

To: [redacted] 10.2.g [redacted] 10.2.e [redacted] 10.2.e @brue.auswaertiges-amt.de]; [redacted] 10.2.e [redacted] 10.2.e @minbuza.nl]; [redacted] 10.2.e [redacted] 10.2.e @minbuza.nl
Cc: [redacted] 10.2.e [redacted] 10.2.e @minbuza.nl]; [redacted] 10.2.e ([redacted] 10.2.e @diplo.de) [redacted] 10.2.e @diplo.de]; [redacted] 10.2.g [redacted] 10.2.e [redacted] 10.2.e @brue.auswaertiges-amt.de]; [redacted] 10.2.g [redacted] 10.2.e [redacted] 10.2.e [redacted] 10.2.e @brue.auswaertiges-amt.de]
From: [redacted] 10.2.e
Sent: Fri 7/24/2020 6:17:35 PM
Importance: Normal
Subject: RE: RRF
MAIL_RECEIVED: Fri 7/24/2020 6:17:00 PM

Dear [redacted] 10.2.e

Sorry to intervene. My name is [redacted] 10.2.e I am [redacted] 10.2.e and [redacted] 10.2.e has asked to respond to your e-mail. I think that we are having a misunderstanding on some points.

The NL would like to see 4 amendments to the RRF Regulation:

1. An additional paragraph in the preamble of the RRF Regulation that refers to the European Council Declaration on the emergency brake procedure (para A19).

If I understand well, the following text in your e-mail is meant to cover this request.

(New recital)

Under the Reform and Resilience Facility, the release of funds is contingent upon the successful implementation of reforms and investments set out in the Recovery and Resilience plans to be approved by the Council. Before a decision authorising the disbursement of the financial contributions is adopted by the Commission, the Economic and Financial Committee will discuss and adopt an opinion on the successful completion of milestones and targets under the Recovery and Resilience Plans, for which the Committee shall strive to reach a consensus. If, exceptionally, one or more Member States consider that there are serious deviations from the satisfactory fulfilment of the relevant milestones and targets, they may request the President of the European Council to refer the matter to the next European Council. In such a case, no decision for payment of the financial contribution will be taken until the next European Council has exhaustively discussed the matter. This process shall, as a rule, not take longer than three months after the Commission has asked the Economic and Financial Committee for its opinion.

We consider this text appropriate, but we need a confirmation from our capital.

2. Furthermore, we think, it is necessary to explain in the preamble of the RRF Regulation the additional provisions in the operative part of the RRF Regulation that are mentioned below. Your reply to this request is: "We haven't drafted a text on the preamble/the other recitals yet".

I wonder what you exactly mean by this. Does it mean that you will draft these proposals once we will have finished the additional provisions of the regulation?

3. We request an additional provision in article 19 of the RRF Regulation which clearly stipulates: (i) an advisory role for the EFC in the decision-making process on payments and (ii) an obligation for the EFC to strive for consensus.

In reply to this request you've sent us a proposal for a new article 18a that reads as follows:

Article 18a

Opinion of the Economic and Financial Committee

The Commission shall request the opinion of the Economic and Financial Committee on the satisfactory fulfilment of the relevant milestones and targets by the Member States in the implementation of their recovery and resilience plans, and shall take this opinion into account when adopting a decision in accordance with Article 19(2). The Economic and Financial Committee shall make its best efforts to reach a consensus in its deliberations.

This text proposal is okay to us.
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4. We demand an additional provision in article 19 of the RRF Regulation allowing a suspension of the time period for the adoption of a decision on disbursement by the Commission. Such a provision is necessary to give the European Council sufficient time to discuss the matter exhaustively, in the situation that one or more Member States request to refer it to that Council.

10.2.a

10.2.a

in our reading of art 19 para 3-5 of the RRF and art. 116 of the Financial Regulation, a time period/deadline for payments does apply. Therefore, we think that we do need an additional provision allowing a suspension of the time period for the adoption of a decision on disbursement by the Commission. Such a provision is necessary to give the European Council sufficient time to discuss the matter exhaustively, in the situation that one or more Member States request to refer it to the European Council. We understand that it's not possible to literally refer to the emergency brake procedure in article 19 of the RRF Regulation, but we do think it's possible to draft a text which makes it possible for the Commission to suspend the time period for the adoption of a decision on disbursement *in case of unforeseen circumstances*.

10.2.a

10.2.a

Therefore we persist in our initial request for adding a provision allowing the fore mentioned suspension.

We look forward to hearing from you.

Kind regards, 10.2.e

10.2.e

10.2.e

Permanent Representation of the Kingdom of the Netherlands to the EU

Kortenberglaan 4-10 | 1040 Brussels | Belgium

Tel: 10.2.e

Mail: 10.2.e @minbuza.nl

From: 10.2.g 10.2.e <10.2.e@brue.auswaertiges-amt.de>

Sent: vrijdag 24 juli 2020 16:48

To: 10.2.e <10.2.e@minbuza.nl>; 10.2.e <10.2.e@minbuza.nl>

Cc: 10.2.e <10.2.e@minbuza.nl>; 10.2.e <10.2.e@minbuza.nl>; 10.2.e

(10.2.e@diplo.de)' <10.2.e@diplo.de>; .BRUEEU FIN-17-EU 10.2.e <10.2.e@brue.auswaertiges-amt.de>; 10.2.g

10.2.g 10.2.e, 10.2.e <10.2.e@brue.auswaertiges-amt.de>

Subject: AW: RRF

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Von: 10.2.e [10.2.e@minbuza.nl]

Gesendet: Freitag, 24. Juli 2020 16:20

An: 10.2.e 10.2.g 10.2.e

Cc: 10.2.e 10.2.e 10.2.e (10.2.e@diplo.de); 10.2.g 10.2.e 10.2.g

10.2.g 10.2.e, 10.2.e

1105222

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Betreff: RE: RRF

Dear 10.2.e,

We have been in touch with our legal people and our capital. As this is a very sensitive and important topic for us, we will need more time to look at your suggestions, also with our hierarchy. We hope for your understanding.

In addition to our preliminary remark about suspension (point 3), we were also wondering whether you will include your proposal for the recital below in the regulation we will discuss in FiCo on Tuesday? If so, we would kindly ask you to consider to also include the recital we mentioned in point 1 – as we deem this to also form a fundamental part of the mechanism.

With kind regards,

10.2.e and 10.2.e

From: 10.2.e <10.2.e@minbuza.nl>

Sent: vrijdag 24 juli 2020 15:02

To: 10.2.g, 10.2.e, 10.2.e <10.2.e@brue.auswaertiges-amt.de>

Cc: 10.2.e <10.2.e@minbuza.nl>; 10.2.e <10.2.e@minbuza.nl>; 10.2.e

<10.2.e@minbuza.nl>; 10.2.e (10.2.e@dipl.o.de) <10.2.e@dipl.o.de>; 10.2.g, 10.2.e

<10.2.e@brue.auswaertiges-amt.de>; 10.2.g, 10.2.e, 10.2.e <10.2.e@brue.auswaertiges-amt.de>

Subject: RE: RRF

Dear 10.2.e,

Thank you for sharing your proposal for the governance of the RRF with us. We have send your proposals to our lawyers, who are checking it right now.

We have already discussed point 3 with them. We come to a different conclusion. In our reading of art 19 para 3-5 of the RRF and art. 116 of the Financial Regulation, a time period / deadline for payments does apply. Therefore, we think that we do need an additional provision allowing a suspension of the time period for the adoption of a decision on disbursement by the Commission. Such a provision is necessary to give the European Council sufficient time to discuss the matter exhaustively, in the situation that one or more Member States request to refer it to the European Council.

However, we are of course open to consider your reasoning if this provides a solution. In that case we would like to have explicit confirmation from the CLS that no time constraints follow from the financial regulation and the RRF regulation.

Best,

10.2.e and 10.2.e

From: 10.2.g, 10.2.e, 10.2.e <10.2.e@brue.auswaertiges-amt.de>

Sent: vrijdag 24 juli 2020 14:31

To: 10.2.e <10.2.e@minbuza.nl>

Cc: 10.2.e <10.2.e@minbuza.nl>; 10.2.e <10.2.e@minbuza.nl>; 10.2.e

<10.2.e@minbuza.nl>; 10.2.e (10.2.e@dipl.o.de) <10.2.e@dipl.o.de>; 10.2.g, 10.2.e

<10.2.e@brue.auswaertiges-amt.de>; 10.2.g, 10.2.e, 10.2.e <10.2.e@brue.auswaertiges-amt.de>

Subject: AW: RRF

Importance: High

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buiten verzoek

10.2.e



10.2.e

Finance Department

Permanent Representation
of the Federal Republic of Germany
to the European Union

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buiten verzoek

Von: [10.2.e] ([10.2.e]@minbuza.nl)
Gesendet: Freitag, 24. Juli 2020 11:53
An: [10.2.e]@diplo.de; 'DE - [10.2.e] ([10.2.e]@diplo.de)'
Cc: [10.2.e]; [10.2.e]; [10.2.e]
Betreff: RRF

Dear [10.2.e] and [10.2.e]

As discussed today, below you will find the adjustments in RRF regulation that we think are necessary.

Best,

[10.2.e]

The following amendments should be made to the text of the RRF Regulation:

1. An additional paragraph in the preamble of the RRF Regulation that refers to the European Council Declaration on the emergency brake procedure (para A19). Furthermore it will be necessary to explain in the preamble of the RRF Regulation the additional provisions in the operative part of the RRF Regulation that are mentioned below.

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Explanation:

- The RRF recitals must include a reference to the European Council Conclusions of 17-21 July 2020. It should be recalled in the RRF recitals that the European Council has agreed that *"If, exceptionally, one or more Member States consider that there are serious deviations from the satisfactory fulfilment of the relevant milestones and targets, they may request the President of the European Council to refer the matter to the next European Council."* and that *"If the matter was referred to the European Council, no Commission decision concerning the satisfactory fulfilment of the milestones and targets and on the approval of payments will be taken until the next European Council has exhaustively discussed the matter"*.

- This is absolutely necessary for the Netherlands. It is also legally possible (compare Council decision on the Conclusion of the Withdrawal Agreement EU-UK, recital 6).

- The RRF recitals must also include a reference to the new elements in the RRF operative text that will be included, such as the consultation of the EFC, and the fact that the EFC shall strive to reach a consensus.

2. An additional provision in article 19 of the RRF Regulation which clearly stipulates: (i) an advisory role for the EFC in the decision-making process on payments *and* (ii) an obligation for the EFC to *strive* for consensus.

Explanation:

- The RRF operative text must include an obligation for the European Commission to consult the EFC upstream, in the preparation of the assessment of the satisfactory fulfilment of milestones and targets. The obligation for the EFC to strive to reach a consensus has to be included as well (e.g. in article 19 RRF).

10.2.a

See also the opinion of the CLS st.11096/15, para 43,

and the examples referred to there.

3. An additional provision in article 19 of the RRF Regulation allowing a suspension of the time period for the adoption of a decision on disbursement by the Commission. Such a provision is necessary to give the European Council sufficient time to discuss the matter exhaustively, in the situation that one or more Member States request to refer it to that Council.

Explanation:

- It is absolutely essential that a matter regarding the assessment of milestones and targets can be referred to the European Council, and that the 3 month period included 'as a rule' in the European Council conclusions can be extended, without violating time limits in the RRF regulation or the Financial regulation.

- Provisions allowing suspension of the period of time for payments therefore have to be included, where necessary.

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