research and industry and removing obstacles to investment</li> <li>Contribution to NRP measure on science and industry cooperation network</li> <li>Objective of development strategy on creating conditions for innovation and entrepreneurship</li> <li>Objectives of regional innovation strategies</li> </ul>		
			European Commission		

### Policy choices and expected results - example

Objectives of interventions under PO 1 (what we would like to change)

#### Enhanced quality and internationalization of science

- Improved ability to create the excellence in R&I
  - > Focusing R&I on thematic areas with the highest economic potential
  - > Increase number and quality of projects in cooperation with foreign units

#### Increased competitiveness of enterprises

- Increasing capacities of companies to grow through innovation
  - > Improving access to tailored, high-quality services for R&I
  - > Increased use of innovation including process and product innovation

#### Voluntary: quantitative measure(s)

- ➤ Increase in private R&I in relation to GDP from... to...
- > The rate of investment in private sector by X%



### Coordination and complementarity – example (cont.)

#### Complementarity (policy objective 1)

- Horizon Europe use of seal of excellence
- ESF+ will contribute through intervention under PO4 and cross-financing will be used
- Role of EARDF in innovation in agriculture and rural areas
- Role of EMFF in 'blue' innovation
- · Relevant national funding schemes
- Contribution to InvestEU

#### Coordination/demarcation arrangements (policy objective 1)

- R&I support according to the Roadmap for research infrastructures and coordination mechanism for setting up national and regional research agendas (to avoid overlaps)
- Investment in companies on the basis of smart specialization strategies
- Technological readiness level will differentiate between R&I and support for firms
- The coordination body may set more detail demarcation
- > Description goes beyond listing...we need to understand how it all can work in practice
- Council mandate: AMIF, ISF, BMVI under coordination and complementarity



## Allocation and programme architecture

- Breakdowns by policy objective and a list of programmes
  - Assessment of logic of intervention
  - > Assessment of the adequacy of financial allocations
  - > Architecture of programmes assessment of adequacy of tools
  - Verification of ERDF thematic concentration requirements



### Administrative capacity – why at PA level?

- For MSs with identified weaknesses in administrative capacity it gives...
- ...possibility to set up a general approach to administrative capacity building
  - > logically complements the policy choices / expected results
  - beyond the programme level capacity building
  - addressing actions of (for examples public procurement, state aid, EIA) cross-cutting nature
  - > roadmap for capacity building
  - synergies with Reform Support Programme at MS level



## Allocations: setting up 'amount available for programming'

- Results of the MFF will be communicated to Member States breakdowns by:
  - > fund
  - category of region (ERDF, ESF+)
- Setting up an amount available for programming
  - voluntary contribution to InvestEU (impacts the amount available for programmes)
  - > transfers between categories of region (shifts in the initial split)
- Continue programming exercise
  - > breakdowns by policy objective
  - > list of programmes with preliminary allocations



### Transfers between categories of region

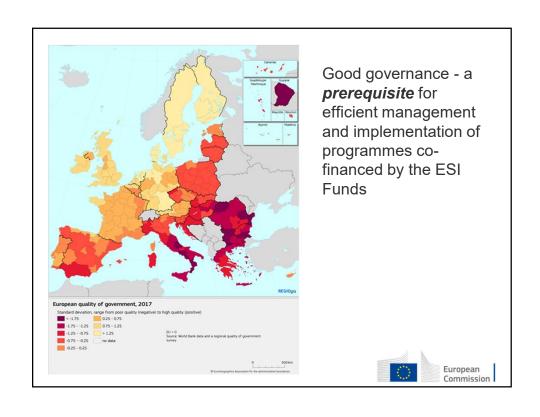
- Decide if you want to transfer (if your objectives will be better pursued)
- Decide which transfer option you want to use
  - Transfers from less-developed to transition regions or to more developed are limited to 15%
  - > Transfers from transition to more developed are limited to 15%
  - > Transfers from more developed to less developed have no limit
- Justification would need to explain the rationale for the contribution

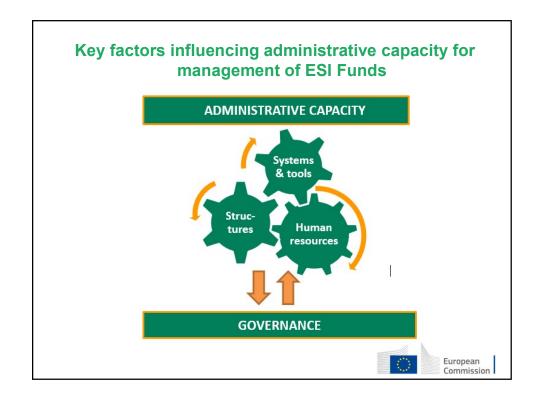
#### Example:

- Considerations of efficiency (for example: additional funding for R&I in the more developed capital region is needed as 80-90% of R&I activity is focused)
- Considerations of equity (for example: additional funding for access to services in less developed regions is needed as they self-financing possibilities are limited)









## 2021-2027 - proposed instruments for capacity building

Three main instruments for ACB for MS linked to the management/implementation of the Funds:

- Running costs of programmes: flat rate financing for technical assistance of Member States (Art 30-31 CPR) for 'traditional' TA, incl. capacity building
- Administrative capacity building directly linked to investments in the programme (Art 2(3)(a) ERDF/CF)
- Financing not linked to costs for technical assistance of Member States (Art 32 CPR - Roadmap)



# Administrative capacity building directly linked to investments (Art 2(3)(a) ERDF/CF)

- Usually addresses sectorial administrative capacity challenges and complements/enables more effective infrastructure investments
- Country reports and Annex D
- Follows the same intervention logic as other investments



## Financing not linked to costs 2021-2027 (Art 32 CPR - Roadmap)

- Additional actions to reinforce capacity of MS authorities, beneficiaries and relevant partners necessary for the effective administration and use of the Funds (Art 32)
- Support for such actions shall be based on conditions to be fulfilled or results to be achieved (Art 89)
- Actions, deliverables and corresponding Union payments can be agreed in a *roadmap* (Recital 25)

\* \* \*

There is **no ceiling** for how much funding can be allocated to capacity building actions. Action financed under Art 32 can be **"on top of"** what is financed by the flat-rate financing.

Audits will only verify if conditions are fulfilled or results achieved



## **Challenges related to structures**

#### **STRUCTURES** How to address this? Key bodies for management of the Funds A well-designed should have: organisational structure Well-defined institutional and regulatory supporting policy frameworks making and Clear responsibilities and tasks o A clear, simple and transparent implementation is a organisational structure that facilities key success factor for efficient delivery of their tasks public institutions. o A structure that is flexible enough to adapt to changing circumstances

Challenges related to Human Resources				
HR	How to address this?			
Securing the timely availability of skilled and motivated staff is a key success factor in the management of the Funds.	A clear, strategic and comprehensive modern HR strategy developed on the basis of a sound needs analysis should be in place ensuring the following:  Managers with appropriate leadership skills, upholding the highest standards of accountability, integrity and transparency  A merit-based recruitment and career advancement /management system ensuring full transparency in the recruitment and appointment process (e.g. via open competitions), appropriate appraisal and promotion provisions (based on performance indicators) and personal development provisions  Fair and competitive remuneration taking into consideration remuneration levels on the labour market in order to retain staff and keep and build up know-how in the administration. Any bonuses or top-ups should have a clear link to performance measured with objective indicators  A competence management system enabling identification of competency gaps and addressing these in the best way  Professionalization of senior civil servants and managers  Provision of adequate information, knowledge and competence development to enable staff to effectively carry out their tasks			

Challenges related to Systems & Tools				
Systems and Tools	How to address this?			
Public institutions managing the Funds need the right systems and tools to work in a transparent and efficient way.	<ul> <li>Efficient systems and tools should be in place, such as:</li> <li>Evaluation culture</li> <li>Strategic approach - political and technical</li> <li>Information Management Systems providing evidence and data based input for monitoring and increased quality and transparency of decision-making</li> <li>E-cohesion</li> <li>ICT systems to facilitate internal and external communication</li> <li>Simple rules, no national gold plating of EU rules</li> <li>Procedures, guidelines, manuals and forms to enhance the quality, transparency and resilience of institutions</li> <li>Performance management systems to help institutions to set goals and measure their progress towards them</li> <li>A document management system</li> </ul>			
	European Commission			

	External challenges
	The following elements should be in place:
Better policy/ decision making	Procedures and mechanisms for consultation, coordination and cooperation.
Ownership of stakeholders	Open and transparent interaction and coordination with relevant internal and external stakeholders in all components of the policy/programming cycle, i.e. with national coordination bodies, relevant ministries and other competent public authorities at different levels of government, other EU Funds administrations, beneficiaries, regional development agencies, economic and social partners, the private sector, civil society including, NGOs etc.
	Measures holding decision makers and managers accountable for performance
Accountability	Transparency to maintain/increase trust of citizens in the administration
Transparency	Effective and proportionate anti-fraud measures, incl. transparency and use of open data in order to prevent fraud and corruption
Prevention of fraud/corruption	Strengthening the capacity of relevant stakeholders, in particular beneficiaries of relevant public investment (e.g. knowledge development, project pipeline etc.)
Capacity of beneficiaries	

## Capacity building roadmaps (Art 32)

- All MS can benefit from Art 32
- Roadmaps should include the right mix of tailor made and targeted supporting tools for ACB
- Development of roadmaps particularly recommended for MS with weaker administrative capacity or with less convincing track records (Annex D)

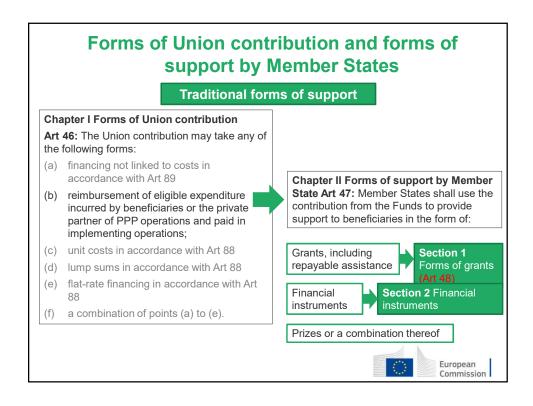


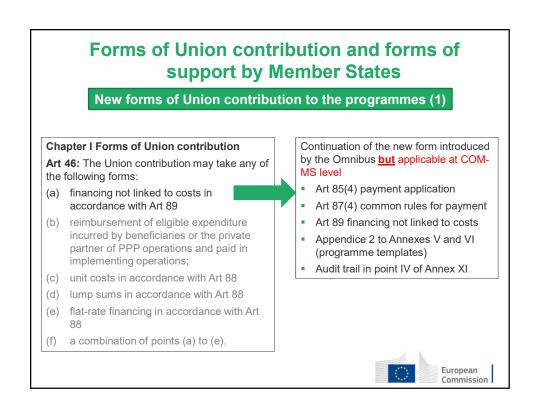
## Examples related to Art 32 & Appendix 2 of Annex V

- Lessons learnt from Pilot projects on ACB in synthesis report available in September
- This will allow preparation of "generic example" of a roadmap (what it could look like) and how to translate Art 32 actions to Programme template in appendix 2









## Forms of Union contribution and forms of support by Member States

New forms of Union contribution to the programmes (2)

#### Chapter I Forms of Union contribution

**Art 46:** The Union contribution may take any of the following forms:

- (a) financing not linked to costs in accordance with Art 89
- reimbursement of eligible expenditure incurred by beneficiaries or the private partner of PPP operations and paid in implementing operations
- (c) unit costs in accordance with Art 88
- (d) lump sums in accordance with Art 88
- (e) flat-rate financing in accordance with Art 88
- (f) a combination of points (a) to (e)

Continuation of the reimbursement methods based on the current Art 14(1) ESF Reg.:

- Art 85(4) payment application
- Art 87(4) common rules for payment
- Art 88 reimbursement of eligibile expenditure based on unit costs, lump sums and flat rates
- Appendice 1 to Annexes V and VI (programme templates)
- Audit trail in point III of Annex XI



## Forms of Union contribution and forms of support by Member States

Art 88 and Art 89 - in detail

Simplified Cost Options &
Financing conditions for
reimbursement to Member States
may be established:

In the **programme** (Art 88(2) and Art 89(1)CPR) -

When negotiating the programme or with a request for amendment.

For each individual MS

SCOs or financing conditions set out in a **delegated act** (COM initiative).

Art 88(4) and Art 89(4)CPR

May be used by any MS

(EU-level SCOs / financing not linked to costs)



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## Forms of Union contribution and forms of support by Member States

#### Art 88 and Art 89 in detail

**Financial Management** 

#### Commission - MS

Reimbursement on the basis of SCO (Art 88) or financing conditions (Art 89) set out in the programme (Art 88(1)) or in a delegated act

1

**Audit** – limited at verifying the conditions for reimbursement to the MS have been fulfilled.

Amounts paid to beneficiaries are not subject to audit.

#### MS - beneficiary

Reimbursement on the basis of any of the forms set out in Art 48



## Financing not linked to costs (Art 89) – programming aspect

Where the financing not linked to costs scheme is set up for a specific programme:

- The Member State needs to fill out the relevant appendix to the programme template:
  - a) Priority concerned, overall amount, type of operations
  - b) Description of conditions to be fulfilled or results to be achieved with a timeline
  - c) Intermediate deliverables that trigger reimbursement by the Commission
  - d) Measurement units
  - e) Schedule for reimbursement by the Commission with the amounts
  - f) Arrangement for verification of the conditions / results / deliverables
  - g) The methods for adjustment of the amounts
  - h) Arrangement to ensure audit trail → Annex XI point IV

Where it is set up at EU level, the Commission adopts a delegated act.



## Financing not linked to costs - practical examples

#### **Energy efficiency in public buildings (1)**

- Expected results: Energy efficiency achievement expressed by a decrease in primary energy consumption
- Total amount for the financing not linked to cost scheme
- Indicator: Decrease of primary energy consumption of public buildings by XX kWh/year (with a detailed definition)
- Intermediate deliverables: milestones for the indicator chosen with corresponding amounts (payment profile)
- Final deliverable: Overall decrease of primary energy consumption



### **Energy efficiency in public buildings (2)**

- Verifications:
  - Achievement of results will be based on the energy certificates of buildings according to Art 12(1) of the Directive 2010/31/EU (issued before and after the reconstruction)
  - > Beneficiary will be obliged to deliver certificates
  - MA to verify if the investment was delivered according to the documents setting up the conditions
- Audit and control work: audit shall only aim at verifying that the conditions for reimbursement have been fulfilled, not checking the underlying data or supporting documents
- Audit trail: document retention by MA



### **Private connections to sewage systems**

- Results: private users effectively connected to a sewage system
- Total amount for the financing not linked to cost scheme
- Indicator: polluting load (kg BOD5/ day) effectively reaching the wastewater treatment plant (WWTP) – compared to baseline (before sewage extension project)
- Intermediate deliverables: Yearly milestones for the indicator chosen with corresponding amounts (payment profile)
- Verification:
  - Monitoring system at the entrance of WWTP, based on operator's data
- Audit and control work: verify conditions for reimbursement have been fulfilled and MA has procedures to monitor and check the fulfilment of the financing conditions, etc.
- Audit trail: document retention by MA



### What type of SCOs should be included in Art 88?

- ESF: Existing unit costs or lump sums approved by delegated act 2015/2195 for a specific MS => YES
- ESF: Existing EU-level unit costs approved by delegated act 2015/2195 => NO
- Flat rates enshrined in the CPR or Fund-specific regulations
   NO



#### How should the assessment of the AA look like? (I)

Art 88, Annex V 5. Assessment of the audit authority(ies) of the calculation methodology and amounts and the arrangements to ensure the verification, quality, collection and storage of data.

- Scope and Methodology provide an opinion on whether the SCO methodology for operations XYZ is based upon an appropriate and reliable methodology and whether such a methodology is based upon verifiable records and documents
- Info from MA needs to be complete and accurate
- AA should describe the information, data and supporting documents received



#### How should the assessment of the AA look like? (II)

- AA should check the arithmetical calculations of the worksheets provided
- AA should verify the individual costs to supporting documentation
- AA conclusion: Based upon the review undertaken and information and explanations provided, the AA is of the opinion that the proposed SCO is calculated on a fair and reasonable basis and is supported by a sufficient audit trail
- Confirm that the AA is satisfied with the methodology for the calculation of the SCO



#### Art 48(1) – obligatory use of SCOs State Aid

- 2014-2020 CPR SCOs were obligatory for operations or a project up to EUR 100.000 of <u>public support</u>
- Post 2020: SCOs are obligatory for operations where the total cost does not exceed EUR 200.000
- Exception for operations below EUR 200.000 which constitute State Aid. These operations do not need to apply SCOs <u>but</u> still need to comply with State Aid rules
- If an operation falls under State Aid rules, the MA/IB needs to ensure that all categories of costs/expenditure are eligible under both sets of rules



## Flat rates "up to xyz %" Definition of direct and indirect costs

- For flat rates enshrined in the regulation which read "up to x %" there is absolutely no need to perform any calculation. MS are free to use a lower % if that better suits their situation or purpose
- Attention needs to be paid only in case different flat rates are used for different beneficiaries. This needs to be justified and documented in order to comply with the principle of non-discrimination
- The CPR does not foresee any definition of direct and indirect costs
- It is the responsibility of the MA to ensure a <u>clear and consistent</u> <u>definition</u> which prevents double-financing of costs
- Section 2.2. of the GN on SCOs: "Direct costs are those costs which are directly related to an individual activity of the entity (...)"





### **Effectiveness of procurement market**

 $\textbf{Based on COM proposal: substantial divergences with COREPER\ text}$ 

#### Objectives and rationale

Deficiencies in the procured market: low (single bids) or artificial competition

- Ensure the actual effectiveness of procurement legislation and mechanisms: effective and real competition best value for money for tax payer
  - => Identification and correction of deficiencies : low or artificial competition
- Transparency on the procedures
- Reliance on existing tool (e-procurement) and mechanisms (reporting under Art 83 and Art 84 of Directive 2014/24)
- Applicable to all procurement procedures:
  - Including national procedures below EU thresholds
  - > Irrespectively of the source of funding



### **Effectiveness of procurement market**

#### Criteria

- Compilation of data and indicators:
  - Single IT of network of interoperable systems (in case of decentralised competence for instance)
  - Indicators under criterion 1(a): many collectable through e-procurement. Initial, selected and winning bidders, contractual value: pursuant to Art 84 of Directive 2014/24
  - Criterion 1(c) on appeals: data available from remedy body(ies) and need to be correlated
  - Criterion 1(d) on rules on exclusion: Art 7 to Art 12 of Directive 2014/24
- 2. Capacity for monitoring and analysis
  - Dedicated team / staff available and operational within competent authority (ies)
- 3. Data and analysis available through user friendly open data
  - User friendly: data easily extractable, by authority and / or sector for instance
  - Platform would not be filled with data but should be ready to be used
- 4. Cooperation with competent competition bodies
  - Protocol signed, exchange of data, follow-up of cases



### **Application of State aid rules**

#### Rationale

- Addressing shortcomings identified throughout implementation (access to information on undertakings in difficulties)
- Provide managing authorities with adequate expertise on State aid matters....and empower national competition authorities often circumvented

#### Criteria

- Undertaking in difficulties: defined under Art 18(2) GBER
- Recovery: recovery of aid, following negative COM decision on illegal aid, pursuant to Art 9(5) and Art 16 of Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Art 108 of the TFUE

NB: text simplified in COREPER (information no longer « permanently updated »)



## Effective application and implementation of the EU Charter of Fundamental Rights

#### Rationale

- MS have to respect the EU Charter when they are implementing Union law (Art 51 of the Charter)
- Operations have to comply with applicable Union law (and the national law relating to its application)
- Guidance on ensuring the respect for the Charter when implementing the ESI Funds – OJ C 269, 23.07.2016, p. 1.
- Number of cases, which came to EC attention, showed that implementing in practice this obligation can pose some challenges
- This enabling condition is to ensure that the necessary mechanisms and procedures are in place to fulfil this legal obligation and thus avoid financial corrections



## Effective application and implementation of the EU Charter of Fundamental Rights

<u>Criteria</u>: Effective mechanisms are in place to ensure compliance with the EU Charter, which include:

- Arrangements to ensure verification of compliance of operations supported by the Funds wih the Charter
  - Amended by Council: reference to 'programmes and their implementation' (not 'operations') + 'relevant' provisions
  - Examples use of a Fundamental Rights checklist, measures for consulting competent bodies in all phases such as launching of calls, drafting selection criteria, selecting operations, etc.
- Reporting arrangements to the monitoring committee on compliance wih the Charter of operations supported by the Funds
  - Amended by Council: cases of non-compliance
  - Examples bring <u>audit findings</u>, <u>complaints and outcomes to the attention of the monitoring committee</u>



Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in accordance with Council Decision 201/48/EC

#### Rationale

- To ensure that the Funds are implemented in an efficient and effective manner in accordance with the UN Convention.
- People with disabilities should derive the same benefits from the use of the Funds as any other person.



Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in accordance with Council Decision 201/48/EC

## <u>Criteria:</u> A national framework for implementing the UNCRPD is in place which includes:

- Objectives with measurable goals, data collection and monitoring mechanisms: involvement of persons with disabilities and their organisations in these processes is a requirement set in the Convention
- Arrangements to ensure that accessibility policy, legislation and standards are properly reflected in preparation and implementation of programmes: examples - involvement of competent experts, use of disability checklist, active measures in all phases such as launching of calls, selecting operations, on-the-spot verifications, etc.





### Fewer obligations, more transparency

What's new for programme authorities...

- Website within six months from programme adoption (one website could cover multiple programmes)
- Early publication summaries of calls (at least 1 month prior to opening)
- Several requirements discontinued (e.g. annual comm. event)
- Financial corrections on beneficiaries of up to 5% in case of non-compliance

#### ...and for beneficiaries

Simplified rules for displaying EU support (no more reference to specific fund)

### **Communication strategy**

- Strategic elements embedded in programmes (specific text field – section 7)
- Concrete and concise (max. 4,500 characters)
- Compulsory elements to address (Art 17)
  - Objectives Attainable, consistent with programme scope/goals, integrated approach
  - > Audiences target potential beneficiaries, stakeholders and general public
  - Channels and Social Media outreach should reflect national/regional specificities
  - Planned budget
  - Indicators for evaluation
- Follow up at monitoring committees and, where applicable, annual review meetings

### **Ensuring consistency across funds**

- Single national portal (Art 41) to communicate all funds in an integrated manner and provide access to all programmes (either linking programmes' webpages or incorporating them)
- National communication officer (Art 43) to facilitate achievement of consistent and coordinated communication across programmes of all shared-management funds
- Single European network (Art 43)
- Strengthen joint work with Commission Representations in MS, EDICs, or other stakeholders



### **Operations of strategic importance**

- For ERDF, CF, ESF+ and EMFF, the programmes shall include a list of planned operations of strategic importance
- Member States shall pay particular attention in ensuring visibility
  - Dedicated (mini)campaigns revolving around project(s)
  - Promoting strong media coverage
  - Visibility through single portal/programmes website
  - Develop promotional material (also for the use of the Commission)
- Beneficiaries to organize an event (ideally upon completion of project) involving Commission and Managing Authorities





