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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.7.2009
COM(2009) 382 final

2009/0105 (COD)

Proposal for a

**REGULATION (EC) No .../2009 OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

**amending Regulation (EC) No 1080/2006 on the European Regional Development Fund
as regards the eligibility of housing interventions in favour of marginalised communities**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The proposal aims to permit the ERDF financial support for housing interventions in favour of marginalised communities living in the Member States that acceded to the European Union on or after 1 May 2004. In the new Member States, the great majority of these communities live in rural areas and in shelters (in rural as well as in urban areas) and they cannot benefit from the ERDF support.

In fact, Article 7(2) of the ERDF Regulation¹ provides for the eligibility of expenditure on housing in the new Member States. The experience to-date however, proves that the conditions of eligibility do not fully fit to the needs on the ground.

Actually, under the current ERDF provisions, housing interventions can take place in the framework of *urban* development operations and in the form of *renovation of existing houses*. Therefore, support to housing interventions in rural areas or for the replacement of “houses” of a very poor quality in urban or rural areas cannot be eligible under the ERDF.

There is a growing concern and commitment of the EU to combat social exclusion, including the particular situation of Roma. The European Parliament² and the Council³ have repeatedly asked the Commission to take action to promote inclusion of these communities facing extreme deprivation and marginalisation. The Commission has taken the commitment to propose - in the framework of the Structural Funds - measures to improve the living conditions of these communities.

The present proposal for an amendment of the ERDF Regulation translates this commitment.

Moreover, for simplification purposes, this proposal contains minor drafting modifications of the current Article 7(2) of the ERDF Regulation relating to the framework in which a housing intervention in urban areas shall take place without however modifying the existing eligibility rules in favour of EU-12 In particular:

i) Article 7(2) of the ERDF Regulation confers the Commission implementing powers for the definition of the criteria for the selection of areas and of the list of eligible housing interventions. The Commission exercised its powers in Article 47 of Regulation (EC) No 1828/2006. However, given the great diversity of housing situation on the ground, it has been proved that the criteria fixed by the Commission are not appropriate. Therefore, they are currently simplified. In order to take on board the simplification of Article 47 of Regulation (EC) No 1828/2006 currently in process

¹ Regulation (EC) N°1080/2006 of the European Parliament and of the Council of 5 July 2006 as amended by Regulation (EC) N°397/2009, OJ L210, 31.7.2006, p.1.

² European Parliament resolution of 11 March 2009 on the social situation of the Roma and their improved access to the labour market in the EU (2008/2137/INI).

³ Council conclusions on the inclusion of the Roma, Luxembourg 8 June 2009.

it is proposed to provide that the implementing powers conferred to the Commission will be optional and not binding.

ii) For clarity purposes, the eligible types of interventions in the existing buildings (the renovation of the common parts of residential buildings, the renovation and change of use of public owned buildings in order to transform them into “social housing”) should be included in the proposed Regulation.

iii) Finally, the current wording of Article 7(2) of the ERDF Regulation, expenditure shall be programmed “within the framework of an integrated urban development *operation* or *priority axis*” for areas experiencing or threatened by physical deterioration and social exclusion” needs to be improved. Therefore, it is proposed to replace the terms “operation” and “priority axis” by the term “integrated approach”, which ensures that a housing intervention is part of a broader intervention including aspects relating to housing such as social services, public spaces, culture, education, transport infrastructure, economic activities of the area etc regardless of the source of financing.

- **General context**

Access to housing and acceptable housing conditions for all citizens and, in particular, for the most vulnerable is a basic requirement of our society.

Living conditions of communities facing extreme deprivation and marginalisation are – in the great majority of cases- deplorable: High rate of unemployment, low educational level, lack of skills, lack of health services, criminality, spatial segregation, social exclusion, racism and evictions compose a bleak picture which contrasts with the core values of the European Union.

The Structural Funds financial support can significantly contribute to the efforts of the National Authorities to put an end to this unacceptable situation. Therefore, allocations shall be made available also for housing interventions in favour of these communities currently ineligible under the ERDF, i.e. for i) housing interventions not limited to the urban areas and ii) housing interventions consisting of the replacement of houses of extremely poor quality, irrespectively of the area (“urban” or “rural”).

In order to avoid unjustified discriminations, the guiding principle of the proposed interventions should be the 2nd Basic Principle on Roma Inclusion according to which interventions focusing on Roma people as target group should not exclude other people sharing similar socio-economic circumstances⁴.

Moreover, housing interventions in favour of marginalised communities characterised by extreme deprivation are only part of a complex issue. Therefore they should be tackled in the framework of a multi-dimensional integrated approach, to be defined at national level, with strong partnerships and taking on board aspects relating to

⁴ “Explicit but not exclusive targeting of the Roma is essential for inclusion policy initiatives. It implies focusing on Roma people as target group **but not to the exclusion of other people who share similar socio-economic circumstances (...)**” Common Basic Principles on Roma Inclusion as discussed at the 1st meeting of the integrated European platform for Roma inclusion, April 2009, attached in the Council Conclusions on Inclusion of Roma, Luxembourg, 8 June 2009.

education, social affairs, integration, culture, health, employment, security etc. Hence, the aim of the proposal amending the current ERDF Regulation is to provide, in the framework of an integrated approach, acceptable housing conditions. In this context, the role of public authorities at all stages of the implementation is of an utmost importance.

- **Existing provisions in the area of the proposal**

With the exception of energy efficiency and renewable energies intervention, accessible to all Member States, ERDF supported interventions in the housing sector are reserved only for Member States that acceded to the European Union on or after 1 May 2004, and under the conditions set out in Article 7 paragraph 2 of Regulation No 1080/2006 and Article 47 of the Commission Regulation No 1828/2009.

As explained above, these conditions are not sufficient to tackle the specific housing problem of marginalised communities. It should also be noted that EAFRD already intervenes in the housing sector in rural areas under Regulation (EC) N° 1698/2005 (e.g. Axis 3 “Quality of life in rural areas and diversification of the rural economy”- Article 52(b)(ii) “village renewal and development”).

Housing interventions in favour of marginalised communities in rural areas supported by both the EAFRD and the ERDF, implemented in the framework of integrated approaches, in which ESF can also contribute, will increase significantly the available financial support. It will be within the competence of the Member States to define, in the framework of an integrated approach, the complementarity between Funds in a way to optimise the synergy effect.

- **Consistency with the other policies and objectives of the Union**

The proposal is fully consistent with the EU policy objectives in the fields of non-discrimination, equal opportunities, economic and social cohesion, regional development and territorial cohesion. .

2. **CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

National Authorities, as well as representatives of marginalised communities and MEPs have been consulted informally on several occasions on the possibilities offered to marginalised communities by Article 7(2) of ERDF Regulation, the obstacles and the various options for counteracting them.

Summary of responses and how they have been taken into account

The outcome of all these consultations was that solutions based on the interpretation of Regulation (EC) No 1080/2006 were not sufficient.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

The present proposal permits the ERDF financial support for housing interventions in cases where marginalised communities living conditions are extremely poor and social exclusion is high. This could not be possible without modification of the existing regulatory framework.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposed modification to Article 7(2) of Regulation (EC) No 1080/2006 on the European Regional Development Fund seeks to permit and facilitate housing interventions in favour of marginalised communities in the new Member States when the current provisions cannot apply. Given the complexity of the intervention, it is important that National Authorities proceed in the framework of an integrated approach.

In addition, for simplification purposes, minor drafting modifications in the existing provision are proposed.

- **Legal basis**

European Parliament and Council Regulation (CE) No 1080/2006 on the European Regional Development Fund, in its Article 7(2), defines the eligibility conditions applicable to the housing sector in the new Member States.

- **Subsidiarity principle**

The proposal complies with the subsidiarity principle to the extent that it broadens the possibilities for the new Member States to provide support to housing interventions in favour of marginalised communities in the way they consider more appropriate, while keeping the integrated approach as a minimum condition for intervention. This will permit to intervene in way “capturing” the specificities of each community but with a, basically, common method.

- **Proportionality principle**

The proposal conforms to the proportionality principle since it is limited only to permit the ERDF support in the housing sector in favour of marginalised communities and for cases where the current provisions cannot apply. This intervention is limited in those Member States where the problem currently exists.

- **Choice of instruments**

Proposed instrument: Regulation.

The Commission has already explored the possibilities offered by the current legislation. Even with the most flexible interpretation, the current rules setting a limited eligibility do not permit housing interventions outside the urban areas or the replacement of existing shelters by houses in favour of marginalised communities living in new Member States.

4. BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

Proposal for a

REGULATION (EC) No .../2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of housing interventions in favour of marginalised communities

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 162 thereof,

Having regard to the proposal from the Commission⁵,

Having regard to the opinion of the European Economic and Social Committee⁶,

Having regard to the opinion of the Committee of the Regions⁷,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas,

- (1) With the view to enhance the economic and social cohesion of the Community, it is necessary to support limited interventions for the renovation of existing buildings serving housing purposes in Member States that acceded to the European Union on or after 1 May 2004. Those interventions can take place under the conditions set out in Article 7 (2) of Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999⁸.
- (2) Expenditures are to be programmed in the framework of an integrated urban development operation or priority axis for areas experienced or threatened by physical deterioration and social exclusion. For purposes of clarity, the conditions under which housing interventions in urban areas can take place should be simplified. Therefore, expenditures on housing interventions should be programmed taking into account different parameters regardless of the source of financing. It should also be stated that only expenditures on the interventions in existing buildings are eligible.

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

⁷ OJ C [...], [...], p. [...].

⁸ OJ L 210, 31.7.2006, p. 1.

- (3) In the Member States to which Article 7(2) of Regulation (EC) No 1080/2006 applies, a large number of marginalised communities live also outside urban areas. Therefore, it is necessary to extend the eligibility of expenditures on housing interventions in favour of these communities living in rural areas.
- (4) Irrespective of whether these communities are located in urban or rural areas, due to the extremely poor quality of their housing conditions, expenditures on the replacement of the existing houses by newly constructed ones should also be eligible.
- (5) In line with Principle No 2 of the Common Basic Principles on Roma Inclusion reiterated by the Council in its Conclusions on Inclusion of the Roma of 8 June 2009, housing interventions focused on a specific group should not exclude other people sharing similar socio-economic circumstances.
- (6) In line with Principle No 1 of those Common Basic Principles, in order to limit the risks of segregation, housing interventions for marginalised communities should take place in the framework of an integrated approach, which includes actions, in particular, in the fields of education, health, social affairs, employment and security.
- (7) Under the current regulatory framework, the criteria for selection of areas for housing interventions are subject to a process of simplification. With regard to the diversity of housing situations in the Member States, these criteria should be defined in a decentralised way. Therefore the Commission should not be obliged to adopt such criteria.
- (8) Regulation (EC) No 1080/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Article 7(2) of Regulation (EC) No 1080/2006 is replaced by the following:

- “2. Expenditure on housing, except for energy efficiency and the use of renewable energy as set out in paragraph 1a, shall be eligible only for those Member States that acceded to the European Union on or after 1 May 2004, where the following conditions are met:
- (a) expenditure shall be programmed within one of the following frameworks:
 - (i) the framework of an integrated urban development approach for areas experiencing or threatened by physical deterioration and social exclusion;
 - (ii) the framework of an integrated approach for marginalised communities.
 - (b) The allocation to housing expenditure shall be either a maximum of 3 % of the ERDF allocation to the operational programmes concerned or 2 % of the total ERDF allocation.

For the purposes of point (a)(i) of the first subparagraph, expenditure shall be limited to one of the following interventions:

- renovation of the common parts in existing multi-family housing,
- renovation and change of use of existing buildings owned by public authorities or non-profit operators for use as housing designated for low-income households or people with special needs.

For the purposes of point (a)(ii) of the first subparagraph, interventions may include the replacement of existing housing by newly constructed houses.

The Commission may adopt the list of criteria needed for determining the areas referred to under point (a)(i) of the first subparagraph and the list of eligible interventions in accordance with the procedure referred to in Article 103(3) of Regulation (EC) No 1083/2006.”

Article 2

This regulation shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President
[...]

For the Council
The President
[...]