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on good governance with regards to the EU regional policy: procedures of assistance and control by the European Commission

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Over the last decades decentralization of powers in several Member States has considerably reinforced regional and local authorities' competences in the delivery of Community policies.

The incorporation by the Reform Treaty of sub-national subsidiarity into the Community law for the policies of shared competence allows today territorial authorities to be more deeply involved in the decision-making process both for the design and the implementation of policies, as fully dignified partners to participate in achieving the Community objectives.

This important step towards better multi-level governance answers repeated requests by the Parliament to reinforce the involvement of the sub-national authorities in the conception of policies always respecting the different national constitutional assets.

An efficient implementation depends strongly on how policies are conceived; involving local and regional authorities also in this phase - as those knowing best the needs of their territory and of its population - is an assurance of more effective results at a later stage.

It is crucial thus to place the emphasis on the pre-legislative phase of the decision-making process and on the added value offered by policies and best practices implemented at local and regional level to the development of territorial strategies in the EU.

The cohesion policy is a forerunner in the application of this approach: its regional dimension and the application of the partnership principle represent its added value and contribute to ensure its effectiveness and sustainability.

Committee of the Regions' White Paper on Multi-level Governance

The White Paper of the Committee of the Regions has opened a timely debate on the common understanding of this principle as a practical instrument for decision-making in the Community policies of shared competence.

The following aspects will be considered to see how multi-level governance approach can be better developed in the field of cohesion policy:

- **Both dimensions of multi-level governance**, vertical - as cooperation among authorities of different levels of government including economic and social stakeholders - and horizontal, among actors of the same level, are needed to ensure multi-level cooperation among actors and an integrated approach among policies.
- A clearer definition of the partnership principle would facilitate the setting up of **real partnerships** with regional and local authorities; in particular the role of and consultation with the local level needs to be strengthened since the early stage of the negotiations on the EU debates. The partnership principle often does not work due to the poor involvement of the local authorities.
- The debate on multi-level governance is strictly linked to that on **territorial cohesion**: involving sub-national actors in the achievement of the EU objectives is a precondition to effectively implement territorial cohesion. A White Paper on territorial cohesion as a follow up to the Green Paper would represent a timely instrument to clarify how to implement territorial cohesion through multi-level governance in the future regional policy and feed in the debate on the next legislative package.
- The potential of **territorial cooperation** needs to be better exploited to promote multi-level cooperation across national frontiers. Cross-border regions hold untapped territorial potential and are a place of convergence of policies. In addition the crucial role of territorial

co-operation in delivering the EU2020 objectives has been highlighted in many responses to the recent public consultation. Instruments like the EGTC and the European territorial pacts based on the experiences of URBAN and LEADER should be promoted as tools to set up of systems of cross-border governance and ensuring the ownership of the different policies at regional and local level. Obstacles deriving from the lack of transposition of the EGTC Directive at national level need thus to be urgently removed.

- **Simplification of rules** at Community and at national level is precondition for better governance in the cohesion policy. The recent modifications of the General and ERDF Regulations have done important steps ahead in this direction but simplification should not be merely linked to a temporary and extraordinary event as the economic crisis. On the contrary it should inspire the entire legislation of the Structural Funds in future. Also Member States should simplify their national provisions, which very often add up administrative burden not required by the Community rules. As a necessary counterbalance a stronger culture of evaluation needs to be developed at all levels in order to ensure effective controls and avoid errors.
- **The Erasmus programme for local and regional representatives** should be continued in the future by allocating adequate funding within the next negotiations on the budget and by reinforcing the networking with regional and local authorities also through the Committee of the Regions.
- **The EU Charter on multi-level governance** may represent a good instrument to develop a shared understanding of European governance. Its effectiveness though depends on the set up of concrete measures to implement it. An Action Plan should be therefore urgently adopted describing these measures in detail.

Strengthening Commission's role

The second part of the report will analyse the mechanisms of shared management, in particular the different responsibilities of the European Commission and the Member States and look on how to improve the system in the implementation of Programmes.

The 2006 report of the European Court of Auditors showed that the control systems in place for the cohesion policy were not effective enough, with a too high error rate (12%) in the expenditure reimbursed. The annual report on 2008 confirmed this data with 11% of funds unduly reimbursed.

Indeed these data are not fully reflecting the actual situation since they include also the 2000-2006 period, when the current control requirements were not in place.

However, lacking data to properly assess the effectiveness of the new provisions for 2007-2013, the current assumption is that the level of error in Structural Funds is still too high and that further energy must be invested in improving the efficiency of the control systems.

The 2008 Action Plan of the Commission on how to strengthen its supervisory role incorporated a series of actions undertaken by the Commission to improve the performance of the funds including both corrective actions and preventive measures for the future.

These actions will be analysed in the report and some first recommendations for the current programming period will be put forward on how to reinforce guidance by the Commission on control and management procedures and on how to strengthen the Commission's coordination role in the control phase.

Indeed, one year of Programme implementation is insufficient to fully assess the overall impact of the performed actions. However, some encouraging elements can be already retrieved in the communication on the impact of the Action plan adopted by the Commission on 18 February 2010 and will be duly assessed.

A supervision of the Commission, as currently foreseen, is considered as not sufficient and cannot make up ineffective control systems at national level persisting during the whole multi-annual period. The audit role of the Commission should be stronger at the beginning of the Programmes with a bigger role of the national level during the implementation phase.

The current system of compliance assessment in particular needs fine-tuning to ensure its full effectiveness during the whole programming period. This exercise has not been concluded yet, which could lead to delays in payments and subsequent loss of funds due to automatic de-commitment.

The control during implementation needs to be improved by potentiating *ad hoc* checks and increasing assistance to the first-level control carried out by the Managing Authorities (MAs) so to correct irregularities in a timely manner and reduce the overall rate of error. Training and guidance by the Commission should concentrate more on this level, where the highest percentage of error occurs and in particular on those sectors - ineligible expenditure and public procurement - where the highest percentage of irregularities is detected.

Too complex rules governing the Structural funds are partly responsible for these errors. The shared management system characterising the cohesion policy implies a high degree of complexity in the interpretation and application of the rules given the numerous actors involved. This represents indeed the real added value of the Structural funds but engenders also a higher risk of error.

Therefore rules should be simplified to ensure more user-friendly procedures and not discourage potential beneficiaries from participating in projects.

At the same time the Commission needs to potentiate its role of knowledge driver towards the lower levels of governance both with regulatory and non regulatory initiatives - some of which already in place, that have to be enhanced.

Higher investments both in financial assistance and training should be ensured towards national and regional administrations to increase the capacities and knowledge of rules by authorities in charge of Programme management. Especially in the new Member States, where this practice is still new, investment on institutional capacity should be prioritized.

This would allow in the medium term to involve more sub-national authorities in the management and control of Programmes with the Commission assuming rather a strengthened coordination role.

Beside the measures performed through the Action plan, further initiatives should be potentiated:

- reinforcing Commission's assistance to MAs - given that the majority of errors occurs at the first level control - through targeted workshops, guidance notes, circulation of best practices and training of officials responsible for management; a constant monitoring on the actual transfer of the training measures targeted to the MAs should be put in place in order to check that knowledge is actually passed over and rules correctly applied;

- enhancing the cooperation with national audit authorities through regular meetings with the Commission to exchange results of respective controls; Member States on their side should submit their reports on time so that the Commission can effectively carry out its controls;
- ensuring better coordination among the control levels in place to avoid duplication of audits and over-control. In the long term this improved coordination would free resources within the Commission to be rather devoted to potentiate assistance on the management side;
- a system of data transfer similar to the one in place between the Member States and the Commission should be set up also among the relevant authorities, the intermediary bodies and final beneficiaries within each Member State
- the potential of the financial engineering instruments, especially JEREMIE and JASPERS, should be further developed so to allow respectively the development of qualitative strategic projects and the participation of private actors and capitals into European projects. Their current under-utilisation due to their excessive complexity makes the debate on their governance very urgent.
- a better coherence in the rules of the different Funds at Community level would allow for a more integrated approach

Some corrective measures should be implemented immediately so to produce results already in the current programming period. Some others need be tackled in the longer run as outcome of a highly political debate on the cohesion policy after 2013.

In particular the work on simplification, started in 2007 within the Task Force of the Commission should focus on the one hand on suggestions to improve practices in the current implementation period; on the other hand further proposals for simplifying the functioning of the cohesion policy should be put forward: simplification shall become a horizontal and long-lasting principle inspiring the whole philosophy of the future cohesion policy.

A serious reflection is necessary on how to improve governance and consequently effectiveness of the delivery system of the Structural Funds for the period after 2013. The discussions within the High Level Group on the future of cohesion policy should seriously take this aspect into account and Parliament should be actively involved in this debate.