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#### COMMITTEE OF THE REGIONS

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## I

(Resolutions, recommendations and opinions)

## RESOLUTIONS

## COMMITTEE OF THE REGIONS

98TH PLENARY SESSION, 29-30 NOVEMBER 2012

**Resolution of the Committee of the Regions on 'Priorities of the Committee of the Regions for 2013 based on the Legislative and Work Programme of the European Commission'**

(2013/C 17/01)

THE COMMITTEE OF THE REGIONS

- having regard to the CoR resolution of 19 July 2012 on its priorities in view of the Work Programme of the European Commission <sup>(1)</sup> and its Resolution relating to the conclusions of the European Spring Council 2012 <sup>(2)</sup>,
- having regard to the European Commission's Communication on its Work Programme for 2013 <sup>(3)</sup> and its Protocol of Cooperation with the European Commission signed on 16 February 2012,
- having regard to the European Parliament legislative Resolution of 11 September 2012 on the Commission Work Programme for 2013 <sup>(4)</sup>,

**Main political priorities for 2013**

1. considers the necessity to overcome the economic, social and financial crisis as the main challenge for the European Union. Therefore, strongly supports efforts to increase and maintain the EU's focus on:

— the Europe 2020 Strategy,

— the Single Market,

— targeted investments, particularly in research and innovation, whereby (European) education and research establishments, business and governments (the 'triple helix') cooperate with each other to achieve smart implementation of the Europe 2020 strategy,

— and delivery of results, in conjunction with local and regional authorities;

2. calls for an ambitious Multiannual Financial Framework (MFF) and genuine own resources for the Union;

3. welcomes the emphasis on youth unemployment and looks forward to helping to shape the forthcoming Youth Employment Package;

4. recalls its enhanced responsibilities conferred by the Lisbon Treaty with regard to the subsidiarity principle, and its commitment to becoming a reference point for its correct application; in this respect underlines the importance it will give to monitoring EU initiatives included in the CWP 2013, and draws attention to its dedicated work programme for subsidiarity monitoring in 2013, to be adopted in January;

<sup>(1)</sup> CdR 1031/2012 fin.

<sup>(2)</sup> CdR 42/2012 fin.

<sup>(3)</sup> COM(2012) 629 final.

<sup>(4)</sup> P7\_TA(2012) 0319.

5. supports the idea of a thorough discussion on the future of Europe from the perspective of democratic legitimacy, accountability and effective integration and considers it vital to define its political position on the future role of the regional and local level, including on the possible changes in the EU institutional settings; the CoR will therefore give impetus to any debate on Treaty reform in 2013 through the organisation of political debates, and by better profiling the subsidiarity principle and the concept of multi-level-governance as important tools for attaining these objectives;

6. supports the call made by the European Parliament in its resolution of 20 November 2012 on Member States to consider signing to a 'Social Investment Pact'. This 'Social Investment Pact', conceived on the model of the 'Euro Plus Pact', would set investment targets for social investments to be taken by Member States in a given timeframe in order to meet the employment, social and education targets of the Europe 2020 strategy in line with the Annual Growth Survey and National Reform Programmes;

7. will continue to scrutinise the territorial impact of the European Commission's legislative programme;

#### **Economic and Monetary Union**

8. requests that it be consulted on the EC Blueprint for a comprehensive and genuine European Monetary Union, given the territorial dimension of each of its four pillars;

9. calls for better coordination of economic and social policies between the European and national levels in the context of the European Semester and demands stronger involvement of local and regional authorities in this coordination. The CoR will continue to monitor progress in this direction while seeking closer cooperation with the European Parliament;

10. strongly supports the call made by the European Parliament on the Commission <sup>(5)</sup> to 'fully address', in its next Annual Growth Survey, 'the role of the EU budget in the European Semester process by providing factual and concrete data on its triggering, catalytic, synergetic and complementary effects on overall public expenditure at local, regional and national levels';

11. welcomes that effective mechanisms are put in place at the EU level to ensure sustainable budgetary policies in the Member States but warns of the risks that coordination of

budget policy at EU level could have for local and regional authorities and the delivery of adequate public services;

12. regrets that its proposal for a Green Paper on the synergies between the EU, national and sub-national budgets has not been included in the Work Programme; recalls specifically its support for a European communication on the quality of public spending which should address, *inter alia*, the issue of separating *current spending* and *investment* in the budget deficit calculations so as to avoid investments with long-term net benefits being calculated as a negative;

13. commits itself to thoroughly analyse the local and regional dimension of the Banking Union;

14. requests clarification on the legal instrument envisaged for the Bank Account Initiative;

#### **Cohesion policy**

15. strongly advocates, in view of the ongoing negotiations on the MFF, that Cohesion Policy is an investment policy which needs both an effective spending and a vigorous budget which cannot be cut down if we want to stimulate growth and jobs, increase the competitiveness and fight against territorial disparities within and amongst all EU regions, especially in times of crisis;

16. regrets that the 'Code of Conduct' proposed by the European Commission has not been taken up in the Cyprus Presidency; calls on the European Commission to promote and scrutinise the involvement of local and regional authorities in the design of the partnership agreements and the relevant operational programmes, and requests a report on this matter by the end of 2013. In that regard, the Committee of the Regions will follow closely the related negotiations based on the Commission's country-specific negotiation mandates for the CSF Funds for the period 2014-2020, notably in the light of the partnership principle;

17. requests a formal consultation by the European Commission in relation to the review on the guidelines for regional aid;

18. calls for a European rural development strategy to re-balance resources for rural areas whose development level is still below the EU average and often well below predominantly urban areas;

<sup>(5)</sup> European Parliament resolution: 'European Semester for economic policy coordination: implementation of 2012 priorities'.

19. calls for the adoption of the revised Regulation on the European Grouping for Territorial Cooperation separate from the legislative package on Structural Funds;

### Single Market

20. regrets the slow pace of implementation of the Single Market Act;

21. notes the Commission's intention to present a proposal on obligatory electronic invoices in public procurement, but points out that complete change to electronic systems will be challenging for some local and regional authorities which might require assistance or a longer transition period;

22. calls for the creation of Small Business Act Partnerships to further implement the Small Business Act (SBA) at sub-national level; considers that the European Entrepreneurial Regions (EER) initiative, awarded by the CoR since 2010, could be a source of inspiration in further promoting entrepreneurship, especially among young people;

23. seeks explanation from the Commission as to why the eHealth Action Plan, which the Committee of the Regions had previously called for and which was announced in the 2012 Work Programme has not been presented yet, and does not appear among the items planned for adoption until the end of the 2012 nor in the 2013 work programme;

24. believes that greater legal certainty is required for activities in the social economy and calls in this context for a statute of a European mutual society;

25. welcomes the European Commission's intention to modernise EU state aid rules and to reduce administrative burdens by adapting the general block exemptions, and calls in this regard for an increase of the *de minimis* threshold;

26. regrets that the European Commission did not formally consult the CoR in relation to the elaboration of the new guidelines governing the application of EU state aid rules to the public funding of broadband networks;

27. welcomes the focus in Annex II of the Work Programme on concrete initiatives on simplification and the reduction of administrative burdens, and intends to contribute to their implementation;

### Building tomorrow's networks

28. asks the European Commission to take steps towards resolving connectivity problems between Member States and

between regions; calls on the European Commission in this context to step up its efforts aimed at reducing the energy isolation of individual Member States and to put in place a fully operational internal energy market by 2014;

29. regrets the absence of a clear commitment by the European Commission to strengthen its policies aimed at the development of a modern grid infrastructure, and specifically the roll-out of smart grids and smart metering, which are important elements for energy efficiency and security of supply; asks the European Commission to promote measures that facilitate the spread of micro-production of energy and its integration into the distribution grids;

30. regrets that the Commission work programme does not entail further initiatives in relation to urban mobility; reiterates in that context its suggestion that electronic and smart, for example mobile, ticketing across all modes of transport is an essential prerequisite for sustainable urban mobility, and hopes that this issue could also be addressed in the planned follow-up to the Green Paper on 'an integrated European market for card, internet and mobile payments';

31. expects the European Commission to seize every opportunity to achieve consistent implementation of the goals set by the review of TEN-T;

32. looks forward to the forthcoming proposal on the future EU ports policy and recalls the need to subject it to a Territorial Impact Assessment;

### Growth, jobs and inclusion

33. considers that labour mobility within and among Member States is an important factor in the fight against unemployment and therefore supports the plans to modernise public employment services with particular attention to the reform of EURES, currently performing below its possibilities; however also reminds that public employment services are often run by local and regional authorities which must be fully consulted on the reforms;

34. regrets that the European Commission has not taken up the CoR's repeated call for a European agenda for social housing, which would inter alia clarify the competition rules applicable to social housing and empower local and regional authorities to provide decent and affordable social housing, to promote social mix and to fight discrimination;

35. points out the importance of retirement pensions for local and regional authorities, who are large employers and expects the Commission proposal on this matter to include proposals on better cross-border transferability of occupational pensions;

36. considers the establishment of the platform to fight undeclared work to be a timely initiative; and considers it essential that regional enforcement bodies and labour inspectorates be included in this platform; sees, furthermore, strong possibilities for synergies between this platform and the proposals to enhance enforcement of the rules on the posting of workers;

37. asks the European Commission to ensure that in its new guidelines on State aid for films and other audiovisual works, the principle of territorial spending obligations, as described in the 2001 Cinema Communication, be maintained, in accordance with Article 107(3)d TFEU;

38. regrets the low level of ambition in the Work Programme in relation to culture, given its importance for a European identity and as a driver for growth;

#### **Using Europe's resources better**

39. welcomes the publication of the 7th Environmental Action Framework which is a key tool to translate the EU 2020 goals into environmental action and which should focus on improving implementation of EU environmental policy in close cooperation with all levels of governance, on integration of environmental concerns into all policy areas, and on the international dimension of environmental challenges;

40. asks that the EU Adaptation Strategy for climate change include a section on specific adaptation action at regional and municipal level as well as guidelines and support in terms of funding and governance solutions for local and regional decision makers, as proposed by the Covenant of Mayors;

41. is committed to working with the European Commission to successfully implement the outcome of the UNCCC in Doha as well as the Roadmap for a Resource Efficient Europe;

42. expects the review of EU air policy to reinforce the National Emissions Ceiling Directive in order to reduce background concentrations; supports the tightening of standards for vehicles and calls for the tackling of emissions from shipping, air traffic and agriculture, while simplifying the indicators and

criteria for measurement. It also calls for the integration of EU air quality policy with other policy areas, in particular transport, housing, industry, energy and climate;

43. renews its commitment for reinforced cooperation with the European Commission on the implementation of the EU Biodiversity Strategy 2020,

44. welcomes the invitation by the European Investment Bank for the Committee of the Regions to contribute to its future policy on energy loans and calls for access to loans for investments in the areas of energy efficiency and renewables to be facilitated for small and medium-sized businesses and local and regional authorities; considers in this context that the increasing danger of energy poverty should be taken into account in EU energy policy initiatives;

#### **A Europe for citizens**

45. seeks to be involved in the design of all EU actions related to 2013 European Year of Citizens to increase citizens' awareness and understanding of their rights, in order to remove any remaining obstacles to their application and enhancing the notion of Union citizenship;

46. welcomes the European Commission's intention to prepare an anti-corruption report and a judicial scoreboard, as mechanisms that will help to strengthen the trust of citizens in public administrations at all levels, and offers its assistance in their development;

47. looks forward to working with the European Commission in the development of the integration network, with a view to achieving unity in diversity;

#### **Europe as a global actor**

48. recommends that the Commission go into greater detail in its enlargement strategy reports about regional and local self-government, and that it stress to enlargement countries - where appropriate - the need for decentralisation;

49. requests that the access of local and regional actors in enlargement countries and in the European Neighbourhood Policy (ENP) countries to the specific EU funds for this area be facilitated, and supports the further use of existing programmes, including Erasmus Mundus and EGTC to partners in neighbourhood countries;

50. reaffirms its intention to continue the positive cooperation with the European Commission in the context of the Local Administration Facility programme in order to improve local capacity building and promote knowledge of the EU and its procedures in candidate and pre-candidate countries; invites the Commission to explore the possibility of expanding it to local governments in the ENP countries;

51. welcomes the distinction made by the European Commission between the role of local and regional authorities and civil society in delivering development cooperation policy

by presenting separate Communications, and calls on the European Parliament to follow the same approach;

52. expects cities and regions to be involved in the definition of the EU position in view of the Millennium Development Goals Summit in 2015;

53. instructs the President of the Committee of the Regions to submit the present resolution to the President of the European Commission, the President of the European Council, the President of the European Parliament, the Cyprus Presidency of the Council of the EU and the forthcoming Irish and Lithuanian Presidencies;

Brussels, 30 November 2012.

*The President*  
*of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

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**Resolution of the Committee of the Regions on ‘Ongoing negotiations on the multiannual financial framework’**

(2013/C 17/02)

THE COMMITTEE OF THE REGIONS

— having regard to its revised opinion on the new multiannual financial framework post-2013 adopted on 9 October 2012;

— having regard to the draft conclusions of the European Council;

1. regrets that the European Council on 22-23 November 2012 was not able to reach an agreement on the new multiannual financial framework post-2013;

2. stresses the importance of reaching an agreement and warns of the consequences of the delay for preparing the programming in particular of the Common Strategic Framework for funds after 2014 which will have a serious impact on the investments to be made in EU's regions and cities;

3. takes note of the recognition by the European Council that ‘the budget is important for the cohesion of the Union and for jobs and growth in all our countries’; this recognition is however incompatible with the proposals for cuts in cohesion policy by some Member States; underlines that in any case more time is needed to elaborate further on the concrete policy consequences of the figures and proposals under negotiation;

4. stresses at the same time that the Committee of the Regions, as the EU body representing local and regional authorities, is fully aware of the economic problems faced by members of the EU and believes that the first priority must be the establishment of strong economies, with reduced red tape, leading to greater employment opportunities in Member States;

5. reiterates its call for a credible multi-annual EU budget as an investment tool for the benefit of all EU Member States and regions of at least the same level in terms of commitment appropriations as a percentage of GNI as the one agreed for the current programming period 2007-2013 and supports the European Parliament's call for a budget that can relaunch growth in accordance with Europe 2020 goals and respond adequately to the needs of local and regional authorities in terms of territorial, economic and social cohesion;

6. stresses the importance of the role of the European Parliament in the process of negotiation, not only with regard to the consent procedure applicable to the entire MFF but also considering that a significant number of issues in the European Council's draft conclusions (version of 22 November 2012), and in particular points in relation to subheading 1b (cohesion), heading 2 (CAP), to the Common Strategic Framework as well as horizontal issues, are subject to co-decision;

7. recalls that the Treaties (Article 312 TFEU) contain specific provisions to deal with the possibility of the MFF not being adopted before the legal bases of all the EU's current multiannual expenditure programmes, apart from the first pillar of the Common Agricultural Policy (CAP), expire at the end of 2013;

8. opposes the cuts to the cohesion budget. Recalls that cohesion policy is an investment tool that stimulates competitiveness in a sustainable way and contributes to a reduction of disparities between regions;

9. recalls that for matters in relation to cohesion policy covered by Article 177 such as the method for distributing the national allocations and the capping levels for cohesion policy and rural development, the co-decision procedure with a mandatory consultation of the CoR and its standing right before the ECJ based on Article 263 (3) TFEU applies;

10. following the opinions which it has adopted since the beginning of 2012 on the Commission's various legislative proposals, reiterates that:

a. with regard to sub-heading 1a, 1b and the Funds covered by the Common Strategic Framework (CSF):

— supports a stronger financing for research and innovation;

— calls for a reinstatement of the initially proposed budget for the Connecting Europe Facility to finance investments in trans-European networks supports the creation of a CSF for the two Structural Funds and the Cohesion Fund, the EAFRD and the EMFF;

— reiterates its clear and firm opposition to any form of macro-economic conditionality;

— welcomes that the proposal to establish a new category of ‘transition regions’ and the need to take account of the specific and unique situation of the outermost regions have been taken up;

— reiterates the maintenance of a safety net for all the regions falling out the Convergence Objective consisting on two thirds of the current allocation;



- supports that the level of resources to the least developed regions and Member States and the reduction of disparities in average per capita aid intensities must be ensured, as this is the priority objective of cohesion policy;
  - regrets that the draft European Council conclusions propose a cut of 26 % of the 'European territorial cohesion' objective; welcomes however that the CoR's call for an increase of the co-financing rate to 85 % has been heard;
  - supports the establishment of a co-financing rate that is 10 percentage points higher for Member States facing temporary budgetary difficulties;
  - supports non-recoverable VAT being eligible expenditure for a contribution from the CSF Funds;
  - reiterates its objections to the proposed performance reserve;
- b. with regard to heading 2:
- deplores that the draft European Council conclusions propose a capping of direct payments by Member States on a voluntary basis;
  - urges that the direct support should be more equitably distributed between the Member States with direct payments per hectare below 90 % of the EU average in the course of the next period, starting the dynamic process of closing the gap already with the beginning of the next planning period and reaching the EU average by the mid of the next financial perspective;
  - welcomes a rate of 30 % for greening;
  - supports the option of budgetary transfers from the 1st to the 2nd pillar;
  - supports the inclusion of transition regions in the rural development regulation;
  - opposes the creation of a new reserve for crises in the agriculture sector and in particular the proposal to reimburse unspent amounts in the form of direct payments;

11. welcomes that the draft European Council conclusions retain the food aid programme for the most deprived, but strongly opposes that its funding would come out of the ESF allocation;

12. considers that the reduction by 47 % of the amounts earmarked for the European Globalisation Adjustment Fund compared to its current budget is in complete contradiction with the context of the on-going crisis. Understands that the draft Council conclusions have been drafted under the assumption that the future EGAF would not apply to the agricultural sector;

#### **Revenue and own resources**

13. regrets that negotiations focused on cutting expenditures of the EU budget, without giving proper attention to the revenues and to the imperative need to reform the present system to allow the EU to dispose of own resources and with a view to abolish the current set of financial corrections and exemptions;

14. welcomes the proposal that two thirds of the amounts collected by Member States which have committed themselves to introduce an FTT under the reinforced cooperation procedure would be levied for a new own resource in the EU budget and that the GNI-based contribution of these Member States to the EU-budget shall be reduced accordingly;

15. instructs the President of the Committee of the Regions to submit the present resolution to the President of the European Commission, the President of the European Council, the President of the European Parliament, the Cyprus Presidency of the Council of the EU and the forthcoming Irish and Lithuanian Presidencies.

Brussels, 30 November 2012.

*The President  
of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

## OPINIONS

## COMMITTEE OF THE REGIONS

98TH PLENARY SESSION, 29-30 NOVEMBER 2012

**Opinion of the Committee of the Regions on 'A European Consumer Agenda — Boosting confidence and growth'**

(2013/C 17/03)

## THE COMMITTEE OF THE REGIONS

— is convinced that consumer policy can help the EU to exit the crisis more quickly: more aware consumers are a precondition for safe, high-quality, competitive products and services, contributing to sustainable economic recovery;

and calls on the European Commission to

— equip local and regional authorities with the right tools to defend consumer rights to the maximum of their powers;

— cooperate closely with national, regional and local authorities. More specifically, even if the agenda's actions are of a type implying implementation mainly by EU and national bodies, local authorities have an important role to play since they speak on behalf of local communities and are in a position to make an effective contribution to putting such measures into practice;

— remember that local authorities are themselves consumers of products and services, and that they therefore need and demand a secure framework within which to protect their interests and those of the local communities they represent and that often contribute to their budgets;

— recognise that empowering consumers also involves educating them, and that local and regional authorities and civil society need to be involved in consumer information campaigns;

— reinforce supervisory mechanisms in regions with permanent geographic or demographic handicaps, through the provision of resources and know-how.

**Rapporteur**

Mr Spyros SPYRIDON (EL/EPP), Councillor of the Region of Attica

**Reference document**

Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions – A European Consumer Agenda – Boosting confidence and growth

COM(2012) 225 final

**I. POLICY RECOMMENDATIONS**

## THE COMMITTEE OF THE REGIONS

**Introduction**

1. welcomes the detailed communication from the European Commission, which touches upon a wide range of consumer protection issues;

2. welcomes the fact that the agenda provides a cohesive and integrated tool to press ahead with actions concerning the policy of strengthening consumers. The scale of the challenge of empowering consumers and boosting the single market must be recognised. Aware, informed consumers are key to implementing the Europe 2020 strategy;

3. expresses its concern that while the scope of the agenda is quite encompassing it does not include health services, which are an important element of consumer policy. Health services are provided to consumers, consumers pay for them and they provide to a large extent mission of general interest. Health policy should therefore be included into the agenda as a consumer relevant policy.

4. supports the European Commission's choice of the four key objectives of (i) improving consumer safety; (ii) enhancing knowledge; (iii) improving implementation, stepping up enforcement and securing redress; and (iv) aligning rights and key policies to economic and societal change, as areas on which consumer protection policy should focus. It calls for greater transparency and for consumers to be provided with better and comparable information, to enable them to make more rational decisions;

**Applying the European Union's fundamental principles**

5. emphasises that future actions must be framed in such a way as to comply with the principle of proportionality and, in particular, that thorough cost-benefit analyses must be carried out;

6. highlights the importance of ensuring that the future measures are effective and appropriate, especially in terms of health and safety. Changes must be made with a degree of

flexibility in order to fit in with specific regional conditions, the needs of vulnerable groups and rapid market developments, so as to protect consumers;

7. proposes that, when implementing the measures, a horizontal view be taken, within the scope of existing powers, over and above the sectoral actions already mentioned, so that consumers' rights are taken into account in European policies across the board;

8. notes the lack of emphasis on the territorial cohesion objective ushered in with the Lisbon Treaty. It would point in particular to the need to protect vulnerable groups of consumers who either experience difficulty in gaining access to markets, have limited choice, or cannot readily exercise their rights. The outermost regions, those with low population density, and mountain and island regions, where the market does not function optimally, fall into this category;

9. highlights, in this respect, the increasing importance of the internet for such consumers, in terms of opportunities to access markets, information, and the capability to compare products and services, and uphold their rights in the event of disputes;

10. stresses the importance of providing resources and know-how to reinforce supervisory mechanisms in regions with permanent geographic or demographic handicaps;

11. alerts the European Commission and national legislative bodies to the fact that the measures adopted must be tailored to the capabilities of producers from disadvantaged regions. For them, the cost and time taken to make the necessary adjustments may differ significantly from those in the other regions of Europe;

**Harnessing the potential of the internet, monitoring and information**

12. takes this opportunity to underline the need to implement the Digital Agenda as part of the Europe 2020 strategy, and emphasises that the internet has a particularly important role to play for types of consumer. All European, national and regional authorities must contribute to this effort in order to enhance quality of life for Europe's citizens;

13. emphasises the influence of the internet on the younger age groups, who make greater use of the new technologies but who can be assumed to be more vulnerable than adults;

14. observes that internet use is less widespread among vulnerable population groups such as the elderly, people with special needs and socially disadvantaged. The CoR would point out in particular that regions with geographical handicaps experience the serious problems of ageing populations more intensely than other regions. These population groups generally have fewer opportunities to harness the potential offered by the single market and to exercise their rights. A special effort must be made, with the cooperation of local and regional authorities, by means of targeted measures, to promote the prosperity of this population category too;

15. in the light of the difficulties experienced by regions and communities in improving internet access, especially in rural, mountain, island and remote areas, together with the outermost regions, supports the Commission's recent proposals for amendments to the legislation on state aids. Among other points, the Commission's proposal judges the exemption from the notification rule concerning aid for the supply of fast internet connections to be compatible with the internal market;

16. calls upon the Commission to cooperate with the Member States in launching initiatives to improve consumers' e-skills, at the same time ensuring that all population groups have access to the single digital market and can enjoy its benefits to the full;

17. emphasises that the rapid development of e-commerce is of vital importance to consumers as it offers them greater choice, particularly people living in inaccessible, very remote or outlying regions, as well as those with reduced mobility who would not otherwise have access to a wide range of choice;

18. points out forcefully that internet security is a particularly significant issue that goes beyond the consumer agenda. All necessary measures must be taken to ensure that this vital tool is used in the interests of people in Europe, whether acting as consumers or carrying out business transactions, and that criminal and fraudulent practices, such as the improper collection of personal data or infringement of property rights, are prevented;

19. welcomes the Commission's initiative to put forward legislative proposals regarding online dispute resolution (ODR) and alternative dispute resolution (ADR) as a major tool for

territorial cohesion The CoR agrees with the Commission that it should be made easier for consumers to enforce their rights using out-of-court settlement mechanisms. However, it believes that the scope of the directives should be limited to EU competences and, in particular, to cross-border situations;

### **The role of local and regional authorities**

20. considers it to be crucial that local and regional authorities be equipped with the right tools to defend consumer rights to the maximum of their powers. In this connection, and given the fortuitous timing of the current discussions on the multiannual financial framework for the 2014-2020 period, the CoR proposes that resources from the Structural Funds and also from the National Reform Programmes be used in order to implement the agenda;

21. regarding the Structural Funds in particular, proposes that measures be taken to ensure that funding for companies is subject to criteria that derive from their obligations and their general stance towards consumers (e.g. sustainable production), rather than being restricted to data relating principally to economic sustainability;

22. places particular emphasis on the need for close cooperation between European, national, regional and local authorities in implementing the measures. More specifically, even if the agenda's actions are of a type implying implementation mainly by EU and national bodies, local authorities have an important role to play since they speak on behalf of local communities and are in a position to make an effective contribution to putting such measures into practice;

23. would also stress that it must not be forgotten that regional and local authorities are themselves consumers of products and services, and that they therefore need and demand a secure framework within which to protect their interests and those of the local communities they represent and that often contribute to their budgets;

24. notes that at the current time of economic crisis, efforts to implement the agenda effectively must not be viewed as a luxury. On the contrary, the CoR is convinced that consumer policy can help the EU to exit the crisis more quickly: more aware consumers are a precondition for safe, high-quality, competitive products and services, contributing to sustainable economic recovery;

### The Agenda's social dimension

25. notes that the current financial crisis will drastically alter consumer habits, both exacerbating social inequalities and limiting disposable income. The result of this will be a turn to new forms of consumption, where consumers will call for greater control over transactions, increased and more comprehensible information and the chance to compare and to reverse their initial decisions and claim their rights in the event of a dispute. The Commission must pay attention to the new conditions arising and make the most of the Agenda in order to form the best possible conditions for promoting public wellbeing of European citizens, as the Lisbon Treaty provides;

26. points out that further information and guarantees on product traceability should be available, so that consumers can make an accurate assessment of the value for money of goods;

27. notes that there is an increasing danger of consumer choice being dictated by the cost of goods to the detriment of quality. When it comes to cross-border trade, the CoR would highlight the danger of an increase in the volume of smuggling;

28. welcomes the Commission's proposal to draft a study on the impact of household overindebtedness. It recommends that the study not limit itself to means of addressing the problem, which owing not least to the financial crisis has taken on unmanageable dimensions, but that it also analyse the causes and propose measures such as ensuring responsible use of loans and taking specific measures to mitigate the effects of overindebtedness;

29. notes the need to regulate on issues regarding the safety of medical products and services, an area that has recently been receiving a good deal of media attention;

30. notes with concern that, according to the communication, only 2 % of respondents answered the Empowerment Survey correctly regarding their rights. This figure seems extremely low, and the CoR would therefore call on the Commission and the Member States to step up their efforts to raise awareness of consumer rights. The proposed European-level awareness-raising campaign will be a step in the right direction. Local and regional authorities can make a contribution in cooperation with consumer support bodies;

31. agrees with the Commission's conclusion that the bodies responsible for implementing legislation are being asked to do more with fewer resources. For this reason there is a need for

careful planning and on-going examination of the effectiveness of regulations, in order to secure the best results;

32. would underline the fact that empowering consumers also involves educating them, and in this context would stress the importance of involving local and regional authorities and civil society in consumer information campaigns. Scope must be allowed to adapt information campaigns to local conditions. Emphasis should be placed on school and university curricula, with a view to preparing the younger generations to become well-informed consumers; at the same time, the role played by adult education providers should not be forgotten;

33. endorses the drive to resolve problems at source, with measures to encourage companies to comply. However, this approach must bear in mind the particular characteristics of producers in each country and region and around the world, wherever suppliers are based. The incentives must be sufficient to compensate for the cost of adjusting to the new regulations to be adopted and consideration must be given to companies' ability to adjust;

34. emphasises that when implementing consumer policy, the European Commission should respect the legal systems of the Member States and the principle of subsidiarity. On the other hand, the Member States should endeavour, when transposing EU legislation into national law, not to make additional demands going beyond those necessary for this purpose. This should not preclude the Member States from seeking a higher level of consumer protection under particular circumstances;

35. considers that, in order to benefit from improvements to legislation, consumers must be informed of the changes and therefore stresses the need to give regional local authorities the opportunity to contribute to awareness-raising activities for consumers regarding their rights and the legislative changes that will benefit them;

36. welcomes the reference made in the Consumer Agenda to collective redress and would encourage the Commission to put forward a more definite framework for action; any Commission proposals on collective redress mechanisms should be confined to framework legislation, which should at most contain guidelines as to minimum national standards, leaving it to the Member States to decide precisely how collective redress mechanisms can be implemented in line with individual national legal traditions. To the extent that the EU requests regulatory powers for further collective legal mechanisms, these must be in line with the legal orders and legal redress systems of the individual Member States;

37. is convinced that the promotion of a comprehensive strategy for consumers requires that they be well-represented in the decision making bodies. In this respect, the Committee would underscore the role of consumer organisations, which have the broadest overview of the themes that are of concern to consumers in their everyday lives and therefore can help to find solutions when called upon. They also provide a channel for communication between the public and management, enabling information to be disseminated from the top down. The CoR recognises that there is room for improving the relationship between local and regional authorities and first- and second-level consumer organisations, and would also call on Member States to strengthen them when necessary, and establish a framework for action if need be;

### **Applying the Agenda more effectively**

38. takes it for granted that the public must be able to trust the authorities responsible for implementing the legislation. This can be achieved both by applying the regulations properly and by enabling members of the public to appeal to the authorities in cases of conflict;

39. stresses that companies throughout the production chain, meanwhile, need to be convinced that it is more worthwhile to keep their commitments in respect of legislation than not. It is important to stress that keeping up to date on consumer legislation issues is something that is necessary for companies as well as consumers;

40. agrees that the role of intermediaries is growing, particularly in the area of internet services. It is therefore of crucial importance to ensure that there is transparency and confidence and also justice and sanctions in cases of an intermediary's insolvency. This requires the establishment of monitoring and evaluation structures, at both national and EU level;

41. would also recommend, when it comes to the Commission's proposal to work with intermediaries and traders to improve the framework governing commercial transactions, the adoption of binding rules on commercial guarantees, with the aim of filling a major gap in consumer protection;

42. calls on the Commission to ensure that the Member States incorporate legislation to deepen the single market in good time and, most importantly, that they apply it comprehensively;

43. regrets the fact that the planned budget for the Consumers' Agenda is limited: corresponding to approximately EUR 0,05 per European citizen per year. It would therefore draw the European Commission's attention to the fact that it must take great care in the planning and implementation of these measures in order to be sure of securing the best possible results;

44. will be monitoring the prompt and effective application of the European Consumers' Agenda closely, with a view to seeing an improvement in the European public's quality of life.

Brussels, 29 November 2012.

*The President  
of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

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**Opinion of the Committee of the Regions on ‘Code of Conduct on Partnership’**

(2013/C 17/04)

## THE COMMITTEE OF THE REGIONS

- welcomes the Commission's intention of requiring Member States to organise partnership-based cooperation between public authorities at national, regional and local level as well as economic and social partners and NGOs;
- supports the Commission's initiative on the European Code of Conduct on Partnership (ECCP) as a supplement to the Common Provisions Regulation, and deeply regrets the Council decision to remove the Code of Conduct from the negotiation box;
- calls on the Commission to ensure that the ECCP guarantees a real balance between the need for the Member States to comply with partnership requirements set out in the document, and their right to retain their specific provisions and existing practices, especially with reference to the subsidiarity principle;
- stresses that partnership is an essential prerequisite for enhancing the efficiency of cohesion policy, and that only a system of multilevel governance can ensure effective linkage between the strategic guidelines set by the European Union and local and regional challenges;
- requests that local and regional authorities be fully involved in preparing partnership contracts, and also in defining and implementing regional policy investment priorities;
- feels it is necessary to establish an appropriate hierarchy of partners, headed by local and regional authorities, as they express common views, values and interests;
- points to the need to adapt partners to the kind of programme, but doubts whether programmes can be grouped in accordance with the kind of fund.



**Rapporteur**

Mr SZWABSKI (PL/EA), Chairman of Gdynia City Council

**Reference document**

Commission Staff Working Document - The partnership principle in the implementation of the Common Strategic Framework Funds - elements for a European Code of Conduct on Partnership

SWD(2012) 106 final

**I. POLICY RECOMMENDATIONS**

## THE COMMITTEE OF THE REGIONS

**Introduction**

1. shares the Commission's view that partnership is **key** to delivering the Europe 2020 strategy and to the successful implementation of the funds covered by the EU's Common Strategic Framework;

2. welcomes the Commission's intention of **requiring** Member States to organise **partnership-based cooperation** between public authorities at national, regional and local level as well as economic and **social partners and NGOs**, in all aspects of the implementation of EU policies;

3. supports the Commission's initiative on the European Code of Conduct on Partnership (ECCP) as a supplement to the Common Provisions Regulation; the ECCP is a document which **fleshes out and expands** partnership in the process of preparing, implementing and evaluating funds and programmes covered by the Common Strategic Framework (CSF);

4. deeply regrets the Council decision to remove the Code of Conduct from the negotiation box, in this way ignoring the positions taken by the European Parliament and CoR who will continue defending the need of such an instrument within the 2014-2020 programming period;

5. in the light of the above, calls on the Commission to ensure that the ECCP guarantees a **real balance** between the need for the Member States to comply with partnership requirements set out in the document, and their right to retain their specific provisions and existing practices;

6. in connection with this, suggests that consideration be given to the inclusion in the draft ECCP of a procedure for **prior agreement** on the method for individual Member States to meet partnership requirements, in line with their specific conditions. The provisions of such agreements would provide the Commission with a basis for checking the compliance of partnership contracts and programmes with the requirements of the ECCP;

7. points out and emphasises that cohesion policy intrinsically **combines a strategic dimension with devolution of**

**responsibilities** to local and regional authorities, which have the experience and expertise indispensable for effective implementation in the Member States. Once there is agreement on general strategy with the Commission, key decisions on matters such as project selection and management are often a regional responsibility;

8. stresses that partnership is therefore an essential prerequisite for enhancing the **efficiency** of cohesion policy, enabling adaptation of strategic guidelines set by the European Union to local and regional challenges. In practice, only a system of **multilevel governance** involving all levels can effectively combine these two dimensions. Local and regional authorities are a key component of multilevel **governance** and cannot therefore be put in the same category as partners from the **non-governmental** sector;

9. at the same time, **disapproves** of an approach to implementing multilevel governance which in effect gives a greater role to higher levels of government than to lower levels in partnership procedures. The ECCP should resolutely encourage Member States to take effective action to prevent such situations arising;

10. requests that local and regional authorities be fully **involved in preparing partnership contracts** between the Commission and the Member States, with a requirement for such contracts to include a provision setting out the agreed rules for cooperation between national and local or regional authorities, which could be included as one of the *ex ante* conditions set out in the General Regulation;

11. would also like to see local and regional authorities playing a key role in **defining and implementing regional policy investment priorities**; therefore calls on the Commission to confirm the leading role of local and regional authorities in relation to other partners identified in the ECCP;

12. endorses the Commission's declared intention of setting out in the ECCP only a **minimum** definition of the requirements for Member States to involve partners in the various programming stages; at the same time, expresses the hope that the requirements will be sufficiently demanding and clear to ensure genuine partnership on the most important issues;

13. particularly stresses the importance of the **subsidiarity and proportionality** principles, which should on the one hand permit and enhance involvement in partnership of entities at a level corresponding to the territorial scope of a given programme, and on the other hand guarantee a degree of participation for partners which matches their potential and role in the implementation of the programme;

14. draws attention to the fact that, apart from differences in institutions and political culture, Member States **differ significantly** in land area and in the size and spatial distribution of their populations. These differences at national, regional and local level in practice create very different situations in individual Member States which impact on the methods for implementing partnership;

15. welcomes the fact that the Commission intends to adopt the ECCP as a delegated act **immediately** after the entry into force of the Common Provisions Regulation. In the event that it is decided to give the document a different legal status, the Committee would call for solutions ensuring a real, high-quality improvement in compliance with partnership principles in the 2014-2020 budget period;

#### Partners

16. points out that the **division in the draft ECCP of potential partners into three groups**: (a) regional and local public authorities, (b) economic and social partners and (c) bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination, places on the same level bodies of very different kinds and with different opportunities for exercising a real influence on the implementation of programmes;

17. in view of the above, feels it is necessary to establish an **appropriate hierarchy of partners**. This partnership hierarchy should be headed by **local and regional authorities**, given that they have political legitimacy and thus also political responsibility and financial liability. They are thus obliged to represent general interests. They are also responsible for implementing numerous programmes and projects. Furthermore, in some countries where power has been devolved, regional authorities have legislative powers;

18. points out that the statement about regions as key actors in the organisation of the partnership process in 'decentralised' Member States should not be taken to mean that in other Member States this role must be played by national authorities;

19. shares the Commission's view that it is particularly **important to select institutions, organisations** and groups which can exercise a real **influence** on the implementation of a given programme or which are significantly affected by its realisation;

20. welcomes the fact that the Commission acknowledges the procedures and techniques **already established** in the Member States for partnership implementation (workshops, surveys, forums, consultations, meetings), while also drawing attention to the need to take account of the **revolutionary changes in forms of social communication** in connection with the spread of new telecommunications technologies. The ECCP should encourage Member States to be more adventurous and innovative in this connection. This is also necessary in order to involve the youngest citizens in partnership processes;

21. shares the Commission's concern to include representatives of the **most sensitive and marginalised groups**. There is, however, no need to mention them by name in the general document, as, depending on local conditions and the specific programme concerned, different groups may be involved;

22. points out, however, that in view of past experience of social **conflicts** arising from the implementation of certain initiatives, the ECCP should encourage Member States to involve representatives of groups and bodies which might have a critical view on the implementation of a given programme in the partnership process at an early stage;

#### *Regional, local, urban and other public authorities*

23. points out that **partners representing regional and local communities**, irrespective of their formal competences in individual Member States, express common views, values and interests. In this connection their position as partners is objectively different from that of sectoral and social partners representing sectional views, values and interests. This fact should be **clearly reflected** in the ECCP document;

24. suggests that the kinds of territorial body which can be involved in the partnership process should be specifically mentioned in the ECCP. This particularly concerns bodies which are not territorial units of a given Member State: **functional areas** (urban, rural, infrastructure, nature, cross-border, coastal etc.), territorial inter-municipal cooperation groups and cooperation networks of towns;

25. supports the Commission's intention of **requiring**, in the context of the ECCP, **regional authorities managing programmes** to organise, at all levels of programme implementation, **partnership** between representatives of local and urban authorities, economic and social partners and civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination;

26. suggests that **town authorities and representatives of functional urban areas** be involved in partnership processes not only when they are implementing integrated territorial investments (ITI), but always when this is useful in the context of a given programme;

*Economic and social partners*

27. agrees with the Commission's view that **employees' and employers' organisations** should be given an **equal role** in partnership. Account must be taken, however, of the very different levels and methods of organisation of these bodies in different Member States. In many sectors the nature of the work in effect makes it impossible to establish employees' organisations. The ECCP should contain recommendations which, while not imposing specific solutions, require the Member States to draw up procedures for cooperation with economic and social partners, taking account of national, regional and even local characteristics;

28. points out that, in view of the situation on many European labour markets, **organisations or institutions representing job-seekers**, especially those who are young and well qualified, should be included among the social partners mentioned;

*Bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination*

29. fully supports the Commission's suggestion that partnership with the numerous and diverse organisations representing civil society should be based on partnership with **umbrella** organisations, and that the development of various **forms of networking and cooperation** between individual organisations participating in partnership should be supported;

30. points out that the ECCP should identify clear and transparent **criteria for the selection of representative NGOs**, mainly on the basis of their competences and history of activity in the area covered by the programme in question;

**The Partnership Process***Adapting partnership to the programme*

31. points to the need to **adapt partners to the kind of programme**, but doubts whether programmes can be grouped in accordance with the kind of fund (European Agricultural Fund for Rural Development, European Regional Development Fund, European Maritime and Fisheries Fund, Cohesion Fund, European Social Fund), particularly as it is planned to co-finance programmes from several funds. The choice of partners should be determined by the type of programme and its area of activity;

32. suggests that the ECCP incorporate a general principle that the recognition of a specific kind of partner as **key** should not automatically exclude other bodies from participation in partnership, if this is justified;

33. points out that, in programmes financed by the European Regional Development Fund or the Cohesion Fund,

it is necessary to ensure that partnership includes organisations representing **groups of regional and local communities, not least cross-border groups**;

34. feels that **R&D bodies** should be included as partners in appropriate of programme, with the scope and form of partnership matching their specific features. This arises from the complexity of modern development processes and the need for access to detailed expert knowledge with a view to effectively influencing these processes;

*Involving partners in the preparation of programming documents*

35. agrees with the Commission's suggested approach of involving partners at the **earliest possible stage of programming**, and with the idea of separating such partnerships from the Strategic Environmental Assessment (SEA) procedure;

36. in particular, emphasises the importance of **involving local and regional authorities** in the following programming stages: (1) analysing the needs and challenges addressed by the Common Strategic Framework (CSF), (2) selecting objectives and priorities, and (3) coordinating mechanisms in order to achieve development synergies; at the same time, encourages Member States to spell out how they intend to guarantee such partnerships;

*Drawing up Partnership Contracts*

37. suggests that some general requirements be defined for Member States to develop procedures ensuring genuine partnership in the course of drawing up partnership agreements;

38. believes that the competent local and regional authorities should be an integral part of the negotiation process for the preparation of **partnership agreements** at both national and regional level;

39. appreciates the fact that the draft ECCP reflects the Committee of the Regions' initiative on **Territorial Pacts for Europe 2020** as a key component of multilevel governance; at the same time, feels that this instrument has not been sufficiently used;

*Principles of participation in partnership*

40. **accepts and supports** the **requirements** set out in the draft ECCP for Member States to establish **clear partnership procedures** in relation to the following issues: (1) making documents accessible at an early stage, (2) ensuring sufficient time for partners to familiarise themselves with documents, as well as for consultation and feedback, (3) ensuring that information channels are in place, (4) ensuring transparent responses to suggestions and comments, and (5) disseminating the findings;

*Information in the programming documents on partnership implementation*

41. **accepts and supports the requirements** set out in the draft ECCP for Member States to include detailed principles for partnership in the Partnership Contracts. However, such requirements should reflect the specific situation in the individual Member States. This particularly applies to the situation of public authorities at regional and local level;

*Composition, importance and procedures of the monitoring committees*

42. agrees with the Commission that **monitoring committees have a key role to play** in implementing all programmes under the European Union's Common Strategic Framework (CSF); accepts and supports the detailed requirements for Member States set out in the draft ECCP with regard to the involvement of partners, in particular public authorities at regional and local level, in setting up monitoring committees. These authorities should be involved in the ongoing activity of **monitoring committees** and the development of the official principles underlying such activity;

*Involvement of partners in project selection*

43. accepts the proposal for a suggestion in the draft ECCP that managing authorities define detailed requirements, with a view to: (1) involving the relevant partners in defining principles for **calls for proposals** and evaluating projects, (2) effectively **preventing conflicts of interest between partners**, (3) ensuring there is a regular turnover of persons representing the partners involved in the calls for proposals, and (4) ensuring that the partners are fully aware of their **obligations** arising from involvement in project selection procedures. Local and regional authorities have a particularly key role in selecting projects expected to have a territorial impact;

*Involving the partners at the reporting and evaluation stages*

44. accepts the proposal for a suggestion in the draft ECCP that managing authorities define detailed requirements for involving **partners in drawing up annual reports** on programme implementation, as well as periodic reports on implementation of Partnership Contracts in the first half of 2017 and of 2019, particularly in relation to the information they include on progress and the partners' role in implementation;

45. agrees with the Commission's insistence that an evaluation plan be drawn up by managing authorities for each programme under the Common Strategic Framework (CSF); also believes that there is a strong need to justify the **adoption of differentiated rules for drawing up evaluation plans** for programmes funded from the European Regional Development Fund (ERDF), the European Maritime and Fisheries Fund (EMFF), the Cohesion Fund (CF) and the European Social Fund (ESF) on the one hand, and on the other from the European Agricultural Fund for Rural Development (EAFRD);

*Assistance for partners*

46. owing to insufficient knowledge and limited resources, it may be difficult for some partners, and in particular organisations representing civil society, including environmental organisations, non-governmental organisations and bodies responsible for promoting equality and non-discrimination, to become sufficiently involved in the partnership process;

47. therefore accepts and supports the suggestion in the draft ECCP that Member States some of the funding earmarked for technical assistance to support weaker partners.

Brussels, 29 November 2012.

*The President  
of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

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**Opinion of the Committee of the Regions on ‘Community-led Local Development’**

(2013/C 17/05)

## THE COMMITTEE OF THE REGIONS

- considers that more EU funded support to local development is necessary for the next programming period to allow citizens to take greater ownership of the objectives of the Europe 2020 strategy and to facilitate and drive economic recovery and job creation;
- considers that CLLD is one of the more ground-breaking aspects of the legislative package proposed for 2014-2020, and that its use should be strongly encouraged;
- outlines that CLLD is the only provision of the CPR where real synergies at delivery level are specifically foreseen to jointly deliver the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund and the Structural Funds and the Cohesion Fund; therefore CLLD can act as a ‘one-stop-shop’ for local beneficiaries and allows for integrated and simplified delivery on the ground;
- regards CLLD as a key tool for harmonious development of urban and rural areas, strengthening capacity to develop ties with the surrounding peri-urban and rural areas;
- urges the Commission to draw upon the findings of the Court of Auditors and other reports and evaluations to ensure that the lessons learnt in LEADER and URBACT do indeed result in a much more robust, transparent, and accountable CLLD model;
- calls for the Commission to prepare as soon as possible common indicative simplified guidelines to implement CLLD in crucial areas.



**Rapporteur**

Graham GARVIE (UK/ALDE), Member of Scottish Borders Council

**I. POLICY RECOMMENDATIONS**

## THE COMMITTEE OF THE REGIONS

1. welcomes the Commission proposals for the next programming period that place a specific and renewed focus on Local Development across EU Regional, Rural and Maritime Policies;

2. considers that Local Development is part of a wider EU approach to Territorial Development;

3. believes Local Development is better defined as a holistic concept that focuses on the challenges and potential within regions of all types, be they urban, rural, rural-urban (rurban) or functional areas;

4. considers that more EU funded support to local development is necessary for the next programming period 2014-2020, not only to allow citizens to take greater ownership of the objectives of the Europe 2020 strategy and to facilitate the achievement of those objectives but also to facilitate and drive economic recovery and job creation in the areas particularly affected by the current economic and financial crisis;

5. argues that the Local Development approach can be implemented through different instruments, and one of the new key options proposed by the Commission is the new Community Led Local Development (CLLD) instrument, however the concept of Local Development has a broader meaning and needs to take into account the institutional framework and practice in each EU Member State;

6. strongly welcomes that an entire chapter in the proposed Common Provisions Regulation (CPR) is specifically devoted to the CLLD instrument;

7. outlines that CLLD is the only provision of the CPR where real synergies at delivery level are specifically foreseen to jointly deliver the European Agricultural for Rural Development

(EAFRD), the European Maritime and Fisheries Fund (EMFF) and the Structural Funds (European Regional Development Fund (ERDF), European Social Fund (ESF), and the Cohesion Fund. It thus has an significant role to play in boosting the credibility of cohesion policy by showing different EU funds can indeed be delivered jointly in an integrated and effective manner;

8. believes that this instrument can be used both as a way of better ensuring economic, social and territorial cohesion within the European Union and to complement locally the eleven Thematic Objectives of the Common Strategic Framework (CSF) and subsequently, through them, the Europe2020 strategy. Wishes to emphasise, however, that the deadline for drawing up the local development strategy should be extended;

9. considers that in these difficult times of crisis and economic downturn, the elimination of artificial barriers between different EU funds is more welcome than ever so they can be locally delivered, both in urban and rural areas, paying more attention to the specific needs of each area and targeting those specific needs;

10. highlights that capacity building is a key feature of CLLD. and that sufficient resources must be made available to enable local stakeholders to prepare and implement their local strategy;

11. enthuses that CPR provides for CLLD areas to benefit from a higher co-financing rate (notably an additional 10 % EU co-financing for ERDF and ESF if a whole axis is implemented through CLLD) and believes the same or similar incentives should apply to all funds, including in particular EMFF;

12. stresses that the key added value of CLLD is the involvement of the local community, including the private and voluntary sector through the establishment of Local Action Groups (LAGs) that will draw up integrated Local Development Strategies;

13. believes that this bottom-up approach contrasts strongly with the top-down approach to spending EU funds which would otherwise predominate. This makes CLLD the best practical example of what Subsidiary Principle means at local level and it will help increase public ownership and awareness of EU supported actions on the ground;

### Key objectives

#### *Europe 2020 and Common Strategic Framework*

14. recalls that Member States and regions are entirely free to decide to introduce CLLD for ERDF and ESF in their Partnership Contracts and Operational Programmes;

15. considers that alongside the Urban agenda, Integrated Territorial Investments and Joint Action Plans, CLLD is one of the more ground-breaking aspects of the legislative package proposed for 2014-2020, and that its use should be strongly encouraged;

16. believes that CLLD can become a crucial tool to help achieve the objectives set out in the common strategic framework, as well as the Territorial Agenda 2020, at the local level by allowing joint programming of policies delivering Europe 2020;

17. considers that CLLD should build on the lessons learnt in previous sector specific instruments aimed at local development, notably LEADER in rural development and European Fisheries Fund - Axis 4 initiatives as well as the Urban Development Network Programme (URBACT), the previous URBAN initiative for sustainable development in the troubled urban district and the former EQUAL initiative for exclusion, discrimination and inequality;

18. is concerned that the activities outlined for CLLD when preparing the CSF place too much emphasis on developing strategy and capacity building. While that process should be seen as essential, the main focus of CLLD is to deliver tangible and significant outcomes through investments that can improve the wellbeing to the local community;

19. questions the rationale of mentioning CLLD only under the CSF Thematic Objective 9: social inclusion. CLLD is a multi-purpose instrument focused on the local community, whose diverse nature and challenges will extend well beyond social inclusion. Specifically, it could help considerably to correct

substantial geographical and demographic imbalances hindering economic and social development in some regions;

20. urges, therefore, that the CSF is amended so that CLLD is mentioned in the entire range of the eleven CSF Thematic Objectives and can therefore be used according to local circumstances and not just in relation to social inclusion activities;

21. stresses that the CLLD Local Action Groups (LAGs) must be able to benefit from the additional 10 % co-financing rate regardless of which CSF Thematic Objectives they address. Crucially, the 10 % bonus must apply even when the earmark for Social Inclusion foreseen in the CPR is not allocated to CLLD exclusively;

#### *Specific added value*

22. believes that the added value elements of CLLD are: participation, consultation and cooperation of local people and all local public and private parties; matching the local development strategy to the particular needs of the local area; a strong influence on multi-level and cross-sector collaboration; making use of sound local knowledge and expertise; the capacity of local areas to innovate; and the integrated, multi-sectoral approach, locally-defined actions and outcomes; and a flexible and strategic approach;

23. considers that a local development approach under CLLD also responds to the need for a more results-oriented Cohesion Policy by addressing challenges at the appropriate territorial level, and will empower communities and local governments to play an active role in implementing EU policy objectives and in particular the Europe 2020 strategy;

24. outlines that CLLD can act as a "one-stop-shop" for local beneficiaries which would allow integrated and simplified delivery of CSF funds on the ground. This could potentially be an enormous step forward in ensuring that a municipality would be able to put together integrated projects that can receive co-financing from a range of EU funds;

25. argues that CLLD, due to its integrated nature and community involvement, is structurally more able to support diversification of activities, economic and social development, and innovation than top-down standardised application processes;



26. believes that it would facilitate the implementation of innovative projects that otherwise would not be foreseen in Operational Programmes. The principal added value of the Local development partnerships lies in the way they make use of the diversity of expertise involved in LAGs which, by working with beneficiaries to develop their original funding application, will improve their quality and help make them more tailored to specific local needs;

27. urges Member States and Regions to carefully assess whether including an specific CLLD axis in their Partnership Agreement or Operational Programme would give more added value to their EU funding allocations than top-down mainstream programmes;

#### *Scale*

28. urges the Commission and Member States to ensure that there is sufficient critical mass both in terms of the size of the Local Action Groups and the average financial amount that CLLD LAGs can expect to be responsible for. Current experience in LEADER and EFF Axis 4 suggests that individual CLLD LAGs might cover a total LAG area population of 5 000 to 150 000 people and an integrated local strategy might deliver an average of EUR 2 million to EUR 10 million EU funds over the seven year period;

29. believes, however that CLLD has the potential in some cases to deliver bigger critical mass than outlined in point 28 and justified exceptions need to be allowed for larger urban areas and geographical areas such as islands or remote areas provided that the community-led element is maintained;

#### *Integrated Territorial Development*

30. wishes to recall that CLLD as an optional instrument to deliver Local Development across the CPR funds, is related to other instruments such as Integrated Territorial Investments (ITI) and contributes to the implementation of a broader development strategy that allows policies to be localised;

31. supports that the European and national implementing rules clearly foresee that ITI and LAGs could be articulated to jointly deliver local ambitions under a shared strategy, whenever that option is felt appropriate. In particular, implementing rules

should allow and facilitate that one or several LAGs are entrusted to deliver, at a smaller scale, part of the activities entrusted to a ITI at a larger geographical level;

32. considers that in those cases it could be entirely sensible that an ITI also benefits from the additional 10 % foreseen for CLLD;

33. wishes however to recall that the added value of CLLD is precisely the involvement of the wider local community and the explicit link between existing tools such as LEADER and EFF Axis 4 with the Structural funds;

#### *CLLD in urban and rural areas*

34. believes that the community element of CLLD is particularly suited to address geographically concentrated problems that require a community-wide response;

35. enthuses that CLLD can also be one of several possible tools available to build up inclusive urban areas with public services accessible to all, preventing ghettoisation, responding to situations of poverty and promoting social linkages within diverse communities, including policies encouraging active ageing, social innovation and mutual support between generations and cultures;

36. believes that, while the focus of this Opinion is to explore the use of CLLD in other fields and sectors beyond the existing and well-tested use of LEADER in rural areas, CLLD, as the natural extension of LEADER post 2014, can also be one of several possible tools available to address the challenges faced by rural areas in terms of accessibility, economic development and diversification and maintenance of essential services for the public, including policies encouraging active ageing, social innovation and mutual support between generations and cultures;

37. considers that several CLLD LAGs at neighbourhood or community level can exist in larger urban areas to enable bottom up solutions to either place-based challenges such as multiple deprivation, environmental degradation or employability of specific groups with common disadvantages. A degree of coordination should be achieved between the LAGs when there is more than one active in the same local area;

*Rurban (Rural Urban Links)*

38. regards CLLD as a key tool for harmonious development of urban and rural areas, strengthening capacity to develop ties with the surrounding peri-urban and rural areas, a help to avoid urban sprawl, to encourage the formation of a balanced network of small and medium-sized towns and to strengthen links between producers and consumers of local agricultural products;

39. welcomes the preparatory action called RURBAN which aims to gather up-to-date research and policy developments in the area of urban-rural linkages. CoR wishes it to develop before the start of the 2014-2020 period into a programme to encourage exchange of good practices, peer review, identifying innovative solutions and networking that can be used by the new CLLD partnerships;

40. wishes to repeat its proposal that an operational programme entitled RURBACT be established that would encourage the exchange of good practices and networking on urban and rural issues <sup>(1)</sup>;

41. believes that various forms of urban-rural linkages exist across the EU strongly influenced by the national political and administrative systems. Therefore any form of EU intervention should be flexible enough to accommodate this wide variety of governance systems;

42. regards as a main challenge the need to overcome the current geographical and sectoral separation of EU funds. While the Operational programmes tend to be rather sectoral, the new instruments like CLLD, ITI in particular could provide the necessary territorial approach and overcome sectoral separations;

43. believes that CLLD addressing urban-rural relations needs to acknowledge that national contexts are very different, particularly as regards to urban-rural links across all Member States (bigger differences in wellbeing between urban and rural, less capacity) or between countries with many municipalities (where cooperation needs to be across local boundaries to gain critical mass) or those with larger municipalities (where local partnerships happen mostly within the local area);

<sup>(1)</sup> The RURBACT programme would be based on the experience of the RUR@CT network in order to better take into account the link between the urban and rural dimensions.

*Coastal and inshore fishing communities*

44. notes that CLLD can be successfully applied also in areas with specific sectoral problems. This is for instance the case of the current Axis 4 of the European Fisheries Fund, where a CLLD methodology is used to assist local fisheries communities as well as the fisheries sector;

45. reports that in many places across Europe CLLD can successfully build on existing local partnerships funded from EARDF and/or EFF; moreover, in some areas there is already proven cooperation between EFF Axis 4 and LEADER partnerships as sometimes they are the same body. CLLD will also provide the scope for linking these EAFRD and EMFF interventions with ESF and ERDF when this is applicable;

46. outlines a key concern about the fact that EMFF is expected to be managed at Member State level, whereas the Structural Funds and LEADER are often regionalised. This inconsistency will be a drawback for CLLD;

*Partnership*

47. wishes to recall the Committee of the Regions demands that the rule whereby public authorities cannot hold more than 49 % of voting rights be reviewed whenever institutionalised local development partnerships are already in place and advocates in those cases a 'balanced representation' of the different sectors on the Local Action Group;

48. considers, inter alia, that LAG decision making processes need to be robust and clearly defined from the outset so that the local authority as the democratically accountable public institution in the Local Partnership is able to steer the broad strategy while at the same time ensuring that the LAG is not municipality-dominated;

49. stresses that while CLLD aims to empower the local private and voluntary sector there is a need to recognise the underpinning role that local government needs to play in these arrangements. Often the local authority will have to take a leading role in order to provide comfort to Managing Authorities and the EC that the audit and compliance risks of the decisions taken will be managed appropriately, and that local capacity is available to make LAG structures and procedures effective;

50. wishes therefore to recall that CLLD can be organised in such a way that delegation of responsibilities to the LAG from a Managing Authority or other local and regional delivery body as appropriate can be done in a proportionate way which reflects the LAG's real capacity and the need for its decisions to be inclusive, transparent and accountable;

51. strongly encourages the European Commission to take into account the local initiatives that already exist in each Member State, with a view to establishing a smooth connection between those initiatives and the new CLLD instrument;

### *Challenges*

52. urges the Commission to draw upon the findings of the Court of Auditors and other reports and evaluations to ensure that the lessons learnt in LEADER and URBACT do indeed result in a much more robust, transparent, and accountable CLLD model;

53. urges that clear rules to avoid conflict of interest are defined from the outset and at the very least the accountability, public scrutiny, appeal against decision taken and transparency rules for LAGs should be as stringent as those already required for local councillors. Both municipalities and LAGs must be transparently responsible for the public money they spend and the decisions they make;

54. stresses that capacity is a crucial issue that needs to be addressed through clarifying and simplifying procedural and administrative requirements and where possible establishing "one stop shop" interfaces among funds, including, where possible, through electronic means;

55. believes that this requires bringing audit and compliance across all funds beyond what is currently proposed. Equally these requirements need to be proportionate otherwise they would discourage potential local beneficiaries from applying for EU funding;

56. is therefore concerned that CLLD might have to face different types of financial management and audit burden per fund, often with different funds vertically managed through

different Managing Authorities or ministries, which might result in integrated projects across two or more of the funds progressing at the pace of the slowest one. Furthermore, it is important that Managing Authorities refrain from imposing their own additional procedural requirements that create further difficulties;

57. stresses that building local capacity and strategies are just a means to an end, which is to make CLLD deliver tangible investments and measurable outcomes for the benefit of the local community;

58. believes that a much stronger focus is required in CLLD on defining and implementing local strategies that progress towards clearly defined outcomes;

59. stresses that one of CLLD's key assets is the ability to be innovative and this is achieved through flexibility in delivery. In that regard, EU and national rules should refrain from imposing top-down and uniform measures, eligibility rules and criteria across countries and regions to facilitate local solutions to local problems being identified from the bottom-up;

60. believes that the linkage between defining local strategies and the exchange of good ideas and wider implementation needs to be direct and robust, particularly as regards implementing larger scale interventions under the Structural Funds;

61. notes that Managing Authorities may be tempted not to support integrated and resource intensive operations such as CLLD if easier ways to spend the funds exist. However with more Technical Assistance than is available at the moment CLLD has a much stronger qualitative dimension and local community buy-in than a top down approach;

62. points out the inconsistency of having a 5 % earmark of resources for LEADER but not for the other funds when using a CLLD. Calls for the Managing Authorities to consider applying this 5 % to the other three funds when the CLLD option across the CPR funds is chosen either at the Partnership Agreement or at the Operational Programme;

63. believes that the current dispersal of local development in the programmes needs to be addressed to increase visibility, accountability as well as project demonstration, mutual learning, and knowledge transfer particularly as regards to soft outcomes;

64. calls for the four concerned Directorates General of the Commission to prepare as soon as possible common indicative simplified guidelines to implement CLLD in crucial areas such as: an assessment on how CPR funds can realistically deliver integrated local programmes and individual projects, eligibility of expenditures, reporting, cooperation, audit and compliance applicable as well as promotion and knowledge transfer methods. In so doing the Commission should undertake a strategic dialogue with national, regional and local development practitioners that can provide some questions to address in the guidelines as well as some possible answers and examples of existing local development partnerships.

Brussels, 29 November 2012.

*The President*  
*of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

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**Opinion of the Committee of the Regions on 'EU State Aid Modernisation (SAM)'**

(2013/C 17/06)

## THE COMMITTEE OF THE REGIONS

- welcomes the Commission's intention of concentrating on cases with a particularly strong impact on the internal market and thus moving towards greater prioritisation in aid procedures, which will reduce the burden on all concerned - Commission, Member States and regional and local authorities;
- points out that a suitable starting point for focusing on aid with actual and significant internal market relevance could be to clarify the criterion of impact on cross-border trade and the notion of undertaking;
- calls for account to be taken of the fact that, while payments in respect of activities of a purely local nature may be categorised legally as state aid, they can have a limited impact on trade between Member States;
- calls for a higher threshold for the de minimis regulation, and an increase in the separate de minimis threshold values for services of general economic interest (SGEIs), as well as broadening of the horizontal categories in the enabling regulation and broadening and clarification in the block exemption regulation as options for achieving the Commission's target in the framework of this modernisation initiative;

<b>Rapporteur</b>	Mr Clemens LINDEMANN (DE/PES) Head of County Authority of Saarpfalz (Landrat des Saarpfalz-Kreises)
<b>Reference document</b>	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – EU State Aid Modernisation (SAM)  COM(2012) 209 final

## I. POLICY RECOMMENDATIONS

### THE COMMITTEE OF THE REGIONS

#### General comments

1. welcomes the Commission's recognition that the rules on state aid have developed into a fragmented and complex legal framework, involving a significant administrative burden for all concerned, unrelated to the extent of the internal market impact;

2. therefore calls for clear simplification of the rules on aid and for them to focus on essential cases, improvement in their practical application and acceleration/reduction of procedures;

3. therefore welcomes the European Commission's announcement that it will streamline the rules and clarify important concepts;

4. welcomes the Commission's intention of concentrating on cases with a particularly strong impact on the internal market and thus moving towards greater prioritisation in aid procedures, which will reduce the burden on all concerned - Commission, Member States and regional and local authorities;

5. points out that a suitable starting point for focusing on aid with actual and significant internal market relevance could be to clarify the criterion of impact on cross-border trade and the notion of undertaking;

6. calls on the European Commission to clarify the conditions under which an obstacle to trade between Member States is deemed to exist and when an activity is considered to have no internal market relevance;

7. calls for account to be taken of the fact that, while payments in respect of activities of a purely local nature may be categorised legally as state aid, they can have a limited impact on trade between Member States;

8. proposes that, if these compensatory payments do not fall under a general exemption, the alternative of a simplified procedure should at least be considered;

9. calls for the notion of undertaking to be clarified by means of a clearer demarcation between the commercial and non-commercial areas - e.g. using criteria - and the joint drafting of national lists by the Member States and the Commission. Whilst the abstract criteria would also take account of dynamic developments, the jointly drafted lists would provide legal certainty for the established areas. This would make things easier for local and regional bodies as well as for the Commission;

10. if this approach is rejected, suggests as an alternative that the conditions for the presumed existence of economic activity in these areas be more closely defined;

11. believes that the social, cultural and educational sectors as well as non-economic services of general interest would typically not fall within the notion of undertaking;

12. stresses that not every case of aid which is very limited in size and scope should be notified to the European Commission and that the Member States themselves should take on responsibility for the application of the law on aid (e.g. through exemptions or *de minimis* rules);

13. calls for a higher threshold for the *de minimis* regulation, and an increase in the separate *de minimis* threshold values for services of general economic interest (SGEIs), as well as broadening of the horizontal categories in the enabling regulation and broadening and clarification in the block exemption regulation as options for achieving the Commission's target in the framework of this modernisation initiative;

14. stresses the need for clearer demarcation between the general aid provisions subject to this modernisation on the one hand, and the aid rules for SGEIs (Almunia package) on the other, particularly with a view to borderline cases, in which categorisation as a service of this kind is not clear-cut;



### Greater consideration of the Europe 2020 objectives

15. welcomes the greater focus on the Europe 2020 objectives. This initiative must not, however, ultimately result in more voluminous and complicated rules for public authorities rather than the intended simplification;

16. stresses the importance of the regional aid guidelines for local and regional authorities, as they determine which sectors of enterprise may receive support and in which areas. In this connection local and regional authorities should have discretion for supporting enterprises independently of their size in eligible regions too;

17. stresses the need for the option of flexible support geared to local conditions where there is a specific need for support measures, in the light of demographic change or permanent natural handicaps, particularly in rural areas or mountain regions;

18. calls for more scope to develop regionally tailored development strategies and support measures and for the option of regional and local budgets to be made available;

19. points out that the revision of regional guidelines for 2014-2020 concerning state aid must not lead to unjustified disparities between Member States regarding population ceilings and that in future account must be taken of large corporations in all areas;

20. therefore welcomes the Integrated Territorial Investment instrument, which opens up scope for local policy-shaping and makes the deployment of cross-cutting investment possible;

21. welcomes the fact that the European Commission is striving for a more integrated approach and improved coordination of support measures;

22. welcomes the opportunity for combining support instruments and cross-fund financing and the related improvement in the sustainable use of regional support funds;

23. in this context and in view of the revision of the Regional State Aid Guidelines, calls for State aid for SGEI which, in accordance with the *Decision of 20 December 2011 on the application of Article 106(2) TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest*, are considered compatible, in principle, with the Treaty and at the same time eligible for co-funding by the Structural Funds, not to be included or to be included at a very low rate when calculating ceilings for the intensity of regional aid. This

clarification should be made either in the amended version of the Regional State Aid Guidelines or through a communication on State aid applicable to the Structural Funds co-funding SGEI;

24. urges the Commission to recognise that irrespective of public entrustment, public financing of public infrastructure projects should not be considered State aid;

25. highlights the importance of clarifying the applicability of the State aid regime to infrastructure, in light of the problems involved in interpreting the General Court judgment of 24 March 2011 on *Freistaat Sachsen and Land Sachsen-Anhalt (T-443/08) and Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH (T-455/08) v the European Commission*, which has resulted in considerable delays in the ex ante verification of around 200 infrastructure projects funded by the Structural Funds;

### Simplification of aid rules

26. supports the Commission's intention of publishing a communication providing a summary of the interpretation of the concept of state aid by decisions and case law, and of applying this concept uniformly;

27. urges that the interpretative communications themselves create no additional need for interpretation. The use of indeterminate legal concepts should be completely avoided;

28. supports the Commission's intention of tightening up the multiplicity of secondary law and "soft law" texts relating to aid (regulations, communications, guidelines etc.) and, where appropriate, combining these;

29. opposes the inclusion by the European Commission of additional quality and efficiency considerations in the compatibility assessment. Quality and efficiency criteria which further restrict the discretion of local and regional aid providers in principle do not fall within the Commission's area of responsibility, as defined in the competition chapter of the TFEU. Decisions on quality and efficiency must be left to the local authorities in the interests of local scope for action;

30. notes that the steadily increasing reporting requirements for national bodies involve an enormous amount of red tape, both for the Member States and the Commission;

31. calls, particularly in view of the EU's aim of reducing red tape, for the introduction of a system of random sampling, enabling across-the-board reporting to be dropped completely below a certain financial threshold;



## Revision of the legislative texts

32. Four legislative texts are being revised in the process of modernising EU aid law with a view to the setting of stronger priorities:

### a) Revision of the Commission's *de minimis* Regulation

#### **Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 (107 TFEU) and 88 (108 TFEU) of the Treaty to *de minimis* aid**

33. welcomes the Commission's intention of allowing the Member States more discretion with regard to *de minimis* aid. This should, however, apply generally and not just to aid involving small amounts. This would on the one hand significantly facilitate the Commission's work; at the same time local bodies would benefit, as the national level is closer to local government needs than the Commission;

34. calls for the threshold set by the general *de minimis* regulation to be increased from EUR 200 000 to at least EUR 500 000 over a period of three tax years in line with the Commission's justified efforts to focus more on cases of particular relevance to the internal market;

35. points out that the separate *de minimis* regulation for SGEIs, with its higher threshold values, was drawn up in awareness of, and in contrast to, the lower threshold values of the general *de minimis* regulation;

36. calls therefore for a clear increase in the threshold value for these services vis à vis the general *de minimis* threshold value, in order to take account of the special features of SGEIs and their special position in the overall structure;

37. points out that the CoR, in the context of the Almunia package, has already called for an SGEI *de minimis* threshold value of EUR 800 000 per year, and it now reiterates that call;

38. calls for the provisions of the SGEI *de minimis* regulation also to apply to the general *de minimis* regulation with respect to aid granted in a form other than that of a subsidy (e.g. guarantees);

39. therefore calls for the specific ceiling for individual aid granted on the basis of guarantees to be increased, by analogy with the *de minimis* regulation for SGEIs, to EUR 3.75 m. This is particularly relevant with a view to the prohibition in the SGEI *de minimis* regulation on combining this kind of aid with other sources of aid in respect of the same eligible costs;

### b) Revision of the Council enabling Regulation

#### **Council Regulation (EC) No 994/1998 of 7 May 1998 on the application of Articles 92 (112 TFEU) and 93 (113 TFEU) of the Treaty establishing the European Community to certain categories of horizontal State aid**

40. welcomes the Commission's planned measures amending the Council's enabling regulation to make other/more categories of aid compatible with the internal market and thus exempted from the reporting requirement;

41. also welcomes the Commission's announcement that the following types of aid are to be exempted from the reporting requirement:

- aid granted to culture,
- aid to make good the damage caused by natural disasters,
- aid to (partly) EU-funded projects such as JESSICA, and
- others;

42. proposes that the social, educational and health areas, provided they do not involve commercial or profit-seeking activities, broadband provision and animal disease counter measures be included in the "others" category;

43. calls for the relationship between these horizontal exemptions and the exemption decision for SGEIs to be further clarified;

### c) Revision of the Commission's General Block Exemption Regulation

#### **Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 (107 TFEU) and 88 (108 TFEU) of the Treaty (General Block Exemption Regulation)**

44. welcomes the measures announced for the revision and extension of the general block exemption regulation in the aid categories covered by the revised enabling regulation, with a view to a reduced administration burden for local and regional authorities;

45. calls for the extension of block exemption to include the social, educational, health and broadband areas in line with the horizontal extension in the enabling regulation;

46. stresses that, in the area of education, non-government school and adult education should in particular be covered by the exemption, insofar as it does not come under the aid rules for SGEIs;

47. stresses that the same should apply to health services provided by specialised departments or clinics, and to non-commercial social services provided by charitable associations and care homes for the elderly (as distinct from residential facilities);

48. draws attention to the Digital Agenda and the EU's objective of making basic broadband services available to all Europeans by 2013;

49. notes that the conditions for the construction of high-performance broadband networks of this kind in rural areas will not arise without aid, and stresses that aid rules should therefore not unnecessarily impede the development of broadband networks in rural areas. Rural areas should be protected against digital exclusion;

50. stresses that particular account should also be taken here of the advantages deriving, when establishing broadband infrastructure, from the emergence of a downstream market for broadband services;

51. regrets that the draft revised broadband guidelines submitted by the European Commission do not take account of repeated calls for significant streamlining and simplification of the rules;

52. calls on the European Commission to ensure that, by including the development of broadband in the block exemption regulation, across-the-board development of broadband can be made possible even in more sparsely populated regions, where revenues cannot be expected to cover the full cost of introducing the technology and operating costs;

53. calls for the extension of block exemption to include animal disease counter measures, in line with the horizontal

extension in the enabling regulation, particularly in regard to providing facilities for the case of an epidemic outbreak;

54. welcomes the fact that extension of exemptions will give the Member States greater responsibility and welcomes the Member States' increased responsibility for monitoring aid in general;

55. stresses that this should not reduce the burden on the Commission at the cost of a steadily increasing burden on the Member States resulting from numerous reporting and documentation requirements and precise and detailed conditions for making use of the new facilities etc.;

56. therefore considers it essential that the Commission's ex-post control rights not be further extended and that responsibility actually be delegated to the Member State. National aid control bodies must not be misused by the DG Competition as a kind of authority responsible for preliminary checks, at least not in cases where the power of decision remains with the Commission;

57. rejects the Commission's idea of transferring national aid controls to independent authorities (e.g. competition authorities), as the decision on how to organise aid controls at national level resides solely with the Member States and not with the Commission. For the same reason the possibility of the Commission carrying out its own investigations is rejected;

d) Revision of the Council Procedural Regulation

**Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (Article 113 TFEU)**

58. welcomes the simplification of the provisions of the procedural regulation;

59. rejects the establishment of new Commission investigative powers vis à vis companies, e.g. using market information tools, thus bypassing the Member States. This would mean the transfer of national competences to the European level.

Brussels, 29 November 2012.

*The President*  
of the Committee of the Regions  
Ramón Luis VALCÁRCEL SISO

**Opinion of the Committee of the Regions on 'Towards a 7th Environment Action Programme: better implementation of EU environmental law'**

(2013/C 17/07)

THE COMMITTEE OF THE REGIONS

- calls for the 7th Environment Action Programme (7EAP) to support local and regional authorities in their role in implementation, in particular by including elements such as: their greater participation throughout the process of formulating, transposing and evaluating EU legislation; effective source-based policies and expanding cost-recovery options for local and regional authorities; a focus on how to manage the urban environment sustainably; and to establish a reasonable timeframe between the adoption of laws and their subsequent revision;
- supports the improvement of the structuring, pro-active dissemination and accessibility of information, including the development of Structured Implementation and Information Frameworks (SIIFs); financial support for this should be made possible under the technical assistance provided for by the Structural Funds 2007-2014 as well as by the future LIFE programme;
- believes that the 7EAP should commit the EU and Member States to introduce new and enhanced instruments for improving responsiveness, such as a general EU framework on environmental inspections and surveillance; inspection powers for the European Commission; general criteria for national complaint-handling; and a Directive on Access to Justice;
- welcomes the proposed Partnership Implementation Agreements, however they should not only be agreed between the European Commission and a Member State, but also involve one or more local and regional authorities in order to adequately reflect multilevel governance;
- recommends to improve environmental outcomes through innovative methods of multilevel governance, including expanding the Covenant of Mayors to resource efficiency and further development of the European Green Capital Award;
- welcomes the support that the European Commission gives in its Communication to the CoR's proposal to co-organise a regular forum to address regional and local problems and solutions in the application of EU environmental law.

<b>Rapporteur</b>	Councillor Nilgun CANVER (UK/PES), London Borough of Haringey
<b>Reference document</b>	Communication on improving the delivery of benefits from EU environment measures: building confidence through better knowledge and responsiveness
	COM(2012) 95 final

## I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

### A. General remarks

1. Recalls that the purpose of this Opinion is threefold:

— to react to the European Commission Communication of 7 March 2012, which will help shape the future 7th Environment Action Programme (7EAP);

— to contribute to the debate on the future 7EAP, and its expected focus on better implementation;

— to expand on the past CoR Outlook Opinion on *The role of local and regional authorities in future environmental policy* (CdR 164/2010 fin) which highlighted opportunities to increase the effectiveness of environmental protection at all levels of governance and all stages of policy development;

2. acknowledges that whereas the 2008 Communication on implementing EU environment law <sup>(1)</sup> focused on the European Commission's enforcement powers to tackle breaches of EU environment law, the current 2012 Communication is about how to improve implementation through good national, regional and local governance. This reflects previous criticism and recommendations of the CoR <sup>(2)</sup>;

3. notes that the Communication is intended to intensify the dialogue with all stakeholders, including local and regional governments, on how they can work better together to enhance implementation of EU law through improving the collection and sharing of knowledge and by having greater ownership and responsiveness by all for effectively dealing with problems on the ground. The CoR endorses the view

that knowledge and responsiveness are complementary facets of implementation;

4. believes that local and regional authorities can potentially achieve greater coherence in implementation and enforcement by various means, in particular by setting up long-term environmental goals and strategies; through mobilisation of their citizens; by establishing well-functioning departments and services; by using EU funds for investing in environmental infrastructure and ecosystem services; by adaptation to climate change and disaster risk reduction; by applying the SEA and EIA Directives; and by promoting transparency and access to justice <sup>(3)</sup>;

5. recognises however, that new tasks and regulations applied by the EU to local and regional government in this field can pose questions of cost and administrative burden. The CoR feels that new initiatives should be implemented in a way that does not increase the cost and administrative burden on local and regional government. The CoR would ask the European Commission to conduct impact assessments as well as studies on this matter. Recalling its well-established positions on administrative burdens and given the provisions of the Treaty <sup>(4)</sup>, requests that the European Commission conducts a thorough impact assessment of the administrative and regulatory burden arising from any new EU initiatives consequent from this Communication;

### B. Making implementation a priority of the 7EAP

6. reiterates its view that a 7th Environment Action Programme is needed, considering that the current EAP expired on 22 July 2012 and there is a need to ensure continuity. The 7EAP should ensure that the EU's environmental choices stay sufficiently clear and predictable for local and regional administrations <sup>(5)</sup>;

<sup>(1)</sup> COM(2008) 773 final.

<sup>(2)</sup> CdR 164/2010 fin.

<sup>(3)</sup> CdR 164/2010 fin, CdR 38/2010 fin, CdR 199/2009 fin, CdR 89/2009 fin.

<sup>(4)</sup> 'Draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.' [Treaty on the Functioning of the European Union, Protocol No 2, Article 5].

<sup>(5)</sup> CdR 164/2010 fin, European Parliament resolution of 20 April 2012 (2011/2194(INI)).

7. recalls its earlier recommendations concerning the overall character and priorities of the 7EAP<sup>(6)</sup>, which stressed in particular the need for the 7EAP to contribute towards achieving a resource-efficient Europe within the framework of the Europe 2020 Strategy and a vision of where EU environmental policy should be directed for the longer term. It should also set clear targets, timetables and actions for 2020. There is a need to reflect the Rio+20 Declaration as adopted by the UNCSD on 22 June 2012 and its emphasis on an inclusive green economy and the post-2015 Sustainable Development Goals, as well as the CoR contribution to the Rio Summit<sup>(7)</sup>;

8. notes with concern that implementation of the EU environmental acquis is still insufficient and that full implementation and enforcement at all levels are crucial in order to improve the state of the environment and public health, to ensure a level playing field and create regulatory certainty for industry, and to avoid market distortions<sup>(8)</sup>. By the end of 2009, 18.8 % (544) of all infringement procedures against EU Member States of EU legislation were related to the environment, indicating continuing damage to the environment and distortion of competition<sup>(9)</sup>;

9. notes, for example, that the costs of not implementing current EU environmental legislation are broadly estimated at around EUR 50 billion a year in health costs and direct costs to the environment<sup>(10)</sup>. Further costs of non-implementation include missed opportunities for businesses, different compliance costs, distorting competition among EU industries, as well as increased costs related to infringement cases. It is estimated that full implementation of all waste legislation would lead to an additional waste (and recycling) industry turnover of EUR 42 billion and an additional job creation of about 400 000 jobs<sup>(11)</sup>. The EU environment industry is estimated to have an annual turnover in excess of EUR 300 billion, so that uncertainty about implementation pathways and time-frames may carry significant costs in terms of missed opportunities<sup>(12)</sup>. If, due to an infringement case, investments have to be made over a very short time span they are likely to be more expensive than if the implementation had been better planned;

10. requests that good implementation should become a priority objective of the 7th EAP in order to secure

commitment to deliver better environmental outcomes, in particular those set out in the Resource Efficiency Roadmap, the Low-carbon Roadmap and the Biodiversity Strategy to 2020;

11. calls for the 7EAP to support local and regional authorities in their role in implementation, in particular by including elements such as:

- greater local and regional participation throughout the process of formulating, transposing and evaluating EU legislation, drawing on the experiences at local and regional level, so as to improve implementation of the legislation and facilitate greater ownership;
- mechanisms to engage and enable local and regional authorities to exchange best practices in policy implementation;
- effective source-based policies and expanding cost-recovery options for local and regional authorities;
- a focus on how to manage the urban environment sustainably, concentrating on integrated environmental planning, sustainable mobility, quality of life and public health;
- to establish a reasonable timeframe between the adoption of laws and their subsequent revision, in order to allow local and regional authorities the time to plan implementation and invest in adaptations within a stable legal environment, whilst retaining the flexibility for the EU to update laws to reflect technological change and changing needs or public expectations;

12. believes that the 7EAP should commit the EU and Member States to introduce new and enhanced instruments for implementation, building also on the initiatives set out in the Communication and detailed in sections C and D, such as<sup>(13)</sup>:

- improvement of the structuring, pro-active dissemination and accessibility of environment- and implementation-related information; including by national environmental protection agencies and the European Environment Agency;

<sup>(6)</sup> CdR 164/2010 fin.

<sup>(7)</sup> CdR 187/2011 fin.

<sup>(8)</sup> See also European Parliament resolution of 20 April 2012 (2011/2194(INI), Council Conclusions on 'Improving Environmental Policy Instruments', 20 December 2010.

<sup>(9)</sup> European Commission website 'Statistics on environmental infringements'.

<sup>(10)</sup> Study 'The costs of not implementing the environmental acquis', COWI 2011, commissioned by the European Commission.

<sup>(11)</sup> Study 'Implementing EU Waste Legislation for Green Growth', Bio Intelligence Service 2011, commissioned by the European Commission.

<sup>(12)</sup> Study 'The costs of not implementing the environmental acquis', COWI 2011.

<sup>(13)</sup> CdR 164/2010 fin, CdR 140/2011 fin.

See also European Parliament resolution of 20 April 2012 (2011/2194(INI), Council Conclusions on 7th Environment Action Programme, 11 June 2012, Council Conclusions on 'Assessment of the Sixth Community Environment Action Programme and the Way Forward: Towards a 7th EU Environment Action Programme', 10 October 2011.



- an EU framework for environmental inspections at Member State level;
- criteria for national complaint-handling, including for dispute resolution such as mediation;
- revival of the stalled proposal for a Directive on Access to Justice;
- development of tripartite implementation agreements with Member States and regional or local authorities, as well as other multilevel governance instruments;
- effective monitoring of the EU Resource Efficiency Roadmap, including the insertion of resource efficiency targets and indicators into the Annual Growth Survey and the Member States National Reform Programmes;
- innovative concepts of financing and ways to encourage private investment in implementation, including the phasing out of environmentally harmful subsidies and the promotion of environment-friendly fiscal reforms that take more account of resource use;
- improve mainstreaming of environment and climate policy into other EU policies, with the aim to facilitate an integrated approach to implementation at the local level, and the inclusion of risk reduction considerations in environmental impact assessments;

### C. *Improving knowledge on implementation*

13. shares the European Commission's concerns about the uneven monitoring efforts across Europe, with the information generated being often incomplete, incompatible or out-of-date. Not enough useful information is placed online, and it is often not published systematically. The CoR recognises that better and more accessible information at national, regional and local levels would allow major environmental problems to be identified earlier, thereby saving costs in the longer term;

14. highlights the pivotal role regional and local authorities have in collecting knowledge on implementation. The aim must be to ensure consistency and compatibility of the information also at national and EU level, and to make it effective and reliable;

15. believes that transparency plays an important role in stimulating better implementation and enforcement. There is a need to promote investments in online information systems that make information on the environment and on implementation available to the general public and to public institutions, with increased efforts at all governance levels to proactively disseminate and provide access to environmental information;

### **More effective information systems on implementation at national, regional and local level**

16. insists that whilst strengthening the Access to Information Directive, as envisaged by the Communication, the European Commission should ensure that Member States and their local and regional authorities properly implement the existing minimum requirements of the Directive, in particular those on more pro-active, up-to-date and systematic dissemination of information to citizens, in line with the Aarhus Convention <sup>(14)</sup>;

17. supports the development of Structured Implementation and Information Frameworks (SIIFs) for all key EU environment laws, as proposed by the European Commission. However, the development of such information systems needs to be effective and efficient, making better use of Member States' systems in a practical and flexible manner. It calls upon Member States to cooperate with the European Commission with the aim to put such SIIFs in place with the involvement of local and regional government. The CoR could believe that SIIFs, together with the range of SEIS initiatives, should lead to transparent information systems at national, regional and local level that make information accessible online and would allow implementation to be tracked in the most efficient and timely way possible, by local and regional authorities, citizens, experts and businesses <sup>(15)</sup>;

18. sees scope for further coordination and streamlining of data demands to national, regional and local authorities in line with the principle 'produce once, use many times'. Data generated as part of reporting obligations under one piece of legislation is often relevant also to other pieces of legislation;

19. stresses however that there is a need to improve definitions in EU Directives to enable a level playing field in monitoring and reporting, public information and enforcement, e.g. concerning the different waste management options and waste flows under the Waste Framework Directive;

<sup>(14)</sup> UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

<sup>(15)</sup> The European Commission gives as an example: For the national, regional and local implementation of EU drinking water rules, one would be able to identify on a map abstraction points, source protection zones, treatment plants and distribution networks and have links to related information such as leakage reduction programmes (European Commission MEMO/12/159).

20. attaches great importance to the commitment of the European Commission to explore how EU funding could be used for the development, upgrading and deployment within Member States, regions and municipalities of SIIFs and relevant interoperable information systems, related training and the increase of administrative capacity where needed. In particular, such support should be made possible under the technical assistance provided for by the Structural Funds 2007-2014 as well as by the future LIFE programme;

21. calls upon the EEA to explore within pilot projects how monitoring and reporting pressures on local and regional authorities can be reduced by ICT and e-government without affecting the impact of legislation;

22. supports initiatives by the European Commission and Member States to exploit the opportunities, including in terms of reduced monitoring costs, of earth-observation techniques, such as GMES, for improving the effectiveness of implementation monitoring on the ground<sup>(16)</sup>. This could include the promotion of pilot projects with local and regional authorities;

23. underlines the importance of the SEA and EIA Directives as instruments for local and regional public participation on environmental policy, and reiterates its call for the upcoming revision of the EIA to strengthen provisions that public consultation for EIAs should begin as early as possible, for instance at the preliminary scoping and screening stage in order to further expedite the implementation of the subsequent stages and the decision-making of the relevant authorities, and to include minimum requirements on how to make the EIA documentation available to the public concerned<sup>(17)</sup>;

#### **Improving EU-level information**

24. supports the need for better EU-wide, systematically and pro-actively disseminated, online geo-referenced data and maps on the environment in order to create a level playing field and to complement improved information systems within Member States, and regional and local authorities;

25. welcomes the intention of the European Commission to extend the approach used in the Bathing Water Directive across all relevant EU environment laws, building also upon pilot exercises under development by the EEA on air quality and waste;

26. recognises the role of the EEA in processing monitoring data reported by Member States to the Commission, as well as

supports its growing role in supporting the European Commission's analysis of Member State implementation reports, and calls for a greater coordination role of the EEA in ensuring consistency and compatibility in the collection and collation of these different data at EU level, as done under various tools, e.g. INSPIRE, SEIS, GMES, GEOSS, and EyeonEarth;

27. expects the European Commission to move forward with SEIS (Shared Environmental Information System) and present its SEIS Implementation Plan soon in 2012, explaining the state-of-play and setting out how improvements can be made;

28. calls for the European Commission to publish the conformity-checking studies that it regularly commissions on the implementation of EU environmental legislation by the 27 Member States, in order to allow full, democratic discussions on the state of environmental law;

#### **D. Improving responsiveness**

##### **Improving inspections and surveillance**

29. reiterates its call for the European Commission to come forward with a general EU framework on environmental inspections and surveillance<sup>(18)</sup>. Such a framework should allow Member States to apply guidelines in a flexible way whilst achieving a high level of consistency in application;

30. in the interests of better regulation, the European framework for inspections should become the core framework under EU environmental law. To the greatest extent possible, specific provisions in sectoral EU environmental directives should be avoided. If separate provisions in sectoral directives are essential, they must be in line with the framework;

31. believes that an EU-wide framework for national inspections can reduce unfair competition between EU regions and municipalities due to different or lacking inspection regimes, ensure a level playing field in legal action, and improve trans-frontier cooperation and consistency across the EU. The form and content of inspections should be regulated nationally and developed at local and regional level but on the basis of general principles set by the EU framework, including a streamlined and risk-based, approach<sup>(19)</sup> and the European Environment Agency, in cooperation with national environmental protection agencies could play an important role in identifying and promoting them;

<sup>(16)</sup> See also CdR 163/2011 fin.

<sup>(17)</sup> CdR 38/2010 fin.

<sup>(18)</sup> CdR 164/2010 fin.

<sup>(19)</sup> CdR 164/2010 fin.



32. believes that the European Commission should have the possibility to investigate cases where there is a suspicion that EU environmental law has not been complied with. Such investigation possibilities exist at present in the areas of the customs union, agriculture, fisheries, regional policy, competition, veterinary and financial policy<sup>(20)</sup>. Such inspection powers for the European Commission may conflict with relationships between the authorities within Member States. The investigations referred to above must therefore take into account the rules in force in the Member State concerned regarding oversight arrangements between different levels of government. So far as possible, European Commission investigations should also take place in accordance with the normal EU infringement procedure;

33. considers it essential, as a complementary action, that the European Commission reports on possible ways to strengthen the EU Network for the Implementation and Enforcement of Environmental Law (IMPEL), including in particular ensuring adequate long-term financial support for IMPEL, increasing IMPEL's systematic use for peer-review inspections, and its work on identifying and sharing good practice, as well as further extending it to the regional and local levels<sup>(21)</sup>;

#### **Better complaint-handling and mediation at national level**

34. expresses concern about the deficits and lack of remedies in many complaint-handling systems, which compels citizens to address to the European Commission, the European Parliament's Petitions Committee or EU Ombudsman, which are overloaded with complaints;

35. supports proposals for general criteria for national complaint-handling, including for dispute resolution such as mediation, based on recent specific provision for national grievance and dispute-settlement mechanisms in consumer legislation<sup>(22)</sup>. The criteria could include for example general safeguards on confidentiality and timeliness, and on the need to provide information online for citizens on how a problem has been resolved, and to provide citizens and NGOs with independent local complaint institutions, whilst taking into account obligations on access to justice resulting from the Aarhus Convention, and whilst not affecting the general right to complain to the EU institutions;

#### **Improve access to justice**

36. notes that whereas the 2003 proposal for a Directive on Access to Justice on environmental matters has not yet been

<sup>(20)</sup> See also ClientEarth 2012: The 7th Environment Action Programme and Enforcement.

<sup>(21)</sup> See also CdR 164/2010 fin, IMPEL 2012 Response to the 7EAP consultation, European Parliament resolution of 20 April 2012 (2011/2194(INI), Council Conclusions on 'Improving Environmental Policy Instruments', 20 December 2010.

<sup>(22)</sup> Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, OJ L 211, 14.8.2009.

adopted as a legal instrument, the European Court of Justice has confirmed that national courts must interpret access to justice rules in a way which is compliant with the Aarhus Convention<sup>(23)</sup>. Due to case-law which foresees greater access to courts for citizens and NGOs, national courts, local and regional authorities and economic as well as environmental interests now face uncertainty in addressing this challenge;

37. reiterates therefore, that there is a need to revive the stalled Access to Justice Directive<sup>(24)</sup>. This would close existing gaps in many Member States in complying with the requirements of Article 9(3) and (4) of the Aarhus Convention. It would also enhance the role of the public as a catalyst for better enforcement of environmental law at all levels. The current Communication is not explicit on how the European Commission intends to resolve this;

#### **Improving environmental outcomes through capacity-building and implementation agreements that engage Member States**

38. welcomes the support that the European Commission gives in its Communication to the CoR's proposal to co-organise a regular forum to address regional and local problems and solutions in the application of EU environmental law<sup>(25)</sup>. Such a forum would allow for a continuous dialogue and the exchange of experience between environment practitioners from local and regional authorities and their associations, and from the CoR's consultative platforms and networks, together with the European Commission;

39. welcomes that the European Commission, by offering the new instrument of 'Partnership Implementation Agreements', reflects to a large extent a previous call of the CoR<sup>(26)</sup> on the EU to extend the pilot work carried out by the European Commission already in 2002 on tripartite agreements and contracts<sup>(27)</sup>. The CoR calls upon the European Commission to provide more information and guidance on how it envisages designing and applying the instrument;

40. believes that Partnership Implementation Agreements should not only be agreed between the European Commission and a Member State, but also involve one or more local and regional authorities in order to adequately reflect multilevel governance, thereby becoming a Tripartite Implementation Agreement;

<sup>(23)</sup> Case C-240/09.

<sup>(24)</sup> CdR 164/2010 fin.

<sup>(25)</sup> COM(2012) 95 final, page 10. Letter of Commissioner Potocnik of 5 July 2012.

<sup>(26)</sup> CdR 164/2010 fin.

<sup>(27)</sup> CdR 89/2009 fin, COM(2002) 709 final.

41. believes that Tripartite Implementation Agreements could assist in achieving the implementation of certain EU environmental policies, when traditional instruments do not achieve the necessary commitment towards solving emerging or ongoing environmental and non-compliance problems. The agreements should result in clear commitments from Member States and local and regional authorities to put in place the necessary measures, as well as from the EU to provide support. These commitments need to be formalised with deliverable objectives and timelines, and publicly available so that they can be subject to scrutiny;

#### **Improving environmental outcomes through innovative methods of multilevel governance**

42. regrets that the Communication does not reflect the CoR proposal to jointly consider specific ways of extending the Covenant of Mayors to cover key areas of the Roadmap to a Resource-efficient Europe, such as biodiversity and land use, waste and water management or air pollution<sup>(28)</sup>. The CoR believes that this would facilitate implementation of EU environmental policy by an innovative method of multilevel governance, which promotes the pro-active commitment of local and regional authorities in achieving implementation instead of relying on simple enforcement of EU law;

43. regrets that the Communication does not make reference to the European Commission's European Green Capital Award, which the CoR strongly supports as an important means of showcasing cities that are exemplars and innovators in implementation of EU environmental law, and for sharing their experiences with other cities. To this end, the CoR reiterates its recommendations of 2010 on the further development of the Award<sup>(29)</sup>;

44. stresses that environmental problems and climate change cannot be resolved – or EU policy implemented – by any one level of government. A multilevel approach is required, in which each level of government (European, national, regional and local) must take responsibility and adopt the measures which

can and must be adopted by the relevant level. The CoR advocates the establishment of cross-government teams in the Member States in which experts from the various levels of government work together to draw up national implementation plans<sup>(30)</sup>;

#### **E. Subsidiarity, proportionality and better regulation**

45. recalls that environmental policy is an area where competences are shared between the EU and the Member States, therefore the subsidiarity principle applies;

46. notes that the European Commission makes no assessment of the various options set out in the Communication terms of their compatibility with the principle of subsidiarity. Considers that the options presented in the Communication are for debate and reflection at this stage, and are therefore insufficiently well-developed for the CoR to form a definitive view, with much depending on whether (and how) the European Commission decides to take some of these forward;

47. with this reservation, notes the contributions from its Subsidiarity Monitoring Network (SMN), which generally indicate that the options in the Communication, when fully formulated, are unlikely to constitute a significant breach of subsidiarity<sup>(31)</sup>;

48. notes however, that whereas there is support for an upgrade of the existing framework for inspections, there may be some resistance in the SMN to this being made binding and to the creation of an EU inspection body. Similarly, whereas there is support for criteria for handling of complaints by Member States, some SMN members may prefer for these to be non-binding recommendations. There appears to be an acceptance that the EU should define the conditions for efficient and effective access to national courts on EU environmental law.

Brussels, 30 November 2012.

*The President*  
*of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

<sup>(28)</sup> CdR 140/2011 fin, CdR 164/2010 fin, COM(2011) 571 final.

<sup>(29)</sup> CdR 164/2010 fin.

<sup>(30)</sup> The Committee recommended establishing teams of this kind in CdR 164/2010 fin.

<sup>(31)</sup> Results available on: <http://extranet.cor.europa.eu/subsidiarity/Pages/default.aspx>

**Opinion of the Committee of the Regions on 'Implementation of the Soil Thematic Strategy'**

(2013/C 17/08)

## THE COMMITTEE OF THE REGIONS

- considers that soil type, land management and climate differ widely across the regions of Europe and this means specific management guidance and protection strategies are required to ensure soil protection is carried out in a proportionate way, based on regional priorities, but under an overarching framework to ensure EU policies are also met;
- notes that tackling soil risks and threats is urgent, particularly with regard to climate change;
- stresses that climate change can have a range of impacts on soil, mainly as a result of changes in soil wetness, soil temperature and also rainfall patterns, which can result in soil degradation, including loss of organic matter and an increase in erosion, compaction and run-off;
- stresses that local and regional authorities can play an important role in monitoring soil degradation and in contributing to an inventory of contaminated sites;
- believes that soil policy needs to strike the right balance between European-level action balanced with the principles of subsidiarity and better regulation in order to avoid unnecessary additional administrative burdens and disproportionate costs. EU regulations on soil should therefore be designed to intervene only where action is required;
- believes that gaps in soil protection measures are best dealt with on a common basis across the EU through a general framework and common principles that all countries need to adhere to. A Soil Framework Directive would therefore be supported although it is essential that the policy is not unnecessarily prescriptive, such as with quantitative provisions and limits.

**Rapporteur**

Corrie McCHORD (UK/PES), Member of Stirling Council

**Reference document**

Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – The implementation of the Soil Thematic Strategy and ongoing activities

COM(2012) 46 final

**I. POLICY RECOMMENDATIONS**

## THE COMMITTEE OF THE REGIONS

**A. General comments**

1. The Commission's report provides an overview of the implementation of the Thematic Strategy for Soil Protection since its adoption in September 2006 and also considers current soil degradation trends, as well as future challenges to ensure protection.

2. The strategy identified four key pillars for implementation: awareness raising, research, integration, and legislation. An integral part of the strategy was a proposal for a Soil Framework Directive (COM(2006) 232 final) which was structured along three themes: Preventative measures, Identification of the problem and Operational measures.

3. The CoR has previously published Opinions in relation to soil protection as follows:

— A Resource-Efficient Europe – Flagship Initiative under the Europe 2020 Strategy (Michel Lebrun, CdR 140/2011 fin);

— The Role of Local and Regional Authorities in Future Environmental Policy (Paula Baker, CdR 164/2010 fin);

— Thematic Strategy for Soil Protection (Cor Lamers, CdR 321/2006 fin);

— Towards a Thematic Strategy for Soil Protection (Corrie McChord, CdR 190/2002 fin).

4. Soil is an integral part of our environmental, social and economic systems, underpinning food production, controlling the quality and quantity of water flow, climate change mitigation and adaptation, and biodiversity, amongst other environmental services. Ensuring that soils are in a good state to deliver its essential functions is vital for the sustainability of Europe's environment and economy.

5. A key report issued by the European Environment Agency (EEA) and the EC's Joint Research Centre (JRC) in 2012 on the State of Soil in Europe<sup>(1)</sup> highlighted the importance of ten major threats to soils in Europe: organic matter decline, erosion, compaction, sealing, salinisation, acidification, biodiversity, desertification (for southern Europe), landslides and soil contamination. An outlook on soil carbon and global climate, erosion, water retention, acidification and biofuels was also discussed. The report stated that soil degradation in the EU is continuing to occur and is worsening in some parts of Europe. The report demonstrates that existing policies and legislation, at EU, national or regional level, have not been sufficient to fully protect soils.

6. Mineral and organic soil type, land management and climate differ widely across the regions of Europe and this means specific management guidance and protection strategies are required to ensure soil protection is carried out in a proportionate way, based on regional priorities, but under an overarching framework to ensure EU policies are also met.

7. Local and Regional authorities have a crucial role to play in the protection of European soils. This includes responsibility for ensuring that land use legislation, where it exists, achieves the objective of protecting soils and is implemented properly, in their capacity as land planners and as the bodies in charge of granting construction and land use permits. Such authorities may have powers to prevent urban sprawl and soil sealing, incentivise brownfield and urban residential site rehabilitation and protect and promote greenfield sites.

8. The CoR supports that any future European provisions on soils follow approaches with adequate flexibility for differences in national and regional circumstance. A common EU-wide soil framework will contribute to ensuring that soil protection obligations of land managers (in the widest sense) across Member States are similar, thus reducing the potential for a distortion of competition in the internal market.

<sup>(1)</sup> [http://ec.europa.eu/dgs/jrc/downloads/jrc\\_reference\\_report\\_2012\\_02\\_soil.pdf](http://ec.europa.eu/dgs/jrc/downloads/jrc_reference_report_2012_02_soil.pdf)

## B. *Current and upcoming challenges*

9. The Commission's report (Section 4) provides an assessment of current and upcoming challenges. The CoR agrees with the Commission's analysis that soil degradation has increased in the past decade in the EU and also worldwide, and that this trend is likely to continue unless land use and management, organic matter and carbon, and resource efficiency are effectively addressed.

10. It is clear that the predicted growth in world population, the rising consumption of meat and dairy products, the increased use of biomass for energy, in conjunction with climate change mitigation and adaptation, desertification risks and land take will all lead to increased competition for land and water resources and the risks of degradation.

11. Tackling soil risks and threats is urgent, particularly with regard to climate change. Agriculture has a particularly strong impact on carbon dioxide (CO<sub>2</sub>) and nitrous oxide (N<sub>2</sub>O) emissions from soil. EU soils contain more than 70 billion tonnes of organic carbon, which is equivalent to almost 50 times our annual greenhouse gas emissions. Organic matter loss from soils and therefore increased CO<sub>2</sub> emissions is an especially serious issue, due to the fact that it contributes to climate change. There is evidence<sup>(2)</sup> suggesting that organic matter is in decline in UK, France, Belgium and Austria. As well as negatively impacting upon soil quality, the loss of soil organic matter can result in carbon emissions to the atmosphere and so have a negative impact on EU targets to reduce carbon dioxide emissions.

12. Climate change can have a range of impacts on soil, mainly as a result of changes in soil wetness, soil temperature and also rainfall patterns, which can result in soil degradation, including loss of organic matter and an increase in erosion, compaction and run-off. Land management policies do not currently afford protection of soil carbon in all European countries.

13. There are calls for urgent action to restore damaged peatlands to stop carbon loss, and to revitalise the multiple ecosystem services of a healthy peatland. While peatlands represent only 2% of cultivated land in the EU, they are responsible for more than 50% of the CO<sub>2</sub> emissions of this sector. In recent years, concern has also grown with regard to

the impact of exploiting peatlands to supply commercial peat for horticultural purposes.

14. Maintaining soil carbon stocks (and minimising nitrous oxide emissions) will make an important contribution to reduce greenhouse gas emissions and to mitigate climate change. The Commission project<sup>(3)</sup> called "Sustainable Agriculture and Soil Conservation" (SoCo) produced a useful set of case studies and recommendations.

15. Efficient use of resources is crucial. Agriculture is highly dependent on soil fertility, especially nutrient availability. The majority of phosphorus fertilisers used in the EU are imported. The EU also produces large amounts of manure, bio-waste and sewage sludge every year. A way forward to address security of supply of nutrients and to improve soil conditions and limit pollution from potentially toxic elements is to ensure a proper collection, treatment and use of these materials. The CoR recommends that the Sludge Directive is revised to control the use of other organic materials used on land which are not currently controlled under this Directive.

16. Current land take trends (soil sealing) are highly unsustainable throughout the EU and this is an important cause of soil degradation in the EU. Soil sealing often affects fertile agricultural land, puts biodiversity at risk, increases the risk of flooding and water scarcity and contributes to global warming. Guidelines<sup>(4)</sup> on best practice to limit, mitigate or compensate soil sealing were published by the Commission in April 2012. The CoR strongly recommends use of these Guidelines.

17. Atmospheric deposition of acidifying substances to soils can cause negative effects due to acidification and nitrification. Nitrogen oxides and ammonia are now identified as the main acidifying agents, while sulphur dioxide emissions have generally decreased in recent years as a result of regulation. It will be essential to ensure that emissions of acidifying species across Europe continue to decrease, to reduce the land area exceeding critical loads of acidity.

## C. *The European Commission's ongoing activities*

18. The Commission's report (section 5) identifies five ongoing activities and the CoR would make the following comment on each of these as follows:

<sup>(2)</sup> European Environment Agency/ European Commission Joint Research Centre (JRC), 2012: State of Soil in Europe, [http://ec.europa.eu/dgs/jrc/downloads/jrc\\_reference\\_report\\_2012\\_02\\_soil.pdf](http://ec.europa.eu/dgs/jrc/downloads/jrc_reference_report_2012_02_soil.pdf)

<sup>(3)</sup> See <http://eusoils.jrc.ec.europa.eu/projects/SOCO/>

<sup>(4)</sup> Report on best practices for limiting soil sealing and mitigating its effects (April 2011).



## Awareness raising

19. There is considerable importance in raising awareness with regard to the Soil Thematic Strategy and the need to protect soil in the EU. Land managers need to be fully aware of the sustainable soil management practices that maintain the ecosystem services delivered by soil. The CoR therefore strongly commends the work of the Commission since 2006 in raising soil awareness. This includes the Commission's publication of Atlases on European soils<sup>(5)</sup> and soil biodiversity<sup>(6)</sup>, as well as major soil conferences. The CoR also commends the Commission's work in establishing a working group on Awareness Raising and Education in the context of the European Soil Bureau Network.

20. Awareness raising amongst land managers and other stakeholders, as well as education and awareness of the public on the importance of soils will play a key role in promoting sustainable use of soil. However awareness raising on its own will not achieve the required level of soil protection, rather a combination of measures is required, in which education and economic incentives should be as important as regulatory measures. Using awareness to improve the implementation of sustainable soil management practices will continue to have an important role to play in minimising soil degradation. The CoR therefore encourages local and regional authorities to act as ambassadors in this field and one possible example to follow is the European Land and Soil Alliance (ELSA e.V.).

## Research

21. Research is crucial to ensure better understanding of soil protection priorities and to ensure that policy development continues to be based on sound science. The CoR therefore strongly welcomes the work of the Commission since 2006 in funding around 25 research projects<sup>(7)</sup> such as ENVASSO, RAMSOIL and SOILSERVICE to address soil issues. It will be important to ensure that knowledge gained from these research projects continues to be adequately disseminated to end users of this research, including ultimately land managers. Additional soil research and soil monitoring data are required to fill the current knowledge gap, but this must always be carried out while bearing in mind proportionality of costs and reciprocal exchange between all the bodies involved. The identification of assessment methodologies, mitigation measures and minimum requirements for the harmonisation of soil monitoring activities are critical.

22. The CoR notes that the Commission is continuing with funding research, particularly on landslides, soil sealing, soil functions, the soil carbon and nitrogen cycles (with a focus

on peatland restoration), soil fertility and nutrients recycling in agriculture. The CoR supports the need for all this research, which will also require adequate knowledge exchange to stakeholders.

23. The CoR calls for an updated overview of the extent of soil contamination in the EU and what Member States are doing to tackle it. This exercise should in particular focus on the link between soil contamination and groundwater contamination, as groundwater is a key source of drinking water in many countries.

## Monitoring

24. Environmental standards for protecting key soil processes and functions do not currently exist and Europe does not have an overarching soil monitoring scheme. Tackling the lack of systematic EU-wide soil data, understanding what information is already available, identifying gaps and making recommendations for future soil monitoring is required. The CoR agrees there is a need for more soil monitoring, e.g. to support appropriate regional soil protection approaches. There is a need to improve the access of European, national and regional policymakers and decision makers to relevant soil data and information at appropriate scales. In addition across Europe as a whole, there is inadequate long term monitoring of soils at a network of sites to address issues, particularly including the interactions between soils and climate change. The CoR therefore welcomes the continuation of the European Soil Data Centre (ESDAC).

25. Even though the strategy is in the sixth year, the EU is still devoid of any form of systematic or harmonised soil monitoring systems across Europe and research methodologies vary. There is large disparity in forms of soil protection and soil quality throughout the EU and the proposed Soil Framework Directive sought to tackle this. In this context, the CoR welcomes research projects such as LUCAS, aimed at providing data for ESDC. The CoR supports the Commission proposals to consolidate harmonised soil monitoring by repeating its soil investigations and also by testing new remote-sensing techniques.

26. Local and regional authorities can play an important role in monitoring soil degradation and in contributing to an inventory of contaminated sites. A targeted and efficient soil protection policy should be based on the knowledge of where degradation is likely to be occurring.

27. Monitoring of soil quality is done in many different ways across Member States. The Commission proposed a harmonisation of monitoring activities in order to obtain a clearer picture of the state of European soils. The JRC has already

<sup>(5)</sup> See [http://eussoils.jrc.ec.europa.eu/projects/soil\\_atlas/index.html](http://eussoils.jrc.ec.europa.eu/projects/soil_atlas/index.html)

<sup>(6)</sup> European Atlas of Soil Biodiversity.

<sup>(7)</sup> JRC Soil Projects.



collected a considerable amount of data but more could be done with clear and comparable reports from Member States. Harmonised monitoring should be implemented in synergy with the Monitoring Mechanism Decision, which is currently undergoing revision.

### Integration

28. The CoR welcomes the active engagement of the Commission with Member States in developing the soil-related measures, including in the Resource Efficiency Roadmap, the Common Agricultural Policy (CAP) and in Regional Policy. The cross-cutting nature of soils means that the EC proposals for soil protection will need to be integrated across a number of policy initiatives and delivery mechanisms (e.g. Water Framework, Nitrates, Floods, Sludge, the Habitats and Birds Directives for biodiversity protection, Directives on the Environmental Impact of projects, plans and programmes, Rural Development Regulation and CAP).

29. The CoR calls on the European Commission to entrench the soil thematic strategy as a joint action plan so as to put Member States and local and regional authorities in a better position to apply soil policy and implement European rules. At the moment, soil proposals and measures are spread out across many EU proposals. The soil thematic strategy could provide an overall view of existing and new measures. It could detail:

- which soil problems are solved by sectoral environmental legislation and which problems remain;
- what possibilities exist for solving remaining soil problems by adjusting sectoral environmental legislation; and
- an overview of soil projects carried out with EU funds. The CoR urges the European Commission to accommodate soil projects in EU funds.

30. The proposed "Greening" of CAP is to be welcomed. Reform is needed to provide measures to make CAP more attractive for regional solutions in issues such as soil protection. This includes considering the use of EU Rural Development funds to set up Rural Development Contracts to finance land managers to protect soil, restore peatlands, create wetlands, convert arable land into grassland, prevent soil erosion and

protect organic matter. The CoR therefore strongly supports the Commission's comments on increasing the uptake of measures through Rural Development funds to improve soil quality and extend the surface area covered by such measures.

31. The EEA/ JRC 2012 report indicates that existing CAP Good Agricultural and Environmental Conditions (GAEC) measures have not been fully adequate for soil protection purposes. The current proposals for "greening of CAP" therefore need to be better geared towards improved soil protection outcomes, without increasing the administrative burdens on Member State authorities. This includes an assessment of whether there is scope to further develop GAEC measures to improve soil protection.

32. It should also be recognised that, CAP measures only cover agricultural soils which receive farm payments. The CoR supports the Commission's proposals to further clarify and specify soil-related standards in the context of the overall CAP reform. In particular, the CoR welcomes the current proposal for a new GAEC on organic matter protection, including a ban on arable stubble burning and a ban on the first ploughing of wetlands and carbon-rich soils.

33. The CoR supports the on-going work of the Commission to better integrate soil protection across other relevant policy areas. This includes developing a European Innovation Partnership on Agriculture Productivity and Sustainability with a particular focus on land and soil management, Blueprint to Safeguard Europe's Water and the implementation of Cohesion Policy.

34. There are clear links between soil management and diffuse pollution and this is an important and urgent issue in relation to water quality across Europe. There are risks to water quality from soil erosion, loss of pesticides and nutrients from farmland. The Nitrates Directive 91/676/EEC, Groundwater Directive 2006/118/EC and the Water Framework Directive have no direct requirement for legislation specifically on soil despite the importance of diffuse pollution. Once contaminated, groundwater can take many hundreds of years to be decontaminated and therefore the CoR calls for the introduction of adequate measures to combat soil degradation and diffuse pollution risks to groundwater, as well as other watercourses.

35. While prevention of soil degradation should remain the priority, the current state of some European soils will require soil remediation measures to be taken. The CoR welcomes the Commission's proposal for continued support from Cohesion Funds and the European Regional Development Fund (ERDF) for the regeneration of brownfield sites in the next programming period 2014-2020. Local and Regional authorities should continue to be aware that considerable Cohesion fund resources remain available for eligible regions that wish to tackle soil degradation.

36. The CoR calls on the European Commission to provide extra possibilities for soil projects under the LIFE+ support programme. In the upcoming period, financing arrangements can be placed on a broader basis. Under current requirements, projects which come under "Environment Policy and Governance" should set an example and/or be innovative. However, for tackling soil problems there is no specific need for innovation in many cases, but more a need for repeating activities or for continuing ones already started.

### Legislation

37. The CoR welcomes that the Commission proposes to review the Environmental Impact Assessment Directive, which will provide an opportunity for better integrating soil concerns at an early stage of project planning. It will be important for the Commission to consider how to devise incentives to reduce carbon emissions and maintain soil organic matter by accounting for the land use, land use change and forestry (LULUCF) sector as part of the EU's climate change commitment for 2020.

### International level

38. Soil damage can have transboundary effects (e.g. greenhouse gas emissions diffuse pollutants, eroded sediments, loss of soil carbon, spreading of contamination across borders). Europe's soils are a major sink and also a potential source of greenhouse gases (GHG), including N<sub>2</sub>O emissions.

39. The CoR welcomes the Commission's constructive efforts at the Rio+20 conference and the inclusion of land degradation concerns in the final text<sup>(8)</sup>, and would encourage the Commission to maintain soil policy amongst its priorities at international conferences such as the UNFCCC meetings and other relevant Forums including the Convention on Biological Diversity. The CoR also commends that the Commission and the United Nations Convention to Combat Desertification (UNCCD), is actively supporting an initiative on the economics of land degradation to set out incentives for

investment in sustainable land management policies. The CoR is also pleased that the Commission will work at the international level to promote the establishment of an inter-governmental panel on soils.

### D. *Subsidiarity, proportionality and better regulation*

40. The Commission's report does not raise any subsidiarity or proportionality issues in itself, it being a report on the implementation of the Soil Thematic Strategy. It does indirectly refer to possible EU legislation on soil protection which, however, would raise such issues.

41. Those Member States that object to the 2006 proposal for a Framework Directive and have blocked the passage of legislation in the Council in 2010, invoke the argument of subsidiarity. The problem is that while certain Member States have already advanced legislation on soil protection, other Member States have no legal framework or a far less developed one. The CoR urges Member States to take measures at national level and immediately calls for:

- Member States which already have a soil policy to expand it as far as is necessary;
- Member States which have already a well-developed soil policy to act as a bridge for those Member States which do not have any policy, by sharing their expertise. The Committee of the Regions would ask the European Commission to monitor such a process;
- Member States which do not yet have a soil policy to introduce one in the foreseeable future, while waiting for progress at European level.

The CoR supports Commission measures that enable Member States to formulate and implement soil provisions within their own remit.

42. Soil degradation including greenhouse gas losses, contamination, compaction, diffuse pollution and sealing all have transboundary effects and therefore warrant (at least) coordination of policy at European level. Examples include compacted or deteriorated soil which is unable to store rainwater can increase flooding in neighbouring countries. Water pollution and eutrophication also happen as a

<sup>(8)</sup> <http://www.unccd2012.org/thefuturewewant.html>

consequence of soil pollution and are not limited by country borders. Sediments washed away by soil erosion in one country can block dams or damage infrastructure such as harbours in other countries; contaminated soil can pollute the groundwater in a neighbouring country. European legislation is thus seen as a way to protect land users in a given country from the harmful consequences of practices in another country for which they are not responsible<sup>(9)</sup>. Where transboundary effects occur, cooperative initiatives between regional and local authorities are essential to tackle this issue.

43. In view of the fact that Europe is still seeing detrimental soil effects six years after publication of the Soil Thematic Strategy, it is difficult to see how even a revised Thematic Strategy without a Soil Framework Directive will be sufficient to achieve a high level of soil protection across all EU Member States and to overcome the above-mentioned problems. Greater efforts are needed on the part of the Commission and the Member States to ensure soil protection.

44. To ensure proportionality, future EU legislation on soil protection must leave enough room for Member States to identify the most appropriate measures at the most appropriate geographical and administrative level. This would be crucial to ensure that the regional and local specificities as regards soil variability, land uses, local climate conditions and socio-economic aspects can be properly taken into account.

## E. Conclusions

45. The CoR commends the Commission's work in the implementation of the Soil Thematic Strategy. The soils of Europe are fundamental to our livelihoods and need protection. The importance of soil as a non-renewable resource essential to a sustainable environment should be recognised by overarching soil protection policy and measures.

46. Soil needs to be protected to:

- Ensure both present and future supplies of safe and good quality food;
- Help keep surface and groundwaters clean;

- Store carbon, mitigate GHGs emissions and adapt to climate change;
- Contribute to natural flood management and the mitigation of its effects and those of other natural disasters;
- Sustain biodiversity and its components;
- Maintain healthy recreational areas;
- Maintain geodiversity, cultural and archaeological heritage.

47. In all European countries, a range of soil problems can occur, sometimes with severe, irreversible and costly consequences. This is mainly caused by soil contamination, landslides, loss of organic matter, erosion, salinisation, desertification and sealing. Further soil protection policies and regulations are required at EU level, and at Member State level measures and – if not yet in place – regulations, because of the crucial functions and ecosystem goods that soils provide for the European economy, society and environment. The cost of regulatory action should be compared to the costs of inaction in terms of indirect costs arising from climate change, water pollution, flood management, public health etc. The Commission estimated in 2006 that total costs of soil degradation in the EU-25 could be EUR 38 billion/ year.

48. Soil quality is strongly related to other environmental aspects of EU relevance (e.g. air, water quality, flooding risk, biodiversity, climate change, renewables etc.). Future soil policy must recognise its links to other EU environmental goals (e.g. the Water Framework Directive). There are many existing EU provisions which have some elements of soil protection although no overarching soil specific legislation is in place. Existing provisions are generally restricted to specific land uses or management and do not cover the whole land and soil cover.

49. Local and Regional authorities need to assess land take in their areas and consider what can be done if trends are unsustainable. This work can be supported by using the Commission's Guidance on Sealing and also by ongoing implementation of the Soil Thematic Strategy's four pillars. Local and Regional authorities should also continue to pro-actively contribute to this strategy by for example supporting the development of local Codes of Practice on soil protection.

<sup>(9)</sup> European Environmental Bureau (EEB) (2011), "Soil: Worth Standing your ground for. Arguments for the Soil Framework Directive".

50. Gaps in soil protection measures are best dealt with on a common basis across the EU through a general framework and common principles that all countries need to adhere to. A Soil Framework Directive would therefore be supported although it is essential that the policy is not unnecessarily prescriptive, such as with quantitative provisions and limits. The principle of subsidiarity is particularly important because soils differ widely across the regions of Europe. Soil protection strategies should therefore be risk based and depend on the situation, be proportionate and take regional circumstances into account. Tailor-made measures are necessary to ensure protection of soil. Implementation of soil policy is primarily carried out at local

and regional level, which is why regulation in this area needs to be introduced at this level. We need better soil monitoring to help develop, support and assess regional approaches on soil protection.

51. Soil policy needs to strike the right balance between European-level action balanced with the principles of subsidiarity and better regulation in order to avoid unnecessary additional administrative burdens and disproportionate costs. EU regulations on soil should therefore be designed to intervene only where action is required.

Brussels, 30 November 2012.

*The President  
of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

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**Opinion of the Committee of the Regions on 'Innovating for sustainable growth: a bioeconomy for Europe'**

(2013/C 17/09)

THE COMMITTEE OF THE REGIONS notes that

- life sciences and biotechnology contribute substantially to core EU policy goals in terms of health, sustainable and economic development and job creation
- the transition towards a bioeconomy is a prerequisite to making Europe a global leader in the bioeconomy especially regarding innovation and competitiveness
- the bioeconomy is listed, together with food security and sustainable agriculture, as a "societal challenge" in Horizon 2020, with a budget proposed by the Commission of EUR 4,5 billion; this is welcomed by the CoR
- it will be at least 25 years before the bioeconomy can compete with the fossil-based economy and that this requires long term investment (in R&D), strategies (beyond 2020) and cooperation among all stakeholders along the value chain aiming to achieve cooperative knowledge transfer
- the bio-economy will provide new business and innovation opportunities for Europe's value chain including the agricultural sector
- spatial planning policy instruments are important in maintaining areas used for agriculture and forestry
- the Commission's proposed action plan does not include any measures to increase natural resource efficiency.

<b>Rapporteur</b>	Rogier VAN DER SANDE (NL/ALDE), Member of the Executive Council of the Province of Zuid-Holland
<b>Reference document</b>	Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Innovating for Sustainable Growth: A Bioeconomy for Europe  COM(2012) 60 final

## I. THE COMMITTEE OF THE REGIONS

### Key messages

1. welcomes the present Communication from the European Commission (hereafter "Commission") proposing to shift towards greater and more sustainable use of renewable resources and calling for a transition from a fossil-based to a bio-based society with support from research and innovation;

2. agrees with the Commission's view that the bioeconomy is a key element for smart and green growth and that it contributes to the objectives of the EU 2020 strategy and the flagship initiatives on the innovation union and a resource-efficient Europe; reiterates that life sciences and biotechnology contribute substantially to core EU policy goals in terms of health, sustainable and economic development and job creation <sup>(1)</sup>;

3. recognises that the transition towards a bioeconomy is a prerequisite to making Europe a global leader in the bioeconomy especially regarding innovation and competitiveness; emphasises that the bioeconomy offers great potential for job creation, and not only in the agricultural sectors; observes that the world's natural resources are diminishing and that Europe will need to move faster in order to remain competitive in the bioeconomy, as other countries around the world are putting similar strategies in place and actively stimulating market initiatives (e.g. China, the USA); believes Europe is in need of a strong European response based on innovation in support of the bioeconomy;

4. believes that the action plan set out in the Communication lacks practical measures and instruments to tackle the potential barriers or risks when shifting towards a bioeconomy; specific attention should be paid to overlapping or conflicting regulations and the availability of venture capital;

5. welcomes the fact that the bioeconomy is listed, together with food security and sustainable agriculture, as a "societal challenge" in Horizon 2020 <sup>(2)</sup>, with a budget proposed by

the Commission of EUR 4,5 billion; this provides scope for innovative measures aimed at addressing food security, natural resource scarcity, sustainable agriculture, fossil resource dependency, soil fertility and climate change, while achieving sustainable economic growth; notes, however, that this funding will focus on "food security, sustainable agriculture, marine and maritime research and the bio-economy", which is much more restricted than the sectors included in the bioeconomy in the Commission communication; stresses that it will be at least 25 years before the bioeconomy can compete with the fossil-based economy and that this requires long term investment (in R&D), strategies (beyond 2020) and cooperation among all stakeholders along the value chain aiming to achieve cooperative knowledge transfer;

6. believes that, due to the transition from a fossil-based to a biobased economy, the agricultural sector, providing food security and without undermining its primary role as food supplier, could become at the same time a supplier of a variety of (non-food) bio-based products, which could lead to a more sustainable agricultural sector. The bio-economy will provide new business and innovation opportunities for Europe's value chain including the agricultural sector; believes that in order to make optimal use of natural resources, close interaction between the agricultural, bioeconomy and science sectors are needed <sup>(3)</sup> to create a sustainable and more efficient agricultural sector; believes that any intensification of primary production must not run counter to the sustainability principle, and therefore highlights the importance of spatial planning policy instruments in maintaining areas used for agriculture and forestry;

7. agrees that in order to accelerate the transition to a sustainable European bioeconomy, a secure and sufficient supply of sustainable and high-quality bio-based products as well as resource-efficient primary production systems are prerequisites; points out, however, that the Commission's proposed action plan does not include any measures to increase natural resource efficiency;

<sup>(1)</sup> CdR 174/2007 fin EN.

<sup>(2)</sup> COM(2011) 808 final.

<sup>(3)</sup> CdR 1749/2012 – NAT-V-022.



### Implementing the (cross-sectoral) bioeconomy

8. emphasises that more focus is needed, in terms of strategy and policy, regulation and incentives in the bioeconomy field; stresses that continuous coordination, clear political commitment and further integration between European policies (H2020, Cohesion Policy, CAP, Renewable Energy Directive, Waste Framework Directive) and sectors are needed to avoid contradictions in policy objectives and ensure a level playing field for all actors;

9. welcomes the efforts and ambition of the Commission towards an integrated and cross-sectoral, inter-disciplinary policy approach to the bioeconomy; notes that strong policy coordination by the Commission is needed and that the ambitions do not yet take account of the level of practical implementation that is needed at the regional and local levels;

10. supports the attempt by the Commission to establish a common and broad definition of the bioeconomy; believes that due to the cross-sectoral nature of the bioeconomy, its meaning might differ among the various European, national and regional stakeholders active in the bioeconomy sector; suggests that the biomass pyramid (figure 1)<sup>(4)</sup> could offer a framework for discussing values and preferred usage of biomass in a more structured manner;

11. believes that Europe should develop and implement its own clear and long term bioeconomy vision based on the different segments of the biomass pyramid (see figure 1), in which higher segments represent higher values; believes that Europe should follow a "value-strategy" focusing on the higher segments of the biomass pyramid and giving preference to the use of 2nd and eventually, 3rd generation biomass<sup>(5)</sup>; acknowledges that investment in first-generation biomass is a necessary step in the transition towards 2nd and eventually, 3rd generation biomass; believes that these European objectives

<sup>(4)</sup> The report entitled *De Ecopyramide – Biomassa beter benutten* (Derksen et al 2008) and the English language summary "The Ecopyramid – better biomass efficiency" <http://www.innovatienetwerk.org/en/bibliotheek/rapporten/342/DeEcopyramide>

<sup>(5)</sup> In general, first-generation biofuels are produced from food crops (e.g. wheat, maize), oil crops (e.g. rape, palm oil) and sugar crops (e.g. sugar beet, sugar cane) using established technology. In general, second-generation biofuels are produced from cellulosic materials (lignocellulosic feedstocks) and agricultural residues or specially cultivated plants (not destined for food production), 3rd generation biofuels may be defined as cultivated forms of biomass which are highly efficient in terms of their light and land use yet which do not take the form of food crops. Algae are the best example of such biofuels and provide oil and other high-value products. See among others: <http://www.biofuelstp.eu/fuelproduction.html> and <http://biofuelsandthepoor.com/facts-and-definitions/>

should be embedded in all cross-sectoral policies linked to the bioeconomy;

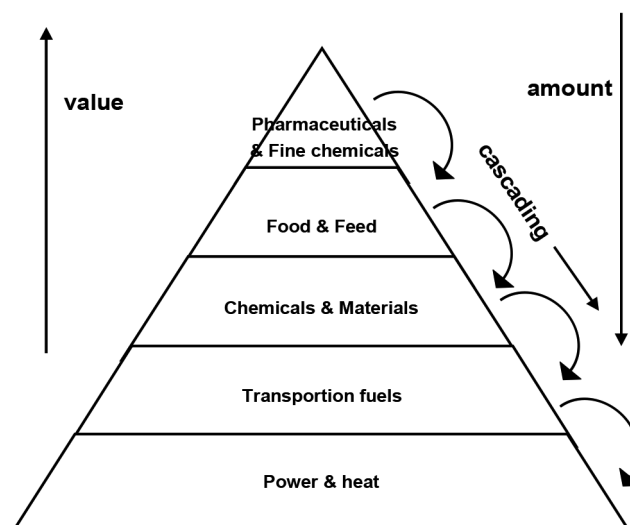


Figure 1: the biomass pyramid

12. believes that Europe should take and maintain the lead in developing sustainability criteria for optimising the supply of and demand for biomass (or "renewable biological resources"), in promoting sustainable land use, considering increased agricultural production capacities and the accelerated use of second- and eventually, third-generation biomass, minimising the potential negative effects of the non-sustainable usage of first-generation biomass and addressing the food versus fuel debate;

13. advises the Commission to develop a common bioeconomy roadmap, providing an analysis of the next steps required in the development of a European bioeconomy, taking into account a value chain approach, and considering existing work (by European Technology Platforms, the OECD and others); calls for practical measures and instruments to be included, while taking into account the various profiles that regions have; underlines the potential of interregional cooperation for the value chain;

14. points out that the bioeconomy encompasses a range of policy fields within the Commission. Therefore, in order to better facilitate access to bioeconomy-related EU initiatives and programmes, suggests a "one-stop shop" approach where enquiries are processed through a single entry point in the Commission;

### Multilevel governance instruments and subsidiarity

15. welcomes the fact that the Commission communication takes account of the regional dimension of the bioeconomy and considers that the communication and all of the proposals in the Bioeconomy Action Plan are compliant with the principle of subsidiarity;

16. notices that in Europe few Member States have been conducting activities to support the development of the bioeconomy, and that strategies here are mainly developed by national governments; a good example is the common regional bioeconomy strategy of the Biobased Delta Europe (south-west Netherlands and Flanders); believes an integrated framework and a more cooperative European approach is needed; believes that we need to strengthen local and regional initiatives through the implementation of bioeconomy strategies at all levels of cooperation (EU, national, regional, local) and the coordination of cross-sectoral activities. Mechanisms for coordinating all relevant (cross-sectoral) policy fields related to the bioeconomy at the EU, national and regional levels should be established;

17. endorses the Commission's proposal to set up a Bioeconomy Panel, helping to enhance synergies and coherence between policies, and discuss and evaluate the practical impact of policy actions related to the bioeconomy; considers that the precise purpose of the Panel is still unclear, as is how it will work in practice and how regions will be involved; stresses that it should be a multi-stakeholder forum where representatives come together in a Triple-Helix setting (businesses, research institutes and LRAs) to share knowledge, ideas and discuss solutions for the bio-based society as well as practical efforts to move from a fossil-based economy to a bioeconomy; believes that there should be good representation of a broad range of sectors on the platform, providing a good basis for facilitating a cross-sectoral approach to the bioeconomy;

18. believes that the functioning and role of national, regional and local bioeconomy platforms might differ; calls on the Commission to establish specific guidelines describing the competences of national, regional and local bioeconomy panels; stresses that the bioeconomy panels should carry out tasks of coordination between the political, scientific and business communities with a view to agreeing on measures to be taken in the pre-competition stage; calls for a place-based approach taking into account their respective geographical, developmental, environmental and regional circumstances and priorities and existing regional initiatives; believes that each region should tell "its own story" and develop its own regional bioeconomy strategy;

19. stresses that LRAs play a crucial role in the implementation and development of the bioeconomy; recognises that LRAs are vital for defining risks and possible barriers to imple-

mentation on the ground, therefore strongly encourages their active involvement and participation in the setting-up, organisation and implementation of the Bioeconomy Panel; asks the Commission to provide enough flexibility and to clarify the function and role of regional and/or national panels, the way they interact and how regional and/or local experiences will be reflected in the EU's Bioeconomy Panel;

20. believes that the success of the transition towards the bioeconomy will depend on the active engagement of civil society in the planning and implementation processes; emphasises the importance of public awareness; encourages the Commission to stress the relationship between science, society and policy-making, and the important role for LRAs in this transition;

21. believes that the transition towards a bioeconomy will only be successful in a "bio-based society"; therefore suggests that NGOs and civil society organisations should play a major role in the early stages of the transition and should be represented on the panels;

22. emphasises the potential of the bioeconomy for growth and job creation in Europe; believes that this requires highly skilled workers to develop the innovations and knowledge basis building the bioeconomy; emphasises that it is important to make developments related to the bioeconomy part of the regular curriculum at primary level and in vocational and higher education, through studies and courses that deal with agriculture, chemistry and food. Nevertheless education lies within the competence of the member states in line with Art. 165 TFEU and therefore no requirements can be established in this area at an EU level;

23. believes that cooperation based on the Triple Helix concept is essential for achieving innovation and knowledge valorisation in the bioeconomy. The Triple Helix concept, too, is in need of modernisation and development aimed at ensuring that regional innovation ecosystems function effectively. The field naturally profits from broad-based, positive participation by citizens and is therefore very well placed to be a frontrunner in Europe in terms of research-intensive yet user-driven innovation activity;

### A sustainable bioeconomy in the internal and global markets

24. emphasises the important role of public-private partnerships (PPPs) in accelerating the transition towards a bioeconomy; believes that SMEs play a crucial role in the translation of scientific research into applications and market introduction in the form of new products or techniques; the role of regional SMEs in innovation cannot be sufficiently emphasised and strong, structured support is needed to stimulate their activities;

25. believes that it is necessary to facilitate better access to finance for SMEs through investment in start-ups, venture capital and support for technology transfer, and less complex regulations and knowledge valorisation in the field of the bio-economy; suggests that an SME panel should be set up to advise the Bioeconomy Panel and secure a business-driven approach;

26. is concerned that the current political and economic framework in the EU does not support the industrial use of biomass as a (raw) material;

27. stresses that the transition towards a bio-based economy must be consistent with the implementation of the internal market and trade policy;

### Regional examples and financing instruments

28. welcomes the emergence of leading European networks of regions and clusters on the bioeconomy; examples include the cooperation between Flanders (Belgium) and the south-west of the Netherlands, north-west France, North Rhine-Westphalia (Germany), the Helsinki region (Finland), Styria (Austria) and the initiatives in Sweden, Estonia and Hungary; calls on the Commission to support such networks and clusters with a view to promoting the exchange of experiences and joint processing of project applications with other European regions and involving them in the Bioeconomy Panel; believes that mutual learning about the set-up of investment funds and technology transfer is important;

29. believes that bottom-up initiatives are important in creating a bio-based society, and that a business- and demand-driven approach, combined with a government-driven approach, is crucial;

30. notes that biomass-producing regions should be able to benefit from technological innovation and not only be considered as suppliers of biomass; thus specific attention is needed for technology transfer and knowledge valorisation; believes that close relations between urban and agricultural regions are important for establishing technology transfer and knowledge valorisation;

31. believes that part of the CAP funds should support – in conjunction with Horizon 2020 – the *European Innovation partnership on agricultural productivity and sustainability* to bridge the gap between R&D and farming practice in order to increase the knowledge base and knowledge valorisation <sup>(6)</sup>;

<sup>(6)</sup> (Draft) opinion of the Committee of the Regions on the European Innovation Partnership: Agricultural Productivity and Sustainability, CdR 1749/2012 (NAT-V-022).

32. suggests that the Commission should facilitate the outlining and mapping of best practices, existing activities and available bio-based products of regional clusters and regions, building on the work and results of existing programmes such as ABC-Europe, Cluster-IP financed by DG-ENTR <sup>(7)</sup> and the Interreg and Regions of Knowledge programmes financed under regional policy and FP7 <sup>(8)</sup> respectively, and promote multi-fund programming;

33. welcomes the proposal by the European Commission to earmark a part of the European Regional Development Fund for "low carbon economy" projects for less developed regions, developed "transition" and richer regions; believes that this will have a positive impact on the transition towards a European bio-based society; underlines the potential of Smart Specialisation Strategies (S3) for enabling regions to deliver a more strategic and integrated approach to the bioeconomy;

34. suggests that advanced regions in the bioeconomy field should be supported in taking the steps required by bioeconomy value chains and in connecting to other less advanced regions; believes that advanced and less advanced regions should together instigate pilot plants in which (start-up) companies can test new products in a protected environment; believes that this "stairway to excellence" approach would lead to an effective use of resources, while fostering cohesion; supports initiatives such as Regions of Knowledge which provide a helpful tool for knowledge exchange, strongly promote effective regional uptake and application of research results, and generate additional research cooperation;

35. is convinced that both the Knowledge and Innovation Communities (KICs) and Regional Implementation and Innovation Communities (RICs) address long-term societal challenges and identify and tackle new opportunities for innovation in Europe; therefore calls on the Commission to launch a KIC focusing on the bioeconomy in the new wave of KICs in the period 2014-2020 <sup>(9)</sup>;

<sup>(7)</sup> [http://ec.europa.eu/enterprise/sectors/biotechnology/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/biotechnology/index_en.htm) and <http://www.europe-innova.eu/web/guest/cluster-cooperation/cluster-innovation-platform>

<sup>(8)</sup> <ftp://ftp.cordis.europa.eu/pub/fp7/kbbe/docs/regional-biotech-report.pdf>, [http://cordis.europa.eu/fp7/kbbe/library\\_en.html](http://cordis.europa.eu/fp7/kbbe/library_en.html)

<sup>(9)</sup> The European Institute of Innovation and Technology (EIT) with its Knowledge and Innovation Communities (KICs) in different areas will in 2014 address questions related to the bioeconomy, in particular under the proposed KIC "Food4future" see COM(2012) 60 final; the bioeconomy includes not only food but also non-food products. It is important to include as well the non-food component as part of the overall value chain of the bioeconomy.

36. having said the above, believes that there is a palpable sense of urgency among all European, national, regional and local stakeholders as regards developing a low-carbon economy/bioeconomy; divining the pathway to that objective and bringing it into practice requires a revolution in our ways of thinking and doing; as regions are key in the practical execution, the CoR offers its expertise and states its willingness to closely cooperate with the Commission in bringing the bioeconomy strategy in Europe to the next phase;

37. we would ask the Commission to take the following steps at EU level:

- a. further develop the Bioeconomy Strategy (using a Triple Helix structure), focusing on the higher echelons of the biomass pyramid; establish a Bioeconomy Panel with representatives from businesses, knowledge institutions and public authorities (at regional, national and EU levels);
- b. develop an integrated approach to the bioeconomy based on and requiring a multi-fund strategy at both the regional level and the European level (H2020, Cohesion Policy, CAP, Energy);
- c. make the public in the regions aware of the need for the bioeconomy and the opportunities it provides;
- d. base the integrated approach to the bioeconomy on stimulating and non-conflicting regulations and measures (by means of certification systems, integrated and customised R&D programmes across several DGs) and possibilities for regions to determine their own direction concerning the bioeconomy and Smart Specialisation Strategy;

and to further develop a European strategy focusing on:

- Specialisation and knowledge valorisation of innovations in the European bioeconomy sector in order to remain competitive at global level
- Research and development of 2nd and 3rd generation biomass
- Value chains (from the production of raw materials to market finished products)
- Products with high added value.

38. we believe the regions have the following to offer:

- a. the mapping and availability of documented best practices of regions that are successfully planning and implementing (aspects of) the bioeconomy and finding ways to propagate and assign these structures to other regions (Stairway to Excellence);
- b. help in setting up Triple Helix structures and providing input for the bioeconomy panels;
- c. given their position close to the citizens, LRAs can increase public awareness of (the need for and benefits of) the bioeconomy at local and regional levels;
- d. support in building "stairways to excellence" by facilitating and initiating interregional cooperation between less developed and more developed regions and using multi-fund approaches to European programmes and projects.

Brussels, 30 November 2012.

*The President*  
*of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

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**Opinion of the Committee of the Regions on 'The European Innovation Partnership: Agricultural productivity and sustainability'**

(2013/C 17/10)

THE COMMITTEE OF THE REGIONS advises the European Commission:

- to acknowledge the key position of local and regional authorities and stakeholders in making the EIP for Agricultural Productivity and Sustainability a success;
- to fully involve local and regional authorities in governance structures set up to stimulate and monitor this initiative;
- to define "raising productivity" as "producing more and better with less";
- given that the EIP should address the following themes, to allow a broad range of topics regarding primary production, resource management, bio-economy, the supply chain, quality, food safety and consumers;
- to prioritise innovation programmes ensuring the maintenance of agricultural activities throughout Europe, ensuring that research efforts will be included that benefit livestock farming regions, peri-urban regions, areas subject to natural constraints, and local farming areas;
- to favour bottom-up SME innovation initiatives over industry initiatives, in order to counter the existing imbalance in involvement, resulting from different levels of organisation and capacity;
- to continue to put effort into improving the position of primary producers in the food production, processing and distribution chain;
- to allow operational groups to also use EARFD support for initial costs, such as for developing an approach for tackling a technical and scientific issue.



<b>Rapporteur</b>	Henk BRINK (NL/ALDE), Member of the Executive Council of the Province of Drenthe
<b>Reference document</b>	Communication from the Commission to the European Parliament and the Council on the European Innovation Partnership "Agricultural Productivity and Sustainability"  COM(2012) 79 final

## I. CHALLENGES AND OBJECTIVES

THE COMMITTEE OF THE REGIONS

### The Europe 2020 Innovation Union flagship initiative

supports the Europe 2020 strategy for smart, sustainable and inclusive growth, and is aware that:

1. to survive competition in the global playing field, Europe needs to increase its efforts to maintain and improve its position on trade, industrial leadership and excellence in the science base;

2. European knowledge on sustainable food production, including knowledge on farm management, ICT solutions, food safety, agro-biotechnology, growth technology, crop protection, water, residues, energy and waste management and agrosociology, is welcomed worldwide and has huge marketing potential in rapidly emerging and developing markets within and outside Europe;

3. to succeed in generating value from this knowledge, Europe needs 1) more innovative SMEs to create growth and jobs, 2) more private investment, 3) innovation achieved across existing and emerging sectors, 4) multi-disciplinary collaborations to create breakthrough solutions, and 5) stakeholders who are keen to get promising solutions tested, demonstrated and scaled up;

### Challenges on agriculture, food security and natural resources

notes that:

4. the world is currently facing a diverse and significant set of challenges: continued population growth and growth in spending capacity, triggering changes in diet and increased demand for primary products, combined with threats to global agricultural production capacity as a result of climate change;

5. these challenges are accompanied by the threat of scarcity of food, feed, fossil fuels, commodities, fibres and fresh water, by increasing soil degradation and biodiversity loss and by an increasing risk of financial market failure, of political imbalance and of armed conflicts;

6. agriculture and food supply must in future be more sparing in their use of water and fossil fuels, use less fertiliser and phytosanitary products, be more diversified and be smarter in making the most of synergies between arable farming, livestock farming, organic waste management, residue streams and renewable energy production;

and points out that:

7. Member States and stakeholders have repeatedly expressed a strong interest in promoting innovation in agriculture through a Union-wide approach and that the European Council of 20 June 2008 already pointed to the "need to pursue innovation, research and development of agricultural production, notably to enhance its energy efficiency, productivity growth and ability to adapt to climate change";

8. similar conclusions have been drawn by farming organisations and chambers of agriculture and that the G20 communiqué from Cannes underlines the vital need to invest in agricultural research and innovation;

Therefore, the Committee of the Regions

9. welcomes the Commission's initiative to promote innovation in the agricultural sector by establishing a specific European Innovation Partnership on Agricultural Productivity and Sustainability and its two major objectives of 1) helping the agricultural sector to become more productive and efficient (with a reversal of the recent slowdown in productivity gains by 2020) and 2) promoting the sustainable development of agriculture (ensuring appropriate land use by 2020);

10. particularly welcomes the fact that local agricultural and food systems are reflected in the themes mentioned as being eligible for cooperation, i.e. horizontal and vertical cooperation among supply chain actors for the establishment of logistics platforms to promote short supply chains and local markets, and promotion activities in a local context relating to the development of short supply chains and local markets;



11. welcomes the Commission's proposal to allocate EUR 4.5 billion to research and innovation on food security, the bioeconomy and sustainable agriculture (under Horizon 2020);

12. agrees that funds from the CAP should, in conjunction with funds from the research framework programme, support the EIP on agricultural productivity and sustainability to bridge the gap between the research world and farming practice;

13. believes that a shift required from the agricultural sector, needed because of increasing urgency for resource efficiency, will result in primarily producing more food in a more sustainable way, but also in supplying a variety of different societal services and bio-based products, related to health, leisure, land management, waste management, feed, fibres and renewable energy. This broader scope will benefit both the sector and society; provided that a good balance between food and non-food production is secured, that the focus of the agriculture sector is on the re-defined CAP priorities and that authorities are consistent in steering towards these priorities;

14. believes that this redefined agricultural sector provides new business and innovation opportunities for Europe's value chain;

15. believes that, in order to make optimal use of natural resources, strong interactions are needed between the agriculture, bioeconomy and science sectors<sup>(1)</sup> in order to create a sustainable and more efficient agricultural sector. In view of agriculture's role as producer of biomass as a source of energy, care should be taken to achieve a balance between production of food products and biomass;

## II. CONCERNS/KEY FACTORS FOR SUCCESS

### Concerns

would point out that:

16. the effort to bridge the gap between practice and science is crucial, but the simple existence of the EIP does not address the cultural and professional gap between two equally important angles: 1) the angle of the science community, which tends to focus on excellence in the science base, on frontier research, future and emerging technologies, skills and career development, and research infrastructure; and 2) the angle of entrepreneurs and policy makers, who look for ways to generate value from knowledge and for solutions that help address societal needs and business opportunities. Communication and incentives will be needed on both sides;

<sup>(1)</sup> CdR 1112/2012 – EDUC-V-024 "Innovation for sustainable growth: a bioeconomy for Europe".

17. the proposed EAFRD offers a number of incentives, as laid down in Articles 15, 16, 18, 20, 33, 36, 46, 53, 61, 62 and 63, but these will not be embraced unless an EIP knowledge broker communicates the possibilities at Member State level before the Partnership Contracts are finalised and during the process of drafting the national and/or regional operational Rural Development Programmes;

18. the EIP will not be incorporated in the Rural Development Programmes, unless national co-financing is programmed to fund the different stages of the innovation process: 1) cooperation (to establish the operational groups) for business development (to start an innovation project); 2) knowledge transfer and advisory services (to acquire expertise and to make use of existing research results); 3) entering quality schemes (to encourage societal benefits and business results); and 4) investment (financial support for achieving the objectives; productivity and sustainability);

19. so far, five European Innovation Partnerships have been set up, on the following subjects:

a. active and healthy ageing, SEC(2011) 1028, adopted on 1.9.2011

b. raw materials, COM(2012) 82, adopted on 29.2.2012

c. agricultural productivity and sustainability, COM(2012) 79, adopted on 29.2.2012

d. water, COM(2012) 216, adopted on 10.5.2012

e. smart cities, C(2012) 4701, adopted on 10.7.2012

and all are 1) important to regional and local authorities but also, 2) dependent on regional stewardship, support and funding to be a success; however, up to now regional authorities have not been invited to be involved in the process;

### Key factors for success

points out that:

20. regions and rural communities can play a decisive role in steering and co-financing the actions undertaken via the EAFRD and other means to stimulate innovation, and are now indispensable in tailoring support to the specific agricultural, environmental and territorial characteristics of a given region, thus enabling more efficient use of European funding;

21. regions and rural communities would welcome having a say on priorities or implementation and management arrangements;

22. setting up a multi-level (European, national, regional) governance framework is an essential requirement for a successful overhaul of the Common Agricultural Policy post-2013, including the EIP;

23. stakeholders will be expected to form a basic operational group that would continue to explore knowledge gaps regarding e.g. technology, business models, organisational systems, marketing strategies, consumer needs and education, and will need EAFRD funding for this; their next step could be to look for partners and create a multidisciplinary team, to explore the use of cross-border cooperation and/or to explore the existing knowledge base before contacting the EIP Network for further support, but that this next step should not be obligatory;

24. certain bottom-up innovation initiatives on sustainability or productivity might be welcomed at a regional or national level, but would still risk not matching the priority theme selection as set out in the Strategic Implementation Plan (SIP) and multi-annual roadmap (published by the High Level Steering Group (HLSG) after consulting the Standing Committee on Agricultural Research and the Rural Development Committee); however, this should not form an obstacle to receiving support, since it would have a strong discouraging effect on participants and create a breach in the innovation spiral at its most vulnerable point;

25. innovation and knowledge brokerage is indispensable in launching an innovation process and in pushing for progress;

### III. POLICY RECOMMENDATIONS

#### To the European Commission

would strongly advise the European Commission:

26. to acknowledge the key position of local and regional authorities and stakeholders in making the EIP for Agricultural Productivity and Sustainability a success;

27. to fully involve local and regional authorities in governance structures set up to stimulate and monitor this initiative;

28. to invite a Committee of the Regions representative to be involved in the work of the high-level steering group which will be defining strategy for the EIP and the coordination committee of the European network for rural development, in order to ensure that the initiative is implemented in line with the real needs of local and regional authorities;

29. to oblige Member States to integrate the EIP cross-sectoral objectives in the Partnership Contract;

30. to define "raising productivity" as "producing more and better with less";

31. given that the EIP should address the following themes, to allow a broad range of topics regarding primary production, resource management, bio-economy, the supply chain, quality, food safety and consumers;

32. to prioritise innovation programmes ensuring the maintenance of agricultural activities throughout Europe, ensuring that research efforts will be included that benefit livestock farming regions, peri-urban regions, areas subject to natural constraints, and local farming areas;

33. to favour bottom-up SME innovation initiatives over industry initiatives, in order to counter the existing imbalance in involvement, resulting from different levels of organisation and capacity;

34. to focus on sustainable farming, on productive farming as a result of the availability of up-to-date technology, on preventing food waste and post-harvest losses and on responsible consumer behaviour in addition to intensifying production volumes;

35. to focus on EU export and marketing of knowledge and (bio)technology and on fair involvement in remote local (metropolitan or small-scale) production in third countries;

36. to continue to put effort into improving the position of primary producers in the food production, processing and distribution chain;

37. as an incentive for scientists to close the innovation gap, to push for "degree of practical use of research results" to be added to rankings for knowledge institutions;

38. to welcome leading European networks of regions, research institutes and clusters on high productivity and sustainable agriculture; calls on the Commission to acknowledge the role of such networks and clusters and facilitate knowledge transfer between entrepreneurs at both local and interregional level;

39. to allow Member States to support early-stage and regional activities by operational groups – that work on EIP objectives and targets – with EAFRD funds and regional co-financing, regardless of their success in also obtaining support from the EIP Network after responding to calls;

40. to agree that operational groups may either operate within the borders of a Member State or have members in several Member States and in third countries;

41. to refer to "farmers and producer organisations", where "farmers" are mentioned as eligible, in order to make it easier to establish a group;

42. to allow operational groups to also use EAFRD support for initial costs, such as for developing an approach for tackling a technical and scientific issue or to make use of an innovation and knowledge broker;

43. prior to establishing the High Level Steering Board, SHERPA support group/taskforce, support desk for Operational Groups and secretariat writing the Strategic Implementation Plan, to appoint a communication team that would promote the use of 1) the EIP in the National Rural Development Programmes; 2) the Horizon 2020 options for supporting research projects, multi-actor projects, clusters of innovation actions, innovation brokers and innovation centres; 3) the facilities and contacts of the EIP Network; and 4) a handbook/guidelines for local groups;

**To local and regional authorities,**

would advise local and regional authorities:

44. to support involvement with and programming of the EIP in the EAFRD Operational Programmes and to prepare for establishing operational groups;

45. to give advice to the Member States to seriously consider the urgency for addressing productivity, resource efficiency and sustainability and there for to spend at least 10% of the total contribution from the EAFRD on fostering knowledge transfer and innovation in agriculture, forestry, and rural areas;

46. to strengthen their current involvement in the National and European Rural Development Network.

Brussels, 30 November 2012.

*The President*  
*of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

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## III

*(Preparatory acts)*

## COMMITTEE OF THE REGIONS

98TH PLENARY SESSION, 29-30 NOVEMBER 2012

**Opinion of the Committee of the Regions on ‘A Common Strategic Framework’**

(2013/C 17/11)

## THE COMMITTEE OF THE REGIONS

- reiterates its conviction that there is a need for a Common Strategic Framework (CSF) for the years 2014–2020 in order to establish coordination and synergy between the activities of the five CSF funds and to outline a clear strategic direction for partnership contracts and operational programme;
- expresses doubts about the proposed division of the CSF between an annex to the general regulation and a delegated act with indicative actions of high European added value and priorities for cooperation. Supports the adoption of the CSF as an annex to the general regulation only;
- considers that the indicative actions of high European added value should be adopted by the European Commission in the form of a non-binding communication, as was done with the Community Strategic Guidelines 2007–2013;
- stresses that the aim of the CSF must be to create the conditions for a fluid transition between the legislative package and the partnership contract and the operational programmes, and points to the need to spell out the details of the implementation mechanisms;
- regrets that the 11 thematic objectives listed in the proposal for the general regulation are different from the six priorities of the European Agricultural Fund for Rural Development and the six separate priorities of the European Maritime and Fisheries Fund, which makes coordination unusually difficult;
- is convinced of the need to decentralise operational management at local and regional level in order to increase coordination and complementarity between funds, which will ensure an effective integrated approach, i.e. a multi-thematic, bottom-up method, tailored to the specific features of each region;
- strongly recommends the implementation of operational programmes based on many funds;
- calls for a stable programming framework to ensure coherence with the multiannual perspective of cohesion policy;
- questions the possibility of amending the CSF by way of a delegated act.

<b>Rapporteur-general</b>	Marek WOŹNIAK (PL/EPP), Marshal of Wielkopolska region
<b>Reference document</b>	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(2012) 496 final, Annex I

## I. POLICY RECOMMENDATIONS

### THE COMMITTEE OF THE REGIONS

#### General comments

1. reiterates its conviction that there is a need for a Common Strategic Framework (CSF) for the years 2014–2020 for the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF) in order to establish coordination and synergy between the activities of the CSF funds and to outline a clear strategic direction for partnership contracts and operational programmes;

2. recalls the political recommendations the CoR has elaborated in its opinion on the general regulation and underlines that, considering that the CSF is to be adopted as an annex to the general regulation, it is the latter which provides strategic vision and targets whilst the CSF should be considered as the main implementation tool;

3. expresses doubts about the proposed division of the CSF between an annex to the general regulation <sup>(1)</sup> and a delegated act with indicative actions of high European added value and priorities for cooperation. Supports the adoption of the CSF as an annex to the general regulation only. Points out that delegated acts should be limited to non-essential elements of basic legal acts, whereas all issues relating to the CSF are of fundamental importance for local and regional authorities and are strategic in nature. The Committee of the Regions' opinion does not cover delegated acts and yet the CSF is a mandatory area of consultation for the CoR, in accordance with Article 177 TFEU;

4. considers that the CSF should be adopted by the Council and the European Parliament and that it should only be revised in the event of any fundamental changes in the EU's socio-economic situation. In this connection, questions the possibility of amending Annex I by way of a delegated act;

5. considers that the indicative actions of high European added value should be adopted by the European Commission in the form of a non-binding communication, as was done with the Community Strategic Guidelines 2007-2013 (COM(2005) 299 final);

6. points out that the CSF funds have a pivotal role to play in supporting instruments for implementing the Europe 2020 strategy and investments to reduce differences in development between Member States and regions, and within individual regions. At the same time, calls for the Treaty obligations to be used as a guiding principle;

7. welcomes the fact that the CSF proposals will implement the underlying principles of Article 11 of the proposal for a general regulation, in accordance with which the CSF is intended to respond to the key territorial challenges. Also points out that the CSF must contain clear references to the outermost regions and areas with particular territorial features, such as upland areas, peripheral areas, industrial areas in transition, islands, areas with a widely dispersed population and sparsely populated areas, which require special forms of intervention;

8. welcomes the reference to the need to involve regional and local partners as a condition for the achievement of political objectives. Believes that this will facilitate the application of the bottom-up territorial approach;

<sup>(1)</sup> COM(2012) 496 final.

9. calls for the CSF, in accordance with the principle of proportionality, to effectively play its role of clarifying and refining the logic of fund intervention in the future programming period, while leaving room for adapting programme intervention to the specific situation, needs and potential of individual Member States and regions. The CSF should provide indicative frameworks for partnership contracts and operational programmes prepared in individual Member States, thus giving the Member States and the competent regional and local authorities the opportunity to respond independently to development challenges, particularly having regard to the objectives of the Europe 2020 strategy. Stresses that the aim of the CSF must be to create the conditions for a fluid transition between the legislative package and the partnership contract and the operational programmes;

10. points to the need to spell out the details of the implementation mechanisms;

11. regrets that the 11 thematic objectives listed in the proposal for the general regulation are different from the six priorities of the European Agricultural Fund for Rural Development and the six separate priorities of the European Maritime and Fisheries Fund, which makes coordination unusually difficult;

#### **Introduction to the CSF annex**

12. regrets that the CSF lacks elements on the key principles to be implemented;

#### **Coherence and consistency with EU economic governance**

13. calls for a stable programming framework to ensure coherence with the multiannual perspective of cohesion policy;

14. considers that, from the start, the main activity should be to identify appropriate programme priorities for the whole period 2014-2020, e.g. when preparing partnership contracts and operational programmes. In this context, has some concerns that taking into account the country-specific recommendations and national reform programmes could run counter to concerted multiannual programming at the regional level;

15. refers to the CoR opinion on the general regulation, which rejects the proposals aiming to establish a link between

cohesion policy and compliance with the Stability and Growth Pact<sup>(2)</sup>, but proposes the option of amending partnership contracts and operational programmes on the basis of recommendations arising from the European semester;

16. nonetheless draws attention to the fact that frequent re-programming will make fund management less predictable, and should therefore be done only when strictly necessary;

#### **Coordination mechanisms among the CSF funds**

17. stresses the need for improved coordination among the CSF funds, which will improve the effectiveness of their intervention and create the necessary synergies in the context of a difficult budgetary situation and limited financial resources. This will make it possible to ensure a higher level of synergy and complementarity in EU investment;

18. calls for complementarity to be a central focus of the CSF. It is therefore necessary to strive to establish an integrated multi-thematic approach, linking mutually complementary indicative actions from different funds aimed at achieving the same objective. Regrets, however, that the Commission has not gone further in spelling out the potential complementarity between various thematic priorities, the investment priorities of several CSF funds as well as between indicative actions and investment priorities. In this connection, stresses that the draft CSF document must ensure complementarity between the fields of activity of the individual funds and eliminate the danger of duplication;

19. is convinced of the need to decentralise operational management at local and regional level in order to increase coordination and complementarity between funds, which will ensure an effective integrated approach, i.e. a multi-thematic, bottom-up method, tailored to the specific features of each region;

20. strongly recommends the implementation of operational programmes based on many funds, maximising the positive impact of EU intervention in the regions through the integrated use of the opportunities created by various regional development instruments and the genuine realisation by local and regional authorities of their socio-economic development strategies;

<sup>(2)</sup> i.e. the suspension of payments and commitments under operational programmes in the event of failure to comply with EU economic governance recommendations.



21. welcomes the fact that the European Commission places heavy emphasis on the need for the programming of integrated territorial development. Welcomes the references to 'Integrated Territorial Investments' (ITI), 'Integrated Operations' (IO) and 'Joint Action Plans' (JAP); regrets, however, that neither these instruments nor the concept of 'Integrated Operations' are defined in the general regulation or the CSF annex. Stresses the need for a precise definition of IOs as an instrument to be used for integrated financing with other EU policy areas and instruments;

22. in particular, in relation to the urban development strategy in accordance with Article 7 of the ERDF Regulation, notes the importance and innovative nature of allocating resources to integrated actions for the sustainable urban development of towns, to be implemented in the form of 'integrated territorial investments' (ITI), and regrets that the regulatory framework does not state with sufficient clarity that, in this case, responsibility for the management and implementation of 'integrated territorial investments' (ITI) falls directly to local authorities;

23. considers that the local nature of community-led local development should be retained;

24. in line with the CoR opinion on community-led local development, draws attention to the holistic nature of local development, which focuses on the challenges and potential of all types of region, including urban, rural and peri-urban regions as well as functional areas. Therefore, calls for action to enable community-led local development to be used for the implementation of all 11 thematic objectives under the strategic framework, according to local needs;

#### **Coordination between the CSF Funds and other EU policy areas and instruments**

25. supports the reference to the need for coordination with other EU policies and instruments outside the scope of the CSF. This will enable a closer link between the Europe 2020 strategy and EU cohesion and sectoral policies at European, national and local levels. Considers in particular that this will make it possible to streamline the management and increase the effectiveness of the programmes implemented;

26. calls for a more precise definition of the coordination mechanisms and the drawing-up of guidelines for EU policy areas and instruments connected with the CSF, especially at EU level. Notes that, as most of these instruments are centrally managed, the joint responsibility of the European Commission should be highlighted alongside the role of the Member States;

27. welcomes the introduction of a list of EU policy areas and instruments/programmes included in the draft appendix (which includes Horizon 2020, NER, COSME, LIFE, Erasmus for All, the Programme for Social Change and Innovation (PSCI), the Connecting Europe Facility (CEF), the European Neighbourhood Instrument (ENI), the Instrument for Pre-Accession Assistance (IPA) and the European Development Fund (EDF));

28. welcomes the emphasis placed on the link between the CSF funds and the Horizon 2020 programme. Considers that the European Commission has expanded the guidelines, proposing that the CSF funds support smart specialisation strategies in relation to Horizon 2020 based on two very different kinds of activity - capacity building and exploitation and immediate dissemination of the results of research and innovation;

29. welcomes the recommendation that the CSF funds be able to co-finance partnerships between the education, business and research sectors, and that these activities be coordinated with international partnerships between businesses and educational institutions in the form of knowledge alliances or sectoral skills alliances, which may be supported by the Erasmus for All programme;

30. supports the introduction of a new possibility for using CSF funds to complement the Connecting Europe Facility, e.g. via second or third-level links with the EU's infrastructure priorities;

31. refers to the CoR opinion on the LIFE programme and shares the European Commission's view that the programme plays a decisive role in mobilising significantly more ERDF, ESF and CF resources for environmental purposes. The Committee of the Regions supports the LIFE integrated projects which are presented as projects of a new, higher category;

32. stresses the need to increase coordination among the ENI, IPA and EDF external instruments, especially in the case of regions which share borders with countries of the Eastern Partnership and the Union for the Mediterranean and in the case of the outermost regions of the EU which share borders with ACP countries;

#### **Coordination with cooperation activities**

33. notes that, as explained by the Committee of the Region's opinion on the draft general regulation, there is no reason for the provisions of partnership contracts to include European Territorial Cooperation. Therefore rejects the inclusion of the 'Priorities for Cooperation' section in the delegated act;

34. welcomes, however, the shortened 'Coordination with Cooperation Activities' section of the CSF annex;

35. points out that it would be worthwhile broadening trans-national territorial cooperation under the ESF to include inter-regional and cross-border cooperation;

36. welcomes the fact that the macroregional dimension has been taken into account and underlines the importance given within the territorial cooperation instrument to achieving the objectives of macroregional strategies;

#### Horizontal principles and cross-cutting policy objectives

37. welcomes the fact that the Common Strategic Framework includes the principles of multilevel governance and partnership under its horizontal principles, in accordance with Article 5 of the proposal for a general regulation;

38. calls for the practical application of the principle of multilevel governance by stressing the importance of adopting a bottom-up approach in the decision-making process and in the preparation of partnership contracts and operational programmes;

39. strongly supports activities to promote equality between men and women. Believes, however, that identifying new bodies exclusively devoted to this purpose within the system of fund implementation is not effective. It would be more appropriate to apply procedural solutions enabling this principle to be

achieved effectively within the framework of existing institutional structures;

40. refers to the CoR's earlier opinions on the ERDF and the ESF, which highlight the lack of interest in the question of demographic change. Accordingly, especially welcomes the inclusion of the issue of demographic change as one of the proposed cross-cutting policy objectives;

#### Arrangements to address territorial challenges

41. welcomes the fact that the CSF highlights the need for the forms of intervention to be adapted to local challenges and opportunities, but expects to see more detailed analysis and further work in this area, the results of which can serve as indicators for local and regional authorities;

42. welcomes the proposal for partnership contracts to translate the elements set out in the CSF into their national context. Stresses the need to take account of downstream local government units, which requires the involvement of relevant local and regional authorities;

43. notes the difficulty in elaborating a harmonised definition of territories in the CSF funds and offers its support in advancing on that issue. Stresses that the definition changes in line with sectoral legislation, which makes it more difficult to identify the main territorial challenges.

## II. RECOMMENDATIONS FOR AMENDMENTS

### Amendment 1

COM(2012) 496 final

Annex 1, point 3.2

Text proposed by the Commission	CoR amendment
Member States and managing authorities responsible for the implementation of the CSF Funds shall work closely together in the preparation, implementation, monitoring and evaluation of the Partnership Contract and programmes.	Member States, <u>their local and regional authorities, partners</u> and managing authorities responsible for the implementation of the CSF funds shall work closely together in the preparation, implementation, monitoring and evaluation of the Partnership Contract and programmes.

#### Reason

Self-explanatory.

## Amendment 2

COM(2012) 496 final

Annex 1, point 3.3

Text proposed by the Commission	CoR amendment
<p>(...) 2. Member States shall promote the development of local and sub-regional approaches, in particular via community-led local development by delegating decision-making and implementation to a local partnership of public, private and civil society actors. Community-led local development shall be implemented in the context of a strategic approach to ensure that the 'bottom-up' definition of local needs takes account of priorities set at a higher level. Member States shall therefore define the approach to community-led local development across the CSF Funds and shall indicate in the Partnership Contracts the main challenges to be tackled in this way, the main objectives and priorities for community-led local development, the types of territories to be covered, which specific role will be attributed to local action groups in the delivery of strategies and the role envisaged for the different CSF Funds in implementing local development strategies in different types of territories such as rural, urban and coastal areas and the corresponding co-ordination mechanisms.</p>	<p>(...) 2. <u>Community-led local development shall be implemented in the context of a strategic approach to ensure that the 'bottom-up' definition of local needs takes account of priorities set at a higher level.</u> Member States shall promote the development of local and sub-regional approaches, in particular via community-led local development by delegating decision-making and implementation to a local partnership of public, private and civil society actors. <del>Community-led local development shall be implemented in the context of a strategic approach to ensure that the 'bottom-up' definition of local needs takes account of priorities set at a higher level.</del> Member States shall therefore define the approach to community-led local development across the CSF Funds and shall indicate in the Partnership Contracts the main challenges to be tackled in this way, the main objectives and priorities for community-led local development, the types of territories to be covered, which specific role will be attributed to local action groups in the delivery of strategies and the role envisaged for the different CSF Funds in implementing local development strategies in different types of territories such as rural, urban and coastal areas and the corresponding co-ordination mechanisms.</p> <p>3. <u>An Integrated Territorial Investment (ITI) is an instrument which provides for integrated delivery arrangements for investments under more than one priority axis of one or more operational programmes. Funding from several priority axes and programmes can be bundled into an integrated investment strategy for a certain territory or functional area. This can take the form of an integrated strategy for urban development, but also for inter-municipal cooperation in rural territories. It allows the managing authorities to delegate the implementation of parts of different priority axes to a local authority to ensure that investments are undertaken in a complementary manner. Within an ITI certain components can be implemented through community-led local development, combining the two approaches.</u></p> <p>4. <u>An Integrated Operation (IO) is a project, contract, action or group of projects that receives support from one or more CSF Funds and from other Union instruments. This is subject to the condition that an expenditure item is not funded twice under the CSF Funds or other Union instrument.</u></p>

Text proposed by the Commission	CoR amendment
	<p><u>5. A Joint Action Plan (JAP) is an operation implemented through a result based approach in order to achieve specific objectives jointly agreed between the Member State and the Commission. It may be part of one or several operational programmes and thus may constitute a useful instrument to foster better integration of the different CSF Funds towards a common objective.</u></p> <p><u>6. A Joint Operational Programme (JOP) is an operational programme combining support from several CSF Funds</u></p> <p><u>7. Member States shall promote the development of community-led local development, integrated territorial investments, integrated operations, joint action plans and joint operational programmes by indicating in the Partnership Contracts the main challenges to be tackled in this way, the main objectives and priorities for these instruments, the types of territories to be covered, which specific role will be attributed to local action groups in the delivery of local development strategies and the role envisaged for the different CSF Funds in implementing integrated strategies in different types of territories such as rural, urban and coastal areas, and the corresponding coordination mechanisms.</u></p>

**Reason**

See point 21 of the opinion.

**Amendment 3**

COM(2012) 496 final

Annex 1, Add new point after 3.3.2

Text proposed by the Commission	CoR amendment
	<p><u>3. Where an 'integrated territorial investment', in accordance with Article 99 of the proposal for a general regulation on the structural funds, concerns a sustainable urban development strategy, in accordance with Article 7 of the proposal for an ERDF regulation, the management and implementation of that integrated investment shall be the direct responsibility of beneficiary local authorities.</u></p>

**Reason**

The text incorporates, in the form of a legislative provision, the contents of point 22 of the opinion, aimed at highlighting the innovation of delegating the management and implementation of ITIs to towns, as provided for in Article 7 of the ERDF Regulation and in Article 99 of the general regulation.

**Amendment 4**COM(2012) 496 *final*

Annex 1, point 4.4

Text proposed by the Commission	CoR amendment
Member States shall ensure, where appropriate, that financing from the CSF Funds is coordinated with support from the NER 300 Programme (...)	Member States <u>and the Commission</u> shall ensure, where appropriate, that financing from the CSF Funds is coordinated with support from the NER 300 Programme (...)

**Reason**

See point 26 of the opinion.

**Amendment 5**COM(2012) 496 *final*

Annex 1, point 4.5

Text proposed by the Commission	CoR amendment
<p>1. Member States shall, where possible, seek to exploit synergies with Union policy instruments (both funding and non-funding instruments) serving climate change mitigation and adaptation, environmental protection and resource efficiency.</p> <p>2. Member States shall, where appropriate, ensure complementarity and coordination with LIFE, in particular with Integrated Projects in the areas of nature, water, waste, air, climate change mitigation and climate change adaptation.</p>	<p>1. Member States <u>and the Commission</u> shall, where possible, seek to exploit synergies with Union policy instruments (both funding and non-funding instruments) serving climate change mitigation and adaptation, environmental protection and resource efficiency.</p> <p>2. Member States <u>and the Commission</u> shall, where appropriate, ensure complementarity and coordination with LIFE, in particular with Integrated Projects in the areas of nature, water, waste, air, climate change mitigation and climate change adaptation.</p>

**Reason**

See point 26 of the opinion.

**Amendment 6**COM(2012) 496 *final*

Annex 1, point 4.6.1

Text proposed by the Commission	CoR amendment
Member States shall seek to use CSF Funds to mainstream tools and methods developed and tested successfully under 'Erasmus for All'.	Member States <u>and the Commission</u> shall seek to use CSF Funds to mainstream tools and methods developed and tested successfully under 'Erasmus for All'.

**Reason**

See point 26 of the opinion.

**Amendment 7**

COM(2012) 496 final

Annex 1, point 4.9.2

Text proposed by the Commission	CoR amendment
<p>2. To support deeper territorial integration, Member States shall seek to capitalise on synergies between territorial cooperation activities under cohesion policy and the European Neighbourhood Instruments, in particular with regard to cross border cooperation activities. Member States shall also, where appropriate, ensure that existing activities are associated with newly created European Groupings of Territorial Cooperation, having special regard to coordination and exchange of best practices.</p>	<p>2. To support deeper territorial integration, Member States shall seek to capitalise on synergies between territorial cooperation activities under cohesion policy and the European Neighbourhood Instruments, <u>Instrument for Pre-Accession and European Development Fund</u>, in particular with regard to cross border cooperation activities. Member States shall also, where appropriate, ensure that existing activities are associated with newly created European Groupings of Territorial Cooperation, having special regard to coordination and exchange of best practices.</p>

**Reason**

See point 32 of the opinion.

**Amendment 8**

COM(2012) 496 final

Annex 1, point 6.3.2

Text proposed by the Commission	CoR amendment
<p>Member States shall ensure the participation of the relevant bodies responsible for promoting gender equality, non-discrimination and accessibility in the partnership, and ensure adequate structures in accordance with national practices to advise on gender equality, non-discrimination and accessibility in order to provide the necessary expertise in the preparation, monitoring and evaluation of the CSF Funds. The composition of the monitoring committees shall be gender balanced and include a gender expertise/responsibility function.</p>	<p>Member States shall ensure <u>within the framework of existing national structures</u> the participation of the relevant bodies responsible for promoting gender equality, non-discrimination and accessibility in the partnership, <del>and ensure adequate structures in accordance with national practices</del> to advise on gender equality, non-discrimination and accessibility in order to provide the necessary expertise in the preparation, monitoring and evaluation of the CSF Funds. The composition of the monitoring committees shall be gender balanced and include a gender expertise/responsibility function.</p>

**Reason**

See point 39 of the opinion.

**Amendment 9**

COM(2012) 496 final

Annex 1, point 7

Text proposed by the Commission	CoR amendment
<p>7.1. Member States and regions shall undertake the following steps for the purpose of preparation of their Partnership Contracts and programmes:</p>	<p>7.1. Member States and regions shall undertake the following steps for the purpose of preparation of their Partnership Contracts and programmes:</p>



Text proposed by the Commission	CoR amendment
(a) An analysis of the Member State's or region's development potential and capacity, particularly in relation to the key challenges identified in Europe 2020, the National Reform Programmes and the relevant country-specific recommendations. The responsible authorities shall undertake a detailed analysis of national, regional and local characteristics;	(a) An analysis of the Member State's or region's development potential and capacity, particularly in relation to the key challenges identified in <u>the Commission's reports on cohesion policy</u> , Europe 2020, the National Reform Programmes and the relevant country-specific recommendations. The responsible authorities shall undertake a detailed analysis of national, regional and local characteristics;
(b) An assessment of the major challenges to be addressed by the region or Member State, the identification of the bottlenecks and missing links, innovation gaps, including the lack of planning and implementation capacity that inhibit the long-term potential for growth and jobs. This shall form the basis for the identification of the possible fields and activities for policy prioritisation, intervention and concentration;	(b) An assessment of the major challenges to be addressed by the region or Member State, the identification of the bottlenecks and missing links, innovation gaps, including the lack of planning and implementation capacity that inhibit the long-term potential for growth and jobs. This shall form the basis for the identification of the possible fields and activities for policy prioritisation, intervention and concentration;
(c) An assessment of the cross-sectoral, cross-jurisdictional or cross-border coordination challenges, particularly in the context of macro-regional and seabasin strategies;	(c) <u>An assessment of the territorial specificities to be taken into account:</u>  — <u>the role of cities, rural areas fisheries and coastal areas, areas facing specific geographical or demographic problems;</u>  — <u>the specific challenges of the areas affected by industrial transition, the outermost regions, the northernmost regions with a very low population density and of island, cross-border or mountain regions;</u>  — <u>urban-rural linkages, in terms of access to affordable, quality infrastructures and services, and problems in regions with a high concentration of socially marginalised communities;</u>
(d) Identification of steps to achieve improved coordination across different territorial levels and sources of funding to deliver an integrated approach linking Europe 2020 with regional and local actors.	(d <del>e</del> ) An assessment of the cross-sectoral, cross-jurisdictional or cross-border coordination challenges, particularly in the context of macro-regional and seabasin strategies;
7.2. In order to take into account the objective of territorial cohesion, the Member States and regions shall ensure that the overall approach to promoting smart, sustainable and inclusive growth:	(d <del>e</del> ) Identification of steps to achieve improved coordination across different territorial levels and sources of funding to deliver an integrated approach linking Europe 2020 with regional and local actors.
(a) reflects the role of cities, rural areas fisheries and coastal areas, areas facing specific geographical or demographic problems;	7.2. <del>In order to take into account the objective of territorial cohesion, the Member States and regions shall ensure that the overall approach to promoting smart, sustainable and inclusive growth:</del>
(a) reflects the role of cities, rural areas fisheries and coastal areas, areas facing specific geographical or demographic problems;	(a) <del>reflects the role of cities, rural areas fisheries and coastal areas, areas facing specific geographical or demographic problems;</del>

Text proposed by the Commission	CoR amendment
(b) takes account of the specific challenges of the outermost regions, the northernmost regions with a very low population density and of island, crossborder or mountain regions;	(b) <del>takes account of the specific challenges of the outermost regions, the northernmost regions with a very low population density and of island, crossborder or mountain regions;</del>
(c) addresses urban-rural linkages, in terms of access to affordable, quality infrastructures and services, and problems in regions with a high concentration of socially marginalised communities.	(c) <del>addresses urban-rural linkages, in terms of access to affordable, quality infrastructures and services, and problems in regions with a high concentration of socially marginalised communities.</del>

### Reason

The Committee welcomes the reference to Treaty's obligations with regard to the territorial cohesion objective in point 7.2 but suggests the inclusion of this parameter in the steps mentioned in point 7.1.

Brussels, 29 November 2012.

*The President*  
of the Committee of the Regions  
Ramón Luis VALCÁRCEL SISO

**Opinion of the Committee of the Regions on ‘The posting of workers in the framework of the provision of services’**

(2013/C 17/12)

THE COMMITTEE OF THE REGIONS

- notes that the phenomenon of posting workers in the EU has grown in recent years: emphasises also that the number of posted workers varies greatly both in terms of Member States of origin and of host Member State of the posting;
- considers, in light of the above, that there is now a need to adopt a Community instrument on the posting of workers in the framework of the provision of services, that both harmonises enforcement of its implementation and addresses the fundamental issues that have arisen from the judgments of the Court of Justice of the European Union, which have led to a restrictive interpretation of Directive 96/71/EC;
- regrets that the European Commission’s current proposal does not review or rework Directive 96/71/EC and is thus not able to deal with all of the substantive issues raised by case-law, especially those related to the extension of collective agreements, the extension of the "core set" of applicable rules, use of a host country’s more favourable provisions and respect for fundamental social rights such as the right to strike;
- proposes to ensure greater social responsibility on the part of employers and sub-contractors by introducing a provision limiting the number of sub-contracting levels;
- welcomes the European Commission’s withdrawal on 11 September 2012 of the proposal for a regulation (Monti II) on reconciling the right to strike with the economic freedoms of the European Union on the basis of the flexibility clause, in the context of the completion of the internal market (Article 352 TFEU);

<b>Rapporteur</b>	Alain HUTCHINSON Member of the Brussels-Capital Regional Parliament
<b>Reference documents</b>	Proposal for a Directive of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services  COM(2012) 131 final  and  Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services  COM(2012) 130 final

## I. POLICY RECOMMENDATIONS

### THE COMMITTEE OF THE REGIONS

1. supports the European Commission's initiatives aimed at strengthening the social dimension of the internal market in accordance with Article 9 of the Lisbon Treaty, which ensures that the social dimension is taken into account in all European Union policies;

#### Current developments in the posting of workers

2. notes that the phenomenon of posting workers in the EU has grown in recent years: according to the European Commission, one million workers are posted each year by their employer from one Member State to another; emphasises also that the number of posted workers varies greatly both in terms of Member States of origin and of host Member State of the posting;

3. observes that it is the most labour-intensive sectors that request the most posted workers. The construction and public works sector has historically employed the highest number of posted workers (24% of postings in Europe, according to European Commission data), the vast majority of these workers being labourers;

4. emphasises that wage differences between countries can be significant;

#### The territorial dimension of the posting of workers

5. draws attention to the geographical concentration of postings specific to certain sectors; cross-border regions account for a substantial share of prior declarations of posting;

6. considers that the regions, particularly border regions, should play a greater role in terms of cooperation between public authorities from different countries, to ensure that these postings are carried out in a way that respects people's rights and dignity on the one hand, and to exchange good

practices on the other. The regions concerned should thus be given the appropriate means to fulfil their tasks;

7. emphasises that the territorial scope of collective labour agreements is a prerequisite for their application to posted workers within the meaning of Directive 1996/71/EC. The competent authorities must consequently be able to inform service providers and workers posted to these regions from another country of the content of such agreements and ensure their implementation;

#### The need for better enforcement of the rules on posting workers

8. underlines that these postings of workers often take place in a way that disregards social security and labour regulations and tax laws. Ways to circumvent legal obligations include:

- hiring solely for the purpose of the posting; front companies that make it possible to register an address in the country that is supposedly the State of origin of the posting,
- the "bogus self-employed", who do not pay any social contributions and are not covered by the working and wage conditions of the host country, as laid down in Directive 96/71/EC, which applies only to employees,
- the practice adopted by some large companies of establishing a platform for posted workers, setting up a subsidiary in a State with financially advantageous tax and social regulations and posting workers there,
- the wrongful use of postings for what are actually permanent jobs,
- failure to provide a prior declaration of posting;

underlines that studies show that there are a number of cases of posting of workers where the legally established minimum employment and working conditions in the host country are not complied with and attempts are made to circumvent rules on social security and taxation;

9. points out that, in the light of the vast differences noted by the Commission in national control measures across Member States and/or third countries included via agreements in the free movement of persons, common control standards are particularly important. However, the powers of national authorities to carry out checks must not be restricted in this context;

10. considers, in light of the above, that there is now a need to adopt a Community instrument on the posting of workers in the framework of the provision of services, that both harmonises enforcement of its implementation and addresses the fundamental issues that have arisen from the judgments of the Court of Justice of the European Union referred to above, including the Viking (C-438/05), Laval (C-341/05) Ruffert (C-346/06) and Luxembourg (C-319/06) cases, which have led to a restrictive interpretation of Directive 96/71/EC;

11. therefore welcomes the plan to adopt a proposal for a directive in this area, but regrets that the European Commission's current proposal does not review or rework Directive 96/71/EC and is thus not able to deal with all of the substantive issues raised by the judgments referred to above, especially those related to the extension of collective agreements, the extension of the "core set" of applicable rules, use of a host country's more favourable provisions and respect for fundamental social rights such as the right to strike;

12. draws attention to the fact that the proposal for a directive submitted for the Committee's consideration confines itself to setting out the measures and mechanisms aimed at improving and strengthening the application and enforcement of the provisions of Directive 96/71/EC, which has to date proven inadequate for the purpose of combating social dumping and fraud;

### **Fundamental rights should not be subsidiary to economic freedoms**

13. welcomes the European Commission's withdrawal on 11 September 2012 of the proposal for a regulation (Monti II) on reconciling the right to strike with the economic freedoms of the European Union on the basis of the flexibility clause, in the context of the completion of the internal market (Article 352 TFEU);

14. shares the view that the right to strike should not be subsidiary to the additional goal of completing the internal market, as it is an inviolable principle enshrined in the Charter of Fundamental Rights. Furthermore, the "lex specialis", as defined in Article 153 of the Treaty, explicitly excludes the right to strike from the scope of Community legislation;

15. believes, however, that the withdrawal of the proposal for a regulation leaves open a number of issues raised by rulings

of the Court of Justice. Therefore calls for a new legislative proposal explicitly guaranteeing that fundamental social rights (right to collective bargaining, right to industrial action) cannot be restricted by economic freedoms (freedom of establishment and freedom to provide services) and that economic freedoms cannot be a justification for bypassing national laws and practices in social matters;

16. notes that 12 national parliaments (19 votes) have for the first time deployed the early warning mechanism against the Commission in relation to this proposal for a regulation on the grounds that these proposals infringe national competences and the principles of subsidiarity and proportionality;

17. considers, however, that there is a need for action by the EU legislator to clarify the relationship between "collective action" and freedom of establishment and freedom to provide services where there are genuinely transnational issues, for example in the case of a business with branches in several Member States;

18. is thus of the view that if the Commission had maintained its proposal for a regulation, in the light of reasoned opinions adopted by national parliaments as well as positions expressed at regional level through the CoR, the latter could have considered taking the necessary steps to lodge an ex-post appeal against it for breaching the principle of subsidiarity in terms of both the choice of legal basis and insufficient evidence of the added value of EU action in this area; points out to the Commission that the CoR will continue to monitor compliance with the subsidiarity principle in these matters very closely;

19. considers that the proposal on the enforcement of Directive 96/71/EC remains entirely valid and warrants the Committee's full attention;

20. considers that Directive 96/71/EC enshrines fundamental rights, the implementation of which should be facilitated, that these rights concerning human dignity have furthermore been consolidated with the entry into force of the Treaty of Lisbon, which now makes the Charter of Fundamental Rights legally binding, and that these rights should not be subject to the rationale of economic freedoms;

21. therefore regrets that the Commission proposal has not led to a debate on the choice of legal basis, with the selected basis being "the provision of services" (Article 62 TFEU, in conjunction with Article 53), which means that issues relating to the application of Directive 96/71/EC are again addressed in the context of economic freedoms and that the Committee of the Regions, the European Economic and Social Committee and the social partners are not fully involved in drawing up a text of direct concern to them;

**The proposal for a directive should take account of all situations that involve posting**

22. nevertheless supports the Commission's current proposal for combating social dumping and fraud in the posting of workers and for putting in place mechanisms to enforce the application of working conditions and wages for posted workers. However, the proposal under review does not address this objective, and must therefore be substantially improved;

23. considers that situations involving workers being posted from countries outside the European Union, which are included in Directive 96/71/EC, warrant a mention in the proposal. In addition, the directive should, as soon as possible after adoption, be included in the body of EEA law and the agreement with Switzerland on the free movement of persons;

24. is aware of existing limitations in enforcement, such as language barriers, monitoring short-term postings, difficulties in obtaining information in another Member State, the complexity of imposing sanctions and the lack of resources to monitor national authorities;

25. is therefore very much in favour of the adoption of the draft directive's provisions aimed at eliminating these limitations as far as possible and at strengthening mechanisms to implement enforcement measures and sanctions to ensure not only the efficiency of Directive 96/71/EC's implementation but also its effectiveness. At the same time, the system of cross-border enforcement of judgments must be set out more clearly, in line with the current principles of international cooperation and the mutual recognition and enforcement of judgments, and take account of the procedural rights of the individual;

26. considers that, in case of non-compliance with Directive 96/71/EC or with this directive, for example if the worker is not actually posted, the undertaking concerned shall be covered by the relevant legislation applicable in the country of service provision. All workers concerned shall be deemed to be exercising their freedom of movement in line with Article 45 TFEU.

**Social responsibility: a key provision of the proposal for a directive, which should be complemented**

27. welcomes the provisions dealing with the social responsibility of the employer and the subcontractor, especially in the construction sector, and welcomes the fact that eight EU Member States have already adopted this measure for social responsibility (Austria, Germany, Spain, Finland, France, Italy, the Netherlands and Belgium). However, this is not enough to effectively prevent abuse; rather, any company which abuses posted workers or benefits from abuse should be held to account;

28. considers that it would be useful to add to this provision on social responsibility with a provision to limit the number of

sub-contracting tiers, which would reduce the risk of abuse in the posting of workers. This would furthermore provide a more accurate way of listing subcontractors;

**The proactive role of social stakeholders in enforcing legislation**

29. endorses the provisions put forward by the European Commission to give stakeholders from trade unions and the social partners a key role in labour inspectorates. At the same time, however, differences between systems in individual states must be taken into consideration;

30. believes that this role should be strengthened by giving the competent bodies responsible for implementation rights in the Member States to exchange monitoring practices in order to pool their efforts more successfully in this area;

31. considers, moreover, that reference should also be made to employees' representatives, especially members of European Works Councils, in construction companies, in particular, as key players: on major projects, for example, coordination between representative bodies can also be a lever for providing information and warnings. These initiatives by employees' representatives are all the more valid, given that a high number of companies provide information on their policy of social responsibility (CSR);

**The proposal's text requires clarification to ensure the successful implementation of its provisions**

32. draws attention to the fact that national courts will play a major role in the day-to-day implementation of the proposed directive, that this must therefore contain clear and precise provisions so as not to create new doubts regarding the text's interpretation by different national courts and lead to a higher number of complaints to the Court of Justice of the European Union;

33. considers for these reasons that certain terms contained in the proposed directive should be clarified and clearly defined. For example, the conditions for posting workers must be clearly set out, so that the legal consequences of abuse are not at employees' expense. Another area which needs clarification is the use of two different terms in some language versions to express the concept of "temporarily posted", for example, use of the term "effective", which should be linked to that of "effectiveness" and even the concept of a "core set of [...] conditions of work", which does not appear in Directive 96/71/EC;

34. for the same reasons, draws attention to the proposal's preamble (paragraph 5), which states that "the relationship between Directive 96/71/EC and Regulation (EC) No 593/2008 on the law applicable to contractual obligations [...] need[s] to be further clarified", but offers no response to this call for clarification in the text of the proposal;



### The need to dispel any confusion regarding application of the texts

35. considers that the proposal's preamble could consequently heighten confusion regarding the issue of the law applicable to employment contracts (would it be that of the country of origin or that of host country?). While it is true, as pointed out in paragraph 6 of the preamble, that the proposal does not directly address the law applicable under Article 8 of the Rome I Regulation, it should be recalled that the aim of the 1996 directive (Article 6 of the Rome Convention of 1980 at the time) was not to amend this provision either but to clarify the implementing conditions for mandatory rules within the meaning of Article 9 of the Rome I Regulation (Article 7 of the Rome Convention of 1980 at the time);

36. will ensure that the proposal for a directive does not alter the spirit or aim of Directive 96/71/EC;

37. believes that compliance by the tenderer with the provisions of Directive 96/71/EC should be a criterion when public or private contracts are awarded, and that it should be possible to exclude the tenderer concerned in the case of significant abuse, as is already the case;

38. endorses the Commission's commitment to harmonising Member State legislation on the cross-border enforcement of fines and administrative sanctions.

## II. RECOMMENDATIONS FOR AMENDMENTS

### Amendment 1

#### Preamble

#### First citation

Commission text	CoR amendment
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) and 62 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article <b>153(1)(b)</b> <del>53(1) and 62</del> thereof,

#### Reason

Working and employment conditions are traditionally determined by collective bargaining and therefore by the autonomy of the social partners, who also play a key role in monitoring the application of the relevant Conventions. As a result, Article 153(1)(b), which explicitly refers to EU initiatives relating to working conditions, is the most appropriate legal basis. Furthermore, since this is a proposal for a directive on the enforcement of Directive 96/71/EC, which has its legal basis in "the provision of services", the Court of Justice's judgments on the choice of legal basis do not explicitly exclude the use of a more appropriate legal basis for adopting this proposal.

### Amendment 2

#### Recital 3

Commission text	CoR amendment
3) With respect to workers temporarily posted to carry out work in order to provide services in another Member State than the one in which they habitually carry out their work, Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services establishes a core set of clearly defined terms and conditions of work and employment which must be complied with by the service provider in the Member State to which the posting takes place to ensure the minimum protection of the posted workers concerned.	3) With respect to workers temporarily posted to carry out work in order to provide services in another Member State than the <del>one</del> <u>State</u> in which they habitually carry out their work, Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services establishes a core set of clearly defined terms and conditions of work and employment which must be complied with by the service provider in the Member State to which the posting takes place to ensure the minimum protection of the posted workers concerned.

**Reason**

This amendment is not merely semantic in nature; the aim is to ensure consistency with the concepts used in Directive 96/71/EC. [Translator's note: in order to improve legal certainty, the amendment seeks to replace the French term 'provisoire' used in recitals 3 and 5 with 'temporaire', both of which are rendered in English as 'temporarily'.]. Furthermore, the directive does not only cover postings between Member States, unlike the Commission proposal. If the scope of this proposal were so limited, it would depart from the intention of the 1996 legislator, which uses the term "in the territory of a Member State other than the State in which ..." (Recital 3, Directive 96/71/EC) and not "in another Member State", as in the current proposal for a directive, in order to take account of the phenomena of postings from third countries. For the sake of legal certainty, it would make sense to reiterate this principle in the recitals of the current proposal.

**Amendment 3**

## Recital 6

Commission text	CoR amendment
6) As is the case with Directive 96/71/EC, this Directive should not prejudice the application of the law which, under Article 8 of the Rome I Regulation, applies to individual employment contracts, or the application of Regulation No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems and Regulation No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems	6) As is the case with Directive 96/71/EC, this Directive should not prejudice the application of the law which, under Article 8 of the Rome I Regulation, applies to individual employment contracts, <u>the mandatory provisions of the posting's host Member State, in accordance with Article 9 of the Rome I Regulation,</u> or the application of Regulation No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems and Regulation No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems

**Reason**

This addition is important insofar as it helps clear up any confusion regarding the scope of Directive 96/71/EC and its relationship with private international law. Directive 96/71/EC does not directly concern the application of the law which under Article 8 of the Rome I Regulation applies to individual employment contracts, but expressly provides, in accordance with Article 9 of the Rome I Regulation, for the application of the mandatory provisions of the host country (irrespective of the law applicable to the contract) to posted workers. Not to emphasise this or state it clearly here could result in misunderstandings, entailing the risk of departing from the spirit and the letter of Directive 96/71/EC.

**Amendment 4**

## Recital 14

Commission text	CoR amendment
Member States obligations to make information on terms and conditions of employment generally available and to provide effective access to it, not only to service providers from other Member States, but also to the posted workers concerned, should be further concretised.	More detail should be provided regarding Member States' obligations to make information on terms and conditions of employment generally available and to provide effective access to it, <u>free of charge</u> , not only for service providers from other Member States, but also for the posted workers concerned.

**Reason**

In order to be accessible in practice, the information should be made available free of charge. *Note: the amendment is consistent with an amendment to Article 5 of the draft directive.*

## Amendment 5

## Article 1, new point 3

Commission text	CoR amendment
Article 1 Subject (...)	Article 1 Subject (...) <u>3. This directive shall comply, with regard to the application and enforcement of the working and employment conditions of posted workers, with the provisions of Article 1(4) of Directive 96/71/EC, which states that: "Undertakings established in a non-member State must not be given more favourable treatment than undertakings established in a Member State";</u>

## Reason

This amendment is entirely justified if we accept that the proposed directive must not disturb the structure of Directive 96/71/EC; given that the legislator introduced Article 1(4) to avoid the risk of social dumping from countries outside the European Union. For the same reason, it is important to ensure that a strict application of Directive 96/71/EC is not confined to the posting of workers from one Member State to another, which would offer the opportunity for fraud or circumvention by non-EU countries. Member States should therefore be alert and take the steps needed to prevent any such circumvention of the law, which would represent a major shortcoming in the existing control system.

## Amendment 6

## Article 3(1)

Commission text	CoR amendment
Article 3 Preventing abuse and circumvention  1. For the purpose of implementing, applying and enforcing Directive 96/71/EC the competent authorities shall take into account factual elements characterising the activities carried out by an undertaking in the State in which it is established in order to determine whether it genuinely performs substantial activities, other than purely internal management and/or administrative activities. Such elements may include:  a) the place where the undertaking has its registered office and administration, uses office space, pays taxes, has a professional licence or is registered with the chambers of commerce or professional bodies,  b) the place where posted workers are recruited,  c) the law applicable to the contracts concluded by the undertaking with its workers, on the one hand, and with its clients, on the other hand,  d) the place where the undertaking performs its substantial business activity and where it employs administrative staff,  e) the abnormally limited number of contracts performed and/or size of turnover realised in the Member State of establishment.	Article 3 Preventing abuse and circumvention  1. For the purpose of implementing, applying and enforcing Directive 96/71/EC the competent authorities shall take into account factual elements characterising the activities carried out by an undertaking in the State in which it is established in order to determine whether it genuinely performs substantial activities, other than purely internal management and/or administrative activities. Such elements may include:  a) <u>the Member State where the undertaking exercises its main professional activity, measured as working time units per employee, and</u> the place where the undertaking has its registered office and administration, uses office space, pays taxes, has a <u>professional</u> licence or is registered with the chambers of commerce or professional bodies,  b) the place where posted workers are recruited,  c) the law applicable to the contracts concluded by the undertaking with its workers, on the one hand, and with its <u>clients</u> , on the other hand,  d) the place where the undertaking performs its substantial business activity and where it employs administrative staff,

Commission text	CoR amendment
<p>The assessment of these elements shall be adapted to each specific case and take account of the nature of the activities carried out by the undertaking in the Member State in which it is established.</p> <p>2. In order to assess whether a posted worker temporarily carries out his or her work in a Member State other than the one in which he or she normally works, all factual elements characterising such work and the situation of the worker shall be examined.</p> <p>Such elements may include:</p> <p>f) the work is carried out for a limited period of time in another Member State;</p> <p>g) the posting takes place to a Member State other than the one in or from which the posted worker habitually carries out his or her work according to Regulation (EC) No 593/2008 and/or the Rome Convention;</p> <p>h) the posted worker returns or is expected to resume working to the Member State from which he/she is posted after completion of the work or the provision of services for which he or she was posted;</p> <p>i) travel, board and lodging/accommodation is provided or reimbursed by the employer who posts the worker, and if so, how this is done; as well as</p> <p>j) any repeated previous periods during which the post was filled by the same or another (posted) worker.</p> <p>All the factual elements enumerated above are indicative factors in the overall assessment to be made and may not therefore be considered in isolation. The criteria shall be adapted to each specific case and take account of the specificities of the situation.</p>	<p>e) the abnormally limited number of contracts performed and/or size of turnover realised in the Member State of establishment.</p> <p>The assessment of these elements shall be adapted to each specific case and take account of the nature of the activities carried out by the undertaking in the Member State in which it is established.</p> <p>2. <u>The examination of these elements shall contribute to the definition of a posted worker in the host Member State, as provided for in Article 2(2) of Directive 96/71/EC of the European Parliament concerning the posting of workers in the framework of the provision of services;</u></p> <p>3. In order to assess whether a posted worker temporarily carries out his or her work in a Member State other than the one in which he or she normally works, all factual elements characterising such work and the situation of the worker shall be examined.</p> <p>Such elements may include:</p> <p>f) the work is carried out for a limited period of time in another Member State;</p> <p>g) the posting takes place to a Member State other than the one in or from which the posted worker habitually carries out his or her work according to Regulation (EC) No 593/2008 and/or the Rome Convention;</p> <p>h) the posted worker returns or is expected to resume working to the Member State from which he/she is posted after completion of the work or the provision of services for which he or she was posted;</p> <p>i) <u>the posted worker has a valid A1 form as proof of his or her social security coverage in the home Member State. The A1 form shall not be retroactive and must be provided from the beginning of the posting period and prior to any inspection;</u></p> <p>j) travel, board and lodging/accommodation is provided or reimbursed by the employer who posts the worker, and if so, how this is done; as well as</p> <p>k) any repeated previous periods during which the post was filled by the same or another (posted) worker.</p> <p>All the factual elements enumerated above are indicative factors in the overall assessment to be made and may not therefore be considered in isolation. The criteria shall be adapted to each specific case and take account of the specificities of the situation.</p>

**Reason**

The amendment seeks to prevent the creation of companies whose activities are fictitious in the Member State of establishment simply in order to bypass the rules in terms of working conditions in the host Member State.

Article 2(2) of Directive 96/71/EC aims to ensure that posted workers from a given State (including non-EU States) are not considered to be self-employed and are thus not covered by the directive. A salaried worker working in the construction sector in country A would simply need to be reclassified as self-employed by his employer in country A, for the latter to be relieved from the obligations of the directive in Member State B to which the worker is posted. To prevent this type of fraud, the 1996 directive gives the country hosting the work (in this case Member State B) the discretion to define the concept of worker, and therefore the working relationship, in line with its domestic legislation. The only weakness in this legal arrangement lies in the difficulty of applying the principle thus established in practice: the list of elements contained in Article 4 will certainly provide a guideline making the practical application of Article 2(2) of Directive 96/71/EC easier.

**Amendment 7****Article 3a**

Commission text	CoR amendment
	<p><u>Sanctions for non-compliance</u></p> <p><u>In case of non-compliance with Article 3 of Directive 96/71/EC or relevant articles of this directive, an undertaking and its workers shall be covered by the relevant legislation applicable in the country of service provision, and all workers concerned shall be deemed to be exercising their freedom of movement within the Union in accordance with Article 45 TFEU. The host Member State may then request immediate proof that the workers concerned are receiving treatment equal to nationals of the host Member State for all terms and conditions of employment and related social rights in accordance with Article 45 TFEU.</u></p>

**Amendment 8****Article 5(1)**

Commission text	CoR amendment
<p>Member States shall take the appropriate measures to ensure that the information on the terms and conditions of employment referred to in Article 3 of Directive 96/71/EC which are to be applied and complied with by service providers are made generally available in a clear, comprehensive and easily accessible way at a distance and by electronic means, in formats and by web standards that ensure access to persons with disabilities and to ensure that the liaison offices or the other competent national bodies referred to in Article 4 of Directive 96/71/EC are in a position to carry out their tasks effectively.</p>	<p>Member States shall take the appropriate measures to ensure that the information on the terms and conditions of employment referred to in Article 3 of Directive 96/71/EC which are to be applied and complied with by service providers are made generally available <u>free of charge</u> in a clear, <u>transparent</u>, comprehensive and easily accessible way at a distance and by electronic means, in formats and by web standards that ensure access to persons with disabilities and to ensure that the liaison offices or the other competent national bodies referred to in Article 4 of Directive 96/71/EC are in a position to carry out their tasks effectively.</p>

**Reason**

In order to be accessible in practice, the information should be free of charge.

**Amendment 9**

## Article 7(4)

Commission text	CoR amendment
The obligation laid down in paragraphs 1 and 2 shall not entail a duty on the part of the Member State of establishment to carry out factual checks and controls in the territory of the host Member State where the service is provided. Such checks and controls shall, if need be, be carried out by the authorities of the host Member State at the request of the competent authorities of the Member State of establishment, in accordance with Article 10 and in conformity with the powers of supervision provided for in the host Member State's national law, practice and administrative procedures and which respect Union law	<del>The obligation laid down in paragraphs 1 and 2 shall not entail a duty on the part of the Member State of establishment to carry out factual checks and controls in the territory of the host Member State where the service is provided.</del> Such checks and controls shall, if need be, be carried out by the authorities of the host Member State <u>at the request of the competent authorities of the Member State of establishment</u> , in accordance with Article 10 and in conformity with the powers of supervision provided for in the host Member State's national law, practice and administrative procedures and which respect Union law.

**Reason**

This is to remove procedural brakes to the factual controls both in the Member State of establishment and in the host Member State.

**Amendment 10**

## Article 9(1) introductory part

Commission text	CoR amendment
Member States may only impose the following administrative requirements and control measures:	<del>Member States may only impose</del> <u>In order to improve with the application of Articles 3 and 5 of Directive 96/71/EC, host Member States shall impose, as a minimum,</u> the following administrative requirements and control measures:

**Reason**

Instead of putting forward maximum requirements as proposed by European Commission, it is suggested that minimum requirements be set. This reversal of logic is also consistent with the provisions of Article 12(3) as proposed by the Commission.

**Amendment 11**

## Article 9(1) a)

Commission text	CoR amendment
an obligation for a service provider established in another Member State to make a simple declaration to the responsible national competent authorities at the latest at the commencement of the service provision, whereby the declaration may only cover the identity of the service provider, the presence of one or more clearly identifiable posted workers, their anticipated number, the anticipated duration and location of their presence, and the services justifying the posting;	an obligation for a service provider established in another Member State to make a <del>simple</del> declaration to the responsible national competent authorities at the latest at the commencement of the service provision, <del>whereby the</del> <u>This declaration may only cover the identity of the service provider, the presence of one or more clearly identifiable posted workers, their anticipated number, the anticipated duration and location of their presence, and the services justifying the posting; shall indicate that the service provider has been made aware of the minimum terms and conditions of employment as listed in Article 3 of Directive 96/71/EC in the country of service provision and will comply with them. It shall include as a minimum the duration of the posting, the start date, the identity and number of workers posted and the workplaces in the host Member State.</u>



**Reason**

This is to clarify what is required of the declaration to be made by the service provider.

**Amendment 12**

## Article 9(1) b)

Commission text	CoR amendment
<p>an obligation to keep or make available and/or retain copies in paper or electronic form of the employment contract (or an equivalent document within the meaning of Directive 91/533, including, where appropriate or relevant, the additional information referred to in Article 4 of that Directive), payslips, time-sheets and proof of payment of wages or copies of equivalent documents during the period of posting in an accessible and clearly identified place in its territory, such as the workplace or the building site, or for mobile workers in the transport sector the operations base or the vehicle with which the service is provided;</p>	<p>an obligation to keep or make available and/or retain copies in paper or electronic form of the employment contract (or an equivalent document within the meaning of Directive 91/533, including, where appropriate or relevant, the additional information referred to in Article 4 of that Directive), payslips, time-sheets and proof of payment of wages, <u>the A1 form as proof of social security coverage in the home Member State, the necessary assessment of risks to safety and health at work in accordance with Directive 89/391/EC and, when the posted worker is a third country national, copies of the work permit and residence permit and any other documents needed to verify compliance with Directive 96/71/EC and this directive,</u> or copies of equivalent documents during the period of posting in an accessible and clearly identified place in its territory, such as the workplace or the building site, or for mobile workers in the transport sector the operations base or the vehicle with which the service is provided;</p>

**Reason**

Note: linked to the amendment to Article 3(2).

**Amendment 13**

## Article 11, new point 4

Commission text	CoR amendment
<p>Article 11</p> <p>Defence of rights — facilitation of complaints — back-payments</p> <p>(...)</p> <p>3. Member States shall ensure that trade unions and other third parties, such as associations, organisations and other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, on behalf or in support of the posted workers or their employer, with their approval in any judicial or administrative proceedings provided for with the objective of implementing this Directive and/or enforcing the obligations under this Directive.</p>	<p>Article 11</p> <p>Defence of rights — facilitation of complaints — back-payments</p> <p>(...)</p> <p>3. Member States shall ensure that trade unions and other third parties, such as associations, organisations and other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, on behalf or in support of the posted workers or their employer, with their approval in any judicial or administrative proceedings provided for with the objective of implementing this Directive and/or enforcing <del>the obligations</del> <u>claims</u> under this Directive. <u>Trade unions shall have the right to bring actions on behalf of posted workers, with their consent.</u></p>

Commission text	CoR amendment
	<p>4. <u>Workers' representatives, especially members of European Works Councils in companies in the construction sector, shall have the right at any time to alert the trade unions and the competent authorities regarding the application of the law to any posting-related situation that raises serious doubts in terms of compliance with the working and employment conditions of posted workers;</u></p> <p>5. <del>4.</del>Paragraphs 1 and 3 shall apply without prejudice to national rules on prescription deadlines or time limits for bringing similar actions and to national rules of procedure concerning representation and defence before the courts.</p>

### Reason

Workers' representatives in companies, especially members of European Works Councils, see at first hand the realities of business in different undertakings and entities in the Member States. Such individuals are genuine observers of labour relations on the ground or at the transnational level and should consequently have the right to issue an alert in the event of fraud in the application of the provisions on the posting of workers.

## Amendment 14

### Article 12(1)

Commission text	CoR amendment
<p>Article 12</p> <p>Subcontracting — Joint and several liability</p> <p>With respect to the construction activities referred to in the Annex to Directive 96/71/EC, for all posting situations covered by Article 1(3) of Directive 96/71/EC, the Member States shall ensure on a non-discriminatory basis with regard to the protection of the equivalent rights of employees of direct subcontractors established in its territory, that the contractor of which the employer (service provider or temporary employment undertaking or placement agency) is a direct subcontractor can, in addition to or in place of the employer, be held liable by the posted worker and/or common funds or institutions of social partners for non-payment of the following:</p>	<p>Article 12</p> <p>Subcontracting — Joint and several liability</p> <p><del>With respect to the construction activities referred to in the Annex to Directive 96/71/EC, for all posting situations covered by Article 1(3) of Directive 96/71/EC, the</del> <u>Each</u> Member States shall <del>take ensure the necessary measures,</del> on a non-discriminatory basis, <del>with regard to the protection of the equivalent rights of employees of direct subcontractors established in its territory, that the contractor of which the employer (service provider or temporary employment undertaking or placement agency) is a direct subcontractor can,</del> <u>to ensure that an undertaking that appoints another undertaking to provide services is liable,</u> in addition to and/or in place of the employer, <u>for the obligations of that undertaking or subcontractor or hirer of labour appointed by that undertaking,</u> <del>in</del> addition to or in place of the employer, be held liable by the posted worker and/or common funds or institutions of social partners for non-payment of the following:</p>

### Reason

There is no reason to restrict regulation of subcontracting chains to the construction sector. Clarification of the obligations incurred.

**Amendment 15**

## Article 12(2)

Commission text	CoR amendment
Member States shall provide that a contractor who has undertaken due diligence shall not be liable in accordance with paragraph 1. Such systems shall be applied in a transparent, non discriminatory and proportionate way. They may imply preventive measures taken by the contractor concerning proof provided by the subcontractor of the main working conditions applied to the posted workers as referred to in Article 3 (1) of Directive 96/71/EC, including pay slips and payment of wages, the respect of social security and/or taxation obligations in the Member State of establishment and compliance with the applicable rules on posting of workers.	<del>Member States shall provide that a contractor who has undertaken due diligence shall not be liable in accordance with paragraph 1.</del> Such systems shall be applied in a transparent, non discriminatory and proportionate way. They may imply preventive measures taken by the contractor concerning proof provided by the subcontractor of the main working conditions applied to the posted workers as referred to in Article 3 (1) of Directive 96/71/EC, including pay slips and payment of wages, the respect of social security and/or taxation obligations in the Member State of establishment and compliance with the applicable rules on posting of workers.

**Reason**

There is no definition of "due diligence" at European level. We do need to ensure that contractors continue to be accountable for verifying that sub-contractors are complying with working conditions.

**Amendment 16**

## Article 12(3)

Commission text	CoR amendment
Member States may, in conformity with Union law, provide for more stringent liability rules under national law on a non-discriminatory and proportionate basis in regard to the scope and range of subcontractor liability. Member States may also, in conformity with Union law, provide for such liability in sectors other than those contained in the Annex to Directive 96/71/EC. Member States may in these cases provide that a contractor that has undertaken due diligence as defined by national law shall not be liable.	Member States may, in conformity with Union law, provide for more stringent liability rules under national law on a non-discriminatory and proportionate basis in regard to the scope and range of subcontractor liability. Member States may also, in conformity with Union law, provide for such liability in sectors other than those contained in the Annex to Directive 96/71/EC. <del>Member States may in these cases provide that a contractor that has undertaken due diligence as defined by national law shall not be liable.</del>

**Reason**

There is no definition of "due diligence" at European level. We do need to ensure that contractors continue to be accountable for verifying that sub-contractors are complying with working conditions.

**Amendment 17**

## Article 12(4) (new sub-paragraph)

Commission text	CoR amendment
	<u>4a. In the absence of an agreement between the social partners in the sector concerned setting a limited number of sub-contracting levels, this number shall be limited to three.</u>

**Reason**

This amendment follows on from point 28 of the draft opinion's policy recommendations.

**Amendment 18**

Article 18, new article to follow Article 18

Commission text	CoR amendment
	<p data-bbox="815 387 927 412">New Article</p> <p data-bbox="815 439 1018 463"><u>Non-regression clause</u></p> <p data-bbox="815 490 1358 741"><u>The implementation of this directive shall under no circumstances be sufficient grounds to justify a reduction in the general level of protection of workers in the fields covered by this directive. This should be without prejudice to the rights of Member States and/or social partners to establish, in the light of changing circumstances, different legislative, regulatory or contractual arrangements to those prevailing at the time of the adoption of this directive, provided that the minimum requirements laid down in this directive are met.</u></p>

**Reason**

This so-called "non-regression" clause is now included in many EU directives and is intended to improve their implementation in the Member States. The transposal of a directive in a Member State should not have the effect of reducing existing levels of protection in the areas covered by the directive, in particular with regard to the joint and several liability referred to in Article 12 of the directive.

**Amendment 19**

Article 21

Commission text	CoR amendment
<p data-bbox="256 1189 347 1214">Article 21</p> <p data-bbox="256 1240 320 1265">Report</p> <p data-bbox="256 1292 799 1413">No later than 5 years after the expiry of the deadline for transposition, the Commission shall report to the European Parliament, the Council and the European Economic and Social Committee on the implementation of this Directive, making appropriate proposals where necessary;</p>	<p data-bbox="815 1189 906 1214">Article 21</p> <p data-bbox="815 1240 879 1265">Report</p> <p data-bbox="815 1292 1358 1435">No later than 5 years after the expiry of the deadline for transposition, the Commission shall report to the European Parliament, the Council and the European Economic and Social Committee <b>and the Committee of the Regions</b> on the implementation of this Directive, making appropriate proposals where necessary;</p>

**Reason**

This requirement is in line with the choice of Article 153 TFEU as the legal base for the proposed directive.

Brussels, 29 November 2012.

*The President*  
of the Committee of the Regions  
Ramón Luis VALCÁRCEL SISO

**Opinion of the Committee of the Regions on 'The Statute for a European Foundation'**

(2013/C 17/13)

## THE COMMITTEE OF THE REGIONS

- supports the Commission's proposed draft regulation on the Statute for a European Foundation (FE), and feels that it follows on well from the adoption of the Regulation on the European citizens' initiative;
- therefore supports the Commission's proposed draft regulation on the Statute for a European Foundation (FE), and recognises that it follows on from the adoption of the Regulation on the European citizens' initiative and of the Regulation on a European grouping of territorial cooperation (EGTC), which aimed to facilitate and promote cross-border, transnational and interregional cooperation at Community level;
- argues that this statute needs to ensure simplification and effectiveness for foundations, so that they can work more effectively on cross-border and transnational projects, either on their own or in partnership with national, regional and local stakeholders; it must at the same time respond to a desire to establish legal safeguards and provide greater clarity for the public regarding foundations' operation and funding;
- understands the desire to strike a balance between the requirements of national law in the various Member States regarding the minimum level of assets required for a foundation and the aim of facilitating the creation of FEs throughout the EU. The Committee is, however, keen to ensure that donors and the public have adequate guarantees regarding the financial soundness of FEs. It calls for the minimum level of assets required for registration of an FE to be increased to EUR 50 000 instead of EUR 25 000, which it considers to be too low, and for this level of assets to be maintained throughout the lifetime of the FE, on pain of dissolution;

<b>Rapporteur</b>	Ms BRUNET – LECHENAULT (FR/PES), Vice-President of the Saône et Loire General Council )
<b>Reference document</b>	Proposal for a Council Regulation on the Statute for a European Foundation (FE) COM(2012) 35 final

## I. INTRODUCTION

### THE COMMITTEE OF THE REGIONS

1. is aware of the economic importance of and vital role played by foundations throughout Europe in all areas of public interest, particularly those within the ambit of local and regional authorities such as social and health services, social security, arts and culture, education and training, science, research and innovation, and the environment;

2. understands and laments the difficulties encountered by foundations attempting to overcome national barriers to work on cross-border or transnational projects. They are forced to spend considerable sums on advice or structural costs, which could otherwise have been used more effectively to fulfil their social role;

3. supports the Commission's proposed draft regulation on the Statute for a European Foundation (FE), and feels that it follows on well from the adoption of the Regulation on the European citizens' initiative;

4. also welcomes the fact that the Commission's proposal fits within the broader context of placing the activities of the social and solidarity-based economy on a secure footing within the internal market and thus hopes that the adoption of a statute for a European foundation will pave the way for a statute for a European mutual society;

5. argues that this statute needs to reflect a need for simplification, effectiveness and legal safeguards for foundations, so that they can work more effectively on cross-border and transnational projects, either on their own or in partnership with national, regional and local stakeholders;

6. also stresses that this statute must aim to clarify the operation and funding of foundations for the general public;

7. would like FEs to have a stronger European dimension, not only when they are first established but throughout their lifetimes, and calls for the legal provisions applicable to them to

be based as far as possible on the draft Regulation and on their own statutes, with limited reference to national law;

8. points out that, where FEs are able to raise private funds or receive public financing to achieve their objectives, they must be subject to accounting requirements regarding the use of these funds, both towards their financial backers and towards all citizens of the European Union;

## II. POLICY RECOMMENDATIONS

### THE COMMITTEE OF THE REGIONS

#### The economic importance of the foundation sector

9. notes that the foundation sector is of considerable economic importance, accounting for annual global expenditure in the region of EUR 150 billion and providing direct full-time employment for almost 1 million people throughout the EU;

10. notes that it is in foundations' interest to operate beyond their national borders to respond globally to cross-cutting issues such as migration, socio-economic development, scientific excellence, human rights, the environment, etc.;

11. highlights, in particular, the role that foundations can play through the harnessing of their resources and creativity in a period of major political, financial and social crisis in Europe, in which it is vital to explore all possibilities for strengthening the European Union and guaranteeing its citizens a future and prospects for growth;

#### Burdensome and expensive administrative constraints

12. notes that foundations may encounter difficulties when operating at transnational or cross-border level, because of rules imposed by national legislation that require them to spend around EUR 90-102 million a year on various consultancy and administrative costs, rather than spending these funds on implementing public-interest projects, whether on their own or in partnership with other foundations or local or regional authorities;



### **For a statute boosting the European citizens' initiative through the role of foundations**

13. stresses that the activities of foundations – which are usually set up on the initiative of private parties (individuals or businesses) – relate to public interest projects that are very important to European citizens and often involve matters falling within the competence of local and regional authorities, such as social and health services, social security, arts and culture, education and training, science, research and innovation, etc.;

14. feels that the option of a new legal form as an alternative to national statutes, corresponding to a statute for a "European foundation", would be a key element in improving the role of foundations throughout the European Union;

15. therefore supports the Commission's proposed draft regulation on the Statute for a European Foundation (FE), and recognises that it follows on from the adoption of the Regulation on the European citizens' initiative and of the Regulation on a European grouping of territorial cooperation (EGTC), which aimed to facilitate and promote cross-border, transnational and interregional cooperation at Community level;

16. sees Article 352 TFEU – which allows the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, to adopt appropriate measures to attain one of the objectives set out in the Treaties – as the only relevant legal basis for this proposed regulation, in the absence of specific provisions in the Treaties explicitly giving the EU institutions competence in this respect. This choice of legal basis matches that chosen in the past for adopting provisions on other statutes, such as those for the European company or the European economic interest grouping, and in no way affects national regulations governing foundations. The Committee would also note that, in connection with the early warning system on the application of the subsidiarity principle, the proposed regulation has attracted just one reasoned opinion from the 19 national parliaments that examined the matter;

17. argues that this statute needs to ensure simplification and effectiveness for foundations, so that they can work more effectively on cross-border and transnational projects, either on their own or in partnership with national, regional and local stakeholders; it must at the same time respond to a desire to establish legal safeguards and provide greater clarity for the public regarding foundations' operation and funding;

### **Highlighting the European dimension**

18. would like the European dimension of FEs to be highlighted more strongly by requiring them to undertake, or aim to undertake, transnational or cross-border activities both when they are first established and throughout their lifetimes;

19. finds it regrettable, in this regard, that the draft regulation frequently refers to the national legislation of the Member States, as it considers this approach to be a source of legal uncertainty for FEs in the absence of rules on harmonisation;

### **Need for clarity, reliability and transparency**

20. points out that the fact that FEs can raise private funds and receive public funding to achieve their goals means that they must be able to provide their donors and financial backers – and more generally all citizens in the European Union – with the greatest possible security regarding their soundness, and with complete transparency regarding their governance and the use of the funds they are given;

### **Clarification of the objective of FEs**

21. argues that, in some Member States, "public benefit" and "public interest" cover different concepts, and may in some cases refer either to a particular legal status or procedure under national law or to a specifically tax-based approach. It therefore suggests that the terminology used should be harmonised to refer to the "public interest", which should be used uniformly in each Member State when determining the purpose of the FE, beyond any tax-based approach;

22. would also like the expression "amateur sports" in Article 5 of the draft to be defined such that it excludes any shift in the actions of FEs towards supporting activities more associated with professional sports;

### **Towards greater reliability**

23. understands the desire to strike a balance between the requirements of national law in the various Member States regarding the minimum level of assets required for a foundation and the aim of facilitating the creation of FEs throughout the EU. The Committee is, however, keen to ensure that donors and the public have adequate guarantees regarding the financial soundness of FEs. It calls for the minimum level of assets required for registration of an FE to be increased to EUR 50 000 instead of EUR 25 000, which it considers to be too low, and for this level of assets to be maintained throughout the lifetime of the FE, on pain of dissolution;

24. regards it as self-evident that FEs should not be for-profit entities, but acknowledges that they may engage in economic activities in order to fulfil their public benefit role, and suggests that Article 11 should be amended to define more clearly the limits within which FEs may engage in economic activities;

25. feels that the issue of remuneration for members of the governing and supervisory bodies of FEs is a corollary of their not-for-profit nature, and that the draft should establish some basic rules in this regard;

26. would like the principles regarding prevention of conflicts of interest to be clarified, as it feels that the current wording is open to varying interpretations that could have the opposite effect to that intended;

27. endorses the rules set out regarding accountability and transparency, but suggests that the procedures for auditing and publishing the activities of FEs should be clarified and made more specific;

#### Need for harmonisation

28. is conscious of the need for budgetary discipline that has informed the decision to establish a supervisory authority for FEs at national level instead of developing a procedure and monitoring authority at European level;

29. acknowledges the benefit in incorporating tax provisions in the draft statute, but has reservations concerning the automatic extension to FEs of the tax treatment applicable to national public interest entities, on account of the significant disparities between Member States in terms of the conditions for granting these national favourable tax regimes.

### III. RECOMMENDATIONS FOR AMENDMENTS

#### Amendment 1

##### Article 2(5)

Text proposed by the Commission	CoR amendment
<p>For the purposes of this Regulation, the following definitions apply:</p> <p>(5) 'public benefit purpose entity' means a foundation with a public benefit purpose and/or similar public benefit purpose corporate body without membership formed in accordance with the law of one of the Member States;</p>	<p>For the purposes of this Regulation, the following definitions apply:</p> <p>(5) 'public <del>benefit purpose</del> <u>interest</u> entity' means a foundation with a public <del>benefit</del> <u>interest</u> purpose and/or similar public <del>benefit purpose</del> <u>interest</u> corporate body without membership formed in accordance with the law of one of the Member States;</p>

#### Reason

In her first amendment, the rapporteur proposes that "public benefit purpose" be replaced with "public interest".

#### Amendment 2

##### Article 5(1)

Text proposed by the Commission	CoR amendment
<p>Article 5</p> <p><b>Public benefit purpose</b></p> <p>1. The FE shall be a separately constituted entity for a public benefit purpose.</p>	<p>Article 5</p> <p><b>Public <del>benefit</del> <u>interest</u> purpose</b></p> <p>1. The FE shall be a separately constituted entity for a public <del>benefit</del> <u>interest</u> purpose.</p>

#### Reason

The term "public interest" harmonises the concepts of "public benefit" and "public interest" and reduces the risk of confusion with tax law or public law concepts used in certain Member States with regard to granting foundations a particular tax status or treatment under national law.

**Amendment 3**

## Article 5(2)

Text proposed by the Commission	CoR amendment
<p>Article 5</p> <p><b>Public benefit purpose</b></p> <p>2. The FE shall serve the public interest at large.</p> <p>It may be created only for the following purposes, to which its assets shall be irrevocably dedicated:</p> <p>(a) [...]</p> <p>(r) amateur sports;</p> <p>[...].</p>	<p>Article 5</p> <p><b>Public benefit purpose</b></p> <p>2. The FE shall serve the public interest at large.</p> <p>It may be created only for the following purposes, to which its assets shall be irrevocably dedicated:</p> <p>(a) [...]</p> <p>(r) amateur sports, <u>defined as sporting activities engaged in by people who do not derive substantial, regular income from said activities;</u></p> <p>(s) [...]</p> <p>(t) <u>the defence of victims of violence of all kinds.</u></p>

**Reason**

In our view, it is worth defining the concept of amateur sports precisely, given that practices vary between Member States, depending on the sport in question, and that certain sports, although regarded as amateur, are practised at a level and in conditions similar to engaging in a professional activity and do not serve the public interest. It is also worth referring to the defence of victims of violence of all kinds to underline the importance of cooperation with third countries mentioned in the following paragraph.

**Amendment 4**

## Article 6

Text proposed by the Commission	CoR amendment
<p>Article 6</p> <p><b>Cross-border component</b></p> <p>At the time of registration, the FE shall have activities or a statutory objective of carrying out activities in at least two Member States.</p>	<p>Article 6</p> <p><del>Cross-border</del> <b>European component</b></p> <p>At the time of registration, the FE shall have <del>activities or</del> a statutory objective of carrying out activities in at least two Member States.</p> <p><u>Once registered, the FE shall have activities in at least two Member States.</u></p> <p><u>It must continue to carry out these activities in at least two Member States throughout its existence.</u></p>

**Reason**

The proposed amendment is intended to strengthen the European dimension of FEs, by ensuring that they really do carry out activities in several Member States throughout their lifetime, not just when they are first set up. In the case of a newly created FE, which cannot carry out activities at the time of its registration, its statutory objective must include a European dimension, hence the change of wording.

**Amendment 5**

## Article 7(2)

Text proposed by the Commission	CoR amendment
Article 7	Article 7
<b>Assets</b>	<b>Assets</b>
2. The FE shall have assets equivalent to at least EUR 25 000.	2. The FE shall have assets equivalent to at least EUR <del>25 000</del> 50 000 at the time it is registered and throughout <u>its existence</u> .

**Reason**

In order to better safeguard the soundness and reliability necessary in FEs, the Committee proposes that the minimum level of assets required at the point when they are created should be increased to EUR 50 000 and that it should be maintained throughout their existence.

**Amendment 6**

## Article 10(1)

Text proposed by the Commission	CoR amendment
Article 10	Article 10
<b>Legal capacity</b>	<b>Legal capacity</b>
1. The FE shall have full legal capacity in all Member States.	1. The FE shall have full legal capacity in all Member States <u>unless restricted by this regulation</u> .
Unless restricted by its statutes, the FE shall have all rights necessary to pursue its activities, including the right to own movable and immovable property, to make grants, to raise funds, to receive and hold donations of any kind, including shares and other negotiable instruments, inheritances and gifts "in kind" from any lawful source including from third countries.	Unless restricted by its statutes, the FE shall have all rights necessary to pursue its activities, including the right to own movable and immovable property, to make grants, to raise funds, to receive and hold donations of any kind, including shares and other negotiable instruments, inheritances and gifts "in kind" from any lawful source including from third countries.
Where necessary for the pursuance of its activities, the FE shall have the right of establishment in any Member State.	Where necessary for the pursuance of its activities, the FE shall have the right of establishment in any Member State.

**Reason**

The point that FE shall have full legal capacity in all Member States needs to be amended, in view of the restrictions on economic activities in Article 11 (pursuance of public interest purpose; economic activities unrelated to the public interest purpose of the FE are only allowed up to 10% of the annual net turnover of the FE and provided that their results are presented separately in the accounts and that they are used exclusively for public interest tasks).

**Amendment 7**

## Article 11

Text proposed by the Commission	CoR amendment
<p><i>Article 11</i></p> <p><b>Economic Activities</b></p> <p>1. Unless restricted by its statutes, the FE shall have the capacity and be free to engage in trading or other economic activities provided that any profit is exclusively used in pursuance of its public benefit purpose(s).</p> <p>2. Economic activities unrelated to the public benefit purpose of the FE are allowed up to 10% of the annual net turnover of the FE provided that the results from unrelated activities are presented separately in the accounts.</p>	<p><i>Article 11</i></p> <p><b>Economic Activities</b></p> <p>1. <u>Unless restricted by its statutes, the FE shall have the capacity to engage in economic activities provided these are inextricably linked with its public interest tasks and remain ancillary in nature any profit is used in pursuance of its public interest purpose.</u> <del>Unless restricted by its statutes, the FE shall have the capacity and be free to engage in trading or other economic activities provided that any profit is exclusively used in pursuance of its public benefit purpose(s).</del></p> <p>2. Economic activities unrelated to the public <del>benefit</del> <u>interest</u> purpose of the FE are <u>only</u> allowed up to a <u>limit</u> of 10% of the annual net <del>turnover</del> <u>resources</u> of the FE, provided that the results from unrelated activities are presented separately in the accounts <u>and are fully dedicated to pursuing its public interest tasks.</u></p>

**Reason**

The aim of the proposed amendment is to provide clearer parameters for an FE's capacity to engage in economic activities, so as to ensure that they do not lose their basic character as not-for-profit bodies by making improper use of purely commercial operations unrelated to their purpose.

**Amendment 8**

## Article 21

Text proposed by the Commission	CoR amendment
<p><i>Article 21</i></p> <p><b>Registration</b></p> <p>1. The FE shall be registered in one Member State.</p> <p>2. The FE formed by a merger between two public benefit purpose entities legally established in the same Member State shall be registered in that Member State.</p> <p>3. The FE formed by a cross-border merger shall be registered in one of the Member States where the merging entities were legally established.</p> <p>4. The FE formed by conversion shall be registered in the Member State where the converted entity was originally legally established.</p>	<p><i>Article 21</i></p> <p><b>Registration</b></p> <p>1. The FE shall be registered in <del>one</del> <u>the</u> Member State <u>in which it has established its registered office.</u></p> <p>2. The FE formed by a merger between two public benefit purpose entities legally established in the same Member State shall be registered in that Member State.</p> <p>3. The FE formed by a cross-border merger shall be registered in <del>one of</del> the Member States where the <del>merging entities were legally established</del> <u>the absorbing foundation has established its registered office.</u></p> <p>4. The FE formed by conversion shall be registered in the Member State where the converted entity was originally legally established.</p>

**Reason**

For the sake of legal certainty, it is proposed that the point of personal connection of the place of the registered offices of the foundation be taken into account as the second criterion for determining where the foundation should be registered.

**Amendment 9**

Insert a new article after Article 31

Text proposed by the Commission	CoR amendment
	<p><b>Governance principles</b></p> <p>1. <u>No person may at the same time be a member of both the governing board and the supervisory board.</u></p> <p>2. <u>Members of the governing board and supervisory board shall perform their duties free of charge. They may be compensated for costs incurred in performing their duties, under the conditions set out in the statutes.</u></p> <p>3. <u>No benefit, direct or indirect, may be distributed to any founder, governing or supervisory board member, managing director or auditor, nor extended to any person having a business or close family relationship with them, unless it is for the performance of their duties within the FE.</u></p>

**Reason**

The proposed amendment reflects the Committee's desire to provide more specific governance and ethics rules that are in line with the essentially not-for-profit nature of FEs and meet the need for clarity and transparency.

**Amendment 10**

Article 32

Text proposed by the Commission	CoR amendment
<p>Article 32</p> <p><b>Conflicts of interest</b></p> <p>1. The founder and any other board members who may have a business, family or other relationship with the founder or with each other, that could create an actual or potential conflict of interest such as to impair his/her judgment, shall not constitute the majority of the governing board.</p> <p>2. No person may at the same time be a member of both the governing board and the supervisory board.</p> <p>3. No benefit, direct or indirect, may be distributed to any founder, governing or supervisory board member, managing director or auditor, nor extended to any person having a business or close family relationship with them, unless it is for the performance of their duties within the FE.</p>	<p>Article 32</p> <p><b>Conflicts of interest</b></p> <p>1. <del>The founder and any other board members who may have a business, family or other relationship with the founder or with each other, that could create an actual or potential conflict of interest such as to impair his/her judgment, shall not constitute the majority of the governing board.</del> <u>Members of the governing or supervisory board must inform the FE in writing of any direct or indirect interest in a third party that may create a conflict between the interests of the FE and their personal interest or that of a person with whom they have a personal or business relationship.</u></p> <p>2. <del>No person may at the same time be a member of both the governing board and the supervisory board.</del> <u>All governing and supervisory board members must, on a case-by-case basis, refrain from attending and participating in any deliberation or decision in discussions involving an issue concerning an entity or person with whom they have a family or business relationship or in which they have a direct or indirect interest.</u></p> <p>3. <del>No benefit, direct or indirect, may be distributed to any founder, governing or supervisory board member, managing director or auditor, nor extended to any person having a business or close family relationship with them, unless it is for the performance of their duties within the FE.</del></p>



**Reason**

The proposed amendment reflects the Committee's desire to strengthen the governance and ethics rules, which must provide the clarity and transparency expected from FEs by their donors and the general public.

**Amendment 11**

## Article 33

Text proposed by the Commission	CoR amendment
<i>Article 33</i>	<i>Article 33</i>
<b>Representation of the FE in relation to third parties</b>	<b>Representation of the FE in relation to third parties</b>
The governing board, as well as any other person that the governing board has authorised and is under its instructions, may represent the FE in relations with third parties and in legal proceedings.	The governing board, as well as any other person that the governing board has authorised, <del>and</del> is under its instructions <u>and is entered in the registry</u> , may represent the FE in relations with third parties and in legal proceedings.

**Reason**

The amendment spells out that only persons entered in the registry as authorised representatives may represent the FE in relations with third parties and in legal proceedings, as stated in Article 23(1)(e)(ii) of the draft regulation.

**Amendment 12**

## Article 34(5)

Text proposed by the Commission	CoR amendment
<i>Article 34</i>	<i>Article 34</i>
<b>Transparency and accountability</b>	<b>Transparency and accountability</b>
5. The annual accounts, duly approved by the governing board, together with the opinion submitted by the person responsible for auditing the accounts, and the activity report shall be disclosed.	5. The annual accounts, duly approved by the governing board, together with the opinion submitted by the person responsible for auditing the accounts, and the activity report shall be disclosed. <u>They must, as a minimum, be accessible to all European Union citizens on the FE's website.</u>

**Reason**

This amendment reflects the Committee's desire to strengthen the governance and ethics rules, which must provide the clarity and transparency expected from FEs by their donors and the general public.

**Amendment 13**

## Article 43(2)

Text proposed by the Commission	CoR amendment
<b>Decision to wind up</b>	<b>Decision to wind up</b>
[...]	[...]

Text proposed by the Commission	CoR amendment
<p>2. The supervisory authority may, after having heard the governing board of the FE, decide to wind up the FE or, where provided for in the applicable national law, to propose its winding up to a competent court in one of the following situations:</p> <p>a) where the governing board has not acted in the cases referred to in paragraph 1.</p> <p>b) where the FE continuously violates its statutes, this Regulation or the applicable national law.</p>	<p>2. The supervisory authority may, after having heard the governing board of the FE, decide to wind up the FE <u>and appoint a liquidator</u> or, where provided for in the applicable national law, to propose its winding up <u>and a person to act as liquidator</u> to a competent court in one of the following situations:</p> <p>a) where the governing board has not acted in the cases referred to in paragraph 1.</p> <p>b) where the FE continuously violates its statutes, this Regulation or the applicable national law.</p>

#### Amendment 14

##### Article 44(1)

Text proposed by the Commission	CoR amendment
<p><b>Winding up</b></p> <p>1. Where the supervisory authority has approved the decision of the governing board pursuant to the second subparagraph of Article 43(1) or where the supervisory authority or, where applicable, a court has decided to wind up the FE, the assets of the FE shall be used in accordance with paragraph 2 of this Article.</p> <p>[...].</p>	<p><b>Winding up</b></p> <p>1. Where the supervisory authority has approved the decision of the governing board pursuant to the second subparagraph of Article 43(1) or where the supervisory authority or, where applicable, a court has decided to wind up the FE, the assets of the FE shall be used in accordance with paragraph 2 of this Article. <u>The costs of winding up shall be borne by the FE.</u></p> <p>[...].</p>

Brussels, 29 November 2012.

*The President*  
of the Committee of the Regions  
Ramón Luis VALCÁRCEL SISO

**Opinion of the Committee of the Regions on 'Priority substances in the field of water policy'**

(2013/C 17/14)

## THE COMMITTEE OF THE REGIONS

- welcomes the European Commission's proposal to increase the list of priority substances in the field of water policy and believes that to meet the objectives of the proposal, it is essential to include pharmaceutical substances in the list of priority substances and priority hazardous substances or at least to consider this;
- asks the relevant departments of the European Commission to examine the authorisation of the pharmaceutical substances without delay and to make a recommendation on their use on the EU market; considers it important that reducing the impact on the environment already be taken into account when manufacturing, and authorizing pharmaceutical substances; notes that steps must be taken to ensure that monitoring measures for local and regional authorities are cost-effective;
- requests to extend the deadline for Member States to comply with the Directive to 24 months after its adoption, in order to allow for an accurate assessment of the effects of the national legislation, and to spread the costs incurred for local and regional authorities over a longer period;
- requests that the Member States shall apply the EQS for substances 2, 5, 15, 20, 22, 23, 28 and 34 to 48 beginning with the revision of the RBMP only in 2021, with the objective of achieving a good chemical status for these substances by 2027;
- recognises the need for Member States to monitor the substances on the watch list, but considers that it would be appropriate to begin to do so within at least 12 months from the inclusion of a substance on the watch list, to give enough time for preparation; Member States may also cooperate across borders in monitoring the substances in the watch list;
- stresses the importance of allowing access to information on hazardous substances and ensuring transparency in this area; believes that the public should be informed about the status of the aquatic environment and the measures planned for its improvement.

<b>Rapporteur</b>	Urve ERIKSON (EE/EA), Member of Tudulinna Municipality Council
<b>Reference document</b>	Proposal for a Directive amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy  COM(2011) 876 final – 2011/0429 (COD)

## I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

### A. *General observations*

1. welcomes the Commission's proposal concerning the list of priority substances in the field of water policy - that is to say, concerning the chemicals listed in Annex X to the Water Framework Directive (2000/60/EC), which pose a significant risk at EU level to or via the aquatic environment;

2. considers that the proposed amendments reflect the EU strategy on biodiversity to 2020. The proposed amendments to the directive concerning priority substances in the field of water policy are a reflection of, and complement to, the objectives set out in the biodiversity strategy;

3. welcomes the clarification of the definition of "priority hazardous substances" and supports the approach to expanding the list of priority substances and creating a list of "priority substances for review"; and underlines that any additions to the list must be based on sound scientific evidence regarding the effects of the substances in question on humans, animals and plants, and the feasibility and cost of monitoring and eliminating these substances from the water cycle;

4. believes that water quality must be further improved, since maintaining a balanced aquatic environment is crucial to the ecosystem as a whole and to human health. Notes, moreover, that the proper management of both running and stagnant water resources has benefits for the aquaculture economy;

5. supports the watch list mechanism as a measure for improving the protection of water resources in the EU; the mechanism is designed to support prioritisation exercises in the context of future revision of the list of priority substances, through targeted monitoring of potentially hazardous substances within the EU;

6. emphasises the particular importance of the local and regional contribution to environmental protection. This results from the ability to make use of existing local knowledge, as well as the fact that these local and regional communities are disproportionately affected by priority substances and priority hazardous substances that harm the aquatic environment;

### B. *Policy recommendations*

7. supports the Commission's proposed amendments, according to which standards for chemicals must be established not only at national level, but also at local and river-basin level, so that all EU waters achieve good ecological status, while noting that Member States must be given enough time and additional resources, to bring the necessary laws, regulations and administrative provisions into force and be able to implement provisions that ensure waters achieve good chemical and ecological status;

8. supports the principles for the monitoring of hazardous substances, which require causes of pollution to be identified at source, as soon as possible and as close as possible to the source, in the interests, *inter alia*, of economic sustainability and environmental protection. If further measures are not taken, the result could be serious and lasting damage to the environment. It is therefore very important to investigate and monitor potential sources of pollution in order to determine as early as possible the scale of pollution and the risks it poses to the aquatic environment. Possible routes into the environment for hazardous substances must also be tracked using appropriate matrices. The Committee therefore advocates putting effective caps on emissions at EU level;

9. agrees that persistent, bioaccumulative and toxic substances (PBTs) and other substances that behave like PBTs can affect the aquatic environment for decades, even if extensive measures to reduce or eliminate emissions have already been taken. At the same time, it points out that hazardous substances are defined in this directive on the basis of the concept of hazard, not that of risk. The draft directive therefore sets fixed concentration caps for substances, but disregards the risks arising from reactions with other substances in the aquatic environment. It would be more appropriate, from both an analytical and a financial point of view, to take account of the chemical compounds of the substances found in inland waters, especially since these compounds can affect the aquatic environment even in extremely small concentrations;

10. stresses the importance of allowing access to information on hazardous substances and ensuring transparency in this area; believes that the public should be informed about the status of the aquatic environment and the measures planned for its improvement;

11. recognises the need for Member States to monitor the substances on the watch list, but considers that it would be appropriate to begin to do so within one year from the inclusion of a substance on the watch list, to give enough time for preparation;

12. is against toughening the monitoring requirements currently referred to in Article 8b of the draft directive, particularly in connection with the possibility of delegated acts;

13. believes that to meet the objectives of the proposal, it is essential to include pharmaceutical substances in the list of priority substances and priority hazardous substances or at least to consider this, since there is scientific evidence that pharmaceutical residues in water are not only damaging to the environment but can also be a threat to human health and lead to the "genetic pollution" of fish. The European Commission assessment shows that the pharmaceutical substances enumerated are hazardous to the aquatic environment and potentially also to people. The Committee of the Regions therefore asks the relevant departments of the European Commission to examine the authorisation of these substances without delay and to make a recommendation on their use on the EU market. Therefore considers it vital to develop research on treatments methods and their cost-effectiveness. The Committee of the Regions considers it important that reducing the impact on the environment already be taken into account when manufacturing, and authorizing pharmaceutical substances. Notes, in conclusion, that local and regional authorities must be consulted in the context of the revision and coordination of the legal acts currently in force concerning analytical methods and the best ways of monitoring, and that steps must be taken to ensure that measures are cost-effective;

14. notes that water pollution is a cross-border phenomenon. The establishment of Europe-wide water quality standards is therefore to be welcomed. Cooperation between regions is desirable in the context of the requirement for Member States to monitor priority substances in water and to report breaches of environmental quality standards. It is important to establish how, where and by what means biota should be monitored, in order to ensure that monitoring is comparable across all Member States. The CoR emphasises that the introduction of the watch list mechanism at EU level is a major contribution to the EU's efforts in recent years to improve environmental standards relating to soil contamination, air pollution, protection of biodiversity and sustainable development; stresses that it is essential to consult local and regional authorities on future projects so as to explore the best options and ensure the sustainability of environmental protection;

15. highlights the fact that various products containing priority and hazardous substances can also pollute waters if they get into the environment during or at the end of their life cycle. It is therefore very important to deal with the distribution in the EU of problematic products containing hazardous substances. The public must also be informed about these products and how to handle and use them correctly, so that less of the hazardous substances from these products end up in the environment. It often seems that, whilst products containing hazardous substances are not produced and no relevant chemicals are used, it is the environmental effects of imported goods and products that need to be dealt with. In the interests of good ecological status for water, the planned measures should be looked at in a broader context. Moreover it may be timely to revise the current Maximum Residue Limits (MRLs) for food, particularly with regard to food imports of plant origin to the EU;

16. by the same token, is dissatisfied that the Commission is still not proposing European-level regulation for emissions or the production and introduction of these substances or products containing these substances, which would enable Member States to ensure compliance with the proposed directive's requirements;

#### *Local and regional relevance*

17. agrees that preventing lasting damage to water must be a key concern of EU environmental policy. The Committee of the Regions, a body which represents the local and regional levels within the EU, has a clear mandate in this area. With the help of local and regional authorities, the Committee of the Regions can bring together knowledge from the local and regional level and can help with the monitoring which Member States are required to carry out. Investigating local and regional problems with the help of local and regional authorities and providing them with information and training can contribute to effective implementation of the amendments to this directive and to finding solutions to the issues that arise;

18. since ensuring good water quality is beneficial for both quality of life and the development of enterprises, local and regional authorities have a key role to play in contributing to it;

19. highlights the role of local and regional authorities in disseminating information to all levels of society on the chemical status of water and the related measures; the support and involvement of the public is a prerequisite for protecting water, identifying problems and the best measures to solve them, and determining the related costs;

### The principle of subsidiarity

20. points out that shared river basins, which cut across national borders, cover 60% of the territory of the EU. Effective protection of water resources therefore requires a common approach at EU level. The document under consideration is limited to the identification of priority substances and to establishing common environmental quality standards. No additional EU measures are proposed, beyond those already available. Specific and additional pollution control measures are left to the Member States, which can choose the most effective way of achieving the objectives taking into account local conditions;

21. Since the nature of the objectives of the proposed measures is such that they cannot be sufficiently achieved by the Member States alone and they can, by reason of their scale and effects, be better achieved at EU level, the draft complies with the principle of subsidiarity set out in Article 5 of the EU Treaty. In compliance with the principle of proportionality set out in that Article, the draft does not exceed what is necessary to achieve those objectives;

22. although the explanatory memorandum of the Commission proposal states that there will be no budgetary implications, it is likely that in the Member States additional monitoring, identification of new substances and elimination of new hazardous substances will also increase costs at local and regional level. Since, however, something must be done to maintain a clean environment, it is appropriate to create the conditions for good ecological status for water. Far greater costs would otherwise be incurred in the future to preserve clean water. In the long term, water protection brings substantial benefits;

23. notes that the Commission's assessment is that the benefits of the implementation of the directive come primarily from the fact that drinking water purification would be less costly. Since the reduction of priority substances in water affects human health via drinking water and food, the reduction of health costs should also be considered as a benefit.

## II. RECOMMENDATIONS FOR AMENDMENTS

### Amendment 1

Article 2 of the amendment to Directive 2008/105/EC: rewording of Article 3

Text proposed by the Commission	CoR amendment
<p>1. In accordance with Article 1 of this Directive and Article 4 of Directive 2000/60/EC, Member States shall apply the EQS laid down in Part A of Annex I to this Directive in bodies of surface water.</p>	<p>1. In accordance with Article 1 of this Directive and Article 4 of Directive 2000/60/EC, Member States shall apply the EQS laid down in Part A of Annex I to this Directive in bodies of surface water.</p>
<p>Member States shall apply the EQS in bodies of surface water in accordance with the requirements laid down in Part B of Annex I.</p>	<p>Member States shall apply the EQS in bodies of surface water in accordance with the requirements laid down in Part B of Annex I.</p>
<p>2. For the substances numbered 5, 15, 16, 17, 21, 28, 34, 35, 37, 43 and 44 in Part A of Annex I, Member States shall apply the biota EQS laid down in Part A of Annex I. For the rest of the substances, Member States shall apply the water EQS laid down in Part A of Annex I.</p>	<p>2. <u>The Member States shall apply the EQS for substances 2, 5, 15, 20, 22, 23, 28 and 34 to 48 beginning with the revision of the RBMP in 2021, with the objective of achieving a good chemical status for these substances by 2027.</u></p>
	<p><del>23.</del> For the substances numbered 5, 15, 16, 17, 21, 28, 34, 35, 37, 43 and 44 in Part A of Annex I, Member States shall apply the biota EQS laid down in Part A of Annex I. For the rest of the substances, Member States shall apply the water EQS laid down in Part A of Annex I.</p>

### Reason

A new paragraph 2 is recommended. Under the draft directive, these substances should already be taken into consideration in the RBMP in 2015. Given how little time there is left, there will not be enough monitoring data to have sufficient information about the pollution level and condition of the water, which means there is no basis on which to plan measures. In addition, we still know very little about possible measures to reduce the level of pollution by these substances. Therefore, there is too little time left to properly take these substances into account before preparation of the second RBMP, which has to be released by the end of 2014.



### Amendment 2

Article 2 of the amendment to Directive 2008/105/EC: insertion of Article 8b – watch list, paragraph 4

Text proposed by the Commission	CoR amendment
<p>4. Member States shall monitor each substance in the watch list at selected representative monitoring stations over at least a 12-month period commencing within 3 months of its inclusion in the watch list.</p> <p>Each Member State shall select at least one station per, on average, 15 000 km<sup>2</sup> geographical area, with a minimum of one per Member State.</p> <p>In selecting the representative stations, the monitoring frequency and timing for each substance, Member States shall take into account the use patterns of the substance. The frequency of monitoring shall not be less than once per year.</p>	<p>4. Member States shall monitor each substance in the watch list at selected representative monitoring stations over at least a 12-month period commencing within <u>3</u> <del>12</del> months of its inclusion in the watch list.</p> <p>Each Member State shall select at least one station <del>per, on average, taking into account the geographical area located in the affected zone, using 15 000 km<sup>2</sup> as a geographical area, guideline value with a minimum of one per Member State</del> <u>Member States may also cooperate across borders in monitoring the substances in the watch list.</u></p> <p>In selecting the representative stations, the monitoring frequency and timing for each substance, Member States shall take into account the verification of production volumes, use patterns <del>of the substance,</del> <u>concentrations and effects on the environment.</u> The frequency of monitoring shall not be less than once per year.</p>

#### Reason

Under the current proposal, the monitoring of substances on the watch list (referred to in Article 8b, which is to be inserted in the directive) has to begin very soon after the inclusion of a substance on the list. Since the Member States do not have sufficient information on the details of the monitoring that is to be carried out in the future, it would appear to be extremely difficult, in the space of just three months, to establish a budget, secure financing, award contracts, take samples and analyse them using an appropriate method.

Cooperation in the monitoring of substances on the watch list is necessary and appropriate, particularly in the case of cross-border bodies of water. Disproportionately large amounts would otherwise have to be spent on developing new analysis procedures. Jointly organised monitoring and analysis would be more sensible financially and would make the analyses more comparable. Making cooperation possible in no way conflicts with the establishment of independent regional monitoring bodies. Jointly organised monitoring would be more trustworthy.

### Amendment 3

Article 2 of the amendment to Directive 2008/105/EC: insertion of Article 8b – watch list, paragraph 5

Text proposed by the Commission	CoR amendment
<p>5. Member States shall report the results of the monitoring carried out under paragraph 4 to the Commission within 18 months of the inclusion of the substance in the watch list, and every 12 months thereafter while the substance is kept on the list. The report shall include information on the representativeness of the station and monitoring strategy.</p>	<p>5. Member States shall report the results of the monitoring carried out under paragraph 4 to the Commission within <del>18</del> <u>24</u> months of the inclusion of the substance in the watch list, and every 12 months thereafter while the substance is kept on the list. The report shall include information on the representativeness of the station, <del>and</del> <u>monitoring strategy and, if necessary, cross-border cooperation.</u></p>

**Reason**

If Amendment 1 is accepted, the reporting deadline should also be extended accordingly.

**Amendment 4**

## Article 3(1)

Text proposed by the Commission	CoR amendment
1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by at the latest <sup>(26)</sup> . They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by at the latest <sup>(26)</sup> . They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.
<sup>(26)</sup> 12 months after the adoption of this Directive.	<sup>(26)</sup> <del>12</del> 24 months after the adoption of this Directive.

**Reason**

The general impact assessment of the draft prepared at EU level does not permit a more precise assessment of the effects of the national legislation that is to be brought in. To make an accurate assessment of the effects of the national legislation, practical field studies need to be carried out, which would take 24 to 36 months and be very costly. Developing new methods of analysis requires time and considerable financial resources. The requirements of the proposal would be easier to comply with if the costs incurred could be spread over a longer period.

Brussels, 30 November 2012.

*The President  
of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

**Opinion of the Committee of the Regions on ‘The European Capitals of Culture (2020-2033)’**

(2013/C 17/15)

## THE COMMITTEE OF THE REGIONS

- strongly supports the continuation of the initiative, which brings the full diversity of Europe’s cultural richness to the fore and promotes the long-term development of a common European cultural area based on public participation;
- underlines the need for applicant cities to develop a specific cultural programme using local and regional resources and to give it a strong European dimension. The development of the programme should be based on a sustainable strategic vision and have a long-term positive impact on the cultural sector and the host city beyond the yearlong duration of the initiative;
- calls for all social, religious and ethnic or cultural groups of all ages to be actively involved both in preparing and implementing the cultural programme. Special attention should be given to young people in order to improve their chances of participating in cultural life;
- reiterates the need to involve the capital of culture’s surrounding areas and the wider region, in order to facilitate participation of geographical areas which have grown and which often extend beyond the borders of Member States;
- points to the benefits stemming from the important role played by the Committee of the Regions in this initiative. To this end, the appointment and participation of at least one selected member of the Committee of the Regions on the European panel would appear to be both useful and necessary.

<b>Rapporteur</b>	Elisabeth VITOUCH (AT/PES), Member of Vienna City Council
<b>Reference document</b>	Proposal for a Decision of the European Parliament and of the Council establishing a Union action for the European Capitals of Culture for the years 2020 to 2033
	COM(2012) 407 final

## I. POLICY RECOMMENDATIONS

### THE COMMITTEE OF THE REGIONS

#### General context

1. is committed to the European Capital of Culture initiative as one of the EU's most ambitious, far-reaching and effective measures in the cultural domain, giving expression to the richness, diversity and shared qualities of local, regional, national and European cultural development;

2. strongly supports the continuation of the initiative, which brings the full diversity of Europe's cultural richness to the fore and promotes the long-term development of a common European cultural area based on public participation;

3. points to the benefits stemming from the important role played by the Committee of the Regions in this initiative. To this end, the appointment and participation of at least one selected member of the Committee of the Regions on the European panel would appear to be both useful and necessary;

4. welcomes the European Commission proposal and notes with satisfaction that local and regional aspects, as these have been highlighted in the CoR own-initiative opinion on the "Future of the European Capital of Culture" <sup>(1)</sup>, have been given extensive consideration, which makes it easier for local and regional authorities to play an active role;

5. points out that, under Article 6 TFEU, the European Union shall have competence to carry out actions only to support, coordinate or supplement the actions of the Member States in the area of culture and that, under Article 3(3) TEU, it shall respect Europe's rich cultural and linguistic diversity and shall ensure that its cultural heritage is safeguarded and enhanced;

6. notes that the proposal is in accordance with the subsidiarity principle. The Committee of the Regions stresses, however, that this principle and the type of competence must also apply to the proposed procedure (e.g. membership of the European panel, designation, criteria), in order to reflect the spirit of the treaties;

#### General comments

7. underlines the need for applicant cities to develop a specific cultural programme using local and regional resources and to give it a strong European dimension. The development of the programme should be based on a sustainable strategic vision and have a long-term positive impact on the cultural sector and the host city beyond the yearlong duration of the initiative;

8. calls for all social, religious and ethnic or cultural groups of all ages to be actively involved both in preparing and implementing the cultural programme. Special attention should be given to young people in order to improve their chances of participating in cultural life;

9. reiterates its view that the concept of intercultural dialogue in particular, allied with social and territorial cohesion, can help instil the basic values of private, social and civic life, such as solidarity, responsibility, tolerance and respect <sup>(2)</sup>. These priorities enable individuals as well as various social groups to communicate with one another and to live together on the basis of European values, despite having different cultural backgrounds;

10. believes that the initiative can provide effective long-term support for local and regional cultural and creative industries and at the same time stresses the intrinsic value of European artistic and cultural works as well as their promotion and reception;

11. underlines the need for a multiannual, in-depth preparation period and technical support (drafting of recommendations, evaluation and monitoring) as well as the need to maintain the yearlong approach to the initiative. In this connection, the Committee of the Regions welcomes the reform of the evaluation process, with the city in question carrying out an evaluation itself, which will however be supported at European level;

12. supports the current two-stage selection procedure, the first stage of which is based on a rotating system among EU Member States. This gives cities and regions in all EU Member States the same application opportunities and ensures geographical balance in the location of host cities within the EU;

<sup>(1)</sup> CdR 191/2011 fin.

<sup>(2)</sup> CdR 191/2011 fin.

13. highlights the importance of a capital of culture having a long-term strategy. Its success is, among other things, dependent on political support from all levels, good governance in all relevant areas, the appointment of artistically independent directors and the reliable provision of funds on a multiannual basis;

14. recommends that a special effort be made to encourage a broad range of cities and regions to apply within the framework of the selection procedure, on the basis of appropriate measures;

15. is in favour of raising the profile of the programme as an EU initiative. This should be a mandatory element of the communication strategy of the designated capital of culture;

16. reiterates the need to involve the capital of culture's surrounding areas and the wider region, in order to facilitate participation of geographical areas which have grown and which often extend beyond the borders of Member States;

17. would like to see the European Commission encouraging use of the experiences with the European capitals of culture in their transnational and cross-border dimensions, given that firstly these capitals of culture form transnational pairs and secondly that more and more cultural capital concepts have an essential cross-border element;

18. views the initiative as a potential contribution to the European Neighbourhood Policy as well as to relations with other European countries, since not only does it help strengthen cultural cooperation within the EU, it also helps develop even closer ties between the EU and its eastern and southern neighbouring countries, with the aim of promoting prosperity, stability and security on the EU's external borders. Accordingly, participation in the initiative should be open not only to cities from candidate countries and potential candidate countries, but also European Neighbourhood Policy countries as well as EFTA countries;

19. recommends that synergies be used as effectively as possible, with a view to making optimal use of all available financial resources. In this connection, the Committee calls for the development of a reliable mechanism, providing the initiative with interlinked support on the basis of the various EU development programmes;

20. welcomes the possibility that in the absence of adequately qualified candidates no city will be designated European capital of culture;

#### *Comments on individual articles*

##### Article 5 - Criteria

21. supports the development of explicit, transparent and clear selection criteria which give potential applicants greater

certainty when preparing long-term strategies and, through improved goal orientation, when pursuing them as well;

22. underlines the importance of creating new, long-term measures enabling various social groups to attend and participate in cultural activities, in particular young people, the marginalised and disadvantaged or minorities. Particular attention should also be paid to the accessibility of programme activities for people with disabilities and older people;

23. stresses that the criteria should not give rise to any influence by the European Union on cultural content, even if it is only indirect;

##### Article 6 on the European panel and Article 11 on designation

24. stresses the importance for this initiative of the European panel and is critical of the European Commission's proposed reforms to the appointment of panel members. In particular, it rejects the pre-selection of panel members as well as the complete loss of members from the relevant Member State;

25. stresses in particular that introducing a new form of designation by the European Commission, which is also proposed in the draft decision, instead of continuing with the current system of designation by the Council runs the risk of adversely affecting Member States' symbolic and material identification with this initiative and their acceptance of it;

26. proposes therefore that the current procedure for selecting members of the European panel should be maintained in a modified form. Furthermore, the Council should continue to designate the capital of culture;

##### Article 10 - provisions for non-EU countries

27. is in favour of opening up the initiative to other European countries (EFTA countries) and European Neighbourhood Policy countries, in addition to applications from cities in candidate countries and potential candidate countries;

28. believes that, alongside the Melina Mercouri Prize, which constitutes the EU's financial contribution to each Capital of Culture, complementarities with other EU funds and recourse to innovative financing, including through the European Investment Bank (EIB), should be further explored;

29. for reasons of equity with the cities in Member States, requests that every city takes part in only one competition for candidate countries, potential candidate countries, European Neighbourhood Policy countries and EFTA countries in the period from 2020 to 2033.

## II. RECOMMENDATIONS FOR AMENDMENTS

**Amendment 1**

## Article 3(3)

Text proposed by the Commission	CoR amendment
<p>Cities in candidate and potential candidate countries shall also have the possibility to apply for the European Capital of Culture title in the framework of an open competition organised every third year in parallel with the competitions in the two Member States, in accordance with the calendar in the annex.</p>	<p>Cities in candidate <del>countries, and</del> potential candidate countries, <del>European Neighbourhood Policy countries and EFTA countries</del> shall also have the possibility to apply for the European Capital of Culture title in the framework of an open competition organised <del>every third year</del> in parallel with the competitions in the two Member States, in accordance with the calendar in the annex.</p>
<p>The specific provisions for cities in candidate and potential candidate countries are laid down in Article 10.</p>	<p>The specific provisions for <del>these cities in candidate and potential candidate countries</del> are laid down in Article 10.</p>

**Reason**

Having different groups of participants according to the relevant development programme or initiative does not seem wise. The Committee therefore proposes broadening the range of participating countries.

**Amendment 2**

## Article 4(1)

Text proposed by the Commission	CoR amendment
<p>The competition for the European Capital of Culture title shall only be open to cities. Candidate cities may involve their surrounding regions. However, the applications shall be made under the name of the leading city and, if selected, the title will be awarded to this city.</p>	<p>The competition for the European Capital of Culture title shall only be open to cities. Candidate cities may involve their surrounding <del>regions</del> <u>areas or the wider region</u>. However, the applications shall be made under the name of the leading city and, if selected, the title will be awarded to this city.</p>

**Reason**

In addition to the immediate surrounding areas, it should also be possible to involve the "wider" region.

**Amendment 3**

## Article 5(5)(b)

Text proposed by the Commission	CoR amendment
<p>the creation of new and sustainable opportunities for a wide range of citizens to attend or participate in cultural activities, in particular young people and the marginalised and disadvantaged, including minorities. Special attention shall also be given, wherever possible, to the accessibility of these activities to persons with disabilities and the elderly;</p>	<p>the creation of new and sustainable opportunities for a wide range of citizens to attend or participate in cultural activities, in particular young people and the marginalised and disadvantaged, including minorities. Special attention shall also be given, <del>wherever possible</del>, to the accessibility of <del>these</del> activities to persons with disabilities and the elderly;</p>

**Reason**

Access by people with disabilities and older people should not be limited from the outset.



## Amendment 4

## Article 6(1-3)

Text proposed by the Commission	CoR amendment
<p>1. A European panel of independent experts ("European panel") shall be established to carry out the selection and monitoring procedures.</p> <p>2. The European panel shall consist of 10 members. They shall be citizens of the Union. They shall be independent experts with substantial experience and expertise in the cultural sector, in the cultural development of cities or in the organisation of a European Capital of Culture. They shall also be able to devote an appropriate number of working days per year to the European panel.</p> <p>The Commission shall pre-select a pool of potential panel members following the organisation of a call for expression of interest. The European Parliament, the Council and the Commission shall subsequently select three experts each from this pool and appoint them in accordance with their respective procedures. The Committee of the Regions shall select one expert and appoint him/her in accordance with its procedures.</p> <p>Each institution and body shall seek to ensure that the competences of the experts it appoints are as complementary as possible, and that those experts are drawn from a balanced geographical spectrum.</p> <p>The European panel shall designate its chairperson.</p> <p>3. The members of the European panel shall be appointed for a period of three years. However, by way of derogation as regards the first panel to be established under the present Decision, the European Parliament shall appoint its three experts for three years, the Council for one year, the Commission for two years and the Committee of the Regions shall appoint its expert for one year in order to enable a staggered replacement of panel members and thus to avoid the loss of experience and know-how which would result if all members were replaced simultaneously.</p>	<p>1. <u>An independent</u> European panel of <del>independent experts</del> ("European panel") shall be established to carry out the selection and monitoring procedures.</p> <p>2. The European panel shall consist of <u>110</u> members. They shall be citizens of the Union. They shall be <del>independent experts with substantial</del> <u>have</u> experience and expertise in the cultural sector, in <u>the cultural development at local, regional or urban level of cities</u> or in the organisation of a European Capital of Culture. They shall also be able to devote <del>an appropriate number of working days per year</del> <u>sufficient time</u> to the European panel.</p> <p><del>The Commission shall pre-select a pool of potential panel members following the organisation of a call for expression of interest. The European Parliament, the Council and the Commission shall subsequently select three experts members each from this pool and appoint them in accordance with their respective procedures. The Committee of the Regions shall select one expert member and appoint him/her in accordance with its procedures. One member shall be appointed by the Member State concerned in consultation with the Commission. In the case of applications by countries under Article 10, this member shall be replaced by another member, appointed by the Commission.</del></p> <p>Each institution and body shall seek to ensure that the competences of the <del>experts</del> <u>members</u> it appoints are as complementary as possible, and that those <del>experts</del> <u>members</u> are drawn from a balanced geographical spectrum.</p> <p>The European panel shall designate its chairperson.</p> <p>3. The <u>members of the European panel appointed by the European Parliament, the Council, the Commission and the Committee of the Regions</u> <del>The members of the European panel</del> shall be appointed for a period of <del>three</del> <u>four</u> years. However, by way of derogation as regards the first panel to be established under the present Decision, <del>the European Parliament shall appoint its three experts for three years, the Council shall appoint its members for one two years, and the Commission shall appoint its experts for two three years and the Committee of the Regions shall appoint its expert for one year</del> in order to enable a staggered replacement of panel members and thus to avoid the loss of experience and know-how which would result if all members were replaced simultaneously.</p>

## Reason

The CoR is critical of the pre-selection of panel members by the Commission. In essence, the Committee proposes that the current system be maintained in a slightly modified form. In particular, the representation of the relevant Member State on the selection panel has proved to be worthwhile.

## Amendment 5

## Article 10(1), (2) and (3)

Text proposed by the Commission	CoR amendment
<p><b>Provisions concerning candidate and potential candidate countries</b></p> <p>1. The Commission shall be responsible for the organisation of the competition between cities in candidate and potential candidate countries.</p> <p>2. The Commission shall publish in the Official Journal of the European Union a call for submission of applications six years before the beginning of the year of the title. This call shall be open to cities in all candidate and potential candidate countries, provided that these countries participate in the Creative Europe Programme or in the subsequent Union programmes supporting culture at the date of the publication of the call.</p> <p>However, for reasons of equity with the cities in the Member States, every city shall only be allowed to participate in one competition for cities in candidate and potential candidate countries during the period from 2020 to 2033, and it shall not be possible for a city which participated in such a competition to participate in any subsequent competition in a new Member State under the rules laid down in Article 3(2) during that same period.</p> <p>Furthermore, also for reasons of equity with Member States, each candidate country or potential candidate country shall only be allowed to host the title once during the period from 2020 to 2033. Therefore, cities from countries which were already awarded the title shall not be allowed to participate in the subsequent competitions during that same period.</p> <p>3. The conditions laid down in Article 4 and the criteria laid down in Article 5 shall apply for candidate and potential candidate countries.</p>	<p><b>Provisions concerning <del>candidate and potential candidate</del> <u>other</u> countries</b></p> <p>1. The Commission shall be responsible for the organisation of the competition between cities in candidate <u>countries</u>, <del>and</del> potential candidate countries, <u>European Neighbourhood Policy countries and EFTA countries</u>.</p> <p>2. The Commission shall publish in the Official Journal of the European Union a call for submission of applications six years before the beginning of the year of the title. <del>This call shall be open to cities in all candidate and potential candidate countries, provided that these countries participate in the Creative Europe Programme or in the subsequent Union programmes supporting culture at the date of the publication of the call.</del></p> <p>However, for reasons of equity with the cities in the Member States, every city shall only be allowed to participate in one competition for cities in candidate <u>countries</u>, <del>and</del> potential candidate countries, <u>European Neighbourhood Policy countries and EFTA countries</u> during the period from 2020 to 2033, and it shall not be possible for a city which participated in such a competition to participate in any subsequent competition in a new Member State under the rules laid down in Article 3(2) during that same period.</p> <p>Furthermore, also for reasons of equity with Member States, <del>each of these countries candidate country or potential candidate country</del> <u>each of these countries</u> shall only be allowed to host the title once during the period from 2020 to 2033. Therefore, cities from countries which were already awarded the title shall not be allowed to participate in the subsequent competitions during that same period.</p> <p>3. The conditions laid down in Article 4 and the criteria laid down in Article 5 shall apply for <del>candidate and potential candidate</del> <u>these countries</u>.</p>

## Reason

Having different groups of participants according to the relevant development programme or initiative does not seem wise. The Committee therefore proposes broadening the range of participating countries. Tailor-made solutions should be found in order to avoid excessive financial costs.

**Amendment 6**

## Article 11

Text proposed by the Commission	CoR amendment
<p>The Commission shall, by means of implementing acts, officially designate the European Capitals of Culture, having due regard to the recommendations of the European panel. The Commission shall inform the European Parliament, the Council and the Committee of the Regions of its designation.</p>	<p><del>The Commission shall, by means of implementing acts, officially designate the European Capitals of Culture, having due regard to the recommendations of the European panel. The Commission shall inform the European Parliament, the Council and the Committee of the Regions of its designation.</del></p> <p>1. <u>In agreement with the relevant Member States, the Commission shall nominate a city to be designated European Capital of Culture. The Commission shall inform the European Parliament, the Council and the Committee of the Regions of this no later than four years before the relevant event is due to begin.</u></p> <p><u>The notification must be accompanied by a justification for the nomination based on the reports of the European panel.</u></p> <p><u>The nomination shall take into account the recommendations issued by the European panel.</u></p> <p>2. <u>The European Parliament may forward an opinion to the Commission no later than three months after receipt of the nominations.</u></p> <p>3. <u>The Council, acting on a recommendation from the Commission drawn up in the light of the opinion of the European Parliament and the justifications based on the reports of the European panel, shall officially designate the cities in question as European Capitals of Culture for the year for which they have been nominated.</u></p>

**Reason**

Designation by the Council is justified given the importance of selecting a capital of culture. Article 291(2) TFEU provides explicitly for the possibility of conferring implementing powers on the Council in justified cases.

Brussels, 30 November 2012.

*The President  
of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO





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