

Wednesday 20 November 2013

P7\_TA(2013)0482

### Common provisions on European funds \*\*\*I

**European Parliament legislative resolution of 20 November 2013 on the amended 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 Council Regulation (EC) No 1083/2006 (COM(2013)0246 — C7-0107/2013 — 2011/0276(COD))**

(Ordinary legislative procedure: first reading)

(2016/C 436/37)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0615) and the amended COM proposals (COM(2012)0496, COM(2013)0146 and COM(2013)0246),
  - having regard to Article 294(2) and Article 177 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0107/2013),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Chamber of Deputies, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinions of the European Economic and Social Committee of 25 April 2012, 12 December 2012 and 22 May 2013 <sup>(1)</sup>,
  - having regard to the opinions of the Committee of the Regions of 3 May 2012 and of 29 November 2012 <sup>(2)</sup>,
  - having regard to the opinions of the Court of Auditors of 15 December 2011, of 13 December 2012 and of 18 July 2013 <sup>(3)</sup>,
  - having regard to the undertaking given by the Council representative by letter of 18 November 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Regional Development and the opinions of the Committee on Employment and Social Affairs and of the Committee on Budgets, Committee on Budgetary Control, Committee on Economic and Monetary Affairs, Committee on Environment, Public Health and Food Safety, the Committee on Industry, Research and Energy, the Committee on Transport and Tourism, the Committee on Agriculture and Rural Development, the Committee on Fisheries, the Committee on Culture and Education and the Committee on Women's Rights and Gender Equality (A7-0274/2013),
1. Adopts its position at first reading hereinafter set out;
  2. Approves the joint statements annexed to this resolution;
  3. Takes note of the Council and Commission statements annexed to this resolution;
  4. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

<sup>(1)</sup> OJ C 191, 29.6.2012, p. 30, OJ C 44, 15.2.2013, p. 76, and OJ C 271, 19.9.2013, p. 101.

<sup>(2)</sup> OJ C 225, 27.7.2012, p. 58, and OJ C 17, 19.1.2013, p. 56.

<sup>(3)</sup> OJ C 47, 17.2.2012, p. 1, OJ C 13, 16.1.2013, p. 1, and OJ C 267, 17.9.2013, p. 1.

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**P7\_TC1-COD(2011)0276**

**Position of the European Parliament adopted at first reading on 20 November 2013 with a view to the adoption of Regulation (EU) No .../2013 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 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006**

*(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 1303/2013.)*

## ANNEX TO THE LEGISLATIVE RESOLUTION

**Joint Statement by the European Parliament, the Council and the Commission on the revision of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council linked with the reconstitution of appropriations**

The European Parliament, the Council and the Commission agree to include in the revision of the Financial Regulation, aligning Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council to the Multiannual Financial Framework 2014-20, provisions necessary for the application of the arrangements for the allocation of the performance reserve and in relation to the implementation of financial instruments under Article 39 (SME initiative) under the Regulation laying down common provisions for the European Structural and Investment Funds concerning the reconstitution of:

- i. appropriations which had been committed to programmes in relation to the performance reserve and which had to be decommitted as a result of priorities under these programmes not having attained their milestones and;
- ii. appropriations which had been committed in relation to dedicated programmes referred to under Article 39(4)(b) and which had to be de-committed because the participation of a Member State in the financial instrument had to be discontinued.

**Joint Statement by the European Parliament, the Council and the Commission on Article 1**

If further justified derogations to the common rules are needed to take into account specificities of the EMFF and of the EAFRD, the European Parliament, the Council and the European Commission commit to allow for these derogations by proceeding with due diligence to the necessary modifications to the Regulation laying down common provisions for the European Structural and Investment Funds.

**Joint Statement by the European Parliament and the Council on the exclusion of any retroactivity with regard to the application of Article 5(3)**

The European Parliament and the Council agree that:

- concerning the application of Articles 14(2), 15(1)(c), and 26(2) of the Regulation laying down common provisions for the European Structural and Investment Funds, the actions taken by the Member States to involve the partners referred to in Article 5(1) in the preparation of the Partnership Agreement and the programmes referred to in Article 5 (2) include all actions taken on a practical level by the Member States irrespective of their timing as well as actions taken by them before the entry into force of that Regulation and before the day of the entry into force of the delegated act for a European code of conduct adopted in accordance with Article 5(3) of the same Regulation, during the preparatory phases of a Member State programming procedure, provided that the objectives of the partnership principle, laid down in that Regulation, are achieved. In this context, Member States, in accordance with their national and regional competences, will decide on the content of both, the proposed Partnership Agreement and proposed draft programmes, in accordance with the relevant provisions of that Regulation and the fund specific rules;

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- the delegated act laying down a European code of conduct, adopted in accordance with Article 5(3), will under no circumstances and neither directly nor indirectly have any retroactive effect, especially concerning the approval procedure of the Partnership Agreement and the programmes, since it is not the intention of the EU legislature to confer any powers on the Commission to the effect that it could reject the approval of the Partnership Agreement and programmes solely and exclusively based on any kind of non-compliance with the European code of conduct, adopted in accordance with Article 5(3);
- the European Parliament and the Council invite the Commission to make available for them the draft text of the delegated act to be adopted under Article 5(3) as early as possible, but not later than the date when the political agreement on the Regulation laying down common provisions for the European Structural and Investment Funds is adopted by the Council or the date when the draft report on that regulation is voted at the plenary of the European Parliament, whichever date is the earliest.

### **Joint Statement by the Council and the Commission on Article 145(7)**

The Council and the Commission confirm that for the purpose of Article 145(7) the reference to the term 'applicable law' in relation to the assessment of serious deficiencies in the effective functioning of management and control systems includes interpretations of this law made by the Court of Justice of the European Union, by the General Court of the European Union or by the Commission (including Commission interpretative notes) applicable at the date when the relevant management declarations, annual control reports and audit opinions were submitted to the Commission.

### **Statement of the European Parliament on the application of Article 5**

The European Parliament takes note of the information transmitted on 19 December 2012 by the Presidency following COREPER debates through which the Member States stated their intention to take into account in the preparatory stage of programming as far as possible the principles of the draft Regulation laying down common provisions for the European Structural and Investment Funds as the draft Regulation stood at the time of that transmission of information concerning the strategic programming bloc including the spirit and the content of the principle of partnership as laid down in Article 5.

### **Statement by the Commission on Article 22**

1. The Commission considers that the principal purpose of the performance framework is to stimulate effective delivery of programmes to attain the planned results and that the measures in paragraphs 6 and 7 should be applied with due regard for that purpose.
2. Where the Commission has suspended all or part of interim payments for a priority under paragraph 6, the Member State may continue to submit requests for payment in relation to the priority in order to avoid decommitment for the programme under Article 86.
3. The Commission confirms that it will apply the provisions of Article 22(7) so that there will be no double loss of funds in relation to underachievement of targets linked to under-absorption of funds under a priority. Where part of commitments to a programme have been decommitted as a result of the application of Articles 86 to 88 with a consequent reduction in the amount of support for the priority, or where at the end of the programming period there is underspending of the amount allocated to the priority, the relevant targets set out in the performance framework shall be adjusted pro-rata for the purpose of the application of Article 22(7).

### **Statement of the Commission in relation to the compromise text on indicators**

The Commission confirms that it will complete its guidance documents on the common indicators for ERDF, ESF, Cohesion Fund and European Territorial Cooperation in consultation with the respective evaluation networks comprising national evaluation experts within 3 months of the adoption of the Regulations. These guidance documents will include definitions of each common indicator and methodologies for gathering and reporting data on the common indicators.

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**Statement by the Commission on the amendment of Partnership agreements and programmes in the context of Article 23**

The Commission considers that, notwithstanding the provisions of Article 23(4) and (5), it may when necessary make observations on proposals for the amendment of Partnership Agreements and programmes submitted by Member States pursuant to Article 23(4), in particular where these are not consistent with the prior response submitted by those Member States pursuant to Article 23(3), and in any event on the basis of Articles 16 and 30. It considers that the deadline of three months for the adoption of the decision approving the amendments to the Partnership Agreement and the relevant programmes set out in Article 23(5) runs from the submission of the proposals for amendments pursuant to paragraph 4 provided that these take adequately account of any observations made by the Commission.

**Statement by the Commission on the impact of the agreement reached by the co-legislators on the performance reserve and pre-financing levels on the payment ceilings**

The Commission considers that the additional payment appropriations, which may be required in 2014 -2020, as a result of the changes introduced for the performance reserve and pre financing, remain limited.

The consequences should be manageable respecting the draft MFF Regulation.

The annual fluctuations in the global level of payments, including those generated by the changes referred to, will be managed through the use of the global margin for payments and the special instruments agreed upon in the draft MFF Regulation.

The Commission will monitor the situation closely and present its evaluation as part of the mid-term review.

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