

STUDY

Requested by the REGI committee



Research for REGI Committee – Cohesion policy: The European Parliament’s role since the Treaty of Lisbon



Regional Development



Policy Department for Structural and Cohesion Policies
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Abstract

This study assesses the role of the European Parliament in the field of cohesion policy since the Treaty of Lisbon introduced ‘co-decision’ procedure whereby Parliament and Council have equal powers in agreeing the regulations of the EU Structural and Investment Funds. In addition to the formal processes, the study also considers the informal ones from policy development at the pre-legislative stage to the interinstitutional negotiations as well as the Parliament’s scrutiny role over cohesion policy.

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CONTENTS

LIST OF ABBREVIATIONS	4
LIST OF TABLES	6
LIST OF FIGURES	6
LIST OF BOXES	6
EXECUTIVE SUMMARY	7
1. INTRODUCTION	11
1.1. Aim and objectives	11
1.2. Scope	11
1.3. Methodology	12
1.4. Structure	13
2. CONTEXT	15
2.1. Cohesion Policy: objectives, current state and new challenges	15
2.2. Changes introduced by the Treaty of Lisbon	17
3. THE EP'S LEGISLATIVE ROLE IN PRACTICE – THE 2014-2020 COHESION POLICY PACKAGE	21
3.1. Pre-legislative stages	21
3.2. Mandates	25
3.3. Interinstitutional negotiations and their outcomes	27
4. ONGOING ROLE OF THE EUROPEAN PARLIAMENT	35
4.1. Interim legislative activity	35
4.2. Scrutiny of delegated and implementing acts	37
4.3. Ongoing non-legislative activity	40
5. CURRENT LEGISLATIVE ACTIVITY – THE 2021-2027 COHESION POLICY PACKAGE	45
5.1. Pre-legislative stage	45
5.2. Mandates and the start of interinstitutional negotiations	48
5.3. Stock taking and key issues for remaining stages	52
6. CONCLUSIONS AND RECOMMENDATIONS	55
6.1. Main findings on the EP's role in framing cohesion policy	55
6.2. Inter- and intra-institutional relationships and challenges	57
6.3. Recommendations	58
REFERENCES	61
ANNEX 1: STUDY AIM AND OBJECTIVES	65
ANNEX 2: STUDY METHODOLOGY	67

LIST OF ABBREVIATIONS

AEBR	Association of European Border Regions
AER	Assembly of European Regions
CALRE	Conference of European Regional Legislative Assemblies
CEMR	Council of European Municipalities and Regions
CF	Cohesion Fund
CLLD	Community-led Local Development
CoR	Committee of the Regions
COTER	Commission for Territorial Cohesion Policy and EU Budget, CoR
CP	Cohesion Policy
CPR	Common Provisions Regulations
CPMR	Conference of Peripheral Maritime Regions
CSF	Common Strategic Framework
CSR	Country-specific Recommendations
DG REGIO	Directorate-General for Regional and Urban Policy, European Commission
EAFRD	European Agricultural Fund for Rural Development
EaSI	Employment and Social Innovation Programme
ECU	European Currency Unit
EESC	European Economic and Social Committee
EFSI	European Fund for Strategic Investments
EGTC	European Grouping of Territorial Cooperation
EIB	European Investment Bank
EMFF	European Maritime and Fisheries Fund
ESIF	European Structural and Investment Funds
EP	European Parliament

EPRS	European Parliamentary Research Service
ERDF	European Regional Development Fund
ESF	European Social Fund
ETC	European Territorial Cooperation
EU	European Union
INI	Own initiative reports
EUSFITI	Integrated Territorial Investment
MEP	Member of the European Parliament
MFF	Multiannual Financial Framework
MLG	Multilevel Governance
OLP	Ordinary Legislative Procedure
REGI	Committee on Regional Development
RUMRA	Intergroup of Rural, Mountainous and Remote Areas
SDG	Sustainable Development Goals
STOA	Panel for the Future Science and Technology
SRSP	Structural Reform Support Programme
WPoFCP	Working Party on the Future of Cohesion Policy
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union
ToL	Treaty of Lisbon

LIST OF TABLES

Table 1:	EP achievements in the interinstitutional negotiations on CPR (2014-2020)	30
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LIST OF FIGURES

Figure 1:	Example of 'Four Column Table'	28
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LIST OF BOXES

Box 1:	Key positions of the EP in the pre-legislative stage, 2014-2020	23
Box 2:	Key positions of the EP in the negotiating mandates, 2014-2020	26
Box 3:	Key positions of the EP in the pre-legislative stage, 2021-2027	46
Box 4:	Key positions of the EP in the CPR negotiating mandate, 2021-2027	50
Box 5:	Key positions of the EP in the ERDF/CF negotiating mandate, 2021-2027	51
Box 6:	Key positions of the EP in the ETC negotiating mandate, 2021-2027	51

EXECUTIVE SUMMARY

Background

The Treaty of Lisbon entered into force on 1 December 2009. It introduced a number of significant changes which in the case of the European Parliament (EP) include co-decision (also known as 'ordinary legislative procedure') for all the regulations of cohesion policy (CP), making Parliament a co-legislator on an equal footing with the Council. After nearly 10 years of continuous operation under the Treaty of Lisbon, it is now opportune to examine the evolution of the EP's role in the context of cohesion policy, and offer a snapshot of the current state of play and a forward-looking perspective.

Aim

The aim of this study is to provide an overview and critical analysis of the role of the EP in framing the cohesion policy as co-legislator in the period between the entering into force of the Treaty of Lisbon and the end of the 2014-2019 parliamentary term, and to offer forward-looking conclusions and recommendations.

Context

'EU cohesion policy' is the shorthand for the large package of policies and policy instruments used by the EU in pursuing the objective of 'economic, social and territorial cohesion' since the 1980s. Its core principles and key features have been consolidated over time: covering all EU regions, multiannual programming, strategic orientation of investments and the involvement of regional and local partners. In the 2014-2020 period, the CP reached a high point with a budget of €350 billion – nearly one-third of the total EU budget, a package of five funds under the umbrella of a Common Provisions Regulation (CPR), and close integration within the EU's 2020 strategy. However, in recent years the CP has been challenged by shifting EU priorities and new policy initiatives espousing alternative forms of operation.

Although its legislative role was limited prior to the Treaty of Lisbon, Parliament had exercised an active advocacy role in cohesion policy, rallying a significant policy community around it. The enhancement of its powers to full 'co-decision' in all CP regulations, has allowed it to play a full role as co-legislator. However, Parliament faces a number of challenges deriving largely from the changes that are confronting the cohesion policy. There are also limitations around financial aspects, since the Treaty of Lisbon has introduced the 'consent' (rather than 'co-decision') procedure in the case of the Multiannual Financial Frameworks (MFF) with which CP is closely linked as a policy with a very large budget.

The EP's legislative role in practice – The 2014-2020 cohesion policy package

This was the first CP legislative package in which the EP had full co-decision powers as conferred upon it by the Treaty of Lisbon. The EP's REGI Committee launched extensive preparatory activities prior to the start of the legislative process including the setting up of a Working Party on the Future of Cohesion Policy; the mobilisation of a variety of institutions and organisations, a position paper on post-2013 cohesion policy adopted by Parliament in October 2010, and a set of five 'own initiative reports'. Lengthy interinstitutional negotiations, from July 2012 to November 2013, involved more than 100 'trilogues', two-thirds of which concerned the CPR. They were complemented by political preparatory meetings on the EP side, and numerous technical meetings.

The EP was crucial in advancing some aspects of CP, such as strategic approach and programming, the partnership principle, thematic concentration and common strategic framework, the integrated territorial approach including urban earmarking, support for transition regions, and innovation and

smart specialisation. Areas of lesser EP influence were the macro-economic conditionalities, the performance framework and financial issues.

The study found that it is generally recognised that the EP managed in a very short space of time after the Treaty of Lisbon to play a full role as co-legislator, and through it to help confirm and strengthen the comprehensive and multi-sectoral nature of CP as the EU's investment policy for all regions.

Ongoing role of European Parliament

There were various ongoing REGI activities between the 2014-2020 and 2021-2027 legislative packages. Legislative activity based on the ordinary legislative procedure was sporadic, centred on amending the existing CP regulations. However, some of the acts were very important, such as the 'Omnibus regulation', which introduced extensive simplification and the Commission proposals for structural reform support measures. They both involved controversial provisions regarding CP, which were strongly contested by REGI. By contrast, scrutiny of delegated and implementing acts was of a lesser importance.

The 'own initiative reports' represent the most important strand of non-legislative work by REGI. Some are in response to implementation or forward-looking reports by the Commission, notably the 'Cohesion Reports', and play a valuable role in REGI's policy oversight function. Other reports are entirely new initiatives of REGI and together with other non-legislative activities, such as studies, briefings, hearings and debates, were the initial steps in the development of EP's positions for the 2021-2027 legislative package.

Current legislative activity – The 2021-2027 cohesion policy package

As in the 2014-2020 package, REGI carried out substantial pre-legislative work, including a landmark own initiative report on building blocks for a post-2020 EU cohesion policy. This allowed three ambitious mandates to be developed by REGI in a short space of time on the CPR, ERDF/CF and ETC regulations, and adopted by the EP before the May 2019 elections. There was intensive interaction with other institutions and organisations, including numerous suggestions of draft amendments. A start was made in interinstitutional negotiations with a small number of 'trilogues' on the CPR before the end of Parliament's 2014-2019 session.

The EP has again embarked on a full role as co-legislator, promoting a well-funded cohesion policy and defending its fundamental principles. Consequently, some of the positions within its mandates have gone against key positions of the Commission (such as EAFRD moving away from the CPR) or the Council (such as a weaker partnership principle).

However, there are key challenges confronting Parliament in the remaining stages, not least the fact that budgetary negotiations are a separate strand, which is not subject to 'co-decision'. Moreover, when 'trilogues' resume in the autumn, possibly with significant changes in the internal composition of EP bodies, there will be greater time pressure to reach a timely agreement and avoid excessive delays to the start of the new CP programmes.

Conclusions and recommendations

The EP has played an increasingly assertive role, using the powers that have been conferred upon it by the Treaty of Lisbon in defending and advocating its policy positions on CP, more and more at odds with those espoused by the other EU institutions. However, the EP's role has been constrained externally by the challenges confronting CP and its shifting centre of gravity within the EU institutional framework and broader policy agenda, as well as the more advantaged position of the Commission (legislative initiative, technical capacity, access to other institutions, etc.) and Council (especially on

MFF). It is also constrained internally in terms of data and know-how capacity, as well as limitations in inter-committee coordination and cooperation affecting REGI's lead role on CP.

The EP has a potentially larger role to play in becoming an institution increasingly able to proactively develop agenda-setting policy initiatives on CP rather than focussing on defensive positions. For this to happen, in addition to developing internal capacity and coordination, it requires the ability to mobilise and lead more effectively the large policy community of outside actors that exist around CP.

To this end, the following **recommendations** have been put forward:

- Setting-up of a CP-wide 'steering committee' as a vehicle for exploring and agreeing positions across political groups and CP-relevant committees, supported by a 'task force' inside the EP Secretariat that would be linked to an external 'technical support group' drawing upon the CP policy community.
- Establishing an ambitious forward-looking and proactive policy cycle. This should encompass an active internal/external research programme into forward-looking policy issues, aiming to give Parliament an edge over the Commission's legislative initiative and the more advantaged role of Council in the MFF. Its outputs should help REGI reports go into greater technical depth and they should be timely within the broader policy timetable of cohesion policy, and not only the seven-year legislative cycle of MFF.

1. INTRODUCTION

1.1. Aim and objectives

This study examines the role of the European Parliament (EP) in the field of cohesion policy (CP) since the Treaty of Lisbon (ToL). The Treaty was signed on 13 December 2007 and entered into force on 1 December 2009. It introduced a number of significant changes. In the case of the European Parliament these include:

- enhanced legislative powers through the use of the ordinary legislative procedure (OLP) in 40 new policy areas, including all CP regulations;
- the status of its membership, with Parliament now composed of representatives of the EU's citizens, rather than representatives of the peoples of the EU countries, as before the Treaty.

These changes have made the Parliament a co-legislator of equal standing as the Council, while at the same time establishing a stronger democratic link between its Members and the electorate of the Union.

After nearly 10 years of continuous operation under the Treaty of Lisbon, it is now opportune to examine systematically and offer a critical analysis of the evolution of the EP's role in practice in the context of cohesion policy, as well as a snapshot of the current state of play and a forward-looking perspective.

Therefore, the primary **aim** of this study was to provide a synthetic overview and critical analysis of the role of the EP in framing the cohesion policy as co-legislator in the period between the entering into force of the Treaty of Lisbon and the end of the 2014-2019 parliamentary term.

Specifically, the **objectives** of the study (see Annex 1) were to provide:

- an overview of the changes affecting the powers and competencies of Parliament in the field of cohesion policy arising from the Treaty;
- an outline of the main legislative processes and non-legislative actions of the EP and its REGI Committee in this field;
- a critical assessment of the EP's fulfilment of its new roles under the Treaty; and,
- forward-looking conclusions and recommendations.

1.2. Scope

'**EU cohesion policy**' is the shorthand for the large package of policies and policy instruments (funds, programmes and projects) used by the EU in pursuing the objective of '**economic, social and territorial cohesion**'. This was originally defined in the Single European Act (1986) as seeking to reduce "*disparities between the various regions and the backwardness of the least-favoured regions*" and was broadened by the Treaty of Lisbon, which added 'territorial cohesion' – the promotion of a more balanced and more sustainable development throughout the EU territory.

Under the current Multiannual Financial Framework (2014-2020 MFF), cohesion policy is pursued through five European Structural and Investment (ESI) Funds: ERDF, ESF, CF, EAFRD and EMFF¹, which come under the umbrella of a Common Provisions Regulation (CPR).

¹ ERDF: European Regional Development Fund; ESF: European Social Fund; CF: Cohesion Fund; EAFRD: European Agricultural Fund for Rural development; EMFF: European Maritime and Fisheries Fund.

The **scope of the study** covers the activities of Parliament and REGI in connection with the 2014-2020 legislative package as regards the regulations for which REGI was the lead committee – i.e. the CPR and the regulations of ERDF, CF and ETC² – and the equivalent package for 2021-2027, which is still ongoing. It also covers pre-legislative activities in connection with these packages and other ongoing activities, both of legislative and non-legislative nature, within the remit of the REGI Committee.

The examination of the role of the European Parliament in cohesion policy addresses three aspects of this role:

- the processes by which Parliament frames the cohesion policy (the **'how'** of the EP role);
- the substantive policy content outcomes of these processes (the **'what'** of the EP role);
- the **factors**, which facilitate or constrain the role played by Parliament in cohesion policy.

The **first aspect** concerns **formal and informal processes** by which Parliament contributes to the content of the CP and helps shape the policy. The main formal process is that of the ordinary legislative procedure. This procedure has already been applied in the legislative package governing cohesion policy under the 2014-2020 MFF and is currently being conducted in connection with the legislative package for the period 2021-2027.

Other formal processes cover resolutions, 'own initiative reports' (INIs), hearings and various meetings and other non-legislative work, as well as legislative work in connection with amending regulations during the implementation period following the adoption of a CP legislative package. Some of the formal activities are performed as part of the EP's oversight functions.

Informal processes amount to an open-ended category of activities of the EP, REGI, political groups and individual Members of Parliament. Joint sessions of REGI with the Commission and the COTER Commission of CoR, as well as meetings with representatives of associations of regions or cities fall into this category.

The **second aspect** concerns actual **policy content outcomes** achieved as a result of Parliament's contribution through the above formal and informal processes. Policy positions and outcomes could be of an institutional nature (e.g. partnership principle) or of a distributional nature (e.g. policies for urban areas or islands). They could also concern operational policy elements such as simplification in the rules of the cohesion policy funds.

The **third aspect** refers to **factors**, which facilitate or constrain the 'what' and the 'how' of the role played by Parliament in cohesion policy. These encompass both interinstitutional relationships and intra-institutional considerations regarding EP/REGI working methods, capacities and resources. Such factors could also extend beyond the EU institutions, notably with reference to cohesion policy stakeholders.

1.3. Methodology

The methodology of the study has built on two pillars, underpinned by a close cooperation with the EP Services managing this project.

The **first pillar** involved extensive **desk research** focusing on a systematic review of the international research literature and an analysis of relevant documentation. The latter included EP studies and briefings, own initiative reports, legislative reports and resolutions – see Annex 2. Further material

² ETC: European Territorial Cooperation.

consulted, included internal documentation held by the EP Services, e.g. four-column trilogue tables, and position papers from major stakeholder organisations.

The **second pillar** took the form of **consultation interviews** with MEPs and EP officials, as well as experts and administrators from European institutions and EU-level organisations – see Annex 2. They were drawn from those known for their longitudinal knowledge of CP legislative procedures, in some cases going back before the ToL came into effect. Despite the tight timeline of this research project, and the fact that the research period³ coincided with the 2019 European Parliament elections, the study was able to conduct nearly 20 semi-structured interviews, most of them face-to-face in Brussels.

The study methodology is presented in more detail in Annex 2.

1.4. Structure

This study report comprises five main chapters:

- **Chapter 2** presents the main features and evolution of EU cohesion policy, outlines the main changes in the powers and competencies of the EP that were introduced by the ToL focusing on those of relevance to cohesion policy, and provides a brief summary of the situation beforehand.
- **Chapter 3** analyses the role of EP in the 2014-2020 CP legislative package, from the pre-legislative stage, through the negotiating mandates and interinstitutional negotiations stages, to an assessment of outcomes achieved.
- **Chapter 4** considers the ongoing role of Parliament in the field of cohesion policy, including interim legislative activity, scrutiny of secondary legislation, as well as other diverse formal and informal activities.
- **Chapter 5** mirrors Chapter 3 to the extent possible, analysing the role of EP in the 2021-2027 CP legislative package, i.e. mainly the pre-legislative and negotiating mandates stages, and explores the key issues to be addressed in the remaining stages of the legislative procedure in the new, 2019-2024, term of the Parliament.
- **Chapter 6** brings together the main findings and conclusions regarding the way Parliament and REGI have worked since 2009 in the field of cohesion policy under the Treaty of Lisbon, and puts forward recommendations for the remaining stages of the 2021-2027 legislative package and on Parliament's longer-term role in cohesion policy.

³ Between the completion of the inception phase on 26 April 2019 and the submission of the draft study report on 17 June 2019.

2. CONTEXT

KEY FINDINGS

- The role of Parliament in the field of cohesion policy has evolved over a long period of time. Even prior to the Treaty of Lisbon, Parliament has exercised an active advocacy role, rallying a significant policy community and maximising its institutional and legislative prerogatives.
- The enhancement of its powers from ‘assent’ to full ‘co-decision’ in all cohesion policy regulations, has allowed Parliament to play a full role as co-legislator on an equal footing with the Council since the Treaty of Lisbon came into effect.
- However, Parliament faces a number of challenges deriving largely from the changes that are confronting the cohesion policy, with shifting EU priorities and new policy initiatives espousing alternative approaches and forms of operation.

2.1. Cohesion Policy: objectives, current state and new challenges

Objectives, scope, evolution⁴

The EU cohesion policy has evolved over a long period of time. Its origins can be traced back to the vision of the founding Member States, as set out in the Treaty of Rome, that *“the Community shall aim at reducing the disparities between the levels of development of the various regions”*. An important step was the definition of the objective of **‘economic and social cohesion’** in the Single European Act (1986), as seeking to reduce *“disparities between the various regions and the backwardness of the least-favoured regions”*.

The same Act laid the foundations of the current cohesion policy, with the European Regional Development Fund (ERDF) and the European Social Fund (ESF) becoming its main pillars as the modern structural funds. The ERDF had already been established in 1975 with the aim of correcting the principal regional imbalances resulting from agricultural preponderance, industrial change and structural under-employment. The ESF had pre-dated it, having been established by the Treaty of Rome in 1957, and continues to date with various reforms and adjustments, supporting jobs, helping people get better jobs and ensuring fairer job opportunities for all EU citizens.

Another important step was the adoption in 1988 of the first regulation integrating the structural funds and the allocation of ECU 64 billion to the structural funds budget for the period 1989-1993. Moreover, in the same programming period, principles, which have remained key features of the CP funds to date, were established, such as focusing on the poorest and most backward regions, multiannual programming, strategic orientation of investments and the involvement of regional and local partners.

Further developments followed, including the embedding of CP principles in law. The TEU (1993) defined cohesion as one of the main objectives of the Union, alongside economic and monetary union and the single market. The subsidiarity principle was explicitly enshrined as a general principle applicable to all policy areas, which do not fall under the exclusive competence of the Union⁵.

⁴ Piattoni, Simona. “The Development of the Structural Funds: A Success Story?” in *Multi-level Governance in the European Union: Taking Stock and Looking Ahead*, ed. Thomas Conzelmann and Randall Smith, pp. 71–94. Baden-Baden, Nomos, 2008 EP. “Vade Mecum on EU Cohesion Policy and the Committee on Regional Development, Directorate-General for Internal Policies”, 30-06-2014. Annex 1.

⁵ Now laid down in Article 5(3) TEU and in Protocol (No 2) on the application of the principles of subsidiarity and proportionality.

Other developments included the creation of new EU funds, such as the Cohesion Fund (CF) to support projects in the fields of environment and transport infrastructure in the least prosperous Member States. There were also institutional changes, notably, the establishment by the TEU of a new body, the Committee of the Regions, to give an autonomous voice to regional actors in EU decision-making.

The CP principles were maintained through successive programming periods and changes in the EU, such as new Treaties and enlargements⁶.

The last legislative package for cohesion policy adopted before the introduction of the Treaty of Lisbon was for the 2007-2013 period. It was supported from the EU budget with €308 billion through three financial instruments (ERDF, ESF and CF) and comprised one General Regulation and three specific regulations corresponding to the ERDF, ESF, CF, and one regulation concerning the European Grouping of Territorial Cooperation (EGTC).

Current state

The scope of the cohesion policy was broadened by the Treaty of Lisbon with the addition of ‘territorial cohesion’ – the promotion of a more balanced and more sustainable development throughout the EU territory – and it now stands as ‘**economic, social and territorial cohesion**’. To achieve the cohesion objectives and address the diverse development needs in all EU regions, the CP is supported with €351.8 billion – almost one-third of the total EU budget – in the 2014-2020 period.⁷

In this period, the CP is pursued through five funds, known as European Structural and Investment (ESI) Funds (ERDF, ESF, CF, EAFRD⁸ and EMFF⁹) and the legislative package comprises the Common Provisions Regulation (CPR) and separate regulations with specific provisions for each of the ESI Funds. European Territorial Cooperation (ETC) has been a part of cohesion policy since 1990. For the programming period 2014-2020, for the first time in the history of the CP, a specific regulation has been adopted covering ETC actions supported by the ERDF.

However, it is not only the CP budget and legislative package that expanded substantially in the 2014-2020 period, but the CP has also been fully integrated into an overarching EU policy: the **Europe 2020 strategy**. This is commonly known as the ‘Lisbonisation’ of cohesion policy, as in this period the CP has been entirely reshaped to be the main instrument at the EU’s disposal to deliver the Europe 2020 agenda. This includes a range of delivery and accountability instruments new to the CP whose aim is to enforce the Lisbon multilevel governance (MLG) arrangements, such as Partnership Agreements, a Common Strategic Framework (CSF) and National Reform Programmes (NRP).¹⁰

This architecture is framed in the CPR, which for the first time covers the rural development (EAFRD) and fisheries (EMFF) funds, in addition to the ERDF, ESF and CF. It provides a common set of arrangements for these funds to work together, whereas they previously were essentially run separately, with four Commission Directorates-General (Agriculture, Regional Policy, Maritime Affairs and Employment) working quite autonomously from each other. The Common Strategic Framework

⁶ Bachtler, J. and C. Mendez. “Who Governs EU Cohesion Policy? Deconstructing the Reforms of the Structural Funds”, *Journal of Common Market Studies*, vol. 45, 3 (2007): pp. 535–564.

⁷ EP. Briefing: “Regional Policy”, EPRS, May 2019.

⁸ The European Agricultural Guidance and Guarantee Fund (EAGGF) was created in 1962 for the financing of the Common Agricultural Policy (CAP) and was replaced in 2007 by the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD).

⁹ European Maritime and Fisheries Fund (EMFF) is a successor of the Financial Instrument for Fisheries Guidance (FIFG) introduced in the 1994-1999 programming period.

¹⁰ Pazos-Vidal, Serafin. “Subsidiarity and EU Multilevel Governance Actors, Networks and Agendas”, pp. 144-167. Abingdon, Routledge, 2019. Chapter 5.

annexed to the CPR aims to translate the broader Europe 2020 Objectives into 11 more specific Thematic Objectives guiding the delivery and priorities of expenditure for all these funds.¹¹

There are also legislative acts concerning programmes and funds closely related to, and with synergies with cohesion policy, including: the European Globalisation Adjustment Fund (EGF); the Employment and Social Innovation Programme (EaSI); the Fund for European Aid to the Most Deprived (FEAD); and the European Union Solidarity Fund (EUSF).

However, the CP is not a static policy and the EU has been putting a number of innovative instruments in place in its efforts to engage all the EU regions. An example is the development of **macro-regional strategies**, with four such strategies having been adopted between 2009 and 2015. Another innovative element of cohesion policy, launched in 2016, is the **Urban Agenda** for the European Union. So far, this has led to the establishment of 14 partnerships that involve EU cities in ambitious projects.¹²

New challenges

In addition to new developments and challenges from within the field of cohesion policy¹³, the CP also needs to respond to crises (and has done so, for instance in the case of the economic and financial crisis – see Chapter 4) and to take account of major EU initiatives which are of direct relevance to its aims and operations.¹⁴

In this category falls the case of economic governance and the related activities of the European Semester and specifically the Country-specific Recommendations (CSR). Other highly relevant cases, such as those of the European Fund for Strategic Investments (EFSI) launched in 2015 and the creation of the Structural Reform Support Programme (SRSP) in 2017, are a reminder that CP is not any longer ‘the only game in town’ when it comes to address significant investment needs or structural reforms.

A further shift of the EU priorities has been expressed in the proposals and ongoing negotiations on the MFF for the 2021-2027 period. Furthermore, the trend towards a more strategic alignment of all ESI Funds and the multi-funded place-based rationale of CP have been seriously challenged in the run-up and the launch of the 2021-2027 negotiations. This has often placed the EP as the sole institution keen to maintain the full extent of the present logic of integration and alignment in cohesion policy.

Equally, the EP has become the main stalwart against the attempts to weaken the partnership principle and multilevel governance, while being able to go beyond what the Commission or Council have so far been prepared to do, for instance, to support areas with demographic decline or an ambitious urban policy, among many other issues considered further below (see Chapter 5).

2.2. Changes introduced by the Treaty of Lisbon

The situation before the Treaty of Lisbon

The Treaty of Maastricht (1992) introduced the ‘assent’ procedure for decisions on general regulations whereby Parliament can accept or reject the proposal but not amend it. (The ‘assent’ procedure was renamed ‘consent’ by the Treaty of Lisbon). The Treaty of Maastricht also introduced the ‘co-decision’ procedure whereby Council and EP have equal powers to approve EU legislation.

¹¹ *Ibid.*

¹² EP. Briefing: “Regional Policy”, EPRS, May 2019.

¹³ Bachtler, J et al. “EU Cohesion Policy in Practice. What Does It Achieve?” London: Rowman and Littlefield, 2016.

¹⁴ McCann, Philip. “The Regional and Urban Policy of the European Union: Cohesion, Results-Oriented and Smart Specialisation”. Cheltenham: Edward Elgar, 2015.

The Treaty of Amsterdam (1997) made substantial changes to the Treaty of Maastricht, transferring powers to the European Parliament across diverse areas. Among these changes, it introduced ‘co-decision’ with the Council for implementing measures (in the case of the CP, the ERDF and ESF regulations). The Treaty of Lisbon replaced the ‘assent’ procedure with the ‘co-decision’ procedure, also known as ‘ordinary legislative procedure’ (OLP) – see below, for the general rules on the structural funds.¹⁵

Thus, prior to the Treaty of Lisbon, the EP could have exercised co-decision powers only on fund-specific regulations, but never before on the umbrella regulation.¹⁶ However, there was a near-consensus in the study consultations that, in practice, the EP was not playing a major role in shaping the CP before Treaty of Lisbon¹⁷. Its involvement before the ToL was closer to a consultative role.

Nonetheless, the EP had well before the ToL excelled at maximising its limited legislative clout by playing an active role as a policy entrepreneur, focusing on a range of key pan-European and innovative issues where it could rally a policy community around (e.g. regions) or cement interinstitutional alliances (most commonly with the Commission)¹⁸.

Main changes concerning cohesion policy and the role of Parliament

The Treaty of Lisbon brought about a wide range of changes of direct and indirect relevance to cohesion policy. These include enhanced legislative powers through the use of the ordinary legislative procedure, as well as changes in governance, parliamentary control activities and oversight of secondary legislation.

The changes affecting CP most¹⁹, are summarised below:

- introduction of the concept of ‘territorial cohesion’ and recognition of this as an objective of the Union, next to economic and social cohesion (Article 3(3), third subparagraph, TEU);
- clarification of the definition of exclusive and shared competencies and inclusion of economic, social and territorial cohesion among the competencies shared between the Union and the Member States (Article 4(2)(c) TFEU);
- introduction of the ordinary legislative procedure (co-decision) for all the instruments provided for under Title XVIII, and in particular the adoption of the general rules on the structural funds and the setting up of the Cohesion Fund (Article 177 TFEU);
- recognition in the Charter of Fundamental Rights of the “*national identities of the Member States and the organisation of their public authorities at national, regional and local levels*”;
- introduction of the local and regional dimension in the application of the principle of subsidiarity (Article 5(3) TEU, as well as Articles 2 and 5 Protocol (No 2) on the application of the principles of subsidiarity and proportionality);

¹⁵ EP. “Vade Mecum on Cohesion Policy and the Committee on Regional Development, Directorate-General for Internal Policies”, 15-06-2009. p. 53.

¹⁶ Reinhart, S. “The Role of the European Parliament in the Reform of Cohesion Policy and its Contribution to Economic, Social and Territorial Cohesion”, *European Structural and Investment Funds Journal*, vol. 2, 4 (2014): pp. 267–276.

¹⁷ Explanations offered by consultees include: The EP could not negotiate before the OLP was introduced across-the-board by the ToL; the Commission was in a stronger position at that time and could count on the support of large number of Member states; the REGI committee lacked the weight.

¹⁸ For example, the statistical effect produced by the enlargement with 12 new Member States in 2002 and the ‘phasing out’ period proposed for the most affected regions was strongly defended by the EP. More limited contributions assessed by study consultees, include “reinforcing the key political issues (co-financing rates, eligibility restrictions on ESF)”.

¹⁹ EP. “Vade Mecum” (2014), p. 68, *op. cit.*

- strengthening of the provisions relating to the least-favoured areas and regions (Article 174, third paragraph, TFEU), as well as to the outermost regions, in the context of state aid in view of their structural, economic and social situation (Article 107(3)(a) TFEU).

Other changes concern fundamental aspects of the EP's role, such as its budgetary powers, and the status of its membership, with the MEPs under the Treaty of Lisbon being representatives of the EU's citizens (rather than representatives of the peoples of the EU countries, as before the Treaty).

Ordinary legislative procedure (co-decision)

After the Treaty of Lisbon, the adoption of EU legislation normally requires the approval of both the EP and the Council, which are treated as equal co-legislators. This 'ordinary legislative procedure' was historically known as 'co-decision'. There are also a few 'special legislative procedures' giving the final say to either the Council or the Parliament instead of co-decision, as well as a 'consent' procedure, where an institution, usually the EP, may either consent to or veto a decision of the other. There are also a few cases where the EP is simply consulted, with the Council being the final legislator.²⁰

The ordinary legislative procedure (OLP) is defined in Article 294 of the TFEU and involves the joint adoption by the European Parliament and the Council of a regulation, directive or decision. The procedure starts with a **legislative proposal from the Commission** and the two co-legislators adopt legislation jointly. They have the possibility to agree on a compromise text and then to conclude the procedure at any reading. These agreements are reached through **interinstitutional negotiations** which generally take the form of tripartite meetings ('**trilogues**') between Parliament, Council and Commission.

With few exceptions, the ToL puts the European Parliament on an equal footing as law maker with the Council in areas where this was not previously the case, notably in setting the **EU budget**, an area in which Parliament now enjoys full parity. This is of considerable importance to CP which is a policy area with a very large budget.

However, the OLP does not apply to the MFF. From the establishment of these multi-annual budgetary perspectives in 1988 to the introduction of the ToL in 2009, the MFF was not enshrined in primary law but was based on an interinstitutional agreement between the Member States (in the Council), the Commission and the Parliament. The ToL has changed the legal status of the MFF. Article 312 of the TFEU provides for the MFF regulation to be adopted by the Council acting "*unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members ...*".²¹

As already indicated, such a 'consent' procedure means that the EP can accept or reject a Commission proposal in its entirety but cannot amend it. Thus, the ToL has replaced an informal procedure that had allowed the EP to play a meaningful role in pre-ToL budget negotiations, with powers that amount to a 'nuclear option'. This is a major issue encountered in both the 2014-2020 and 2021-2027 CP legislative packages – see Chapters 3 and 5.

Scrutiny of implementation of legal acts and policies

The European Parliament has the responsibility of oversight and control of the executive, in the case of CP, primarily of the Commission. This spans a range of activities, which include scrutiny of two different kinds of executive acts conferred on the Commission by the ToL: delegated acts and implementing acts.

²⁰ Corbett, R et al. "The European Parliament", 9th edition. London: John Harper Publishing, 2016. p. 276.

²¹ Kaleta, P "In times of Lisbon and Crisis: The European Parliament at a Turning Point?", In Yearbook of Polish European Studies, 16/2013, pp. 153-166.

In the case of **delegated acts** (Article 290 TFEU), the co-legislators delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act.²² The EP and the Council are able to object to a delegated act within a set time (thereby causing it to fall) and also to revoke the delegation of powers.²³

The Member States are responsible for the implementation of legally binding EU acts. Where these basic acts require uniform implementing conditions, the Commission can exercise implementing powers through **implementing acts** (Article 291 TFEU). In this case, the control mechanisms are based on an adaptation of the pre-ToL 'comitology' system.²⁴ However, neither Parliament nor the Council may veto an implementing act and the Commission can still adopt it despite either of them objecting.²⁵

²² EP. "Vade Mecum (2014), p. 46, *op. cit.*

²³ Corbett, R *et al. op. cit.* p. 375.

²⁴ *Ibid.*

²⁵ EP. "Vade Mecum" (2014), p. 46, *op. cit.*

3. THE EP'S LEGISLATIVE ROLE IN PRACTICE – THE 2014-2020 COHESION POLICY PACKAGE

KEY FINDINGS

- This was the first legislative package of cohesion policy in which the European Parliament had full co-decision powers as conferred by the Treaty of Lisbon.
- Parliament rose to the challenge of playing its role as co-legislator, with a flurry of preparatory activity prior to the launch of the legislative process, and the REGI Committee was very active in mobilising other EP committees, European institutions, experts and stakeholders.
- The extent and intensity of the interinstitutional negotiations were unprecedented in the field of cohesion policy. They involved a huge commitment, dedication and resources from the side of Parliament, larger than in most co-decision procedures.
- Parliament was crucial in advancing some aspects of cohesion policy, such as strategic approach and programming, the partnership principle, thematic concentration and common strategic framework, the integrated territorial approach including urban earmarking, support for transition regions, and innovation and smart specialisation. Areas of lesser EP influence were the macro-economic conditionalities, the performance framework and financial issues.
- It is generally recognised that Parliament managed in a very short space of time after the Treaty of Lisbon to play a full role as co-legislator, and through it to help confirm and strengthen the comprehensive and multi-sectoral nature of cohesion policy as the EU's investment policy for all regions.

3.1. Pre-legislative stages

At a fairly early stage of the 2009-2014 term, the EP and REGI found themselves at the confluence of two major developments. On the one hand, the future of cohesion policy was a major issue of debate throughout the EU institutions, including Parliament, while on the other hand, the EP had broader powers and competencies and new processes at its disposal, giving it the opportunity to play a different and much enhanced role in the forthcoming legislative process.

The EP rose to the challenge of playing its role as co-legislator in full, and this spurred extensive preparatory activity prior to the launch of the legislative process with the publication of the Commission's proposals in October 2011. As the committee concerned with EU cohesion policy, REGI led this pre-legislative work through different vehicles, including: debates in committee and in plenary; exchanges of views with representatives of the Council presidencies and with Commissioners responsible for cohesion policy; public hearings; and non-legislative reports.²⁶

A crucial role in this effort was played by the then chair of REGI, Danuta Hübner, who initiated various actions and mobilised a CP-oriented policy community, building on her previous role as former Regional Policy Commissioner and direct contacts with the regions, as well as her relevant experience in national government and academia.²⁷

²⁶ EP. "Vade Mecum (2014), p. 39, *op. cit.*

²⁷ Corbett, R *et al. op. cit.* p. 170 & study consultations.

In her own account of the role that EP played in this legislative package she highlighted that “*within the EP, the REGI Committee embarked as a fully-fledged co-legislator on an unprecedented and exceptionally intense pre-legislative preparatory work effort, establishing close working relations with other European institutions, other EP committees, experts and stakeholders. The intension was not only to prepare Committee members for informed negotiations but also to raise awareness of Cohesion policy within the EP and make other institutional partners aware of the priorities of the Parliament in this sphere*”.²⁸

Three elements stand out in this remarkable effort, in terms of the processes involved and the contribution to cohesion policy content:

- the setting up and operation of the Working Party on the Future of Cohesion Policy (WPoFCP);
- the mobilisation of a variety of institutions and organisations, notably the Committee of the Regions and numerous regional and urban associations, and the tapping of external technical expertise, especially from the Commission side;²⁹
- a considerable in-house effort on the development of policy positions, through own-initiative reports.

The **Working Party on the Future of Cohesion Policy (WPoFCP)** was created in 2009 to provide an informal and preparatory forum of debate and coordination. Its members were appointed by the political groups and it was led by the committee chair.

The WPoFCP provided a platform for political groups and members of the REGI Committee to exchange views among themselves and with the representatives of the Commission, EU advisory bodies, and umbrella organisations, and to debate, coordinate and make recommendations. It worked in an informal way, often without minutes, and this proved particularly useful in building confidence and harmonising positions.³⁰ It also helped the coordination among REGI rapporteurs on cross-cutting issues, as well as cooperation with rapporteurs of other relevant committees, including those responsible for the Financial Regulation and particular CP regulations.³¹

A concrete result of the work of the WPoFCP was an informal position paper, which was endorsed by REGI, setting out the committee’s position on the future cohesion policy. This led to a resolution on post-2013 cohesion policy adopted in the plenary meeting of Parliament on 7 October 2010 by a very large majority.³² The key points contained in Parliament’s resolution are set out in the box, below.

²⁸ Hübner, Danuta. “The European Parliament and Cohesion Policy in Handbook on Cohesion Policy in the EU”, ed. Piattoni, Simona and Laura Polverari, Cheltenham: Edward Elgar, 2016.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ Tell Cremades, M. “Review of the European Parliament’s Role in the Interinstitutional Negotiations for the EU Cohesion Policy Legislative Package 2014–2020”, European Structural and Investment Funds Journal, vol. 2 (2014): pp. 77–88.

³² EP. “European Union Cohesion Policy 2014–2020”, Committee on Regional Development, 2014, p. 8.

Box 1: Key positions of the EP in the pre-legislative stage, 2014-2020

- Cohesion policy should be implemented throughout **the entire territory of the Union**, embracing all regions;
- Although cohesion policy is indispensable for the implementation of the EU 2020 strategy, it should remain an **independent policy** pursuing its Treaty-based objectives;
- **Renationalisation** of the policy is to be rejected, while the territorial dimension should be enhanced;
- A more focused approach towards the **urban dimension** is necessary;
- **Principles** such as multilevel governance, partnership, transparency, and subsidiarity are fundamental, and that an integrated approach should be strengthened;
- **Territorial cooperation** should be enhanced;
- Spending should be **concentrated** on the core priorities of European added value;
- There should be a simple, fair and transparent **transition regime for regions** concerned;
- **GDP** should remain the **main criterion** for determining eligibility;
- The **ESF** should remain part of the policy; better coordination with **rural development** is necessary;
- Cohesion policy and its delivery system should be more **results-oriented** and should aim at increased efficiency and effectiveness;
- Continuing **simplification** of policy implementation at EU, national and regional level should be pursued while maintaining good financial management;
- The use of **financial engineering instruments** should be increased;
- Member States should make greater use of the **technical assistance** resources available to them to enhance the capacities of local and regional authorities and other stakeholders;
- The **Commission's role** in management and policy design should also be enhanced.

The Commission's reaction to Parliament's position was very positive and showed that the two institutions shared a similar approach on the main lines of the CP reform. This reaction also underlined that the Commission had benefited from the two-way flows with Parliament and had exerted considerable influence on the latter's thinking.³³

These activities and inputs led to a set of **own-initiative reports**, which addressed substantive issues and fed into the debate on the future of cohesion policy. Five reports by REGI, most of them adopted in April 2011, represent the building blocks of the positions that were eventually adopted by Parliament – on overarching aspects of the CP and on particular regulation proposals. They are briefly outlined below.

The report **on the state of play and future synergies for increased effectiveness between ERDF and other structural funds**³⁴ ('Stavrakakis report') argued for using the upcoming negotiations on the

³³ Study consultations.

³⁴ 2010/2160(INI) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2011-0141+0+DOC+XML+V0//EN&language=EN>

next MFF to achieve greater synergies from the EU funds and programmes by putting in place a far-reaching co-ordination mechanism. It envisaged a new level of strategic planning by establishing a single Strategic Framework and complementing the general framework for EU cohesion policy instruments with additional links to other EU programmes.

The report on **the Report 2010 on the implementation of the cohesion policy programmes for 2007- 2013**³⁵ ('Mikolášik report') was triggered by the publication of the Communication from the Commission known as 'Strategic Report 2010'³⁶, which offered the opportunity for a first real analysis by the EP of the implementation process of the Operational Programmes. The report drew attention to the fact that effective selection and implementation of projects in some areas is hampered by many factors, and *inter alia* argued that:

- the simplification of the cohesion policy management and implementation remains highly desirable;
- the absorption of the funds can be increased by targeted capacity building and by mobilising resources to obtain the available co-financing from the structural funds.

The report on **Objective 3: a challenge for territorial cooperation - the future agenda for cross-border, transnational and interregional cooperation**³⁷ ('Sanchez-Schmid report') went along with the view that the aim of 'territorial cooperation' is to do away with physical, administrative and regulatory obstacles to cohesion and to reduce the 'border effect' between territories and regions in order to enable them to address their shared challenges together. It argued that 'Objective 3' must be substantially strengthened and must continue to be split into three components, each with its own logic and value: cross-border, transnational and interregional cooperation.

The report on **European Urban Agenda and its Future in Cohesion Policy**³⁸ ('Vlasák report') followed up the previous 'Urban dimension of cohesion policy in the new programming period' ((2008/2130(INI)) by the same rapporteur.³⁹ While reflecting the latest developments of the European Urban Agenda – the main purpose of which should be to serve the development and qualitative updating of the infrastructure and services in European cities – it argued that the cities should be offered sufficient flexibility in the use of the funds but that the development projects should not be drafted simply to draw down the available funds but to meet the strategic goals. Moreover, regional, national and EU funding opportunities should be coordinated so as to cover the whole range of specific needs.

A major step was the report on **the Commission's fifth Cohesion Report and the strategy for post-2013 cohesion policy**⁴⁰ ('Pieper report'). It was adopted in June 2011 and led to a key resolution of Parliament on 5 July 2011⁴¹, marking the conclusion of the pre-legislative stage. This resolution represented a detailed and thorough political statement by Parliament. It repeated and synthesised key elements of its position on the future architecture of cohesion policy, and therefore, by means of an intense debate, where the expansive and restrictive arguments over the EU budget and cohesion policy were abundantly tested, it created a strong conceptual basis for the upcoming legislative work.

³⁵ 2010/2139(INI) <https://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0111&language=EN>

³⁶ COM/2010/0110 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1560543770569&uri=CELEX:52010DC0110>

³⁷ 2010/2155(INI) <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2011-0110+0+DOC+XML+V0//EN>

³⁸ 2010/2158(INI) <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2011-0218+0+DOC+XML+V0//EN>

³⁹ 2008/2130(INI) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52009IP0164>

⁴⁰ 2011/2035(INI) <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0222&language=EN>

⁴¹ <https://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-0316>

3.2. Mandates

The Commission proposals on the legislative package were published and presented in October 2011, and marked the beginning of the preparation of the negotiating mandates in Parliament. REGI decided that the negotiation mandates would be adopted in the form of amendments, but without there being a vote on the final report in Committee. This offered flexibility in making updates to the mandates, as well as in re-consulting the Committee throughout the negotiation procedures.⁴²

The lead negotiations were those on the CPR, due to the horizontal nature of this regulation and the fact that most provisions were concentrated in this legal instrument, leaving only the most specific provisions for the regulations on the individual funds. Consequently, 11 EP committees decided to draw up an opinion on REGI's report on the CPR. Given the strong interconnectedness between individual funds and the CPR, cooperation between REGI and some of the other committees proved difficult. It was “*full of tensions*”⁴³ in the case of TRAN⁴⁴ (regarding the Connecting Europe Facility), and even more so with EMPL⁴⁵, the lead Committee for the ESF. An implication of these tensions was that EMPL committee insisted and became an ‘associated committee’ for the CPR. However, cooperation with other committees, notably AGRI and PECH went smoothly, as these Committees accepted the leading role of REGI for the horizontal aspects of the policy with no reservations.⁴⁶

Cooperation with the Committee of the Regions, as well as the European Economic and Social Committee and the Court of Auditors, was close including informal exchanges at staff or political level, transmission of adopted opinions and presentation of opinions and debates in REGI. Moreover, the rapporteurs’ work that led to the final draft reports included extensive consultations with umbrella organisations and NGOs, through meetings and written contributions, as well as public hearings.

Once the draft reports on the negotiating mandates were finalised, the amending phase in committee began. More than 3 000 legislative amendments were received on the whole package, two-thirds of which on the CPR regulation. Nearly 800 amendments were through the opinions received from other committees. After an analysis of the amendments and negotiations on compromise amendments within the negotiating teams, the vote on the negotiating mandate for each of the draft regulations took place on 11 July 2012⁴⁷, leading to the adoption of a total of 304 amendments, including 86 compromise amendments. The committee also adopted them as the basis for the interinstitutional negotiations.

The above-mentioned own initiative reports were crucial for the definition of Parliament’s position for the subsequent legislative work. When the time came for preparing formal reports, the exercise largely involved the translation of the preparatory own initiative reports. These formal reports – one on each draft regulation for which REGI was the lead committee – were the following:

- **Common Provisions Regulation** - rapporteurs: Lambert van Nistelrooij, Constanze Krehl (A7-0274/2013) (with EMPL, under Rule 54 of the Rules of Procedure)⁴⁸

⁴² The preparation of the negotiation mandate in REGI followed Rule 70 of the Rules of Procedure as it stood at the time. This gave considerable freedom to the Committee in choosing its strategy, compared to what would have been the case under the current Rules of Procedure (Tell Cremades, M. *op. cit.*).

⁴³ Hübner, D. *op. cit.*

⁴⁴ Committee on Transport and Tourism.

⁴⁵ Committee on Employment and Social Affairs.

⁴⁶ EMPL was keener to emphasise the distinctive nature of ESF within CP and after intense discussions the Conference of Presidents agreed that certain parts of the CPR will be led by EMPL while REGI retained overall responsibility over the CPR.

⁴⁷ The CP negotiations mandates were adopted in July 2012 without the articles directly linked to the Financial regulation. They were adopted again in November 2012, with the remaining articles, after the Financial regulation had been adopted in October 2012.

⁴⁸ Report: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bREPORT%2bA7-2013-0274%2b0%2bDOC%2bPDF%2bV0%2f%2fEN EP legislative Resolution: http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0274&language=EN>.

- **European Regional Development Fund** and the Investment for growth and jobs goal - rapporteur: Jan Olbrycht (A7-0268/2013)⁴⁹
- **European Regional Development Fund** and the European territorial cooperation goal - rapporteur: Riikka Pakarinen (A7-0280/2013)⁵⁰
- **Cohesion Fund** - rapporteur: Victor Boştinaru (A7-0270/2013)⁵¹
- **European grouping of territorial cooperation** - rapporteur: Joachim Zeller (A7-0309/2013)⁵²

The positions ultimately advocated by EP in the adopted mandate on the CPR (and reflected in the mandates on the other proposed regulations), were based on a chain of reports and resolutions. The ‘Pieper report’ on the Commission’s 5th Cohesion Report and the strategy for post-2013 cohesion policy was decisive and the finally adopted negotiating mandate on CPR was based on the ‘van Nistelrooij - Krehl report’. The main positions of Parliament can be summarised as in the box below.

Box 2: Key positions of the EP in the negotiating mandates, 2014-2020⁵³

- Parliament rejected **sectoralisation** of the policy;
- The **partnership principle** should be further strengthened;
- More synergies and better coordination with sectoral policies and a **Common Strategic Framework** bringing together the ESI Funds;
- Cohesion policy must cover **all regions** of the Union; special forms of preference should continue to apply in respect of the particularly disadvantaged types of regions;
- The policy should continue to **focus on regions lagging furthest behind**, with transitional assistance for regions no longer coming under the Convergence Objective;
- **ETC should be enhanced**; EGTCs should play a role in cross-border cooperation;
- Parliament endorsed **macroregional strategies**, highlighting the need for more synergy between actions under these strategies and the territorial cooperation objective;
- The **urban dimension** of cohesion policy should be further developed;
- **Basic infrastructure** should continue to receive support from the policy;
- **GDP** must be retained as the **key criterion** in the definition of areas eligible for maximum support; additional indicators could be used to assess challenges involved;
- Parliament supported the system of **thematic priorities**, adding that the lower the level of development, the more wide-ranging the list of priorities needs to be;
- Parliament reluctantly supported the idea of introducing **conditionalities**, to be decided beforehand in a dialogue between the Commission and Member States;

⁴⁹ Report: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2013-0268+0+DOC+PDF+V0//EN> EP legislative Resolution: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0268+0+DOC+XML+V0//EN>.

⁵⁰ Report: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2013-0280+0+DOC+PDF+V0//EN> EP legislative Resolution: <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0280&language=EN>

⁵¹ Report: <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2013-0270+0+DOC+PDF+V0//EN&language=EN> EP legislative Resolution: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0270+0+DOC+XML+V0//EN>

⁵² Report: <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2013-0309+0+DOC+PDF+V0//EN&language=EN> EP legislative Resolution: <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0309+0+DOC+XML+V0//EN&language=EN>.

⁵³ EP. “European Union Cohesion Policy 2014-2020”, *op. cit.*, p. 10.

- The *ex-ante* establishment of appropriate **objectives and indicators** was endorsed;
- The system of **seven-year programming periods** should be retained; cohesion policy should have its own heading within the EU budget.

3.3. Interinstitutional negotiations and their outcomes

Interinstitutional negotiations: How they were conducted

Interinstitutional negotiations between Parliament, Council and Commission were conducted in the form of tripartite meetings ('trilogues')⁵⁴ over a long period, from July 2012 to November 2013⁵⁵. The Council side was represented by the relevant presidency with three presidencies - Cyprus, Ireland, and Lithuania - directly involved during the period of the negotiations. On the EP side, all negotiating teams were headed by the chair of REGI, Danuta Hübner, their other members being the rapporteurs and shadow rapporteurs for each regulation. In the case of the CPR, the team also included, the rapporteur of the associated EMPL Committee. The Commission was led by DG REGIO with several other Commission DGs (EMPL, BUDG, MARE, AGRI, and ECFIN) attending the trilogues in the case of the overarching CPR.

Detailed accounts of the negotiations were published soon afterwards in 2014 describing the different steps in the negotiations, the methods of working and a number of controversies as summarised below.

In total, **108 trilogues** were held, two-thirds of which concerned the CPR. They were usually preceded by a preparatory meeting of the relevant negotiating team at which Parliament's positions and reactions to the other institutions' proposals were discussed and decided. The trilogues were complemented by numerous technical meetings.

Between the trilogues and technical meetings there was a constant stream of preparatory activity organised by the REGI Committee secretariat, which tended to involve intensive work over long hours.⁵⁶ This included written procedures, launched internally by the Committee secretariat to collect the political groups' views on Commission compromise proposals, on inputs received from the Presidency or on proposals from the rapporteurs.

In the case of the CPR, the negotiations were conducted on a basis of thematic blocks, grouping together the relevant articles of the Commission proposal. The customary 'Four Column Tables' were used, including the positions adopted by each of the three institutions, plus a column with a possible agreement, as illustrated in the figure, below.

⁵⁴ Corbett, R. *et al*, *op.cit.* p. 286.

⁵⁵ Trilogues on fund-specific regulations and the EGTC regulation concluded earlier in May 2013 and the consolidated texts with the agreements were voted on by REGI on 10 July 2013 and then were tabled as committee reports to plenary for 1st reading agreement under OLP. Most of the negotiations had taken place before first reading.

⁵⁶ Study consultations.

Figure 1: Example of ‘Four Column Table’

<p>Proposal for a Regulation of the European Parliament and of the Council 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006 (‘CPR Regulation’)</p>			
<p><u>Four column table on the Compromise Text on the ‘Strategic approach and Programming’ block</u> (texts are subject to lawyer-linguist verification)</p>			
<p><i>The Four Colum Table (FCT) is an Interinstitutional internal working document. The content of this FCT reflects the ongoing Interinstitutional negotiations and is subject to the principle that nothing is agreed until everything is agreed and to the provisions established in the Code of conduct for negotiating in the context of the ordinary legislative procedures.</i></p>			
<p>CPR Regulation (Commission amended proposal of 11/09/2012)</p>	<p>Partial General Approach (GAC on 24/04/2012, 26/06/2012, 16/10/2012 and 13/11/2012)</p>	<p>EP REGI mandate (11.7.2012)</p>	<p>Compromise Text</p>

The negotiations did not always proceed in a straightforward manner as illustrated in the cases of the MFF negotiations, interinstitutional relationships, and links with economic governance and macro-economic conditionalities, which are outlined below.

The negotiations on the CP legislative package were unavoidably linked to and ran concurrently with the **negotiations on the MFF 2014-2020**, since the CP constitutes the major investment block of the MFF and the MFF impacted on the design and financing of the policy⁵⁷. However, the MFF negotiations did not follow the OLP, as explained in Chapter 2, and therefore presented a challenge to REGI and the EP, which was addressed as follows: First, REGI declared from the beginning that the adoption of the CP legislative package was conditional on the adoption of the MFF regulation only insofar as the financial amounts were concerned and, therefore, the co-legislators should proceed with the OLP, with the exclusion of the financial provisions and amounts, which would be inserted at the final stage once the MFF regulation was adopted. Second, the EP, in its resolution of 3 July 2013, set a number of conditions before giving its consent to the MFF, above all that “*a political agreement on the sectoral files is reached*”. This political link, which Parliament decided to make between the MFF regulation and achieving an agreement on the sectorial policies was the subject of lengthy debates and entailed considerable pressure on Parliament’s negotiators.⁵⁸

In another case, the EP and REGI felt that there was unwarranted **interference from the European Council**,⁵⁹ which in the Conclusions of its 7-8 February 2013 meeting included *en bloc* and in detail many matters which were the competence of the co-legislators and were being dealt with as part of the tripartite negotiations, including: macro-economic conditionality, definitions and eligibility, the Connecting Europe Facility, the performance reserve, and co-financing rates. The EP therefore did not view them as binding on Parliament or restricting its exercise of its prerogatives as regards the OLP.⁶⁰

The issue of **macro-economic conditionalities** involved difficult negotiations and proved particularly controversial. It was the most difficult of the issues that remained unresolved⁶¹ as of July 2013. The

⁵⁷ Hübner, D. *op. cit.*

⁵⁸ Tell Cremades, M. *op. cit.*

⁵⁹ “Unfortunately, [...] the European Council, which according to the Treaty is not a legislative body, also intervened, adopting Council’s negotiating positions in its Conclusions” (Hübner, D. *op. cit.*).

⁶⁰ Parliament resolutions of 13 March 2013 (Tell Cremades, M. *op. cit.*).

⁶¹ Macro-economic conditionality, co-financing rate, pre-financing, performance reserve (Tell Cremades, M. *op. cit.*).

objective of the measures linked to sound economic governance is that the CP should contribute to the wider macro-economic governance objectives in the EU and enhanced compliance with macro-economic rules.

The measures envisaged under Article 23 of the CPR are in two strands. First, the Commission is entitled to ask a Member State to amend the Partnership Agreement and the programmes in order to support the implementation of related Council recommendations or to improve the impact of ESI Funds in the field of economic growth and competitiveness where a Member State is receiving relevant financial assistance. Second, where a Member State fails to succeed in its actions in the economic governance process, the Commission must make a proposal to the Council to suspend part or all of the commitments or payments for that Member State's programmes.

The EP's initial approach was to oppose the idea of linking ESI Funds to economic governance on the grounds that, if a country is suffering from macroeconomic imbalances, and additionally the public financing of development investments is cut, it would be even more difficult to reinstate a macroeconomic balance in the country. However, given the reluctance on the part of the Council and Commission to alter fundamentally their approach, the EP sought to soften the application of the article through changes in both strands, including procedural guarantees built into the process, and to moderate the suspension of commitments or payments referred to in Article 23(11) by introducing socio-economic indicators and ceilings into the provisions for determining the scope and level of suspensions.

The negotiations on this matter proved extremely contentious often coming down to changing single words. For instance, there was a high-level trilogue going on until dawn on 23 October 2013 but failing to achieve a lasting common understanding, while a final compromise was eventually reached by replacing the word 'persistent' with 'significant' and was ultimately accepted by REGI on 18 November 2013⁶².

Interinstitutional negotiations and EP achievements

The extent and intensity of the interinstitutional negotiations were unprecedented in the field of cohesion policy. They involved a huge commitment, dedication and resources from the side of Parliament and raised emotions previously unknown to cohesion policy. The detailed accounts published by some of the protagonists from the EP side⁶³ include references to the negotiations being conducted in a "*dramatic fashion*" and sometimes recount them in adversarial terms, presenting 'wins' and 'losses' *vis-à-vis* the Council.

However, some of the study consultations have highlighted that the length and extent of the CPR negotiations, going into some 70 trilogues and umpteen other related meetings, was most unusual by comparison to normal legislative practices of other EP committees. This is attributed to REGI inexperience, as well as insufficient strategic focus and delegation to technical staff by the Members, and ultimately is seen as inefficient⁶⁴. The consultations also referred to the asymmetrical nature of the positioning of Council and Parliament, with the former in an advantageous position due to no co-decision in the MFF negotiations, and its rather 'opaque' internal workings by contrast to the more transparent processes in Parliament.

⁶² EP. Briefing: "The European Structural and Investment Funds and sound economic governance: guidelines for the implementation of Article 23 of the Common Provisions Regulation", DG IPOL, December 2014.

⁶³ Hübner, D. *op. cit*, Tell Cremades M. *op. cit*, Reinhart, S. *op. cit*, EP. "European Union Cohesion Policy 2014-2020", *op. cit*.

⁶⁴ An alternative explanation offered in the study consultations claimed that the "great detail" in the negotiations was introduced by the Council which was subsequently "taken aback" by the rigour of the EP's negotiating. Other consultations also stressed the considerable strength of EP in line-by-line type of negotiations when its negotiators are experienced politicians.

Notwithstanding the presentational emphasis and arguments about the efficiency of the process, all the available assessments of Parliament’s achievements in these negotiations show that the EP was able to contribute, in varying degrees, in practically all the thematic blocks of the negotiations. Table 1, below, presents a synthesis of these assessments and demonstrates that Parliament made a difference across the board, and significantly so on some aspects of CP, such as strategic approach and programming, thematic concentration and common strategic framework. Areas of lesser EP influence were the above mentioned macro-economic conditionalities, the performance framework and financial issues.

Table 1: EP achievements in the interinstitutional negotiations on CPR (2014-2020)

	Thematic block	Degree of EP achievement⁶⁵	Key contributions of EP (non-exhaustive)
1	Strategic approach and programming	***	<ul style="list-style-type: none"> Renaming the funds as ESI Funds. Strengthened partnership principle and MLG. Important EP elements in Partnership Agreements. Effective preparation and transparency of OPs.
2	Thematic concentration	***	<ul style="list-style-type: none"> EP added 4 objectives on environment, quality employment, combating discrimination and institutional capacity. Final compromise on ESF shares constructed around REGI’s positions
3	Common Strategic Framework	***	<ul style="list-style-type: none"> EP successfully resisted adoption by delegated act (see Chapter 4)
4	Territorial Development	**	<ul style="list-style-type: none"> EP introduced/supported improvements, e.g.: New definition of CLLD strategy; ITIs may be complemented with EAFRD or EMFF
5	<i>Ex-ante</i> conditionalities	***	<ul style="list-style-type: none"> EP defended COM proposal for general EACs EP influenced the balancing the roles of COM and national authorities
6	Performance framework	*	<ul style="list-style-type: none"> Council ‘red line’. EP made its application more flexible.
7	Monitoring and evaluation	**	<ul style="list-style-type: none"> EP defended COM proposal from dilution EP improvements in access to information, transparency, publication and reporting
8	Technical assistance	***	<ul style="list-style-type: none"> Use of TA funds for capacity building of partners and networking was introduced.
9	Management and control	**	<ul style="list-style-type: none"> EP defended COM’s global approach The basic legislation will be developed via delegated rather than implementing acts as requested by EP
10	Financial instruments	**	<ul style="list-style-type: none"> Inclusion of the process of <i>ex-ante</i> assessment of the use of fin. Instruments in the basic act instead of a delegated act.

⁶⁵ Corresponding broadly to ‘win’/major contribution (***), ‘concession’ (**), ‘loss’/minor contribution (*) ratings (Reinhart, *S. op. cit.*).

	Thematic block	Degree of EP achievement⁶⁵	Key contributions of EP (non-exhaustive)
			<ul style="list-style-type: none"> • EP supported the creation of the SME Initiative at a lower budget ceiling.
11	Eligibility	**	<ul style="list-style-type: none"> • Small improvements, e.g. clarifying calculation methods for flat rates, sanction relocation outside the EU.
12	Indicators, information and communication	**	<ul style="list-style-type: none"> • EP raised the standards for better visibility of the policy.
13	Major projects	**	<ul style="list-style-type: none"> • Minor modifications
14	Revenue-generating operations and public-private partnerships	**	<ul style="list-style-type: none"> • The Council persuaded the EP on the need for a new chapter on PPP
15	Financial management	**	<ul style="list-style-type: none"> • The definition of public expenditure in line with EP's suggestion. • COM obligation on transmission of information.
16	Financial issues	**	<ul style="list-style-type: none"> • Minor improvements, e.g. gradual raising of pre-financing rate, clarification and specification of information submission by MSs, defending minimum funding for outermost regions and the ETC goal
17	Macro-economic conditionality	*	<ul style="list-style-type: none"> • EP obtained rights of participation in the process including the launching of a structural dialogue with the COM • Review provision added to Art 23 (see Chapters 3 & 4)
18	Transitional and final provisions	**	<ul style="list-style-type: none"> • Exemption of implementing acts which are of political importance to the EP from the 'no opinion – no action' rule

Source: Based on Reinhart, S. "The Role of the European Parliament in the Reform of Cohesion Policy and its Contribution to Economic, Social and Territorial Cohesion", European Structural and Investment Funds Journal, vol. 2, 4 (2014): pp. 267–276, and modified on the basis of other assessments.

The study consultations have fully supported the view that the EP managed in a very short space of time after the ToL to play a full role as co-legislator. From the perspective of the Commission and of stakeholders – CoR and umbrella organisations – the EP's role was particularly valuable in certain areas where the Council was not in favour of the proposals of the Commission or the proposals involved newer elements. The consultations have highlighted that the EP was instrumental in securing a strong partnership principle with a legally binding Code of Conduct; also in supporting and reinforcing other outcomes, among others, the transition regions category, *ex-ante* conditionalities (especially horizontal ones), multi-fund territorial development instruments (CLLD, ITI), urban earmarking and delegation to local urban authorities; and innovation and smart specialisation. It also ensured that the Common Strategic Framework was part of the CPR (see Chapter 4).

The substantive contribution to CP beyond the achievements on individual negotiating topics requires a broader and longer-term perspective. Nonetheless, the picture painted of the key policy outcomes of the 2014-2020 legislative package offers a clear reference point against which one can form a view as to how cohesion policy is shaping up during implementation and how it is evolving following the adoption of the legislative package.

Such a picture has been offered by the main protagonist, Danuta Hübner,⁶⁶ who has stressed the **strategic orientation of the CP and its comprehensive and coherent character that were achieved in the 2014-2020 CP package:**

- *“making it the lynchpin of the EU’s development strategy for the years to come”;*
- *“confirming the status of Cohesion policy as the Union’s investment policy”;*
- maintaining CP *“as a European investment policy for all regions”;*
- emphasising the comprehensive and multi-sectoral nature of the CP (and the avoidance of the risk of sectoralisation, as well as the risk of re-nationalisation).

Strategic coherence is a central element of the post-2013 cohesion policy. An EP study⁶⁷ in the early part of the 2014-2020 period, close to the adoption of this legislative package, undertook a critical assessment of the evolution and implementation of cohesion policy, focusing on four areas considered to be crucial for the strategic orientation of the policy: EU strategic frameworks; national strategic frameworks; thematic concentration; and the programme architecture, governance and administration. The conclusions of this assessment have confirmed the validity of key aspects of the CP and have also included some early warnings on other aspects.

Among the former (‘positive’) conclusions the following are noted:

- The Common Strategic Framework has provided a clear statement of EU objectives and priorities.
- Thematic concentration will be achieved, at least at the programming stage.
- The partnership principle appears to have been widely respected during the programming process.
- The preparation of the policy reform process for 2014-2020 was relatively open and inclusive, at least compared to 2007-2013.

In the category of early warnings fall the following:

- There is concern about a progressive ‘transformation’ of cohesion policy into a thematic policy that is in danger of losing sight of its cohesion purpose.
- Greater strategic integration and coordination of funds management should be achieved.
- There is little sign of simplification.
- The efficacy and utility of the options for integrated territorial development is not clear as yet.

Some of the study recommendations, which are addressed to the Parliament, are also worth noting:

- Application of the partnership principle during the implementation phase of the programmes should be monitored by the EP.

⁶⁶ Hübner, D. *op. cit.*

⁶⁷ Kah, Stefan, et al. “Strategic coherence of Cohesion Policy: comparison of the 2007-13 and 2014-20 programming periods”, Study. Brussels: European Parliament, 2015.

- Strong EP oversight and scrutiny of the strategic coherence and performance of Cohesion Policy is recommended.
- Closer coordination within the European Parliament is required, notably greater inter-committee dialogue among the four committees in charge of the ESI Funds.

Some of the points made by that study, such as on simplification, have been addressed since (see Chapter 4) but some other concerns have been added, such as implementation difficulties and policy tensions⁶⁸. Indeed, as discussed in Chapter 2, cohesion policy has been facing considerable challenges since the high point it attained with the adoption of the 2014-2020 legislative package.

⁶⁸ Bachtler, J. *et al.* (2016), *op. cit.*

4. ONGOING ROLE OF THE EUROPEAN PARLIAMENT

KEY FINDINGS

- There are various ongoing legislative and other activities involving the REGI Committee and the Parliament in the field of cohesion policy between the major legislative packages of each Multiannual Financial Framework.
- Legislative activity based on the 'ordinary legislative procedure' (co-decision) is centred around a small number of acts amending the existing cohesion policy regulations, some of which are very important, such as the 'Omnibus regulation', which introduced extensive financial simplification, and the establishment of the Structural Reform Support Programme.
- Some of the activities involve scrutiny of secondary legislation – delegated and implementing acts – but in practice, they do not represent a significant part of REGI's work.
- The 'own initiative reports' are an important strand of non-legislative work of the REGI Committee. Nearly 30 such policy-oriented reports were produced during Parliament's 2014-2019 term. They tend to play a valuable role in policy oversight and, together with associated activities such as hearings and debates, create the stepping stones towards Parliament's positions in the next legislative package.

4.1. Interim legislative activity

Parliament and the REGI Committee had an early opportunity to use the ordinary legislative procedure (OLP) prior to the 2014-2020 legislative cycle, through a series of measures taken in the 2007-2013 programming period in response to the **economic and financial crisis**. Such measures were adopted to enhance the flexibility of existing instruments and to mobilise those instruments in order to alleviate the pressure on national public resources through maximum and optimal use of EU funding, as well as through increased simplification.

The key measure was Regulation (EU) No 539/2010, simplifying the requirements and financial provisions for the remainder of the 2007-2013 period to facilitate access to the structural funds and ensure liquidity for the Member States worst hit by the crisis, through additional pre-financing and easing of the decommitment rules. This was complemented with Regulation (EU) No 1311/2011 to support financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability, including increasing the co-financing rates by 10 percentage points; as well as, Regulation (EU) No 1310/2011 simplifying financial engineering provisions, Regulation (EU) No 423/2012 on risk-sharing instruments for Member States experiencing or threatened with serious financial stability difficulties, and Regulation (EU) No 1297/2013 to support financial management for certain Member States as regards to the decommitment and final payment rules.⁶⁹

Particular support was provided by Regulation (EU) No 437/2010⁷⁰ amending Regulation (EC) No 1080/2006 on the ERDF as regards the eligibility of housing interventions in favour of marginalised communities, in countries that acceded to the EU on or after 1 May 2004, with a view to enhancing the economic and social cohesion of the Union. Regulation (EU) No 1298/2013 increased the ESF allocations to France, Italy and Spain for the year 2013, as a contribution to the special effort needed to

⁶⁹ EP. "Vade Mecum" (2014), p. 69, *op. cit.*

⁷⁰ <https://publications.europa.eu/en/publication-detail/-/publication/b6182089-bfd6-4b37-91d9-68dc852f8539/language-en>

address the specific problems of unemployment, in particular youth unemployment, and of poverty and social exclusion.

This type of interim legislative activity between the MFF/CP legislative packages was repeated after the adoption of the 2014-2020 package. Although sporadic, it included some measures which concerned sensitive policy issues and required an intensive involvement from the side of REGI and, more broadly, of Parliament.

A major case was that of the regulation known as the '**Omnibus regulation**'⁷¹ whose legislative procedure proved particularly complex and contentious. The Commission presented its proposal on the Omnibus regulation in September 2016 and it took 2.5 years of negotiations for both sides, Parliament and Council, to reach and endorse an agreement. The proposal constituted a package of amended regulations presented as part of the mid-term review of the MFF 2014-2020, revising a large number of regulations, including the Financial Regulation, the CPR and the regulation of the ERDF.

The REGI Committee was one of several associated committees of Parliament and, in its position (rapporteur, Constanze Krehl),⁷² was supportive of the simplification measures proposed, as this matter has always been high on the EP agenda and a significant part of the legislative proposal was devoted to this goal. However, among other matters, the proposal covered the relationship between ESIF and EFSI and on this issue REGI expressed reservations, given the different regulatory frameworks and funding logics. The EP negotiators succeeded in modifying the original proposal on four key issues: no trust funds in internal policies, no abolition of the non-profit principle in grants, no possibility of transfer from structural funds to EFSI, full respect of the Parliament's budgetary competencies.⁷³

The finally agreed package has a strong emphasis on financial simplification⁷⁴ and the regulation has come to be recognised as such, something generally accepted in the study consultations. They also showed that, from the Commission's point of view, the contentious nature of the procedure is attributed to the technical complexity of the matter, while on the EP side it has been pointed out that it was also highly political, as it went beyond simplification, including proposals for the transfer of CP funds and touched on 'hot issues' like immigration.

Similarly, the Commission proposals regarding EU support for structural reforms proved controversial. The **Structural Reform Support Programme (SRSP)**⁷⁵ was established in May 2017 with funds transferred from the technical assistance provision of CPR⁷⁶. It operates on the basis of direct management by the Commission and is project-demand driven, in contrast with the CP's shared management and programme-based approach⁷⁷.

The final version of the regulation⁷⁸ has taken account of many of the views set out by Parliament and Council. In particular, it added cohesion to the programme's general objectives and extended the definition of national authorities to include regional and local levels. The EP's position ('Gräßle-

⁷¹ 2016/0282A(COD) [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0282A\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0282A(COD)&l=en)

⁷² http://www.europarl.europa.eu/doceo/document/A-8-2017-0211_EN.html?redirect#title7

⁷³ <http://www.europarl.europa.eu/legislative-train/theme-new-boost-for-jobs-growth-and-investment/file-reform-of-eu-financial-rules/04-2019>

⁷⁴ Covering reimbursement of costs made easier, single checks and assessments, simpler rules for the combination of funding sources, single rulebook, etc. <https://www.consilium.europa.eu/en/press/press-releases/2018/04/19/simpler-use-of-eu-funds-council-confirms-deal-with-parliament/>

⁷⁵ [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2015/0263\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2015/0263(COD)&l=en)

⁷⁶ Art 18 of regulation (EU) 2017/825 amending the CPR <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0825&from=EN>

⁷⁷ Pucher J & Martinos H, "Administrative capacity of local and regional authorities: Opportunities and challenges for structural reforms and a more effective European economic governance" (CoR 2018).

⁷⁸ Regulation (EU) 2017/825 of the European Parliament and of the Council of 17 May 2017 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 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R0825>

Ashworth' Report⁷⁹ and 'Van Nilstenrooij-Krehl' Opinion)⁸⁰ stressed that it should be applied in particular for the efficient use of ESI Funds and that economic, social and territorial cohesion should be included among the specific objectives of the programme. The transfer from ESI Funds to the SRSP should be a one-off solution and not constitute a precedent for the funding of any future initiatives.⁸¹

In December 2017, the Commission put forward a further proposal seeking to amend the CPR in order to allow the performance reserve (6% of the resources allocated to the ERDF, ESF and CF Investment for Jobs and Growth Goal, to the EAFRD and to the EMFF) to be used for **structural reforms**.

This proved highly controversial and the REGI co-rapporteurs (Van Nistelrooij-Krehl Report)⁸², fully-backed by the opinion of other EP committees, proposed that it should be rejected. This position was reached both in terms of objectives ("*the amending regulation subordinates cohesion policy under the European Semester, although it has its own objectives laid down in the treaty*"), as well as management and financial principles ("*the choice of direct management for the support of structural reforms with money that was supposed to go to cohesion policy would also breach with the cohesion policy's principle of co-financing*").

The positions of Parliament in the cases of the Omnibus regulation and the proposals for support to structural reforms are a clear demonstration of the full role that Parliament has been seeking to play through the legislative powers conferred by the Treaty of Lisbon, in the period between the legislative work on the 2014-2020 and 2021-2027 packages, in order to safeguard the integrity of cohesion policy.

4.2. Scrutiny of delegated and implementing acts

Parliamentary scrutiny and control are a mainstream activity of parliaments. In the case of the EP it involves a wide range of activities, which include a distinct element introduced by the Treaty of Lisbon: **delegated and implementing acts**⁸³. The role of Parliament in the scrutiny of these acts was outlined in general terms in Section 2.2.

The adopted CP legislative package for the 2014-2020 period has empowered the Commission to issue such executive acts. The general rules of relevance to the procedures that are applicable to delegated and implementing acts are laid down in each of the regulations⁸⁴ in the legislative package.

Most of the specific empowerments for delegated acts – a total of 21 – are in the CPR and cover matters such as the methodology applicable to revenue generating operations (Art. 22(7),4) and the allocation of the performance reserve (Art. 61(3),7). In other regulations within the remit of REGI, there are only isolated cases of empowerment, such as, on innovative actions in the area of sustainable urban development (ERDF Art. 8(3)) and on eligibility rules (ETC Art. 18(1)).⁸⁵

Most of the delegated acts relating to the ESI Funds which were adopted so far concern the CPR, and a few are in connection with other ESIF regulations.⁸⁶ There is a clear preponderance of acts of a highly technical nature (e.g. reporting irregularities, flat rates, irrecoverable amounts, indicators). However, there were also a few instances of subjects dealt through delegated acts (or where it was attempted to

⁷⁹ 2016/0282(COD)) [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2016/0282\(COD\)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2016/0282(COD))

⁸⁰ http://www.europarl.europa.eu/doceo/document/A-8-2017-0211_EN.html?redirect#title7

⁸¹ EP. Briefing: "Regional Policy", EPRS, May 2019.

⁸² http://www.europarl.europa.eu/doceo/document/A-8-2018-0316_EN.html?redirect

⁸³ There is a further category, Commission Implementing Decisions (no comitology), in the adoption of which the EP has no say.

⁸⁴ CPR: Art. 149 (del. acts) and Art. 150 (impl. acts); ERDF: Article 14 (del. acts); ETC: Art. 29 (del. acts) and Art. 150 of CPR (impl. acts); CF: Art. 7 (del. acts).

⁸⁵ EP. "European Union Cohesion Policy 2014-2020", *op. cit.*, Annex 6.

⁸⁶ <https://webgate.ec.europa.eu/esiflegislation/display/ESIFLEG/ESIF%3A+Delegated+Acts>

do so) which proved to be of keen interest to Parliament. Two such cases, concerning a Code of Conduct on Partnership and a Common Strategic Framework, are considered further below.

Overall the study has found that although the relevant adoption procedures under the Treaty of Lisbon give a say to Parliament, especially in the case of delegated powers, in practice this strand of parliamentary activity does not represent a significant part of the EP's work in the field of cohesion policy. The study consultations have uniformly confirmed that, typically, there is no reaction once such executive acts are received by Parliament. This is, of course, very much the case with implementing acts whose procedures allow very little say for Parliament.

Scrutiny of secondary legislation is not a central contributor to shaping the direction of CP but is potentially useful for sustaining it. Under 'shared management', it is difficult for Parliament to exercise oversight of implementation since the executive role is mostly in the hands of Member States rather than the Commission.⁸⁷ The technical and detailed nature of these texts is another major factor; the EP has neither the capacity, time or inclination to scrutinise them.

In fact, Parliament tends to argue in favour of including the necessary legislative provisions in the main acts or having a say on early drafts of the delegated acts during the negotiations on the regulations, rather than leave this to secondary legislation.⁸⁸ This is, undoubtedly, the case on issues to which the EP attaches high importance and it would not wish to give a free hand to the Commission for fear of potentially substantive policy issues (and not just 'technical' ones) being dealt with through secondary legislation.⁸⁹

Therefore, the EP approaches the delegated powers legislation from the point of view of asserting its prerogatives as in the two key examples below. In the case of the Common Strategic Framework, i.e. the broad priorities covering all ESI Funds, the EP insisted that it is so important that could not be left to secondary legislation and should be annexed to the main regulation. Equally while the EP can accept that the detailed provisions should be left to delegated acts, it is extremely keen that key political and governance matters are kept in the main regulations, as the case of the Code of Conduct on Partnership shows.

The Code of Conduct on Partnership in the Framework of ESI Funds

The inspiration for the development of multilevel governance (MLG) as a concept stemmed from the observation of the way the cohesion policy funds operate. Most of the decisions relating to the use of these funds are taken in a decentralised way, under what is known as the 'shared management' principle. In the pre-legislative period of the 2014-2020 package there was active lobbying of the Commission by a coalition of regional and urban associations and the CoR, plus supporting MEPs from the REGI Committee, seeking to translate MLG into more tangible provisions than those concerning 'partnership' in Article 11 of the 2007-2013 General Regulation.⁹⁰ This led to the Commission's proposal on this matter, contained in Article 5 of the CPR, which establishes how Partnership should work in the 2014-2020 period. It also includes for the first time the term 'multilevel governance' as a binding principle under EU legislation.⁹¹

⁸⁷ Study consultations.

⁸⁸ Tell Cremades, M. *op. cit.* and study consultations.

⁸⁹ A further consideration that has been aired in the study consultations in support of this approach is that combining a regulation with series of delegated and implementing acts creates an over-complex set of legal texts hindering smooth implementation.

⁹⁰ Pucher, Jürgen, et al. "The Partnership Contracts – How to Implement Multilevel Governance and to Guarantee the Flexibility of Cohesion Policy" Study, Brussels: European Parliament, 2012.

⁹¹ Van den Brande, Luc. "Multilevel Governance and Partnership. The Van den Brande Report". Prepared at the request of the Commissioner for Regional and Urban Policy Johannes Hahn, Brussels, October 2014.

A Code of Conduct has been introduced (Art. 5(3)) as a legally binding element which sets out the requirements and standards for the involvement of partners. In the interinstitutional negotiations, the EP managed to reinstate this Code of Conduct, which was originally rejected by the Council.⁹² The idea of a European Code of Conduct that would define how Article 5 of CPR would be applied by Member States and Managing Authorities in practice was retained in the adopted regulation. It was formally tabled as a delegated act in January 2014⁹³ and was adopted without any objections from the Parliament or the Council. It is regarded as the first piece of EU legislation that implements the principle of multilevel governance and, as such, is a significant achievement.⁹⁴

Regarding the delegated act procedure, it should be noted that the Code was first tabled by the Commission in draft form as a 'fiche' before the adoption of the CPR, and was discussed among Member States at their Working Group and with EP representatives and wider stakeholders in July 2013. However, when the draft delegated act was formally tabled in January 2014 the text was practically identical to the 'fiche' of six months earlier.⁹⁵ This is rather paradoxical given that the whole point of a delegated act is for the Commission to be empowered to spell out further provisions that would have been too detailed or cumbersome, or when there is no time to include those specifics through the OLP in the actual regulations. A possible reason, as evidenced by the non-retroactivity clause of the 2014 Code of Conduct, is that this would protect the ability of national authorities to define the terms of the partnership preparations of the new programmes in the way they considered most appropriate. Nevertheless, the Code gives a weighty political sign that partnership is important and has been widely welcome.⁹⁶

Common Strategic Framework

The Common Strategic Framework (CSF) establishes strategic guiding principles to facilitate the programming process and the sectoral and territorial coordination of EU interventions under the ESI Funds, and with other relevant policies and instruments. The process leading to the adoption of the CSF as part of the CPR deserves special attention as this became a matter of controversy regarding the appropriateness of using delegated acts.

The Commission's intention was to draw up the CSF in the form of a delegated act. However, already in its resolution of 5 July 2011 Parliament had clearly called for a new CSF to be adopted by the Council and Parliament under the ordinary legislative procedure. The Council also examined the idea and it became clear that both co-legislators wished to decide on the CSF under the OLP as part of a regulation, rather than letting its content have the status of secondary legislation, since it is an essential element of the policy.⁹⁷

On a proposal by the rapporteurs, REGI set out to include in its mandate its own version of the CSF text, intended to be an annex to the CPR, and amended the articles accordingly. REGI subsequently drew up its own version of the text on the basis of the pre-legislative debates and the staff working documents provided by the Commission. Thus, the Committee drafted an entire new annex, a strategic document without an underlying Commission proposal. The adoption of a standalone Parliament text and the numerous discussions with the Commission led to the publication of a modified Commission text of the CSF and negotiations were conducted on the basis of three texts, one from each of the three negotiating

⁹² Tell Cremades, M. *op. cit.*

⁹³ Commission Delegated Regulation (EU) No 240/2014; Also, EC (2013).

⁹⁴ Pazos-Vidal, S. (2019) *op. cit.* Chapter 6.

⁹⁵ Pazos-Vidal, S. "The Partnership Principle in Cohesion Policy 2014–2020", *European Structural and Investment Funds Journal*, vol. 4 (2014): pp. 77–288.

⁹⁶ *Ibid.*

⁹⁷ EP. "European Union Cohesion Policy 2014–2020", *op. cit.* p. 39.

institutions. Among these texts, exceptionally, Parliament's annex chronologically preceded those of the Commission and the Council.⁹⁸

The final outcome was that, on the initiative of the Parliament, the co-legislators prevented the use of a delegated act and the CSF is set out in Annex I to the adopted CPR.⁹⁹

4.3. Ongoing non-legislative activity

Different types of non-legislative activities of REGI

The non-legislative activities of REGI involve both formal and informal activities. The former include the ordinary and extraordinary meetings of the Committee, opinions to other EP committees¹⁰⁰, public hearings and other meetings.

The preparation and adoption of '**own initiative reports**' (INIs) is an important category which is strongly related to the different stages of preparation, adoption and implementation of the CP legislative package. Some 30 such policy-oriented reports were produced by REGI in the 2014-2019 session of the Parliament; one-third of them with CP-wide scope and the remainder covering particular thematic (e.g. sustainable transport, marginalised communities) or territorial aspects (e.g. mountainous or outermost regions)¹⁰¹. REGI's INIs are considered further below.

Another, more heterogeneous and less formalised, category of activities which is, similarly, of relevance to the policy content of the CP is known as '**expertise**' and comprises studies, notes, workshops and other meetings on different topics. Examples include the presentation of a study on a '**Review of the role of the EIB Group in European cohesion policy**', a STOA workshop on "**New technologies and regional policy; Towards the next Cohesion Policy framework**", and **briefings** for REGI delegations on the **economic, social and territorial situation** in particular countries or regions, e.g. Bulgaria, Romania, Azores (PT).

Some 70 such expertise activities have been identified in the 2014-2019 session of the EP, including some related to particular 'own initiative reports', for instance, workshops on **Technical assistance in Cohesion Policy** (for the 'Tomašić report') and on **EU macro-regional strategies** (for the 'Cozzolino report').

Among the other diverse activities it is worth noting frequent meetings and other interaction between, on the one hand, REGI and/or individual members of the Committee¹⁰² and, on the other hand, the Commission, the CoR and stakeholder organisations representing regions and cities, which are very extensive and important (as discussed in the context of legislative procedures – see Chapter 5) but often informal and not systematically recorded. Examples of high-level joint activities include:

- **Inter-parliamentary** meeting with national parliaments on 'The future of cohesion policy after 2020' held on 22 November 2017.
- **REGI-COTER (CoR)** meeting as part of the European Week of Regions and Cities 2017 on 'The state of play of cohesion in the EU: conclusions to be drawn from the 7th Cohesion Report'¹⁰³.

⁹⁸ *Ibid.*

⁹⁹ The basic act empowers the Commission to supplement or amend the Annex by adopting delegated acts, but the use of such acts is limited to a small number of cases.

¹⁰⁰ Opinions for budget, budgetary control and MFF; legislative and non-legislative opinions.

¹⁰¹ <http://www.europarl.europa.eu/committees/en/regi/draft-reports.html>.

¹⁰² E.g. presentation on behalf of the REGI Committee by Iskra Mihaylova to the inter-group RUMRA <https://www.rumra-intergroup.eu/one-step-closer-towards-the-acknowledgement-of-rural-areas-in-the-european-agenda-2/>

¹⁰³ Such joint meetings have become a regular feature of the EWRC.

REGI response to Commission reports

The Commission is required, often by the treaties and specific laws, to submit annual, periodic and other thematic reports to Parliament for debate. These reports provide formal, public, quotable information and offer an essential raw material for control and scrutiny.¹⁰⁴

This applies also to cohesion policy, notably in the case of implementation reports¹⁰⁵ and a series of review and forward looking 'cohesion reports' on the progress made towards achieving economic, social and territorial cohesion, which the Commission has to present every three years in accordance with Article 175 of the TFEU. Consideration of these reports by REGI and its response, often through 'own initiative reports', are the main thrust of REGI's scrutiny and control over cohesion policy.¹⁰⁶ Moreover, they allow policy debates which can contribute to the future development of the policy.

In the 2014-2019 term of the EP a large share of REGI's own initiative reports fell in this category and the most significant, in terms of its policy positions on CP, are briefly outlined below.

Some of these reports had a broad, CP-wide scope and strategic perspective:

- The report on **Investment for jobs and growth: promoting economic, social and territorial cohesion in the Union (6th Cohesion report)** ('Deutsch report')¹⁰⁷ addressed the wide range of issues raised in the 6th Cohesion report, ranging from the achievements and challenges of cohesion policy in the context of the economic and financial crisis in the period 2007-2013, through the implementation and payment problems, to cohesion policy in the long-term perspective.
- The report on **cohesion policy and the review of the Europe 2020 strategy** ('Ruas report')¹⁰⁸ presented the EP's position on the mid-term review of the Europe 2020 strategy, focusing on the cohesion policy dimension of this strategy, which in the post-2014 period is very important as cohesion policy 2014–2020 is fully aligned with, and contributes to the achievement of the objectives of the strategy.
- The report on **Investing in jobs and growth – maximising the contribution of European Structural and Investment Funds: an evaluation of the report under Article 16(3) of the CPR** ('van Nistelrooij report'),¹⁰⁹ in response to the related communication of the Commission,¹¹⁰ set out the EP's position on the outcome of the negotiations concerning the Partnership Agreements and issues arising.

Some of the REGI responses to Commission reports were more focused on specific aspects of the implementation of CPR:

- The report on **The Implementation of the thematic objective "enhancing the competitiveness of SMEs"** (Article 9(3) of the Common Provisions Regulation ('D'Amato report')¹¹¹ highlighted that the main obstacles preventing SMEs from broadly accessing ESI Funds include administrative burden, a large number of aid schemes, complexity of rules and procedures, delays in introducing

¹⁰⁴ Corbett, R. *et al*, *op.cit.*, p.372.

¹⁰⁵ The Commission transmits on an annual basis to Parliament, the Council, the EESC and the CoR, a 'summary report' drawn up on the basis of the Member States' annual implementation reports. In 2017 and in 2019, the Commission is required to present a 'strategic report' on progress drawn up on the basis of the Member States' progress reports.

¹⁰⁶ Study consultations.

¹⁰⁷ 2014/2245(INI) http://www.europarl.europa.eu/doceo/document/A-8-2015-0173_EN.html?redirect

¹⁰⁸ 30.9.2015 (2014/2246(INI) http://www.europarl.europa.eu/doceo/document/A-8-2015-0277_EN.html?redirect.

¹⁰⁹ 15.12.2016 2016/2148(INI) http://www.europarl.europa.eu/doceo/document/A-8-2016-0385_EN.html

¹¹⁰ COM(2015) 639 final https://ec.europa.eu/regional_policy/sources/policy/what/investment-policy/esif-contribution/esif_contribution_communication.pdf

¹¹¹ 29.4.2016 (2015/2282(INI)) http://www.europarl.europa.eu/doceo/document/A-8-2016-0162_EN.html

executive acts and the risk of gold-plating; and asked *inter alia* for better information, simplification, and better information and coordination and capacity building for local authorities.

- The report on **The urban dimension of EU policies** ('Westphal report')¹¹² put forward REGI's points on various proposals made as to what forms an EU Urban Agenda could take, following on from the Commission communication on this topic, 'The Urban Dimension of EU Policies – Key Features of an EU Urban Agenda'¹¹³.
- The report on **The European Structural and Investment Funds and sound economic governance**: guidelines for the implementation of Article 23 of the Common Provisions Regulation ('Blanco Lopez report')¹¹⁴ led to a Parliament resolution on 28 October 2015¹¹⁵, which reiterated the EP's strong reservations about this matter, i.e. the circumstances which may give rise to suspension of payments, including criteria which may be relevant in determining the programmes which could be suspended or the level of suspension of payments, and concluded that the EP considers that Article 23 of the CPR must only be used as a last resort.

The last example indicates that Parliament often intervenes on crucial policy issues in the implementation of the cohesion policy. The provisions of **Article 23 of CPR** were one of the most controversial issues in the negotiations of the 2014-2020 legislative package, as already highlighted in Chapter 3. The Commission's Communication on the Guidelines on the application of the measures linking effectiveness of the European Structural and Investment Funds to sound economic governance according to Article 23 of CPR¹¹⁶ caused a 'storm' within Parliament and was criticised, *inter alia*, for failing to address the role of the EP in the process¹¹⁷. The CoR has also consistently opposed macroeconomic conditionality in the implementation of CP, stipulated in Article 23 of CPR, as this would penalise cities and regions as a result of a Member State's failure to comply with their obligations under the Stability and Growth Pact as regards national deficit, and submitted a detailed and robust contribution¹¹⁸ on the impact of the potential suspension of the ESI Funds on each of the regions of Spain and Portugal. The EP's strong line on this matter has been sustained to date, with the equivalent provision (Art. 15 of the draft CPR) deleted altogether in the EP position for the interinstitutional negotiations on the 2021-2027 package (see Chapter 5).

REGI initiatives

The study consultations, have highlighted that in the case of cohesion policy it is difficult to draw a demarcation line between 'implementation' reports and 'other' INI reports. The former is clearer in policy areas covered by other EP committees which operate with EU directives rather than regulations. In a multiannual and multi-faceted policy like the CP, all these reports amount to an ongoing policy reflection and evolution of EP positions, all of which in a smaller or larger way eventually find their way to the negotiating mandates.

¹¹² 25.6.2015 2014/2213(INI) http://www.europarl.europa.eu/doceo/document/A-8-2015-0218_EN.html

¹¹³ COM(2014)0490 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014DC0490>

¹¹⁴ 2015/2052(INI) http://www.europarl.europa.eu/doceo/document/A-8-2015-0268_EN.pdf

¹¹⁵ http://www.europarl.europa.eu/doceo/document/TA-8-2015-0385_EN.html

¹¹⁶ 30.7.2014 COM(2014) 494 final <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0494&from=EN>

¹¹⁷ EP Briefing: 'The European Structural and Investment Funds and sound economic governance: guidelines for the implementation of Article 23 of the Common Provisions Regulation', December 2014.

¹¹⁸ CoR contribution to the REGI/ECON extraordinary joint meeting on the potential suspension of the ESI Funds to Spain and Portugal, 3.10.2016.

Examples of reports initiated as a result of a particular interest of, or priority accorded by REGI itself include the following:

- The report on **The right funding mix for Europe's regions: balancing financial instruments and grants in EU cohesion policy** ('Novakov report')¹¹⁹ noted that delivery methods of EU Cohesion Policy mainly consist of a mix of grants and financial instruments (microfinance, loans, guarantees, equity and venture capital) and took a global view of the support available on the ground. It highlighted that under CP funds, grants and financial instruments have a different logic and referred to the role of the EIB, welcomed the existing technical assistance provided by the Commission and by the EIB Group through the fi-compass platform but regretted that the on-the-ground support services to authorities and especially to recipients of financial instruments, including EFSI, are limited. It pointed out that combining grants and financial instruments has unexplored potential and reiterated that the EP has been consistent in requesting improved framework for synergies between ESI Funds and other investments through the EU budget.
- The report on **New territorial development tools in cohesion policy 2014-2020: Integrated Territorial Investment (ITI) and Community-Led Local Development (CLLD)** ('Tomašić report')¹²⁰ addressed the challenges concerning CLLD and ITI which had been already identified by the EU institutions, researchers, managing authorities, and local actors, and made recommendations inspired by the belief that the bottom-up approach and participation of local actors is essential for achieving the objectives of cohesion policy. Furthermore, it stressed the REGI desire to see tools such as ITI and CLLD having a more prominent role in future discussions on cohesion policy.
- The report on **European Territorial Cooperation - best practices and innovative measures** ('Mihaylova report')¹²¹ reviewed the different aspects of territorial cooperation, considered specific examples of best practice and innovation, and put forward a large set of future recommendations, many of which eventually fed into the positions adopted by REGI in preparatory stages of the legislative work on the 2021-2027 CP package (and the new ETC regulation).

¹¹⁹ 31.3.2017 2016/2302(INI) http://www.europarl.europa.eu/doceo/document/A-8-2017-0139_EN.html?redirect

¹²⁰ 22.2.2016 2015/2224(INI) http://www.europarl.europa.eu/doceo/document/A-8-2016-0032_EN.html

¹²¹ 9.6.2016 2015/2280(INI) http://www.europarl.europa.eu/doceo/document/A-8-2016-0202_EN.html

5. CURRENT LEGISLATIVE ACTIVITY – THE 2021-2027 COHESION POLICY PACKAGE

KEY FINDINGS

- The European Parliament was able to build on an extensive preparatory work, with strong inputs from the policy community of institutions and stakeholders associated with cohesion policy, to put together in a short period of time ambitious negotiating mandates on the draft regulations for 2021-2027, before the May 2019 elections.
- Parliament has positioned itself as a strong promoter of a cohesion policy backed by significant financial resources and a staunch defender of the fundamental principles of the policy. Thus, in contrast to the previous period, some of the positions within its mandates go against key positions of the Commission (such as the rural development fund, EAFRD, moving away from the Common Provisions Regulation or the significant restructuring of the European Territorial Cooperation components) or the Council (such as a weaker partnership principle).
- Therefore, there are key challenges confronting Parliament in the remaining (interinstitutional negotiations and adoption) stages of the 2021-2027 legislative package, not least the fact that budgetary negotiations are a separate strand, which is not subject to 'co-decision'. Furthermore, when interinstitutional negotiations resume in the autumn, possibly with significant changes in the internal composition of Parliament bodies, there will be a greater pressure to secure an agreement in time to prevent excessive delays to the January 2021 start of the new programmes.

5.1. Pre-legislative stage

The activities in the pre-legislative stage followed broadly the pattern established in the 2014-2020 legislative package, with extensive formal and informal pre-legislative activity.

The core of the formal activities consisted of own initiative reports (INIs), some of which are responses to Commission implementation and other reports, as well as a number of INIs which were REGI's own leads. The main landmark in this process was the **Westphal report**¹²² in May 2017 on **building blocks for a post-2020 EU cohesion policy** which laid the foundations for the CP-wide perspective of REGI regarding the post-2020 period. This included a number of key messages from the rapporteur, as set out in the box, below.

¹²² 2016/2326(INI) http://www.europarl.europa.eu/doceo/document/A-8-2017-0202_EN.html?redirect

Box 3: Key positions of the EP in the pre-legislative stage, 2021-2027

- It will be indispensable to have an **adequate budget** for cohesion policy.
- Cohesion policy should reduce disparities and, while in particular addressing less developed regions, strengthen **all regions**.
- It is important to have **early preparations** and an early start of post 2020 cohesion policy.
- It is of utmost importance to **simplify** the policy.
- **Synergies** between ESIF and other funds and programmes need to be strengthened.
- Cohesion Policy needs to be **flexible**, in order to be able to handle unforeseen events.
- The **partnership principle** should be further strengthened post 2020, ensuring the input of regional and local level as well as that of the economic and social partners and civil society at all stages.
- There is a need for a higher degree of coordination of cohesion policy with **macroeconomic policies** and a greater recognition of the territorial dimension would be beneficial for the European Semester.
- Regarding financing, **grants** should be maintained as the main tool of cohesion policy, especially for smaller beneficiaries. **Financial instruments** can be additional useful investment tools.
- While GDP should continue to be the main **eligibility** criterion, additional indicators should be considered taking into account demographic or social developments.
- Regarding **policy areas**, the fight against unemployment is one of the main issues to address. Other key areas are: the fight against climate change and demographic change, support of innovation and SMEs, integration of migrants, as well as a sustainable underlying infrastructure. A good urban/rural relationship is also important.

This REGI report led to the EP's resolution of 13 June 2017¹²³ on the future of cohesion policy beyond 2020. It underlined the importance of investing in SMEs, the digital agenda; low-carbon economy; climate change; green economy and renewable energy; social inclusion; education, training and culture. It also called for an enhanced urban dimension and actions for the integration of migrants. Moreover, it stressed the need for better synergies with other EU funds and programmes. It advocated better communication and enhancing the result and performance orientation of the policy.¹²⁴

Other INI reports subsequently addressed more specific aspects of direct relevance to the future of cohesion policy and contributed to REGI's preparatory work. A selection of such reports, presented below, gives an indication of the policy topics covered.

The report on **The deployment of cohesion policy instruments by regions to address demographic change** ('García Pérez report')¹²⁵ considered the characteristics of demographic change in the EU and issues associated with the coordination of EU policies, and made a number of suggestions on how to address demographic change in the future cohesion policy.

¹²³ http://www.europarl.europa.eu/doceo/document/TA-8-2017-0254_EN.html?redirect

¹²⁴ EP. Briefing: "European Regional Development Fund and Cohesion Fund 2021-2027", EPRS, January 2019.

¹²⁵ Ref 2016/2245(INI) [Report on the deployment of cohesion policy instruments by regions to address demographic change](#) 23-10-2017 (A8-0329/2017).

The report on **The implementation of EU macro-regional strategies** ('Cozzolino report')¹²⁶ considered the role played by the macro-regional strategies as platforms for cooperation and coordination; highlighted lessons from the implementation of the EU strategies for the Baltic Sea Region (EUSBSR), the Danube Region (EUSDR), the Adriatic and Ionian Region (EUSAIR) and the Alpine Region (EUSALP); and, raised a number of issues on 'Macro-regional Europe after 2020?'

The report on **Lagging regions in the EU** ('Giuffrida Report')¹²⁷ responded to the initiative of the Commission to investigate the factors limiting growth and investment in low-income and low-growth regions ('lagging regions') and highlighted the relationship between cohesion policy and European economic policy.

Lastly, in the final stages before the Commission published its proposals for the CP regulations for 2021-2027, the 'Joulaud report'¹²⁸, presented REGI's considered position **on the issues raised in the Commission's 7th Cohesion Report**¹²⁹ which had fueled much of the discussion on EU funds after 2020. Based on this report, the EP adopted a resolution¹³⁰ on 17 April 2018 which reiterated and emphasised the building blocks of the above-mentioned 'Westphal report'. Among its key points, the resolution:

- considers that the CP should continue to cover all European regions adequately;
- supports a strong thematic concentration on a limited number of priorities;
- considers that the ESI funds should be used effectively to help the EU meet its commitments under the Paris Agreement on climate change;
- considers that cohesion policy can help to meet new challenges, such as security or the integration of refugees under international protection;
- makes further suggestions for a simplified cohesion policy; and
- underlines the importance of community-led local development.

In addition to the internal workings of REGI and Parliament, there has been significant interaction with the Commission, the CoR and stakeholder organisations throughout the pre-legislative period. The usual CoR activity was strongly focused on the future of cohesion policy beyond 2020, including an opinion adopted in May 2017, entitled 'For a strong and effective European cohesion policy beyond 2020'¹³¹. Regional and urban associations made substantial inputs to the Commission and REGI. Relevant examples include:

- The CPMR brainstorming (December 2015) with participants from different EU institutions, think-tanks and regions on 'The EFSI and Financial Instruments within post-2020 Cohesion Policy'.
- The CEMR position paper 'Future of Cohesion policy - A simplified and integrated territorial approach', (June 2017).¹³²

¹²⁶ 1.12.2017 2017/2040(INI) http://www.europarl.europa.eu/doceo/document/A-8-2017-0389_EN.html?redirect

¹²⁷ 27.2.2018 2017/2208(INI) http://www.europarl.europa.eu/doceo/document/A-8-2018-0046_EN.html?redirect

¹²⁸ Joulaud Report 2018 reference 2017/2279(INI) Report on strengthening economic, social and territorial cohesion in the European Union: the 7th report of the European Commission, (2017/2279(INI)) 05-04-2018 (Joulaud Report) http://www.europarl.europa.eu/doceo/document/A-8-2018-0138_EN.html?redirect

¹²⁹ Seventh Report on Economic, Social and Territorial Cohesion, 2017 https://ec.europa.eu/regional_policy/en/information/cohesion-report/

¹³⁰ (2017/2279) http://www.europarl.europa.eu/doceo/document/TA-8-2018-0105_EN.html?redirect

¹³¹ <https://cor.europa.eu/en/our-work/Pages/OpinionTimeline.aspx?opId=CDR-1814-2016>

¹³² https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_position_paper_future_of_cohesion_policy_EN.pdf

- The policy paper of EUROCIITIES (June 2017), entitled ‘A strong cohesion policy for Europe and citizens - policy paper on cohesion policy post-2020’¹³³
- The technical discussion paper of AEBR (June 2017) on ‘Decentralisation of Future Interreg Programmes: Operational Programmes with Sub-Programmes’.

Key characteristics of such contributions are twofold. First, an effort to explain technical details in particular aspects of cohesion policy, which they feel are insufficiently understood by the Brussels based institutions, which are seen as rather remote from the actual operation of the CP at the level of regions and cities. Second, an attempt to spell out the implications of a potential major reduction in the CP budget, especially following the Commission’s ‘Reflection paper on the future of EU finances’¹³⁴ of June 2017.

The latter spurred an exceptional case of mobilisation of the CP policy community in the form of a **Cohesion Alliance**¹³⁵. Launched in October 2017 by the CoR and the leading associations of regions and cities – AEBR, AER, CALRE, CEMR, CPMR, and EUROCIITIES – is a coalition of regional and local authorities, business associations, academia, trade unions and think-tanks. The Alliance defends the CP budget and “demands that the EU budget after 2020 makes cohesion policy stronger, more effective, visible and available for every region in the European Union”.

5.2. Mandates and the start of interinstitutional negotiations

The European Commission adopted the legislative proposals for cohesion policy for the 2021-2027 period on 29 May 2018. The Commission proposes a new CPR, which sets out common provisions for seven funds. This single rulebook will cover the European Regional Development Fund (ERDF), the Cohesion Fund (CF), the European Social Fund+ (ESF+), the European Maritime and Fisheries Fund (EMFF), the Asylum and Migration Fund (AMIF), the Internal Security Fund (ISF) and the Border Management and Visa Instrument (BMVI). Additional specific regulations have also been presented for the above-mentioned funds to cover their own particular elements.

At the European Parliament, the files regarding the proposed regulations for the CPR, ERDF and CF and ETC were allocated to the REGI Committee. The following MEPs were appointed as rapporteurs: Andrey Novakov and Constanze Krehl for CPR, Andrea Cozzolino for ERDF/CF and Pascal Arimont for ETC.

At the REGI meeting on 20 June 2018, the Commission presented the proposals, followed by an initial exchange of views. This kicked off an intensive process which concluded in March 2019 with the adoption of REGI’s third and final negotiating mandate on the proposed ERDF/CF regulation. It included:

- Discussions and exchanges with the Commission, for instance Commissioner Crețu and the Director General of DG REGIO, attended REGI meetings on several occasions.
- Exchanges with Council representatives: for instance, Rovana Plumb, Romania’s Minister of European Funds, President-in-office of the Council of the EU, participated in the REGI meeting of 22 January 2019 and outlined the priorities of the Romanian presidency of the Council in the field of cohesion policy, and replied to comments and questions from REGI Members.
- Internal inputs from political group advisors, EP research and secretariat.

¹³³ <http://wsdomino.euociities.eu/euociities/documents/A-strong-cohesion-policy-for-Europe-and-citizens-EUROCIITIES-policy-paper-on-cohesion-policy-post-2020-WSPO-ANPJ22>

¹³⁴ https://ec.europa.eu/commission/publications/reflection-paper-future-eu-finances_en

¹³⁵ <https://cor.europa.eu/en/engage/Pages/cohesion-alliance.aspx>

- Formal inputs from Advisory Bodies – CoR and EESC opinions - including suggested amendments, which were received and formally considered by the rapporteurs and the REGI committee.

The rapporteurs built on the above and on the preparatory work already undertaken in the pre-legislative stage, particularly the building blocks resolution of the EP and other more specific INIs.

Informal inputs continued, notably from associations representing European regions and cities, but not only¹³⁶. For instance, an event¹³⁷ organised jointly by EUROCITIES with CEMR and the European Parliament's Urban intergroup on 4 September 2018 focused on the question 'How can cohesion policy help bring Europe closer to citizens' and 'What changes are needed in the future regulations to make it work better for cities?'

A joint REGI-COTER (CoR) session was held on 8 and 9 October 2018, in the framework of the European Week of Regions and Cities on the topic of 'Future of cohesion policy: discussion on the proposals for the new European Structural and Investment Funds' at which the Commissioner for Regional policy, Ms Corina Crețu, presented the proposals for the new ESI Funds regulations for the programming period 2021-2027. Her presentation was followed by an exchange of views with REGI and COTER Members.

Having received and assessed such inputs, the rapporteurs - in consultation with shadow rapporteurs and political group coordinators - prepared and submitted their reports, as follows:

- **CPR:** The co-rapporteurs presented their draft report ('**Novakov-Krehl report**'¹³⁸) to the REGI meeting of 8 October 2018 and a further nine EP committees have given opinions on the file. The report was adopted by REGI (22 January 2019) and the EP adopted the negotiating mandate¹³⁹ (i.e. amendments to the Commission proposal) on 13 February 2019. 2181 amendments were tabled at REGI and 248 at plenary stage.
- **ERDF/CF:** The rapporteur's draft report ('**Cozzolino report**') was presented on 15 October 2018. The final report¹⁴⁰ was adopted by REGI in February 2019, with contributions from seven other EP committees with Plenary vote on 27 March 2019¹⁴¹ adopted the negotiating mandate. 248 amendments were tabled at REGI with further 63 at plenary stage.
- **ETC:** The rapporteur's report ('**Arimont Report**'¹⁴²) was presented to REGI committee (17 December 2018) and the EP adopted the negotiating mandate¹⁴³ (i.e. amendments to the Commission proposal) on 16 January 2019, confirmed by the passing of a First Reading Resolution on 26 March¹⁴⁴. 201 amendments had been tabled at the REGI vote.

¹³⁶ For example, NGOs were pressing for better pre-financing. In another example, the Cohesion Alliance was expressing concern at the growing separation of structural funds, with the ESF and the EARDF increasingly detached from the ERDF and CF (EP. Briefing: "European Regional Development Fund and Cohesion Fund 2021-2027", EPRS, January 2019).

¹³⁷ <http://wsdomino.eurocities.eu/eurocities/news/EUROCITIES-gets-cohesion-policy-messages-through-to-EU-decision-makers-WSPO-B4CJAV>

¹³⁸ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-626.671+01+DOC+PDF+V0//EN&language=EN>

¹³⁹ http://www.europarl.europa.eu/doceo/document/TA-8-2019-0310_EN.html?redirect

¹⁴⁰ http://www.europarl.europa.eu/doceo/document/A-8-2019-0094_EN.html

¹⁴¹ http://www.europarl.europa.eu/doceo/document/TA-8-2019-0303_EN.html

¹⁴² 2018/0199(COD) http://www.europarl.europa.eu/doceo/document/A-8-2018-0470_EN.html

¹⁴³ http://www.europarl.europa.eu/doceo/document/TA-8-2019-0021_EN.html

¹⁴⁴ http://www.europarl.europa.eu/doceo/document/TA-8-2019-0238_EN.html

The key positions of Parliament in the adopted negotiating mandate regarding the **CPR regulation** can be summarised, as in the box, below.

Box 4: Key positions of the EP in the CPR negotiating mandate, 2021-2027

- Parliament favours the **reintegration of the EARDF** into the CPR in order to prevent strategic gaps and coordination issues for local investment.
- The common rules should be more closely related to the five overall objectives of EU policy.
- Parliament proposes new **horizontal principles** to uphold fundamental rights, gender equality, accessibility for people with disabilities, rational use of resources, environmental protection and the fight against climate change.
- Member States should organise a fully-fledged, effective **partnership**, involving the partners in the preparation of Partnership Agreements and throughout the preparation, implementation and evaluation of programmes, including participation in monitoring committees.
- Parliament **rejected measures linking CP funding to macroeconomic conditionalities**, in order not to penalise regional authorities for decisions taken by national governments.
- **Parliament** proposes that major projects (above certain thresholds) should continue to be subject to specific approval procedures under the regulation.
- CP should keep its **funding in the 2021-2027 period** at least at the level of the 2014-2020 programming period. The resources for economic, social and territorial cohesion available for budgetary commitment for the 2021-2027 period should be €378.1 billion in 2018 prices (14 % more than the Commission's proposal of €330.6 billion).
- Parliament made a series of proposals on the **allocation of the funds**, including: Less developed regions should keep benefiting from substantial EU support, with co-financing rates of up to 85% (as opposed to the 70% threshold proposed by the Commission); Resources for cross-border projects under Interreg, should amount to €11.3 billion in 2018 prices, 3% of the global cohesion resources (instead of the 2.5% proposed by the Commission).
- Parliament also made proposals regarding **transfers from cohesion policy** to InvestEU and the Connecting European Facility.

Interinstitutional negotiations on the proposed CPR have already started, with a small number of trilogue meetings taking place before the end of the 2014-2019 term of Parliament in the spring of 2019. Discussions focused on aspects of two of the eight thematic 'blocks' into which the various titles and annexes of the draft regulation have been grouped by the Council, namely Block 1 (Strategic approach and programming) and Block 5 (Management and control). Topics covered in the trilogues include the partnership principle and partnership agreements, technical assistance and horizontal principles. Negotiations are expected to resume in September.

As regards the **ERDF/CF regulation**, the 'Cozzolino Report' led to a number of key proposals for the EP mandate, as summarised in the box, below.

Box 5: Key positions of the EP in the ERDF/CF negotiating mandate, 2021-2027

- The inclusion of measures on **energy poverty**, extreme weather events and natural disasters, and sustainable urban development under the scope of ERDF (Art. 2).
- Although the **thematic concentration** will be attained at national level flexibility should be allowed by defining intensity according to the three types of regional categories (Recital 17 and Art. 3). Inclusion of a flexibility clause of 5% and 10% for Outermost Regions. The resources allocated to the territorial objective (PO 5) should count for the thematic concentration.
- The possibility to implement integrated territorial development with **a multifund and integrated approach involving** the ERDF, ESF+, EMFF and EAFRD (Art. 8).
- Increase from the proposed **6% to 10% in the investment in Sustainable Urban Development** and considering the operations carried out under PO1 to PO4 as contributing to reach this earmark.
- Within the **new European Urban initiative**, the EP expressly mentioned the possibility to cover the organisational costs of the Urban Agenda for the EU, support the **territorial impact assessments**, the exchange programme for local representatives and the support to the intergovernmental cooperation such as the **Reference Framework for Sustainable Cities, the Territorial Agenda and the localisation of SDGs** (Art. 10).
- The inclusion of a new article dedicated to territories which suffer natural and demographic handicaps (Recital 8, 18 bis, 24, 25 and article 8 and new Art 10 bis) amounting to **5% of ERDF allocations to be targeted to NUTS 3 areas with a population below 12.5 inh/km² and areas in which population has decreased by 1% from 2007**.
- The exceptions for the Outermost Regions on thematic concentration and the support to large enterprises (Art. 11).
- '**Golden rule**' to allow the Member States to request for further flexibility within the Stability and Growth pact for the public structural expenditure supported by the public administration by the way of co-financing of investments activated as part of ERDF and CF (Art. 7).

As regards to the **ETC regulation**, the key points in the mandate emanating from the 'Arimont Report' are, as summarised in the box, below.

Box 6: Key positions of the EP in the ETC negotiating mandate, 2021-2027

- Adding an **extra €2.73 billion** to earmark a total amount of €11.16 billion for European Territorial Cooperation.
- **Maintenance**, in contrast to the Commission proposal, **of the types of** cross-border, interregional and transnational **cooperation** of the 2014-2020 period, including cross-border maritime cooperation.
- Welcome the **new cooperation strand** for the outermost regions.
- Support the new initiative on **interregional innovation investments** (Articles 9 and 15a) with an earmarked budget under direct or indirect management but **outside** the structure of the European Territorial Cooperation components.
- **Simplification** measures of project management.

5.3. Stock taking and key issues for remaining stages

Although it is still too early to attempt an assessment of the approach and results of the mandate phase of the legislative process, there are several points worth bringing out, as contributing to a fuller understanding of the functioning of the EP under the Treaty of Lisbon.

First, the considerable **speed of the development and adoption of the negotiating mandates**, which was less than six months in the case of the ETC regulation. This was due to a number of factors:

- The desire by EP to conclude this stage in the legislative process before the end of its 2014-2019 term.
- The choice of format and procedure: all three mandates are in the form of amendments and have been adopted in plenary at 1st reading.
- The extensive preparatory work upon which REGI could build.
- The considerable experience of the key EP players – notably, the rapporteurs – some of whom had participated in the 2014-2020 package.

Second, the **approaches** that the rapporteurs and the REGI committee **followed in formulating the draft mandates** presented to Parliament:

- In the case of CPR a more ‘strategic’ approach was adopted, causing a degree of controversy as it focused on a relatively small number of topics. This resulted in many of the amendments that had been suggested to the rapporteurs from different sources but had not been taken up by them in their draft report, to be introduced at plenary by individual MEPs, with the encouragement of CoR¹⁴⁵, associations of regions and cities, and NGOs.
- By contrast, a more all-encompassing ‘aggregator’ approach was followed in the ERDF/CF draft report, which avoided controversy but resulted in a large number of amendments included in the draft report and some delay in finalising it.¹⁴⁶
- In the case of ETC, a ‘strategic’ approach was followed, similar to the CPR draft mandate, involving a streamlined report and fast completion, and progressed more-or-less uncontested.

The interinstitutional negotiations and the adoption stages are outstanding and the way they will be conducted depends on decisions to be taken by the new Parliament, including on the appointment of the REGI Committee and the rapporteurs. This uncertainty is compounded by the fact that there will be major changes in the other EU institutions, especially a new European Commission and new President of the European Council. It is, therefore, unlikely that the legislative procedure could be accelerated and it is reasonable to expect that it will be completed with the adoption of the new CP regulations in late 2020, close to the start of the 2021-2027 implementation period; as it happened also in the 2014-2020 package.

In this context, the crucial and inter-related issues are the conduct of the negotiations – including inter- and intra-institutional balances and capacity challenges (see Chapter 6) – and the positions that Parliament will ‘fight for’ in these negotiations, taking also into account that divergent positions within

¹⁴⁵ An internal CoR assessment found that the common efforts of the rapporteurs, political groups and COTER Secretariat have had a significant impact on the amendments tabled by the MEPs, with around 240 amendments having the same or similar wording than the CoR position.

¹⁴⁶ As regards to the ERDF a separate internal CoR assessment suggests that 197 amendments tabled for the Cozzolino vote at REGI had the same or similar wording as the CoR position. 27 compromise amendments adopted by the EP report are identical or very similar to the CoR’s. However, this does overlook the fact that many CoR amendments were drafted in CoR by European territorial associations or individual authorities or bodies, which, once the amendments were voted at CoR, used that as a platform to persuade MEPs and indeed the rapporteur and shadow rapporteurs that the same amendment should be put to vote and ideally become one of the compromises.

the EP may have not been fully resolved, such as between REGI and AGRI regarding the place of EAFRD in the CPR.¹⁴⁷

The key substantive policy challenges confronting Parliament in the remaining stages fall into three groups.

First, the **financial weight of CP** is a crucial dimension of this policy and the EP has strongly defended the position that the overall envelope of the CP should not be reduced¹⁴⁸. However, the MFF negotiations are conducted separately from those of CP, and not through co-decision, placing the EP in a highly disadvantageous position. Moreover, in the context of the proposed reduction in the total financial resources available for CP, the issue of allocations to individual funds becomes more difficult to handle, magnifying inter-committee difficulties such as those already encountered in the 2014-2020 package (see Chapter 3).

Second, the need to defend **key policy positions** in order to avoid the erosion of core CP principles established over time and enshrined in the 2014-2020 package. An analysis of the positions advocated by the EP in the mandates indicates that, at a general level, Parliament is to a large extent content with the proposals of the Commission and that both the EP and Commission have listened to each other in the preparatory stages. However, it also shows that Parliament needs to defend key positions which are being challenged by some of the proposals, mostly backed by Council. The study consultations have highlighted the following:

- At a general level and above all:
 - Defend horizontal principles and no reduction in the financial allocation
- On CPR as priority:
 - Strong partnership principle against the minimalist approach advocated by Council on Partnership Agreements.
 - Re-integration of EARDF under CPR.
 - Removal or at least a more proportionate treatment of macroeconomic conditionality.
 - Higher or no reduction in co-financing rates.
- On ERDF/CF as priority:
 - New definition of the exclusion criteria in Article 6 of the regulation.
 - Thematic concentration should focus on categories of regions classified according to their GDP per capita.
- On ETC as priority:
 - Ensure that it retains at least current levels of funding for the traditional cross-border (including maritime), interregional and transnational ETC components.
 - The new elements (outermost and Interregional Innovation Investment) to be additional.
- Advancement of other specific positions:

¹⁴⁷ The current compromise agreed by EP in the CPR negotiating mandate seeks to bring the EAFRD under the CPR and to allow multi-funding with ERDF and ESF, but the EAFRD programmes will not be part of the Partnership Agreements (Various amendments including Nos 87, 186, 188, 431, 432 to Articles 1, 8, 24 and 25:
http://www.europarl.europa.eu/doceo/document/TA-8-2019-0310_EN.html?redirect

¹⁴⁸ The study consultations have suggested that a 10% reduction will mark the lowest financial level for CP to remain a policy 'for all regions'.

- Under CPR: Territorial dimension of European Semester (and ESF+)
- Under ERDF/CF:
 - Increase in funding for integrated territorial development in rural, mountain, islands and coastal regions, isolated and sparsely populated and all other areas that have difficulty accessing basic services.
 - Increased support for sustainable urban development.
 - Inclusion of a new article concerning areas with severe natural or demographic disadvantages.

Third, the overarching **strategic framework of CP**, i.e. the need to deal with the lack of follow up to the Europe 2020 strategy, through advocacy for a coherent strategic direction with reference to:

- The implementation of the Sustainable Development Goals throughout the EU policies.
- The European Semester and CSR, and opportunities to pursue a ‘territorial semester’ in European economic governance.
- The broader issues, e.g. climate change.

6. CONCLUSIONS AND RECOMMENDATIONS

KEY FINDINGS

- The European Parliament has played an increasingly assertive role, using the powers that have been conferred upon it by the Treaty of Lisbon in defending and advocating its policy positions on cohesion policy, increasingly at odds with those espoused by the other EU institutions.
- However, Parliament's role has been constrained externally by the evolving positioning of cohesion policy within the EU institutional framework and broader policy agenda, and, internally by the limitations in terms of technical capacity, as well as inter-committee coordination and cooperation.
- Parliament has a potentially larger role to play by moving towards a more agenda-setting and less defensive role in cohesion policy. In addition to developing internal capacity and coordination, this requires the ability to mobilise and lead more effectively the large policy community of outside actors associated with cohesion policy.
- Accordingly, the following main recommendations have been put forward by the study:
 - Setting-up of a cohesion policy 'steering committee' as a vehicle for exploring and agreeing positions across political groups and committees, supported by a 'task force' inside the European Parliament secretariat that would be linked to an external 'technical support group' drawn from the policy community.
 - Establishing an ambitious forward-looking and proactive policy cycle. This should encompass a forward-looking internal/external research programme, aiming to give Parliament an edge over the Commission's legislative initiative and the more advantaged role of Council in budgetary matters.

6.1. Main findings on the EP's role in framing cohesion policy

The role of Parliament has come a long way since the Treaty of Lisbon entered into force in 2009. Parliament already played a full role in the 2014-2020 legislative package. This marked the culmination of an ascending trend in cohesion policy in terms of financial weight, reaching €350 billion, as well as in its positioning as an overarching EU investment policy for all regions, at the heart of the EU's 2020 strategy goals. Strongly advocated principles on MLG and partnership have continued to underpin it, shaping its delivery and, at the same time, creating a strong affinity with stakeholders.

The EP continued playing a full role after the adoption of the 2014-2020 package, especially through its own initiative reports and other ongoing formal and informal activities, and has resumed a major role with the 2021-2027 legislative package. Parliament has come to be recognised by CP stakeholders as a strong advocate for the partnership principle, defender of the role of local and regional governments and of 'forgotten places' of the 'geography of discontent' (rural, mountainous, isolated or declining areas), and an advocate for a duly funded cohesion policy.

However, the situation is far from static and there are considerable uncertainties affecting the direction of travel for the EP in the field of cohesion policy. Two broad groups of factors are at play:

First, an erosion of cohesion policy since 2014 due to other EU policy priorities and initiatives:

- The development of alternatives to CP, notably financial engineering (EFSI, InvestEU) and the new 'Structural Reform' proposals (SRSP 2017-2020 and RSP with its exponential increase of budget in

less than five years to reach €20 billion for 2021-2027) that can often overlap with the scope of activities of CP without many of the elements that define CP (grant-based support, programming). This is coupled with traditional negative perceptions of the effectiveness of CP and newer perceptions of the CP as a ‘historic’ policy, and weakens the CP’s central, if not unique, place (‘the only game in town’) when it comes to addressing territorial inequalities.

- The changing of internal dynamics within the Directorates-General of the Commission responsible for ESIF has resulted in the Commission proposing a major departure for 2021-2027 from the place-based and multi-fund strategic integration that was the defining feature of the 2014-2020 period. Given that this move would play on the sectoral interest of line ministries negotiating agendas in Council, it has resulted in EP being the only defender against the return of the silos, gaps and overlaps of the various EU funding instruments and policies for economic, social and territorial cohesion.
- However, the threat of an ‘imminent demise’ of CP has receded given that the 2021-2027 EU budget still foresees that one-third of it will go to cohesion policy. Indeed, the CP remains the largest policy and funding programme in the EU that is able to reach ‘places left behind’, and this gives it renewed political significance.

Second, a consolidation of EP’s position as the EU institution best placed to express the needs and priorities for economic, social and territorial cohesion:

- The EP’s role is underpinned by its legitimacy given the status of the MEPs under the Treaty of Lisbon as ‘representatives of the EU citizens’. It accumulated know-how and its ability to articulate a wide cohesion policy coalition was amply demonstrated throughout this period by the close working relationship with CoR, umbrella organisations and NGOs.
- The EP benefits from a large policy community looking up to Parliament to advance their positions¹⁴⁹, in many ways taking over the traditional role of the Commission as policy entrepreneur and promoter of supportive policy communities of outside stakeholders.¹⁵⁰ However, the EP is not able to systematically rally CP supporters, who tend to work through individual MEPs (except for CoR which additionally has a formal role). Moreover, there are inter- and intra-institutional limitations on setting, advocating or defending EP policy positions on CP, as discussed further below.

The main challenges ahead, for the EP in playing its fullest possible role in cohesion policy under the Treaty of Lisbon, can be summarised, as follows:

- In the short term: the need to ensure that the agreed positions for 2021-2027 are defended despite the lead time that Council has due to the European Parliament elections and the start of the new EP session.
- In the long term: finding ways to shift from a defensive to a forward-looking policy agenda.

¹⁴⁹ The study consultations have underlined the perception that the interests of the regions, the CoR and EP are the same.

¹⁵⁰ For example, “AEBR and other members of the [Cohesion] Alliance can count on the support of the European Parliament, which, [...], calls for a strengthening of cross-border cooperation, even including maritime basins and interregional cooperation, and increasing the funding”. https://www.aebr.eu/en/news/news_detail.php?news_id=705

6.2. Inter- and intra-institutional relationships and challenges

Interinstitutional

While the relationship with the **Commission** has traditionally been solid¹⁵¹, it has changed over recent years given the Commission's need to secure that Member States comply with the fiscal and macroeconomic requirements for the continuity of the Economic and Monetary Union. Also, under the guise of simplification the Commission has made a number of proposals that suit the sectoral approach to CP as advocated by many Member States. While Parliament-Commission cooperation remains strong, the focus has progressively shifted from the traditional lead department, DG REGIO, to the Secretariat-General of the Commission in line with the 'more political Commission' advocated in President Juncker's tenure, making the close REGI-DG REGIO relationship less relevant. Furthermore, EP is no longer taken for granted as a facilitator and supporter of EC initiatives but increasingly seeks to develop its own proposals.

As regards to the **Council**, Parliament has sought to 'flex its muscles', as conferred upon it by the Treaty of Lisbon. However, the less transparent internal workings of Council and the backing from the national capitals, make it difficult for a fluid relationship to develop between Parliament and Council, similar to the relationship between Parliament and Commission. Indeed, the Commission is in a unique position both in proposing new legislation and in enjoying the benefits of bilateral discussion forums on an ongoing basis with the EP and the Council, something that is lacking between Parliament and Council¹⁵². Moreover, in terms of ToL conferred powers, the absence of co-decision on the MFF places the EP at a serious disadvantage *vis-à-vis* the Council.

Intra-institutional

In striving to play the fullest possible role on cohesion policy, the EP's position is constrained by the above noted imbalances, as well as:

- its internal diversity in terms of political, geographical and thematic interests which is considerably greater than what is the case within the Commission and even within Council;
- limitations on in-house technical capacity for analysing of CP developments and autonomous formulation of policy initiatives, as against the resources at the Commission's and Council's disposal;
- the time pressure to secure agreements of the programmes and to avoid being seen as responsible for the late start of the next programming period which builds into the comparative advantages of other institutions *vis-à-vis* Parliament.

The challenging balances between territorial and sectoral needs tend to be reflected in the various EP committees and are difficult to resolve and maintain throughout the negotiation process, hence, **inter-committee relationships** affect Parliament's stance on cohesion policy. Cohesion policy covers the mandate of several other EP committees and, mirroring the shift within the Commission from DG REGIO to Secretariat-General, REGI has also found it difficult to maintain its lead role on CP *vis-à-vis* other Committees, which are keen to assert their distinctive policies and protect the budgets of the corresponding EU funds. While the most significant fallout, between REGI and AGRI due to the Commission proposal to take out EAFRD from the CPR in the 2021-2027 package, was averted, there is

¹⁵¹ For instance, the study consultations highlighted that Commission always studies the EP's positions (e.g. INIs) before proposing.

¹⁵² Prior to negotiations the Commission participates at GAC Structural Measures Working Party, and at REGI and other EP meetings. There is no equivalent Parliament-Council forum for ongoing dialogue on CP. During negotiations the Commission has both better knowledge on its own proposal, as well as information on each of the co-legislators' thinking and positions.

a lack of structured internal cooperation mechanisms, such as played to a large extent by the WPoFCP in the previous MFF legislative cycle.

In the current cycle, Parliament has not put in place such an effective mechanism and REGI is often perceived as lacking the weight¹⁵³ to provide a strong lead on its own on cohesion policy. The result is a 'flexible model' of operation, aggregating positions and amendments, and postponing or otherwise avoiding conflicts, rather than pushing ahead with a coherent strategy across the board.

Internal capacities represent another important factor in how far the EP's role can stretch. The ability of the EP to project externally a proactive policy stance and ambitious negotiation positions on CP depends on a combination of experienced MEPs – especially in Chair, rapporteur, negotiator role – and similarly knowledgeable plus motivated secretariat staff and EP researchers with sufficient institutional memory and internal cohesion, as well as easily available data and know-how. While this was clearly an asset in the run up and during the 2014-2020 negotiations, the significant turnover of MEPs¹⁵⁴ as a result of EU elections or career moves, as well as of EP secretariat due to the rotation rules, present a challenge for retaining the required institutional memory and sustaining a level of know-how comparable to those of the Commission and Council.

Looking ahead, while some of the challenges faced by EP as regards to CP mirror similar ones being faced by the Commission, there is the need for solutions specific to EP to be identified if the EP is to proactively develop and advocate, and even champion, its own strategic priorities and policy positions on cohesion policy. Parliament is not alone in this but has the opportunity to smartly draw from the potential strengths of its huge pool of the CP policy community by becoming its main focus and pacesetter, rather than (an often passive) recipient. Prior to that, however, EP must ensure that its internal coordination mechanisms and capacities are 'fit for purpose'.

6.3. Recommendations

The EP has played an increasingly assertive role in cohesion policy, using the powers that have been conferred upon it by the Treaty of Lisbon. For Parliament to play a fuller role in future, it will be necessary to move towards a more agenda-setting and less defensive role. This calls for:

- developing a more systematic mechanism to proactively seek views and mobilise outside stakeholders at the earliest possible stage. Such a mechanism should allow for building broad support on agreed strategic priorities that EP and the other actors would advocate using their respective channels on the ensuing negotiations.
- addressing the need for much greater internal coherence, ideally, with an overarching internal structure that can oversee the development of CP across the various policy areas and sectoral committees. This will reduce the risk of interdepartmental friction and help develop organically common views upon what is by definition a horizontal and not a sectoral policy.

These arrangements could take the form of a sort of CP-wide '**steering committee**' as a vehicle for exploring and agreeing positions across political groups and CP-relevant committees, supported by a '**task force**' inside the EP secretariat that would be linked to an external '**technical support group**' drawing upon the resources of the policy community.

¹⁵³ In part, attributed to the relative low prestige of REGI within the EP in the long periods of 'little to do' between the peaks of MFF legislative cycles (Study consultations).

¹⁵⁴ Historically, higher than 50% (Whitaker, R "Tenure, turnover and careers in the European Parliament: MEPs as policy-seekers" Journal of European Public Policy", Volume 21, 2014).

It will be important to put such arrangements in place as soon as possible to ensure that EP and REGI can play a full role in the remaining stages of the current CP legislative cycle.

Looking into the **longer term**, beyond the current legislative package, the EP and REGI should aspire to an **ambitious forward-looking and proactive policy cycle**. This should encompass an active internal/external research programme into forward-looking policy issues to give Parliament an edge over the Commission's legislative initiative and the more advantaged role of Council over the MFF. The research outputs should help REGI reports go into much greater technical depth than in the past and they should be timely in the broader policy timetable of cohesion policy,¹⁵⁵ and not only as regards the legislative procedures of the seven-year MFF cycle.

This requires improvements on various fronts: in terms of know-how the EP needs to **continue developing** its policy evaluation, development and technical scrutiny **capabilities** so it can back up its negotiation positions or own initiative reports with hard evidence that can influence the Commission in the pre-legislative stage and can be used as negotiation tools with Council.

Similarly, in order to be able to increase the scope of the areas and dossiers where the EP can exercise a meaningful influence, there is potential for a clearer demarcation in the roles of MEPs in negotiations, distinguishing between politically significant from more technical or mundane parts of the negotiations (or scrutiny of delegated or implementing acts). The latter could be **delegated to experienced technical staff** acting under the supervision of the MEPs.

Lastly, Parliament should explore ways of establishing a forum or alternative channels for **ongoing exchanges with the Council**, like it has with the Commission, as this could facilitate (and, at the same time, underline) a more proactive role by the EP in cohesion policy.

¹⁵⁵ It could also encompass activities in the framework of established events such as the European Parliamentary Week and the European Week of Regions and Cities.

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ANNEX 1: STUDY AIM AND OBJECTIVES¹⁵⁷

The primary **aim** of this study was to provide a synthetic overview and critical analysis of the role of the EP in framing the cohesion policy as co-legislator in the period between the entering into force of the Treaty of Lisbon and the end of the 2014-2019 parliamentary term.

The aim of the project has been achieved by fulfilling the following **specific objectives**:

1. to provide a synthetic overview of the changes affecting the powers and competences of the European Parliament (and REGI), resulting from the entering into force of the Treaty of Lisbon (including a brief summary of the situation in the period beforehand), in the field of cohesion policy;
2. to provide a brief overview of the main legislative processes as well as non-legislative actions of the EP (REGI) since the entering into force of the Treaty of Lisbon, including a brief overview of relevant internal rules and the internal organisation of work in the EP, as well as the role of and dynamics between committees;
3. to provide a critical assessment of the EP's fulfilling its new roles under the new Treaty, addressing in particular (in order of importance):
 - a. key EP positions during legislative negotiations on cohesion policy regulations (in particular the amending regulations in support of the Economic Recovery Plan, the 2014-20 legislative package, the Omnibus regulation, and to the extent possible the 2021-27 legislative package), achievements and challenges faced during interinstitutional negotiations with the Council (and the Commission); in the case of legislative packages defining an entire future period (2014-2020 and 2021-27) pre-legislative work in the EP shall also be briefly addressed by the analysis;
 - b. scrutiny of delegated and implementing acts;
 - c. tools of parliamentary control: follow-up of regulatory provisions and policy implementation in general, challenges linked to the shared management mode used in cohesion policy;
 - d. intra-institutional challenges, specific strength and weakness of the EP (e.g. working methods, resources, etc.), as experienced during legislative procedures on cohesion policy files;
 - e. interinstitutional changes, challenges, including the evolution of relations with the Commission, Committee of the Regions, Economic and Social Committee as well as the Council;
4. Forward looking conclusions and recommendations.

In accordance with the Terms of Reference, the analysis of the study focused on the regulations falling under the competence of the REGI Committee, namely General Regulation / Common Provisions Regulation, Cohesion Fund and ERDF regulations.

¹⁵⁷ As specified in the Terms of Reference of the study.

ANNEX 2: STUDY METHODOLOGY

Overall approach

The methodology of the research project builds on desk research and consultation interviews. Both these pillars were underpinned by a close cooperation with the EP Services managing this project.

The first pillar involved desk research focusing on a systematic review of independent research studies and other relevant documentation, including EP studies and briefings by and for REGI Committee, EPRS and STOA and other documentation (Own Initiative Reports, Legislative Reports, Opinions and Resolutions, etc.).

Further material covered in this review, following consultation with the EP Services, included internal documentation held by the EP Secretariat, such as four-column trilogue tables and inventories of committee activities. Additionally, key position papers from major territorial networks and the EP intergroups closely related with cohesion policy were examined to ascertain the degree of permeability of EP deliberations to the views of territorial interests and the existence of issue networks and policy communities.

This pillar was of central importance in examining the main formal processes associated with the ordinary legislative procedure. It was also particularly relevant in examining other formal processes. However, a more selective approach was necessary in the latter case due to the breadth of the range of topics covered.

The second pillar took the form of consultations with MEPs, experts and stakeholders. They were drawn from among long-serving Commission officials, with a longitudinal knowledge of cohesion policy legislative procedures, and REGI secretariat officials with direct experience of the 2014-2020 legislative package of the CP, and EU-level cohesion policy stakeholders.

It was expected that within the tight timeline of this research project, it would be feasible to conduct some 12 full consultations, involving semi-structured interviews carried out face-to-face in Brussels or online. Since the research period coincided with the 2019 European Parliament elections, some consultees were offered the option of responding via a schedule of consultation interview topics. Nearly 20 full consultations were achieved¹⁵⁸ on an anonymity basis and several of the consultees also provided additional written contributions, as well as documentation from their organisation, including internal notes, lists of amendments they had suggested to different MEPs, etc.

¹⁵⁸ With 3 MEPs; 3 advisors of EP political groups; 4 REGI secretariat staff (including 3 who had served during the 2014-2020 legislative package); 2 officials associated with the Council (consulted in their personal capacity); 3 Commission officials; 4 officials from CoR and European associations of regions and cities.

Distilling and analysing information, and drawing conclusions

A common analytical grid was developed for seeking and distilling/recording information for both pillars – literature/documentation review and consultation interviews – reflecting the study objectives.

The basic structure of the grid covered the key stages of the formal and informal processes and a broad typology of positions and policy outcomes. The aim was to cover the main formal process (OLP) exhaustively but other formal and informal processes selectively. This grid was translated into the above-mentioned schedule of consultation interview topics.

Notwithstanding the time constraints of this research project, an iterative approach was considered appropriate:

- beginning with a first-stage literature/documentation review focused on tangible information that allowed the study to distil ‘hard’ information about the processes and substantive policy content, and to paint a broad picture of the actual situation regarding the role of Parliament in cohesion policy;
- followed by consultations, based on semi-structured interviews using core questions drawn from the analytical grid, and allowing for open discussion mostly on supplementary factual information and on the interpretation of the actual events (e.g. factors influencing successful or other outcomes);
- followed by a second-stage literature/documentation review focused on elaborating further the description and analysis of processes and policy positions/outcomes, and validating findings.

Recourse to further targeted inputs from the network of experts was necessary at this stage, especially in clarifying and validating findings, and interpreting and judging trends and factors driving (or constraining) them. Particular attention was given to avoid subjective judgements emanating from interviews by seeking concrete and verifiable examples of outcomes of EP actions.

A study report structure was developed covering all study objectives and topics, and guided the drawing of the study conclusions. This allowed a succinct summary to be established of the relevant evidence, key findings and supporting validation, on which the conclusions were based, and the full study report was drafted.

The recommendations are future oriented focusing on the factors that require action to ensure that Parliament can play the fullest possible role in accordance with the Treaty of Lisbon, distinguishing between actions in the short term, under the remaining stages of the 2021-2027 legislative package, and longer term during the new, 2019-2024, session of Parliament and beyond.

This study assesses the role of the European Parliament in the field of cohesion policy since the Treaty of Lisbon introduced 'co-decision' procedure whereby Parliament and Council have equal powers in agreeing the regulations of the EU Structural and Investment Funds. In addition to the formal processes, the study also considers the informal ones from policy development at the pre-legislative stage to the interinstitutional negotiations as well as the Parliament's scrutiny role over cohesion policy.

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