



Community Living for Europe
Building on the Promise of European Structural and Investment Funds into the Future

European Parliament round table - 1st December 2016
Background Note

1. Introduction

Community Living for Europe: Structural Funds Watch is an independent initiative, which tracks how the clear commitment of the European Structural and Investment Funds (ESIF) to support community living for persons with disabilities, children and older persons is being achieved.

The right to live independently and be included in the community for people with disabilities is firmly established in international law, as is the right of children, as far as possible, to live with their families in their communities.¹ While there is no specific or thematic international legal instrument for older persons at present, they clearly enjoy the same rights as the rest of the population under general and thematic instruments. Confirmatory of the link between general or thematic human rights treaties to old age is the range and depth of soft law instruments in the field.² The right to live in the community of older people (often referred to as 'ageing in place') has been defined as "the ability to live in one's own home and community safely, independently, and comfortably, regardless of age, income, or ability level."³ Ageing in place includes the retention of identity and relationships as well as independence and autonomy. The transition from institutional care to community based living for children, persons with disabilities and older persons is not only an international legal obligation of all Member States it is also an imperative of EU law and policy.⁴

¹ Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (2010/48/EC); UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html> [accessed 24 November 2016]

² *United Nations Principles for Older Persons*, Adopted by General Assembly resolution 46/91 of 16 December 1991; Committee on Economic, Social and Cultural Rights, *General comment 6: The economic, social and cultural rights of older persons*, 12/08/1995, E/1996/22; *Political Declaration and Madrid International Plan of Action on Aging*, Second World Assembly on Aging, Madrid, Spain 8-12 April 2002. Available http://www.un.org/en/events/pastevents/pdfs/Madrid_plan.pdf (last accessed 17 August 2016); The Toronto Declaration on the Global Prevention of Elder Abuse (WHO, Geneva, 2002) available: http://www.who.int/ageing/projects/elder_abuse/alc_toronto_declaration_en.pdf (last accessed 18th August 2016).

³ Centers for Disease Control and Prevention (CDC), *Healthy Places Terminology*. Available at <http://www.cdc.gov/healthyplaces/terminology.htm> (last accessed 17 August 2016).

⁴ Charter of Fundamental Rights of the European Union (2007/C 303/01) OJEU C 83/391, 30 March 2010; European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe COM(2010) 636; Communication from the Commission EU Agenda for the Rights of the Child COM(2011) 60 (Brussels, 15.2.2011); Commission Recommendation of 20.2.2013 Investing in Children; breaking the cycle of disadvantage C(2013) 778 (Brussels, 20.2.2013); Council of the European Union conclusions on 'The European Pact for Mental Health and Well-being: results and future action' *3095th Employment, social policy, health and consumer affairs Council meeting* (Luxembourg, 6 June 2011); Council Declaration on the

Article 6 of the Common Provision Regulation (EU) No 1303/2013 (CPR)⁵ requires operations supported by the ESIF to comply with national and EU law. The objectives of the ESIF and the conditions placed on the use of the funds should provide reliable mechanisms for achieving EU policy. In addition, there is a responsibility to European taxpayers to ensure their scarce resources are not used to further isolate citizens who find themselves in vulnerable situations.

The Community Living for Europe initiative was commenced after landmark changes to the Regulations governing the ESIF in 2013 to assist Member States move toward the closure of institutions. It sees the changes as a golden opportunity to ensure the EU can play its part in the worldwide move toward community living models for all. It tracks practice with a view to improvements.

Community Living for Europe is guided by a Steering Committee comprised of non-governmental organisations (NGOs), advocating for implementation of the ESIF regulations, including Lumos (Co-Chair), the Centre for Disability Law and Policy NUI Galway (Co-Chair), the European Expert Group on the Transition from Institutional to Community-based Care (EEG), the European Disability Forum, Age-Platform Europe and the European Foundation Centre. The EU Fundamental Rights Agency serves as an observer on the Steering Committee. What unites these groups is a shared commitment to ensure that the power of the EU is used in accordance with underlying principles of human autonomy and social inclusion.

Community Living for Europe is organising the round table 'Building on the Promise of ESIF into the Future' to look at good practices, issues and challenges linked to the implementation of the regulations. It aims to provide input on the need for improving practice under the existing regulations as well as how this underlying legislative framework might be improved in the future to underpin more effective outcomes.

2. Backstory – using the ESIF as a force for good

The ESIF are acknowledged to be one of the highest impact and most successful tools available to express solidarity among European peoples. In December 2013, after an historic debate in the European Parliament (EP), the ESIF Regulations for the 2014-2020 programming period were adopted by the Council of the European Union (EU).

Activities supporting the transition from institutional care to community based living are programmed under thematic objective 9 of the funds with the aim of "promoting social inclusion, combating poverty and any discrimination" (Art. 9 CPR).

Several investment priorities in the European Social Fund and the European Regional Development Fund regulations are to support community living for all, including: "Investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and

European Year for Active Ageing and Solidarity between Generations (2012): The Way Forward, 17468/12, Brussels, 7 December 2012; Recommendation CM/Rec(2014)2 of the Committee of Ministers to Member States on the promotion of the human rights of older persons (*Adopted by the Committee of Ministers on 19 February 2014 at the 1192nd meeting of the Ministers' Deputies*).

⁵ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 *OJ L 347, 20.12.2013, p. 320–469*

recreational services and the transition from institutional to community-based services".⁶ Complementary use of the European Regional Development Fund and the European Social Fund have the potential to end institutional care through the development of community based services including personal assistance, making mainstream services accessible and available to all, targeted support and training for persons and staff in the transition process and a range of preventive and early intervention measures.

The ESIF can also be used for technical support in the drafting of new legislation and financial frameworks as well as strengthening the capacity of relevant partners including civil society and NGOs in fulfilling their role in planning, implementing and monitoring ESIF programmes.

To ensure that the funds are spent intelligently and efficiently, the CPR provides for *ex ante* conditionalities to be respected (Art. 19 CPR), and lays down relevant criteria for fulfilment. The *ex ante* conditionality linked to thematic objective 9 requires a "national strategic policy framework for poverty reduction, aiming at active inclusion" be put in place by Member States, before funding is released. According to Article 2.2 CPR the National Strategic Policy Framework (NSPF) should set out "a limited number of coherent priorities established on the basis of evidence and a timeframe for the implementation of those priorities and which may include a monitoring mechanism".

In order to be fulfilled, the NSPF must satisfy several criteria. Firstly, the NSPF must be in place (9.1.1). Second, the NSPF must provide a sufficient evidence base to develop policies for poverty reduction and is based on an analysis of the Member State's poverty reduction potential, indicators relevant to active inclusion, an analysis covering all three strands of active inclusion (adequate income support, labour market activation and access to enabling services) and there must be evidence of integrated service delivery "one-stop shops" or credible plans on the implementation of an integrated approach (9.1.2). Third, the NSPF must contain measures supporting the national poverty and social inclusion target as defined in the Member States National Reform Programmes in the framework of the European Semester (9.1.3). Fourth, there must be active participation of all relevant actors, including those affected by poverty and social exclusion, the social partners, NGOs and service providers, in the development, implementation and evaluation of the NSPF (9.1.4). Fifth, depending on identified needs the NSPF must include measures for the transition from institutional to community based care (development of community based services, preventive measures, family support and family-like care for children) and measures enabling access to mainstream services for example, housing, health, transport, leisure activities (9.1.5).

The European Commission established "identified needs" for the transition in twelve Member States; Bulgaria, Czech Republic, Estonia, Greece, Hungary, Lithuania, Latvia, Poland, Romania, Slovenia, Slovakia and Croatia⁷.

The final criterion for fulfilment is that upon request and where justified, relevant stakeholders must be provided with support for submitting project applications and for implementing and managing selected projects (9.1.6).

Guidance produced by the Commission advises that measures for the shift from institutional to community based care should be based on the following:

⁶ Article 5(9)(a) Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006

⁷ European Expert Group on the Transition from Institutional to Community-based Care Toolkit on the use of European Union Funds for the Transition from Institutional to Community-based Care (Revised version 2014) <http://www.deinstitutionalisationguide.eu/wp-content/uploads/2016/04/Toolkit-07-17-2014-update-WEB.pdf> p 22.

- An analysis of the situation and the needs including an assessment of the needs of those at risk of institutionalisation,
- The availability of services in the community (the number and range of services provided in the community including preventive services),
- Disaggregated data about individuals with support needs living in the community,
- Disaggregated data about individuals living in long-stay residential institutions,
- Access of children and adults with support needs to mainstream services,
- Causes of institutionalisation of children and adults such as poverty, disability, stigma, lack of community services and, a timeframe for implementation.⁸

The European Expert Group on the Transition from Institutional to Community-based Care advise it is important that the key principles set out in the NSPF are further elaborated in specific national and/or regional strategies and action plans on deinstitutionalisation that concern all groups (children, persons with disabilities and mental health problems, homeless people and older people).⁹

European Commission Guidance stresses the importance of complementary use of the funds and the need for measures to be underpinned by a strategic vision for the closure of institutions. Importantly the guidance clearly states, the building or renovating long-stay residential institutions is excluded from ESIF support, regardless of their size.¹⁰

The ESIF regulations envisage a prominent role for civil society organisations and NGOs at the national level. The CPR states the drafting and implementation of Partnership Agreements and Operational Programmes should include “relevant bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting social inclusion, gender equality and non-discrimination” (Art. 5 CPR).

In respect to monitoring, the CPR provides that

“The Member State shall set up a committee, in accordance with its institutional, legal and financial framework, to monitor implementation of the programme, in agreement with the managing authority (the “monitoring committee”)” (Art. 47 CPR).

According to Art. 48 CPR the composition of the monitoring committee shall be decided by the Member State, provided that the monitoring committee is composed of representatives of the relevant Member State authorities and intermediate bodies, but should also include civil society organisations.

These provisions and the prominent role of civil society organisations are extremely important. They are further elaborated in the European Code of Conduct on Partnership (ECCP).¹¹ The ECCP is another important tool introduced by the ESIF regulations and details how Member States should create partnerships with stakeholders in the development of the Partnership Agreements and the design and implementation of the programmes to be supported by the ESIF. It calls for close cooperation between public authorities, economic and social partners and bodies representing civil

⁸ Draft Thematic guidance Fiche for Desk Officers Transition from Institutional to Community-Based Care (Deinstitutionalisation-DI) [Version 2 – 27/01/2014](#).

⁹ European Expert Group on the Transition from Institutional to Community-based Care Toolkit on the use of European Union Funds for the Transition from Institutional to Community-based Care (Revised version 2014) 32.

¹⁰ Thematic Guidance Fiche for Desk Officers - Transition from Institutional to Community-Based Care (De-Institutionalisation - Di) Version 2 - 27/01/2014

¹¹ Commission Delegated Regulation (EU) No [240/2014](#) of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds (*OJ L 74, 14.3.2014, p. 1–7*)

society at national, regional and local levels throughout the whole programme cycle consisting of preparation, implementation, monitoring and evaluation.

It obliges the Member States and managing authorities to involve relevant partners, including civil society organisations, in preparation of the Partnership Agreement in all its aspects (Art. 6 ECCP) as well as of the Operational Programmes (Art. 8 ECCP) and Progress Reports (Art. 14 ECCP). During the consultation process the ECCP also requires Member States to disclose and provide easy access to relevant information, sufficient time for partners to analyse and comment on key preparatory documents and on the draft Partnership Agreement and draft programmes, available channels through which partners may ask questions, provide contributions and be informed of the way in which their proposals have been taken into consideration and to disseminate the outcome of the consultation. (Art 5, 2 ECCP)

The ESF Regulation specifies that to encourage participation of, and access by, NGOs in and to actions supported by the ESF, in particular in the fields of social inclusion, managing authorities of programmes in less developed and transitional regions shall ensure that an appropriate amount of ESF resources is allocated to capacity building activities for NGOs.¹²

3. Recent Studies on the implementation of the ESIF Regulations – room for improvement

How have the regulations been translated into practice at the Member State level? How effective are the criterion for fulfillment regarding the shift to community living?

There is now enough evidence that could be used as a base for improving the regulations in a way that would optimise their impact into the future.

- *Ex ante conditionality on social inclusion*

The European Commission Directorate-General for Regional and Urban Policy has published a report (July 2016) on the implementation of the provisions in relation to the *ex ante* conditionalities covering the ERDF, Cohesion Fund and multi-fund programmes.¹³ Analysing the fulfilment of the criteria for the *ex ante* conditionality on social inclusion the report states the following:

“In the field of social inclusion, the status of fulfilment related to ‘reduction of poverty’ (9.1) is lower, particularly those parts of the policy framework concerning ‘needs identification’ (9.1.5) and ‘project support’ (9.1.6)”.¹⁴

The same report provides information on the involvement of stakeholders in the assessment of the applicable *ex-ante* conditionalities. Concerning the level of involvement of different stakeholders, respondents to a web survey reported:

¹² Article 6(3) Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006

¹³ European Commission, Directorate-General for Regional and Urban Policy ‘The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds’ (European Union, 2016). Available: <https://goo.gl/6bKMPq>

¹⁴ *ibid* 61; see also Figure 20: State of fulfilment at criteria level related to TO 8-10, p 62. The analysis of ExAC fulfilment at criteria level covers all OPs, but also elements of the PAs for the Member State for which some information has been covered exclusively at PA level (LV all TExACs; DK all TExACs except for 1.1 covered at OP level; EE all TExACs except for 9.1 covered at OP level)

“significant national and – to a lesser extent – regional/local government involvement. Eighty-five per cent of respondents selected either as ‘significant’ or ‘very significant’ national government department and agency involvement”.¹⁵

The level of involvement of NGOs in the assessment of applicability has been low. A total of 53% of the respondents reported no involvement, 14% reported very limited involvement, 18% limited involvement, 6% significant involvement and 8% very significant.¹⁶ The report informs that “In most cases, the assessment of applicability and fulfilment was not separated from each other in terms of the involvement of stakeholders and the process of decision-making”.¹⁷

During several interviews for the Directorate-General for Regional and Urban Policy report, a small number “suggested that it would have been useful to include ExACs in relation to infrastructure investment in the field of education or health. The existing criteria in relation to health and education focus on access and efficiency rather than a mapping of infrastructure needs”.¹⁸ Several points in favour of an ex ante conditionality on social infrastructure can be made. Firstly there is a need to think about sustainability of ESIF operations and second, investments in institutional care come in many forms and can be programmed under thematic objectives other than social inclusion and poverty reduction, for example related to energy efficiency, education and/or health.

- *The Partnership Principle*

In a 2016 Study the European Anti-Poverty Network (EAPN) found on average, that while Managing Authorities are committed to implementing the ECCP, from the perspective of civil society and NGOs this commitment is not adequate.¹⁹ In 2015 the National Coordinators of the Opening Doors for Europe’s Children Campaign in eight EU Member States reported inadequate involvement in the development of the Partnership Agreements and Operational Programmes.²⁰

Responding to a Community Living for Europe survey, national and local level civil society organisations in several Member States reveal that relevant organisations working in the area of community living and family/family-like living have not been consulted or involved in developing the NSPF nor the preparation, implementation or monitoring of the programmes. Where consultation of relevant partners was initiated, there is evidence that involvement had often been tokenistic. This was due to several factors including insufficient time to provide comments or analyse key documents, a lack of capacity building or support to participate meant many less developed and/or smaller NGOs could not participate and submitted comments or lodged concerns were not taken into account or acted upon.

- *ESIF Monitoring Committees*

The operation and effectiveness of the ESIF Monitoring Committees could be improved. Information gathered from national and local level civil society organisations through the Community Living for

¹⁵ Ibid, 37

¹⁶ ibid, Figure 6, 38

¹⁷ ibid, 39

¹⁸ ibid , 110

¹⁹ EAPN (2016) Barometer Report – Monitoring the implementation of the (at least) 20% of the European Social Fund that should be devoted to fight against poverty during the period 2014-2020. Available at: <http://www.eapn.eu/en/news-and-publications/publications/eapn-position-papers-and-reports/barometer-report-monitoring-the-implementation-of-the-20-of-esf-earmarked-for-fighting-poverty>.

²⁰ Opening Doors for Europe’s Children (2015) Are European Structural and Investment Funds opening doors for Europe’s institutionalised children in the 2014-2020 programming period? Available at: <http://www.openingdoors.eu/wp-content/uploads/2015/03/Opening-Doors-Esif-Report-lowres-.pdf>.

Europe survey reveal that in general ESIF Monitoring Committees have infrequent meetings and that representation of civil society and NGOs is inadequate. In Lithuania, for example, organisations reported in 2016, that the Committee had been informed post factum of deinstitutionalisation projects or activities and that:

“members of the Monitoring Committee have no possibility to impact decisions or criteria, or measures, or public procurements or calls for projects. Nothing. No discussions, no consultations, no agreements”.²¹

In Hungary, one organisation commented “We have no information on the Monitoring Committee selection, work is not transparent, no information is available”.

- *ESIF Operational Programmes*

A recent review of the Operational Programmes in six countries conducted by the European Network on Independent Living (ENIL)²² identifies several issues that undermine the potential of the ESIF to support the transition to community based living for all. ENIL’s concerns include:

- The lack of strategic vision in Member State strategies for the transition from institutional care to community living.
- Measures proposed in the Operational Programmes indicate planned investments in institutional care rather than seeking to eliminate institutional care.
- Lack of analysis on the situation of persons with disabilities and therefore understanding of what measures are needed to realise community living.
- Insufficient range of services aimed to promote social inclusion.
- Putting the Partnership principle into practice.

- *Use of ESIF for Community Living*

ENIL wrote a 2016 report for the European Parliament Petitions Committee on the use of the ESIF in Slovakia²³. The report was used by a delegation of MEPs, led by Cecilia Wikstrom MEP, who visited Slovakia to investigate the use of Structural Funds for the building and renovation of institutions for people with disabilities. The report identifies key areas of concern including a lack of information about people with disabilities living in Slovakia, the small number of institutions to date involved in the deinstitutionalisation process, that not all municipalities share the objective of deinstitutionalisation and that despite the limited number of institutions involved, there are ‘massive delays’ in its implementation.

Jana Žitňanská MEP and Olga Senalova MEP, Vice-Chairs of the European Parliament’s Disability Intergroup, hosted an event on ‘The use of ESIFs for deinstitutionalisation, comparing the Slovak and Czech experience’. Participants shared examples in the use of the funds highlighting that while some progress can be seen, impact remains limited and largely focused on building. In the Czech Republic, the absence of a specific strategy on deinstitutionalisation was highlighted as a cause for

²¹ Response to the Structural Funds Watch 2016 survey, National NGO Lithuania.

²² ENIL-ECCL (2016) ‘Working Together to Close the Gap Between Rights and Reality: A report on the action needed to ensure that European Structural and Investment Funds promote, not hinder, the transition from institutional care to Community Living’. Available at: <http://www.enil.eu/wp-content/uploads/2016/06/Working-Together-toClose-the-Gap-web.pdf>

²³ ENIL-ECCL (2016) European Structural and Investment Funds and People with Disabilities: Focus on the Situation in Slovakia in-depth analysis. Available at: [http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/571371/IPOL_IDA\(2016\)571371_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/571371/IPOL_IDA(2016)571371_EN.pdf)

concern. In Slovakia, the implementation of national strategies, coordination of ERDF and ESF measures, and the very slow transition process that shows few tangible results, raised concerns.

In 2015, concerns about the use of ESIFs were raised by Emily O'Reilly, the EU Ombudsman, who noted in her own-initiative inquiry, that the EU "should not allow itself to finance, with EU money, actions which are not in line with the highest values of the Union".²⁴ The EU Ombudsman recommends that when assessing the success of programmes and actions financed by ESIFs, the EU should include "consideration of how they have contributed to the promotion of respect for the fundamental rights enshrined in the Charter". The EU Ombudsman recommended that the EU should apply "strictly and consistently its sanctioning prerogatives, when applicable ex ante conditionalities (preconditions) are not complied with within the deadlines". The deadline for fulfilment of the ex ante conditionalities is the 31st December 2016 and the Member States must report on their fulfilment not later than in the annual implementation report in 2017.

A shared understanding of key definitions on what is, and what is not deinstitutionalisation, together with quality approaches to implementation are vital. For example, improving conditions in special residential schools through activities such as purchasing sporting equipment for use in an institutional setting or hiring and training of staff to provide their services in an institutional setting, cannot be considered measures supporting the transition from institutional care to community and family or family/like settings.²⁵

4. Crossroads – how do we improve practice?

- *Taking stock and preparing for the 2017 European Semester*

The Social Protection Committee, an EU Treaty-based advisory policy committee for the Employment and Social Affairs Council (EPSCO) has recently released its annual report for 2016.²⁶ The Council of the EU endorsed the main messages of the report on 13 October 2016.²⁷ The SPC findings and common priorities for social policy reforms should guide the preparatory work for the 2017 Annual Growth Survey. The Annual Growth Survey marks the start of the European Semester, the annual cycle of economic policy coordination, where national policies are reviewed collectively at EU level. The European Semester framework is the key-monitoring platform of Member States social reforms.

The SPC recommendations have a strong link to the fulfilment of the social inclusion *ex ante* conditionality. The SPC states that, "Policy reforms based on an active inclusion approach, combining adequate income support, high quality social services and support for activation to encourage labour market (re) integration, continue to be necessary". The SPC continues: "To avoid the fragmentation of service delivery, Member states should make better

²⁴ Decision of the European Ombudsman closing her own-initiative inquiry OI/8/2014/AN concerning the European Commission, European Ombudsman (2015) available at:

<http://www.ombudsman.europa.eu/en/cases/decision.faces/en/59836/html.bookmark>

²⁵ see for example project 'Support for equal access and personal development' Activity 6.3, funded by the 'OP Science and Education for intelligent growth under the ESIF' of Bulgaria.

²⁶ Social Protection Committee Annual Report 2016 Review of the Social protection Performance Monitor and Developments in Social Protection Policies (European Union, 2016) Available:

<http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7936&visible=0&preview=cHJldkVtcGxQb3J0YWwhMjAxMjAyMTVwcmV2aWV3>

²⁷ Council of the European Union, Social Protection Performance Monitor (SPPM) - Report on key social challenges and main messages from SPC – Endorsement (Brussels, 27 September 2016) available:

<http://data.consilium.europa.eu/doc/document/ST-12606-2016-INIT/en/pdf>

efforts to introduce and provide integrated services tailored to individual needs". The SPC analysis of recent reforms to achieve adequate social protection for long-term care needs inform, that

"Some Member States aim at addressing these challenges through structural reforms such as a shift from institutional to community-based care, strengthened support to informal carers and improved policies for prevention, rehabilitation and independent living. However, more efforts are necessary to ensure the long-term care sustainability and to facilitate the access to adequate, affordable and quality long-term care. In order to achieve this, Member States should adopt a proactive policy approach, promoting independent living and preventing the loss of autonomy, reducing thus the need of long-term care services".²⁸

The SPC has identified long-term care as a key social challenge in four Member States (Spain, Italy, Slovenia and Slovakia) and has recorded no 'good social outcomes', across the 28 Member States in long-term care.²⁹

The CPR integrates the ESIF into the European Semester. At the programming stage, Member States have to make a clear link between ESIF intervention and the Europe 2020 strategy, with particular focus on the relevant country-specific recommendations. A significant change in comparison with the previous programming periods is that this link must be maintained throughout the implementation stage. If new relevant country-specific recommendations are issued which require support from the ESIF, the Commission may request that Member States make appropriate adjustments to the Partnership Agreements and the programmes through two mechanisms: Re-programming and Economic Governance Procedure, laid down in Article 23 of the CPR.

The 2016 Country Reports of Bulgaria and Romania specifically mentioned deinstitutionalisation as a structural issue requiring further and continuing action on the part of these Member States.³⁰ It is expected that the 2017 Country Reports will examine Member State reform efforts, particularly those that have included measures for the shift from institutional to community based care in their NSPF and are using the ESIF to support the transition to community based living, taking into account the SPC findings and identified key challenges in the Member States.

- *Multiannual Financial Framework*

A Communication from the Commission in September 2016 presented the mid-term review of the Multiannual Financial Framework (MFF)³¹. The current programming period of the ESIF is experiencing delays in implementation to which the Commission have urged Member States "to complete the process of designating their managing and certifying authorities, ...and implement actions to make progress in fulfilling ex-ante conditionalities to accelerate project implementation"³². The ability of the Member States to absorb the ESIF, and absorb it well, is a challenge.

²⁸ Social Protection Committee Annual Report 2016, n(26) 26

²⁹ *ibid*, see 'Synthesis table of key social challenges and good social outcomes, 2011-2014', 31-32

³⁰ Country Report Bulgaria 2016 (Brussels, 26.2.2016) SWD(2016) 72 final. Available: http://ec.europa.eu/europe2020/pdf/csr2016/cr2016_bulgaria_en.pdf p 46; Country Report Romania 2016 (Brussels, 26.2.2016) SWD(2016) 91 final. Available: http://ec.europa.eu/europe2020/pdf/csr2016/cr2016_romania_en.pdf p 61.

³¹ Communication from the Commission to the European Parliament and the Council, mid term review/revision of the multiannual financial framework 2014-2020, An EU budget focused on results [COM\(2016\) 603 final](http://ec.europa.eu/europe2020/pdf/csr2016/cr2016_romania_en.pdf) (Brussels, 14.9.2016)

³² *ibid*, 6

Proposals for the next MFF, due by the end of 2017, will look at how to make the most of available funding and build on the innovations in the current period such as conditionality, simplification, leverage and synergies³³. In this framework it is important that social inclusion is addressed more widely and that the implementation of the social inclusion ex ante conditionality is mentioned

- *New opportunities and complementary instruments*

The Structural Reform Support Programme (SRSP)³⁴ will be established for the period 1 January 2017 to 31 December 2020, with a financial envelope of €142.8 million. The aim of the programme is to contribute to institutional, administrative and structural reforms in the Member States, particular in the context of economic governance processes, including through assistance for the efficient and effective use of EU funds. The programme would finance actions and activities of European added value and will be monitored by the Commission. The European Economic and Social Committee (EESC) have stressed that the Member States can extend the 'Specific objectives and scope of the Programme' to other policy areas, such as combating poverty, human rights, transport policies, ICT and the implementation of sustainable development goals.³⁵ The SRSP is another tool that can, with the active involvement of the social partners, civil society, local and regional authorities, provide support in the design and monitoring of reform policy programmes.

The European Pillar of Social Rights demonstrates a renewed commitment on the part of the EU to the fundamental rights of its citizens. The European Parliament has called on the Member States to implement effective mechanisms in order to prevent or alleviate poverty, vulnerability and social exclusion among persons with disabilities and their families, with special regard to children and older persons with disabilities, in the context of a European Pillar of Social Rights.³⁶ The yearlong public consultations on the European Pillar of Social Rights runs until the 31 December 2016 and a consolidated version should be presented early in 2017.

The increased use of EU instruments such as the European Fund for Strategic Investments (EFSI), can play a key role in complementing the ESIF through investment in social infrastructure and community based social services sector. The 2016 Commission Communication on the MFF highlights the success of the EFSI and has proposed to continue the EFSI beyond 2017 and double its financing capacity.³⁷ According to an audit of the EFSI the majority of investments have benefited the EU15 receiving 91% of EFSI support while the EU13 received a mere 9% (excluding multi-country operations).³⁸ Social infrastructure accounts for only 4% of EFSI expenditure, of which the European Association of Service Providers for Persons with Disabilities found primarily supports hospitals and social housing, "with little evidence of sufficient investment into social

³³ *ibid*, 14-15

³⁴ Regulation of the European Parliament and of the Council on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013. ([COM\(2015\) 701 final](#) 2015/0263 (COD)).

³⁵ [Opinion of the European Economic and Social Committee](#) on the 'Proposal for a regulation of the European Parliament and of the Council on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013' (COM(2015) 701 final — 2015/0263 (COD))

³⁶ European Parliament resolution of 7 July 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee ([2015/2258\(INI\)](#))

³⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub.

³⁸ Ad hoc audit of the application of the Regulation 2015/1017 (the EFSI Regulation) Final Report (14 November 2016) Available: https://ec.europa.eu/priorities/sites/beta-political/files/ey-report-on-efsi_en.pdf 2

services”.³⁹ Proposed increases in the social infrastructure allocation in the EFSI 2.0 are seen as inadequate with recent commentary highlighting the risks associated to EU cohesion if funding is not pro-actively re-orientated toward social investments.⁴⁰ In order to respond to political and economic concerns the European Policy Centre find that the “EU should put much greater focus on social investment in its economic governance framework”.⁴¹

- *Improving implementation with a view to the future*

This round table comes against the backdrop of historic and positive changes in the underlying regulations to the ESIF. Yet it also comes against the backdrop of mounting evidence to the effect that its intended results are not as forthcoming as hoped.

At one level, this is no surprise. Major changes will take time to embed. This round table will provide an opportunity to reflect on the implementation of the ESIF regulations so far, including civil society participation, the ex ante conditionalities, monitoring and outcomes in order to discuss how practice can be improved into the future and the underlying legislative framework into the next programming period.

Positive examples should be built on and actively shared. Two points we know for sure. The effective and meaningful involvement of civil society in design, planning and implementation of programmes supporting community living is a critical success factor. More stringent provisions requiring social and civil partners to be included throughout the whole programming cycle, including Technical Assistance and related programmes for structural reforms, capacity building and monitoring, at all levels: national, regional and local should be included in the new legislative framework. That the ex ante conditionalities hold significant added value and must be fully implemented in the current programming period as well as retained and strengthened in the new legislative framework.

Working Together

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For updates, news, events, publications and reports on the ESIF and community living follow us on Social Media:

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³⁹ see the European Association of Service Providers for Persons with Disabilities ‘Proposed Amendments to European Commission Proposal: European Fund for Strategic Investments 2.0’ (October, 2016) Available: http://easpd.eu/sites/default/files/sites/default/files/amendments_to_efs2_0_proposal.pdf

⁴⁰ Fabian Zuleeg and Robin Huguenot-Noël ‘Rethinking the EU’s Investment Strategy: EFSI 2.0 needs a Social Pillar to address economic insecurity’ (European Policy Centre, 15 November 2016) Available: http://www.epc.eu/documents/uploads/pub_7175_rethinkingeuinvestmentstrategy.pdf

⁴¹ *ibid*, 2