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ADDENDUM 2 to NOTE

from : Presidency
to: Permanent Representatives Committee (part 2)/Council

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No. Cion prop.: COM(2012) 496 final, COM(2011) 607 final/2, COM(2011) 611 final/2,
COM(2011) 614 final, COM(2011) 612 final/2

Subject: Cohesion Policy legislative package
 - Presidency compromise on delegations of power, implementing, transitional
 and final provisions

Delegations will find attached a compromise text on the delegations of power, implementing, transitional and final provisions parts of the proposals for the Common Provisions Regulation, the ERDF Regulation, the Cohesion Fund Regulation, the ESF Regulation and the ETC Regulation.

For the Common Provisions Regulation, the modifications highlighted in bold are compromise proposals that have been made to the original Commission text that was presented by the Commission on 6 October 2011, corrected by the Commission on 14 March 2012 and as amended by the Commission on 11 September 2012. Similarly, compromise modifications are also highlighted in bold for the Cohesion Fund Regulation, the ESF Regulation and the ETC Regulation, since the version presented by the Commission on 14 March 2012. For the ERDF Regulation the modifications highlighted in bold are those in comparison to the proposal presented by the Commission on 6 October 2011.

**DELEGATIONS OF POWER, IMPLEMENTING, TRANSITIONAL AND
FINAL PROVISIONS
THEMATIC BLOCK**

Common Provisions Regulation

**PART FOUR
DELEGATIONS OF POWER, IMPLEMENTING, TRANSITIONAL AND FINAL
PROVISIONS**

**CHAPTER I
Delegations of power and implementing provisions**

Article 141

[...]

Article 142

Exercise of the delegation

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.
2. The [...] power referred to in this Regulation shall be conferred [...] **on the Commission** from the date of entry into force of this Regulation **until 31 December 2020**.

3. The delegations of power referred to in Articles [...] 20(4), 32(**10**), 33(4), 34(**5**), 36(4), 58 **and** 136(6) may be revoked at any time by the European Parliament or by the Council¹.

A decision **to revoke** shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. **A** delegated act **adopted pursuant to Articles 20(4), 32(10), 33(4), 34(5), 36(4), 58 and 136(6)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

[...]

¹ The list of articles referred to here will need to be updated by the jurist-linguists following final agreement with the European Parliament on the provisions for which power should be delegated to the Commission.

Article 143

Committee Procedure

1. **In the application of this Regulation, Regulation (EU) No../ (ERDF), Regulation (EU) No../ (ETC), Regulation (EU) No../ (ESF) and Regulation (EU) No../ (Cohesion Fund)** the Commission shall be assisted by a Coordination Committee **for** the **European Structural and Investment** Funds. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. **It shall adopt its rules of procedure in accordance with Article 9 of Regulation (EU) No 182/2011.**
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

[...]

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

CHAPTER II

Transitional and final provisions

Article 144

Review

The European Parliament and the Council shall review this Regulation by 31 December 2020 in accordance with Article 177 of the Treaty **on the Functioning of the European Union.**

Article 145

Transitional provisions

1. This Regulation shall not affect **either** the continuation or modification, including the total or partial cancellation [...] of assistance approved by the Commission on the basis of Regulation (EC) No 1083/2006 or any other legislation applying to that assistance on 31 December 2013, **which shall consequently apply thereafter to that assistance or the operations concerned until their closure.**
2. Applications **to receive assistance made or approved** under Council Regulation (EC) No 1083/2006 shall remain valid.
- 3. Where a Member State makes use of the option set out in Article 113(3), it may submit a request to the Commission for the managing authority to carry out the functions of the certifying authority by way of derogation from Article 59(1)(b) of Council Regulation (EC) No 1083/2006 for the corresponding operational programmes implemented on the basis of Council Regulation (EC) No 1083/2006. The request shall be accompanied by an assessment made by the audit authority. Where the Commission is satisfied on the basis of information made available from the audit authority and from its own audits that the management and control systems of these operational programmes function effectively and that their functioning will not be prejudiced by the managing authority carrying out the functions of the certifying authority, it shall inform the Member State of its agreement within 2 months of the date of receipt of the request.**

Article 146

Repeal

1. **Without prejudice to the provisions laid down in Article 145,** Council Regulation (EC) No 1083/2006 is hereby repealed with effect from 1 January 2014.
2. References to the repealed Regulation shall be construed as references to this Regulation **and shall be read in accordance with the correlation table set out in Annex XXXX.**

Article 147

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Articles 18 - 22, 25(3), 33(1)(a), 51, 53, 66 – 84, 108, 110, 111 and 119 – 139 of this Regulation shall apply with effect from 1 January 2014.

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

Done at Brussels,

For the European Parliament

The President

For the Council

The President

European Regional Development Fund Regulation

Chapter IV Final provisions

Article 12

Transitional provisions

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation, of assistance approved by the Commission on the basis of Regulation (EC) No 1080/2006 or any other legislation applying to that assistance on 31 December 2013, which shall consequently apply thereafter to that assistance or the **operations** concerned until their closure.
2. Applications to receive assistance made **or approved** under Regulation (EC) No 1080/2006 shall remain valid.

Article 13

[...]

Article 14

[...]

Article 15

Repeal

Without prejudice to the provisions laid down in Article 12, Regulation (EC) No 1080/2006 is hereby repealed **with effect from 1 January 2014.**

References to the repealed Regulation shall be construed as references to this Regulation **and shall be read in accordance with the correlation table set out in Annex X.**

Article 16

Review

The European Parliament and the Council shall review this Regulation by 31 December 2020, in accordance with Article 177 of the Treaty **on the Functioning of the European Union.**

Article 17

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

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

Cohesion Fund Regulation

Article 5

Transitional provisions

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation, of assistance approved by the Commission on the basis of Regulation (EC) No 1084/2006 or any other legislation applying to that assistance on 31 December 2013, which shall consequently apply thereafter to that assistance or the projects concerned until their closure.
2. Applications to receive assistance made **or approved** under Regulation (EC) No 1084/2006 shall remain valid.

Article 6

Repeal

Without prejudice to the provisions laid down in Article 5, Regulation (EC) No 1084/2006 is hereby repealed **with effect from 1 January 2014**.

References to the repealed Regulation shall be construed as references to this Regulation **and shall be read in accordance with the correlation table set out in Annex X**.

Article 7

Review

The European Parliament and the Council shall review this Regulation by 31 December 2020, in accordance with Article 177 of the Treaty **on the Functioning of the European Union**.

Article 8

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

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

European Social Fund Regulation

Chapter IV

Article 16

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. **The power to adopt delegated acts** referred to in Article 14(1) [...] shall be conferred **on the Commission** [...] from 1 January 2014 **until 31 December 2020**.
3. The delegation of power referred to in [...] Article 14(1) [...] may be revoked at any time by the European Parliament or by the Council. A [...] decision **to revoke** shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to [...] Article 14(1) [...] shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 2 months of notification of that act to the European Parliament and the Council, or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or **of** the Council.

Article 17

Committee Procedure under Article 163 TFEU

- 1. The Commission shall be assisted by a Committee (hereinafter, the "ESF Committee") set up under Article 163 of the Treaty on the Functioning of the European Union.**
- 2. The Member of the Commission responsible for chairing the ESF Committee may delegate that responsibility to a senior Commission official. The Secretariat of the ESF Committee shall be provided by the Commission.**
- 3. Each Member State shall appoint one government representative, one representative of the workers' organisations, one representative of the employers' organisations and one alternate for each member for a maximum period of seven years. In the absence of the member, the alternate shall be automatically entitled to take part in the proceedings.**
- 3bis. The ESF Committee shall include one representative each from the EU level organisations representing workers' organisations and employers' organisations.**
- 4. The ESF Committee may invite non-voting representatives of the European Investment Bank and the European Investment Fund if the agenda of the meeting requires their participation.**
- 5. The ESF Committee shall:**
 - (a) be consulted on the draft Commission decisions relating to programming in the case of support from the ESF;**
 - (b) be consulted on the planned use of technical assistance in the case of support from the ESF and other relevant issues having an impact on the implementation of strategies at EU level relevant to the ESF;**
 - (c) endorse the list of common themes for transnational cooperation provided for in Article 10(2).**

6. The ESF Committee may deliver opinions on:

(a) questions related to the ESF contribution to the implementation of the Europe 2020 Strategy for smart, sustainable and inclusive growth;

(b) issues concerning Regulation No ... [CPR] relevant for the ESF;

(c) questions related to the ESF referred to it by the Commission other than those referred to in paragraph (5).

7. The opinions of the ESF Committee shall be adopted by an absolute majority of the votes validly casted. The Commission shall inform the ESF Committee of the manner in which it has taken account of its opinions.

Article 18

Transitional provisions

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation, of assistance approved by the Commission on the basis of Regulation (EC) No 1081/2006 or any other legislation applying to that assistance on 31 December 2013, which shall consequently apply thereafter to that assistance or the projects concerned until their closure.

2. Applications to receive assistance made or approved under Council Regulation (EC) No 1081/2006 shall remain valid.

Article 19

Repeal

Without prejudice to the provisions laid down in Article 18, Regulation (EC) No 1081/2006 is hereby repealed with effect from 1 January 2014.

References to the repealed Regulation shall be construed as references to this Regulation **and shall be read in accordance with the correlation table set out in Annex X.**

Article 20

Review [...]

The European Parliament and the Council shall review this Regulation by 31 December 2020 in accordance with Article 164 of the Treaty **on the Functioning of the European Union.**

Article 21

Entry in force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

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

European Territorial Cooperation Regulation

CHAPTER X

FINAL PROVISIONS

Article 29

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 17(1) shall be conferred on the Commission [...] from the date of entry into force of this Regulation **until 31 December 2020**.
3. The delegation of power referred to in Article 17(1) may be revoked at any time by the European Parliament or by the Council.
A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 17(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 30

[...]

Article 31

Transitional provisions

1. [...] This Regulation shall not affect either the continuation or modification, including the total or partial cancellation, of **assistance** approved by the Commission on the basis of Council Regulation (EC) No 1080/2006 or any other legislation applying to that assistance on 31 December 2013, which shall consequently apply thereafter to that assistance or the projects concerned until their closure.
2. Applications [...] to receive **assistance** made **or approved** under Regulation (EC) No 1080/2006 before 1 January 2014 shall remain valid.

Article 32

Review

The European Parliament and the Council shall review this Regulation by 31 December 2020, in accordance with Article 178 of the Treaty **on the Functioning of the European Union**.

Article 33

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Articles 4 and 25-27 of this regulation shall apply with effect from 1 January 2014.

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