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WORKING DOCUMENT

on a proposal for a Council Regulation laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund replacing Regulation 1260/1999 (COM (2004) 492final)

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Introduction

This working document is in two parts. The first considers the basic principles and elements contained in the Commission's proposal as well as the various issues at stake in the debate. The second part considers the state of play in the negotiations over the specific content of the draft regulation.

I. BASIC PRINCIPLES AND ELEMENTS OF THE PROPOSAL

(i) Background

The Commission's proposal for the general regulation follows closely the conclusions of its Third report on economic and social cohesion¹, presented in February 2004. It presents a coherent overall architecture for the structural funds based upon a strategic approach to the following three dimensions:

- a priority, reinforced in the context of the Union's enlargement, to demonstrate solidarity with the cohesion countries and the convergence regions;
- a close relationship between all national, regional and local players and the Lisbon and Gothenburg agendas, though the creation of a regional competitiveness and employment objective; this should take major disparities into account in the way it operates and aim to complement the convergence objective in the remainder of the Community's territory;
- a strengthening of territorial cooperation.

It thus represents, by far, the most important policy to promote EU objectives with citizens at local level.

(ii) Financial Aspects

In order to put these elements fully into perspective, it is necessary to consider the budgetary balance contained in the proposal, even if the detailed discussions on the overall financial package must take place elsewhere.

The Commission has proposed that the amount devoted to cohesion will be maintained in terms of percentage of the European (Gross National Income) GNI. This would allocate a sum equivalent to 0.41% of EU GNI to structural and cohesion funds, which equates to 0.46% before the transfers to the single rural and fisheries instruments that will be resourced with 0.5% of EU GNI.

In order to achieve this, the Commission has not proposed an increase in the ceiling on resources for the EU budget which would remain the same at 1.24% of GNI, but it does propose, an increase in the use of those resources within that ceiling.

(iii) Allocation of Resources

¹ Not yet published in OJ, EU Bulletin /2004/1/ 1.3.131, (COM(2004) 107 – C5-0092/2004

The Commission is proposing the following allocation of resources:

Proposed Allocation of Resources for the Period 2007-2013		
	Amount (€bn)	% of Total
Convergence Objective	264.0	78.54%
of which:		
Regions with GDP less than 75% of the EU25 average	177.8	52.90%
Regions in 'Phasing out' (statistical effect)	22.1	6.58%
Cohesion Fund	63.0	18.74%
Ultraperipheral Regions	1.1	0.33%
Regional Competitiveness and Employment Objective	57.9	17.22%
of which:		
Regions in 'Phasing in' (leaving Obj. 1 through growth in GDP)	9.6	2.85%
Regional Programme (ERDF)	24.1	7.18%
National Programme (ESF)	24.1	7.18%
Territorial Cooperation Objective	13.2	3.94%
Of which:		
Cross-border cooperation	4.7	1.40%
Cross-border strand of the neighbourhood instrument	1.6	0.48%
Transnational cooperation	6.3	1.87%
Cooperation networks and exchange of experience	0.6	0.18%
Performance Reserve	10.1	3.00%
Technical Assistance	1.0	0.30%
TOTAL COHESION POLICY	336.1	100.00%

(iv) Principal Changes in Relation to the Previous Period

The principal new elements in the proposal are as follows:

- a stronger concentration on the Convergence Objective which represents nearly 80% of the total compared to just less than 70% during the previous period;
- a relative reduction in the allocation made to the new Regional Competitiveness and Employment Objective compared to the old Objectives 2 and 3: 23.8% in 2000-2006 as opposed to 14.3% for the period post 2007 (outside of 'phasing-in' which was previously included in Objective 1);
- a major increase in the resources for the Territorial Cooperation Objective compared to the previous period's Interreg III initiative in order to allow for:
 - o an increase in cross-border programmes following enlargement
 - o the new neighbourhood instrument
 - o the growing importance of the transnational dimension
- The Community initiatives such as URBAN, EQUAL and LEADER have been 'mainstreamed' or integrated into the general programming;

- increased partnership between the competent regional, local, urban and other public authorities, the economic and social partners and other appropriate body representing civil society, environmental partners, non-governmental organisations;
- the adoption of the 'proportionality' principle, where Community controls are increased or decreased in relation to the amounts of EU money allocated to a project;
- the introduction of a strategic approach based on Community strategic guidelines on cohesion and National strategic reference frameworks;
- a simplified and decentralised delivery system with regard to management, control and programming with an emphasis on the contractual nature of programming; these changes will mean the end of the Community support frameworks and programme complements leaving only operational programmes;
- the putting in place of a significant Community reserve for quality and performance reserve to reward progress made as compared with the initial situation and a National contingency reserve to cover unforeseen local or sectoral crises;

Finally, it should be noted that the over-run of programmes is unlikely to be reproduced in the next period thanks to the rule of automatic decommitment (N+2) which will be maintained. Monies from the EU budget not paid out within two years of their commitment will be definitively lost.

II. STATE OF PLAY

In the light of the above snapshot of the main elements of the proposal, the current debate in the Council on the draft Regulation can be seen to centre on two principal issues:

- the debate on the financial aspects, given that cohesion policy represents one of the main elements of the financial perspectives;
- the political aspects and the issue of governance; the balance between Community and national intervention in order to achieve cohesion objectives and the balance between the Commission and the Member States in the management and control of the Union's policy.

These are outlined below followed by an examination of the main points of contention in the proposal itself.

(i) The Financial Debate

With regard to the financial aspects, we are limited here by Parliament from commencing detailed discussions due to the on-going work of the Temporary Committee on Policy Challenges and Budgetary Means of the Enlarged Union 2007-2013. This is to enable the European Parliament to speak with one voice on this issue.

Nevertheless, the debate in this area is extremely important since the financial package represents a vital integral element for the success of the cohesion policy. Moreover, this must be seen in the light of threats of budgetary cuts proposed by six Member States which have called for a ceiling of 1% of GNI. However, regardless of the precise figure eventually

agreed upon, it is clear that the EU budget will remain extremely small. Even at 1.24% of GNI it would barely amount to about 2.5% of total public expenditure in the Union.

It is clear, nevertheless, that given that decisions on agricultural spending (the other major component of the EU budget) have essentially already been taken for the period up to 2013, any cuts in the Union's budget would have to fall most heavily on cohesion policy. The new financial perspective should normally be agreed upon before the Commission starts to prepare its preliminary draft budget for 2007. In the absence of an agreement annual budgets would apply resulting, at the very least, in a period of considerable uncertainty and a calling into question of the multi-annual programmes under the structural funds.

(ii) The Political Debate

There is a broad consensus that the European Union should have a major role to play in assisting Europe's poorest regions. However, the question remains as to what EU measures should be taken outside of the Convergence Objective and as to what extent the Union's policy should be centrally defined, managed and controlled. In other words, should policies outside of the Convergence Objective be renationalised and should Member States have more flexibility to implement the remaining Community policy as they see fit?

Numerous debates took place on these points after the publication of the SAPIR Report¹ in the summer of 2003. These were analysed by the European Commission, which after thorough investigation opted for its present hypothesis in favour of the Union remaining a 'community of solidarity' with the conviction that Community interventions not only provide significant added value in terms of economic and social cohesion but also represent genuine value for money for the Union and the Member States. EU cohesion policy represents considerably less than 1% of total public expenditure in Europe, but despite their relatively modest resources, the capacity exists nevertheless under the structural funds to wield a significant leverage effect on economic development. As the Commission has pointed out, the record shows that regions benefiting from cohesion policy have had a consistently higher growth rate than the EU average. Moreover, net-contributor Member States receive a significant financial benefit under the policy, with each Euro spent generating several in return.²

This debate must be seen in the wider context of the so-called Lisbon Strategy to make the EU, by 2010, the world's most competitive and dynamic knowledge-based economy with sustainable economic growth and greater social cohesion. What role should the Union's cohesion policy play in achieving this objective? To what extent should Member States, the regions and other socio-economic players be involved in the strategy?

It is above all about whether we recognise that partnership has the capacity to produce results that correspond to our objectives. The debate thus concerns whether it is really useful to rely on a "top-down" approach to produce sustainable economic development, or whether it is not better to fully engage the active participation of all the relevant regional and local players at every level of the process.

¹ Report of an Independent High-Level Study Group established on the initiative of the President of the European Commission, Brussels, July 2003.

² 3 Euro, Objective 2 regions

At the same time, this wider debate is mirrored in the positions adopted regarding the technical details of how the Union's cohesion policy is run. There is thus an on-going discussion about whether there should be a much greater simplification of procedures and more flexible management of the policy. Essentially this boils down to whether it is a Community or a national approach that should be emphasised and to what extent it is either necessary or desirable to exercise control from the centre.

This key question can be seen to run throughout the specific points which follow.

(iii) Possible Specific Points of Contention in the Proposal

Under the Dutch Presidency, consideration of the proposal at Council level is well advanced, with an in-depth examination of the text having been undertaken by the Structural Actions Working Party. Although, Parliament is formally excluded from these discussions, a number of indications of possible areas of disagreement have nevertheless emerged.

These are considered below with reference to Parliament's position adopted in its resolution of Thursday 22 April 2004 on The Third Report on Economic and Social Cohesion.¹ Such references cite 'paragraphs' of this resolution, while 'articles' refer to the Commission's proposal, COM (2004) 492 final.

Partnership (Article 10)

This principle should be welcomed and in particular the proposal that Member States strongly involve regions in an active partnership, not only in the implementation of structural operations, but also in the preparation and monitoring of the national strategic reference framework. In this regard, the EP in its resolution declared itself "in favour of the proposals to enhance partnership and cooperation between the local, regional, national and EU spheres of government and to encourage Member States to utilise the possibility of concluding tripartite agreements where appropriate". Moreover, it asked "the Commission to develop harmonised and binding rules and criteria for partnership association and development in the framework of the 2007-2013 Structural Funds regulations, at the same time ensuring efficient partnership through funding the costs of their participation;" (Para 94).

The proposal on maintaining the principle of partnership appears to have met with general agreement in the Council and there seems to have been a wide recognition of the added value that may be derived from it. However, the Commission's inclusion amongst the list of partners of "any other appropriate body representing civil society, environmental partners, non-governmental organisations, and bodies responsible for promoting equality between men and women" has met with resistance.

Subsidiarity and proportional intervention (Article 11)

¹ European Parliament resolution on the third report on economic and social cohesion of Thursday 22 April 2004, (COM (2004) 107 – C5-0092/2004 – 2004/2005(INI)), A5-0272/2004, P5_TA-PROV (2004) 0368.

There has been a general welcome for the introduction of the proportionality principle whereby, in order to reduce transaction costs, administrative arrangements and controls are proportionally related to the level of EU funding. Here, the European Parliament reserved its position considering that "the Commission should maintain an independent monitoring and control power on the implementation of structural interventions and on their compliance with EU laws and targets." It retained the right, however, "to express its definitive opinion only once it has seen the proposals for regulations on the Structural Funds and the Cohesion Fund." (Para 86).

Some Member States are now calling for further simplification and a broadening of the proportionality principle. In practical terms, what this would mean would be a reduction in the 'control' functions of the Commission.

Parliament has always considered that the simplification of cohesion policy must have a high priority and that it should be "easier for businesses, universities and national organisations to participate in projects without their activities being unnecessarily hampered by bureaucracy, payment reporting requirements etc.;" (Para 88). However, there is a thin dividing line between less control and no control at all.

Parliament must consider how to ensure that the correct balance is struck.

Additionality (Article 13)

There is a wide consensus that additionality, should remain a key principle of Cohesion policy. As the Commission proposal states "Contributions from the Structural Funds shall not replace public or equivalent structural expenditure by a Member State." EU contributions must therefore provide added value to what a State was already planning to spend in any case.

This is obviously difficult to control. However, in this regard, the EP pointed to "the need for special attention to ensure that the state and regional authorities concerned comply with the additionality principle, whereby Community resources are to be added to and not replace state resources, and for the Commission to be provided with the necessary means of supervision." (Para 95).

The Commission's determination that this principle should be respected, notably through the national strategic reference framework, must therefore be welcomed. However, it seems strange that mid-term verification should be limited to the "Convergence" Objective and not be applied to the Objective for Regional Competitiveness and Employment. This is especially the case given that the mission of this objective is to promote more balanced development.

Indeed, it has been pointed out that this idea could be contrary to the principle of equal treatment and that it could discriminate against the poorest Member States.

Non-Discrimination (Article 14)

The Commission proposal on equality between men and women and the integration of a gender perspective is already an accepted part of the Community *acquis*. Already many requests have been received to extend this principle to other social groups. Parliament itself has pointed out that "the social inclusion of disadvantaged groups should be promoted and

barriers to access for people with disabilities should be removed.” (Para 19).

Parliament must therefore give careful consideration to such requests.

Community Strategic Guidelines On Cohesion (Articles 23 – 24) National Strategic Reference Framework (Articles 25 -26)

Parliament has consistently sought the improved coordination of regional policy with other sectoral policies and has recognised, in this context, that “coherence and complementarity will be enhanced by the concentration of regional policy on limited themes and by the existence of a comprehensive cohesion strategy.” (Para 74). Specifically, in its resolution, it concurred with the “adoption of an overall European strategic document for cohesion policy and the preparation of strategic policy documents by the Member States” (Para 87).

As has already been discussed, some Member States are opposed to such a Community oriented strategy and prefer a more national approach. On this issue, the EP has been consistent and firm. In its resolution therefore, it “applauds the acknowledgement by the Commission that European regional policy concerns all the regions and Member States of the Union and expresses, therefore, its satisfaction that no renationalisation of cohesion policy has been proposed.” (Para 4).

The Commission proposal goes no further in setting out the key elements of the strategic guidelines. It will be necessary to consider whether it would be useful for this Regulation to go into further detail on the means of achieving the principal cohesion objectives, or whether this is best left until the adoption of the strategic guidelines themselves.

In any event, it is clear that the process envisaged for the adoption of these guidelines – the Assent Procedure under Article 161 of the Treaty, does not adequately meet Parliament’s demand for equal partnership. As the EP has asserted, “the European strategic document for cohesion must be the subject of a European law embodying the full legislative participation of the European Parliament as envisaged under Article III-119 of the draft Treaty establishing a Constitution for Europe.” (Para 89).

With regard to the national strategic reference framework, the precise balance between the proposed strategic and operational sections and the content of each has already produced a range of views. On this, Parliament may wish to restate its position that “the sound management of the structural funds.” remains its overriding concern (Para 91).

Strategic Follow-Up and Annual Debate (Articles 27 – 30)

The Commission’s proposal of an annual report by Member States, an annual report by the Commission and an annual examination, does not appear to have gained favour with a majority of Member States. Instead, it seems that there is broad support for a three-yearly interval.

Parliament has already responded favourably to the proposal “for an annual review by the European institutions to discuss progress made; suggests that this review could take place during the spring European Council, following consultation of Parliament.” (Para 90).

Evaluation (Articles 45 – 47)

In respect of evaluation, the EP had, in particular, asked “the Commission to draw up for the next programming period procedures for verifying additionality that are more workable, that are integrated into the programming, monitoring and evaluation frameworks and that are suitable for use with the budgetary and statistical information available.” It had furthermore, asked the Commission “to develop specific measures such as sanctions in order to ensure compliance with this principle.” (Para 97).

It now appears that the Commission proposals, particularly with regard to *ex ante* evaluations have met with significant resistance from Member States who consider them to be unnecessary and burdensome. These Member States favour the retention of the present more flexible arrangements.

Community reserve for quality and performance (Article 48)

The quality and performance reserve represents an important part of the Commission proposal, which was supported by the EP in its resolution as a mechanism for rewarding progress. (Para 96).

Most Member States now appear to be opposed to this idea. However, some *positive* means of ensuring that focus is maintained on the various objectives must surely be retained.

National Contingency Reserve (Article 49)

Parliament specifically welcomed "the setting-up of national reserves for responding to unexpected sectoral or local shocks on condition that these funds have real substance and are not simply symbolic gestures." (Para 96).

It seems that there is now a consensus amongst Member States that these reserves should be optional, leaving it up to the individual member State to decide whether to set one up or not.