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SHARED MANAGEMENT IN THE EUROPEAN CONTEXT OF SIMPLIFICATION

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Abstract: *With each new period of financial programming, the European Commission has imposed more and more conditions on national management and control systems, although at European level there is a wish of simplifying procedures for accessing European money. Simplification is one of the highest expectations of national authorities regarding the new cohesion policy, and the European Commission aims to meet this expectation. The positive impact of simplification on policy outcomes can be ensured by efficiently distributing the necessary administrative efforts at national, regional and Community level, reducing the time and costs required to achieve objectives and allowing focus on results. By establishing simpler rules, which are easier to understand by the actors involved, thus strengthening legal certainty, simplification can also help to reduce errors and increase the assurance provided by national enforcement systems. The European Commission has proposed simplification through various methods, harmonization of legal rules for the application of more funds, increased flexibility, increased proportionality, clarification of rules to improve legal certainty and digitization of documents and processes. Simplification will not have a full impact only on the basis of proposals from the European Commission, all national authorities involved in the MCS play a key role in ensuring that simplification is achieved for beneficiaries. The full effects of simplification may also depend on the administrative organization at national level. A reduction in the administrative burden to which beneficiaries are subject is the main goal in the simplification process.*

Keywords: *management, simplification, flexibility, proportionality*

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1. Introduction

Considering the reference starting point that the principles governing the European financial allocations granted to Romania are of a healthy financial management, our approach aimed mainly at outlining a set of management measures focused on improving the implementation of European funds. The article begins with a first section that summarizes the defining elements of shared management in the European context of simplification, in order to outline a very flexible fund management and control system capable of preventing, detecting and correcting possible malfunctions. The second part of the article outlines the measures needed to create a management and control system aimed at simplifying bureaucratic procedures for accessing funds, which can lead to an acceleration of the implementation of European funds in compliance with national and Community rules.

2.1. Shared management in the European context of simplification

The shared management of European funds implies a clear delimitation between the responsibilities of the European Commission and the national authorities that form the management and control system of a program, but whose main purpose is the implementation of funds based on the principles of sound financial management. Practically, the shared management must be ensured throughout the implementation of the funds starting from the fund's programming documents, as well as on all the stages of implementation of the European funds.

The European Commission has imposed more and more requirements over national MCS with every new period of financial programming, although at European level there is talk of simplifying the procedures for accessing European money.

Although the 2014-2020 mainstream investment programs were approved in 2014 and 2015, after more than 6 years, of the approximately 31 billion euros (including the part of PNDR) allocated from the European Union, only 15.46 billion euros (European contribution) were paid to the beneficiaries of funds. In percentages that represents about 50.03% of the total Community financial allocation. From the information available on public platforms, the absorption rate in Romania is at a level of 52%, which is below the level of 58% of the EU average.

Although a European legislative package was adopted in March 2020 in the context of the Covid-19 epidemic, allowing national authorities more flexibility in implementing the funds, the results are not at all satisfactory,

given that Romania will have to declare within 3 years the expenditure related to almost half of the Community contribution.

For the 2021-2027 programming period, the European regulations were approved in July, but there are already long delays in the drafting and approval of the operational programs.

Simplification is one of the highest expectations of national authorities regarding the new cohesion policy, with the European Commission aiming to meet this expectation.

Given the diversity of experiences and differences in national administrative organization, it has become clear that what can be seen as simplification in some Member States can be seen as a complication of things in other states. It has become an ongoing challenge in the management of European funds, to try finding enough similarities and to combine them flexibly in order to simplify the management of cohesion policy.

The Commission sees the value of simplification in terms of several aspects, which is necessary to ensure the smooth implementation of cohesion policy and to further interest the beneficiaries. This can have a positive impact on policy outcomes by ensuring an efficient distribution of the necessary administrative efforts at national, regional and Community level, reducing the time and costs required to achieve objectives and to allow results-oriented focus. By establishing simpler rules, which are easier to understand by the actors involved, thus strengthening legal certainty, simplification can also help to reduce errors and increase the assurance provided by national implementation systems. Thus, simplification comes in several forms, some explicit and direct, while others are optional or may require transposition into the national law.

The European Commission has proposed simplification through various methods, harmonization of legal rules for the application of more funds, increased flexibility, increased proportionality, clarification of rules in order to improve the legal certainty and the digitization of documents and processes.

Simplification will not have a full impact only on the basis of proposals from the European Commission, all national authorities involved in the MCS play a key role in ensuring that simplification is achieved on behalf of the beneficiaries. National authorities are encouraged to make the most of all the options and flexibility offered by the European legislative framework and to make the most appropriate choice. The full effects of simplification may also depend on the administrative organization at national level. A reduction in the administrative burden to which beneficiaries are subjected to is the main goal in the simplification process.

In the context of simplification, the European Commission has proposed the following for the 2021– 2027 programming period:

- Legal framework - a shorter, unified legal framework that provides certainty from the beginning;
- Policy framework - a streamlined framework for simpler programming;
- Conditions - fewer strategic requirements to increase the effectiveness of cohesion policy;
- Faster and more strategic programming - for a faster and easier start of implementation;
- Territorial instruments - simpler design adapted to local situations;
- Simpler implementation - faster and simpler application of results;
- Management, control and audit - a simpler and more proportionate system that is largely based on national systems;
- Financial instruments (FI) - simpler and less detailed provisions;
- Monitoring and evaluation - more frequent but easier reporting, streamlined provisions.

Simplification is needed in the context of the new programming period, given that we do not currently have operational programs approved and the institutional building at Member State's level is not finalized as yet.

2.2. Measures needed to create a national management and control system aimed at simplifying bureaucratic procedures for accessing funds

Starting from the European Commission's guidelines on simplification, we will further present the directions in which the Romanian authorities should undertake a series of measures to make the fund implementation mechanism more flexible. These proposals are based on the results of the analyzes from the previous chapters and the case study detailed in Chapter 5. The proposed simplification measures concerning the procedures for accessing funds are grouped into four levels.

The national legal framework should be shorter, unified and provide certainty from the beginning as follows:

- Taking over Community provisions as presented in the documents issued by the EC without its own reinterpretation, which can lead to confusion in implementation;
- Harmonization of all normative acts applicable to a domain, considering that there are still contradictory provisions;
- Elimination of all national legal provisions from normative acts that are in addition to the Community provisions, and which lead to an excess of conditions and documents;

- Elimination of gold plating in certain areas, which do not require definition or detail in a normative act, being sufficient the instructions of the managing authorities or the clauses in the financing contract;
- Modification of legislative acts, norms and working procedures regarding the part of elaboration of feasibility studies and technical projects, starting from the problems encountered during the implementation of works contracts;
- Modification of the normative acts regarding the ascertainment of irregularities and recovery of budgetary receivables, in the sense of shortening the stages of ascertaining irregularities and establishing budgetary receivables, non-interruption of payments to beneficiaries for suspected fraud until all judicial steps are completed and a final court decision is reached, clearly establishing what type of irregularities cannot be sanctioned by financial corrections.
- Establishing precise deadlines for the investigation of suspected fraud by DLAF, given that the amounts cannot be declared to the European Commission without a conclusion from this investigating authority;
- Adoption in normative acts of certain types of simplified costs, for certain types of expenses dedicated to the domains regarding education, health, project management, etc.
- Adoption of much more flexible legal procedures in the area of expropriations;
- Modification of the legal framework in the area of public procurement regarding the latest events caused by the COVID-19 pandemic, as an example on the part of adjusting the price clauses.

The national policy framework in certain domains should be established from the beginning in line with the objectives of cohesion policy, so that the objectives are achieved regardless of the source of funding (state budget, local budgets, European funds, external loans, etc.).

Approved national programs, such as the PNDL, should ensure complementarity to the European operational programs, in order to be able to ensure the transfer of projects from a national program to a European program at some point, when the macroeconomic indicators are not favorable to Romania.

Emphasis should also be placed on the financial stimulation of the human resource participating in the achievement of the objectives, in correlation with a series of easily quantifiable performance indicators.

Very important in order to have a successful absorption, is preserving the possibility to over contract, through allocation financial resources from the national budget when the European financial resources are exhausted.

Faster and more strategic programming after the approval of European regulations, in order to have a faster and easier start of program implementation, as it follows:

- The text of the programs should be clearly understood by all actors involved in the implementation of the funds, focusing on the achievement of objectives and allocations for each fund;
- Establish easily quantifiable technical and financial indicators at program's level, mirrored by project level indicators, for easy cumulation of results;
- Flexible national procedures for amending the program;
- Inclusion in the program of national strategic projects established by national economic policies from its very beginning;
- Inclusion in the programs of the so-called phased projects from its very beginning, namely projects started in the 2014-2020 programming period and which present a high risk of non-completion until 31.12.2023;
- Establishing criteria for evaluating and selecting projects that are much more flexible, easy to understand and quantify. The details can be established later through the guides of the beneficiaries;
- Usage, whenever and in whichever domain allowing this, of the simplified cost methods;
- Usage, whenever and in whichever domain allowing this, of financial instruments.

The management and control system at the level of an institutional program should be much more flexible in order to eliminate the excess of verifications at the level of the beneficiary.

Every MCS coordinate requires undertaking a series of measures for the 2021-2027 programming period, as it follows:

- Creating a coherent and well-structured institutional MCS, both at horizontal and vertical levels, by:
 - Developing an MCS with as few as possible verification filters, by merging tasks within the same authority, where the European regulations allow it;
 - Maintaining the institutional expertise of the national authorities involved in previous programming periods. There is a re-occurrence of the same mistake of the past namely giving up certain structures such as MA ROP, IB Research, IB PSI that had the necessary expertise and experience in implementing European funds;

- ANAP must have a very well-defined role, as the support function of the MCS authorities is not sufficient in the efficient functioning of the management and control system of ESI funds. We must not forget that Romania has had many financial corrections from the European Commission due to irregularities related to public procurement procedures, and ANAP is very important especially for its preventive (ex-ante) role before signing the procurement contracts;
- Active and continuous involvement of national support authorities (ANAP, ANAF, ISC, DLAF, DNA, NATIONAL PROSECUTOR'S OFFICES, DIICOT) in order to understand the principles of operation of the fund's implementation mechanism, in particular the methodology of drafting and transmitting the annual accounts to EC and the risks associated with delays in judicial and administrative proceedings;
- Closing protocols between all the institutions directly involved or having a supportive role in the mechanism set for implementing European funds, clarifying all deadlines and obligations in those areas where Community and national legislation does not provide any information;
- Involvement of internal audit and other internal control structures in certain risk areas before the expenditure is declared to the EC;
- Establishment of working groups with participants from all institutions directly involved in the MCS or of supporting role, in order to outline a series of proposals, administrative measures or legislative changes unanimously accepted by all;
- The decentralization of the ROP for the 2021-2027 programming period requires a cumulation of legislative changes, in order to ensure the financial flow regarding the commitment of funds and payments to beneficiaries. RDAs are bodies with special status, as they are not assimilated to public authorities, the latter being subject to certain rules deriving from the legislation on public finances, respectively on the area regarding the status of civil servants;
- Digitization of the information flow between beneficiary, IB/MA, CA, AA and EC;
- Regularly updating the guide on case scenarios regarding possible irregularities to be avoided and its publication communicated to all beneficiaries of funds;

- Establish clear and concise standard formats for tender documentation, leading to the elimination of confusion and requests for clarification, and even potential appeals in court.
- Ensuring qualitative human resources, by:
 - The allocation of human resources should be balanced in terms of workload, especially where there is a risk of irregularities and fraud in the area of evaluation - selection of projects and management checks on public procurement, authorization of payments, monitoring of projects and physical checks on beneficiaries;
 - Hiring the necessary human resources, even from an external source, in order to be able to quickly process the requests coming from the beneficiaries;
 - Professionalization of human resources in certain fields;
 - Stopping the staff turnover at top management, during the last 5 years, about 5 of the MA's general managers were changed;
 - Establish easily quantifiable performance indicators at job description level, correlated with program level indicators, to allow the easiest possible aggregation of information to be reported to the EC;
 - Ensuring continuous training of staff, especially in areas of potential risk of irregularities: public procurement, state aid, etc.
- Appropriate and risk-oriented procedural framework:
 - Clarification with the European Commission on the proportionality of controls and simplification of requirements, in areas where it is possible to demonstrate that the risk of irregularities is very low;
 - Clear procedures for project's evaluation and selection, focused on risks with timely provision of specialized human resources;
 - Shortening the stages of evaluation and selection and settlement of expenditure, and the application of sanctions where lack of compliance exists;
 - Clear and concise procedures for risk-focused management audits;
 - Use of specialized software for sampling management checks;
 - Continuous monitoring of projects of regional and national importance;
 - The annual implementation reports must contain an action plan approved by the European Commission on measures to increase absorption, and its implementation must be reported regularly;

- From the point of view of program's management, the managing authority should focus on monitoring the functions delegated to the intermediate bodies, the on-the-spot checks should be carried out on a sample basis and the certifying authority should comply with the requirements of the regulation and any other additional checks should be removed;
- The development of clear and concise funding guidelines, which will lead to the elimination of confusion, and in this case, I believe that the experience gained so far is of real use.

At the level of the beneficiary, it is also necessary an active involvement in all phases starting from the drafting of an operational program, a financing guide or even some normative acts, subject to public debates, respectively the establishment at its level of the following actions:

- Creating an appropriate institutional framework by:
 - Creating, where possible, especially at the level of large beneficiaries or a dedicated project team, specialized departments consisting of specialists from all structures of the organization;
 - Establishing through the Organization and Functioning Regulation and other internal regulations the functions and attributions of each structure within the organization, regarding the implementation of projects;
 - Establishing through the Organization and Functioning Regulation and other internal regulations, the job descriptions, the role and responsibilities of each member of the project's team;
 - Nomination of a team manager with experience in the field;
 - Continuous coordination with the other departments within the institution and with other institutions that have a small role in the implementation of projects.
- Ensuring the necessary human resources, by:
 - Establishing specialized project teams in different fields, necessary for project's implementation;
 - Financial stimulation of the human resource participating in the fulfillment of the objectives, in correlation with a series of performance indicators;
 - Continuous training of the staff involved;
 - Stopping staff turnover at the level of the project team.

- Adequate project management, through:
 - Continuous information of the organization's management about the possibilities of financing new projects;
 - Providing the necessary financial resources in time, in the event of unforeseeable situations;
 - Early preparation of project proposals, considering all risks that may affect the smooth running of projects;
 - Thorough preparation of tender documentation, to eliminate potential problems that may arise in the implementation of projects;
 - Ensuring specialized evaluation commissions during the tendering procedures which have the necessary experience in evaluating the submitted tenders;
 - Procurement procedures should be transparent and allow the participation of as many tenderers as possible;
 - Continuous monitoring of ongoing projects;
 - Informing and proposing measures regarding the smooth running of procurement contracts.

3. Conclusions

The European Commission has imposed more and more requirements on the national MCS with each new financial programming period, although a European legislative package was adopted in March 2020 in the context of the Covid-19 epidemic, allowing national authorities more flexibility. In the implementation of the funds, the results are not at all satisfactory.

Simplification is one of the highest expectations of national authorities regarding the new cohesion policy.

Outlining a set of management measures focused on improving the implementation of European funds is grouped around the following factors:

- Improving the legislative framework;
- Coherent target-oriented national economic policies, regardless of the funding source;
- Active participation of all decision makers;
- Keeping the positive elements of the past;
- Professionalization of human resources;
- Debureaucratization of national authorities involved in the management and control system of a program;
- Actions aimed at prevention and less at sanctioning;
- Digitization of information flow.

In order to create a friendly climate for the beneficiary, given the favorable synergistic effect that the interdependence of the listed factors creates, the aim will be to achieve a series of objectives, as it follows:

a) The development of a flexible and professional management and control system, oriented on results and achievement of performance indicators, by creating and developing a coherent and well-structured institutional framework both at horizontal and vertical levels, ensuring qualitative human resources, development of an appropriate and risk-oriented procedural framework;

b) The development of a system accessible to potential beneficiaries of funds by digitizing the exchange of information (friendly IT system) and documents with MCS institutions, clear and easy-to-understand instructions and guides for obtaining European funding, and focusing the actions of MCS' authorities more on the part of prevention and awareness of beneficiaries to avoid the main problems that may arise in the implementation of projects, and less on the application of financial sanctions;

c) The development of a coherent legislative framework that takes over the Community legislation without other reinterpretations, thus eliminating from the national legislation of the excess of regulation related to the community norms;

d) Development of national economic policies complementary to Community policies for the implementation of European funds on a medium or long term.

Simplification is needed in the context of the new programming period, as currently the operational programs are not approved and institutional building at the Member State's level is not finalized.

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