

EUROPEAN UNION



Committee of the Regions

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DRAFT OPINION

Commission for Territorial Cohesion Policy and EU Budget

Outcome of the negotiations on the partnership agreements and operational programmes

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This document will be discussed at the meeting of the **Commission for Territorial Cohesion Policy and EU Budget** to be held **from 10.30 a.m. to 1 p.m. on Tuesday, 12 May 2015**. To allow time for translation and **in accordance with Rule 66(1) of the Rules of Procedure**, any amendments must be submitted through the online tool for tabling amendments (available on the Members' Portal: <http://cor.europa.eu/members>) **no later than 3 p.m. (Brussels time) on Tuesday, 21 April 2015**. A user guide is available on <http://toad.cor.europa.eu/CORHelp.aspx>.

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Reference document

**Draft opinion of the Commission for Territorial Cohesion Policy and EU Budget –
Outcome of the negotiations on the partnership agreements and operational programmes**

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

General assessment and objectives of this opinion

1. stresses that the document is political and its aim is to assess the agreed Partnership Agreements (PAs) and Operational Programmes (OPs) from the perspective of beneficiaries from regional and local authorities (LRAs); this opinion will also:
 - identify barriers to proper planning and implementation and point to possible solutions to overcome obstacles,
 - promote appropriate administrative structures and simplified procedures while combating red tape and administrative burdens;
2. underlines the crucial role of cohesion policy in achieving the Treaty objective of territorial cohesion through "*reducing disparities between levels of development of the various regions and the backwardness of the least favoured regions.*" In fact, the Structural and Investment Funds are the European Union's only tool for promoting harmonious overall development. The renewed cohesion policy has a budget of up to EUR 351.8 billion in total for investments in European regions, cities, municipalities and the economy;
3. points out that cohesion policy has made progress in reducing disparities between and within European regions. However, significant imbalances remain and the future cohesion policy must have the resources to reduce these disparities further. As envisaged by Article 96.2 (a) of the Common Provisions Regulation (CPR), these efforts must be based on the development needs of regions, cities and municipalities, and should not serve solely to support the Europe 2020 goals;
4. notes that cohesion policy changed significantly in character following its reform in 2013. The CoR is pleased that the reform has strengthened the connection with the EU's priorities (greater synergies between cohesion policy and the Europe 2020 Strategy). New implementation methods, new tools and a stronger focus on effectiveness, efficiency and results in particular have been introduced in the new 2014-2020 programming period. The CoR is interested to see how the effectiveness, efficiency and impact of European Structural and Investment Funds (ESIF) can be maximised in practice;
5. observes that links between cohesion policy and other EU policies and initiatives (rural development policy, Horizon 2020, etc.) have also been strengthened. The CoR believes this will have a positive impact on the development of the regions;
6. agrees that the investment strategy within PAs and OPs should also be comprehensive and consistent with the National Reform Programmes and should address the reforms described in

the country-specific recommendations of the European Semester. In times of economic crisis and budgetary constraints, coordination between the EU budget and national budgets is essential for improving economic governance, transparency and the efficiency of public spending;

7. the Juncker Commission's first new core initiative, the Investment Plan for Europe, highlights cohesion policy's potential for promoting growth and jobs in Europe. However, the CoR reiterates that the Investment Plan and cohesion policy target different policy levels and must therefore complement each other;
8. notes that strategic planning is crucial for the successful implementation of cohesion policy. In this respect, the most important strategic elements of cohesion policy are the PAs and OPs as they outline how the Structural and Investment Funds are to be spent in a particular Member State or region. Regrets that the late adoption of the cohesion policy legislative package and delays in the adoption of the PAs and OPs have delayed the start of the new programming period;
9. notes that the CoR has conducted an extensive online survey, which support the views expressed in this opinion¹;
10. asks the European Commission to take into consideration the opinion of LRAs, expressed in the following paragraphs of this opinion, when drafting its report on the outcome of negotiations on the PAs and OPs by the end of 2015;

Multi-level governance and partnership

11. is pleased that the reform of cohesion policy has strengthened the provisions on partnership. Article 5 of the Common Provisions Regulation now states: *"For the Partnership Agreement and each programme, each Member State shall in accordance with its institutional and legal framework organise a partnership with the competent LRAs."* Moreover, the Commission has passed a delegated act, the European Code of Conduct on Partnership, which outlines how the partnership principle should be applied;
12. the quality of partnership in European funds is of crucial importance and the CoR expects the real needs detected at regional and local level to be reflected in the PAs and OPs;
13. underlines that effective partnership means faster development for EU citizens. In countries where the partnership is not properly established and is purely superficial, the European Commission should also assist in examining mechanisms to put the partnership on the right track;
14. points out that the partnership principle is not an empty concept but a precondition for the success of cohesion policy, particularly as "de facto" competences are distributed between at

¹

317 valid contributions to the survey were sent by a wide range of stakeholders, authorities and services. Most contributions (70%) were sent by representatives of public administrations. 89 respondents also provided contributions in the form of open comments. A detailed analysis of the consultation results can be found on the CoR website.

least three policy levels (EU, Member States and LRAs). In fact, good practice in the area of the partnership principle leads to:

- bottom-up identification of real and specific needs of European cities, municipalities and regions,
 - common development of feasible and acceptable solutions,
 - better implementation as all stakeholders are working towards common objectives and share responsibilities and tasks,
 - fewer errors as actors understand the logic underpinning the procedures,
 - better and lasting results, which have been achieved more efficiently;
15. underlines that proper application of the partnership principle helps increase the effectiveness of EU spending and makes reference to the European Court of Auditors' analysis whereby *"the effectiveness of EU spending is reduced because there is inadequate assessment of needs, unclear objectives, contradictory or incompatible objectives and priorities, and inadequate selection procedures to prioritise projects that maximise impact."* Genuine partnership can remedy all of these shortcomings;
16. is concerned that the partnership principle is not being applied appropriately in all Member States. The negotiations on the PAs and OPs showed that while LRAs were consulted in most cases, their involvement did not amount to full partnership as outlined in the European Code of Conduct on Partnership. In fact, LRAs have rarely been sufficiently involved in drafting the PAs and OPs²;
17. asks the European Commission to speak with one voice during the negotiations on the PAs and OPs and notes in this respect that several LRAs have complained that during the negotiations different services of the European Commission had different, sometimes contradictory, demands;
18. underlines that good practice in the area of the partnership principle requires the right mind-set and administrative culture. Thus, the partnership principle is difficult to enforce through legislation as a discrepancy between legislation and the appropriate administrative mind-set leads to "ticking the box" practices³. In contrast to real partnership, which entails real benefits such as those listed above, ticking the box practices undermine the purpose of rules and lead to rules being perceived as an administrative burden;
19. therefore, the CoR believes that the partnership principle can best be strengthened by convincing stakeholders of its benefits. In this respect, the CoR calls on the European Commission to monitor partnership systematically and report frequently on best practice. Welcomes in this respect, that the European Commission has launched a study on the partnership principle and plans to hold regular "structured dialogue" meetings which aim to

² A CoR consultation confirmed that a large majority of LRAs and other stakeholders have been involved in the preparatory phase of PAs and OPs. However, more than 70% of respondents feel that the needs of LRAs have only been taken into account partially or not at all.

³ Formal compliance with rules but without substantive application of rules.

discuss the implementation of the partnership principle with stakeholders. Points out that the CoR, as the representative body of LRAs, needs to be the key strategic partner in this process;

Financial resources, programme structure and performance

Financial resources

20. points out that the subnational level was responsible for 55% of total public investments in 2013 and thus plays a significant role in promoting economic growth in Europe. In some regions, ESIF funds are virtually the only source of public investment;
21. draws attention to the fact that subnational finances are in a difficult situation as LRAs find themselves confronted with high levels of debt and austerity measures imposed by higher levels. The CoR notes in this respect that a lack of available subnational financial resources has a direct impact on the implementation of cohesion policy. The multilevel financing system should therefore be improved in the future;
22. is therefore pleased that in the 2014-2020 programming period, cohesion policy allows financial instruments to play a stronger role, and notes that financial instruments, if implemented effectively, can significantly increase the impact of financing for less-developed regions;
23. points out that difficulties arise when implementing Structural Funds through financial instruments. In many cases, implementation remains very complex. Despite efforts by the European Commission to provide guidance, in most cases setting up financial instruments still necessitates the use of external consultancy firms, which implies additional costs;
24. welcomes the launch of fi-compass, a new information and advisory hub for the use of financial instruments under the ESIF. This tool should help to facilitate the implementation of financial instruments and make it more understandable;
25. stresses the role of the EIB, whose Structural Programme Loans are an excellent means of mobilising financial resources for viable projects under a given operational programme. Unfortunately, the possibilities that this source of financing offers are not recognised enough at all levels⁴;

Programme structure

26. notes that stronger thematic concentration is one of the key reforms of cohesion policy 2014-2020. Thematic concentration serves the purpose of concentrating funds on a limited number of thematic areas in order to reach critical mass and have real impact. As predefined thematic objectives determine what ESI funds can be spent on, provisions on thematic concentration have a significant impact on the structure of PAs and OPs;

4

More than 50% of the respondents of the CoR consultation stated that they were not aware of Structural Programme Loans.

27. draws attention to the fact that owing to internal regional disparities, it may still be necessary even in more developed regions to invest in infrastructure providing basic services in the areas of environment, transport, and information and communication technologies (ICT);
28. is pleased that additional flexibility has been introduced through new tools such as Community-Led Local Development (CLLD) and Integrated Territorial Investment (ITI), which allow for the use of multi-fund programmes and the implementation of innovative projects;
29. draws attention to the fact that combining different funding sources and different tools for a single project may offer significant advantages. However, different funding sources and tools also entail different reporting and eligibility requirements. Being aware of all requirements may be a difficult task and may thus increase implementation errors as well as costs incurred through dealing with additional administrative procedures;
30. regrets that in some Member States new tools have been met with scepticism and will not be implemented as widely as possible. Unfortunately, in some cases the national level has impeded LRAs use of new tools;
31. calls on the European Commission and the EIB to harmonise administrative and eligibility requirements when providing support to various cross-cutting projects;

Performance

32. is pleased that the reformed cohesion policy puts a stronger emphasis on OP performance. Good performance can be considered to be achieving objectives efficiently and in accordance with the rules;
33. underlines that good performance of cohesion policy is the primary concern of all LRAs as good results significantly improve the quality of life in regions, cities and municipalities;
34. specifies that the most important elements of performance should be the long-term results, resulting in the achievement of predefined objectives. Results may include the number of jobs created, reduced congestion and less pollution, etc. In contrast, outputs such as number of training courses offered, kilometres of road built or number of buildings renovated, are only intermediate steps towards achieving results and are therefore a less important element of performance;
35. regrets in particular that the reintroduced performance reserve might encourage the setting of unambitious objectives with a view to obtaining the additional resources from the performance reserve easily. However, it will only become clear whether the objectives are ambitious as implementation moves forward. In any case, holding back financial resources from operational programmes creates unnecessary uncertainty in financial planning;
36. moreover, given that cohesion policy is inherently long term, an overly strict emphasis on short-term or mid-term financial or output indicators undermines the achievement of all long-term objectives set when the operational programmes are being negotiated;

37. moreover, it is unfortunate that the performance framework makes financial indicators as well as output indicators mandatory, while results indicators are only optional. The CoR is aware that it may be difficult to measure results due to the fact that results may be hidden, may be distorted due to external factors and may only materialise after a long period of time. Nevertheless, the CoR believes that a focus on achieving results needs to be a mandatory element of the strategic planning of all Structural Funds, which should also be taken into account within the performance framework;
38. welcomes in this respect that the European Commission will produce annual reports summarising the implementation reports of the Member States from 2016 onwards and invites the European Commission to discuss these reports with CoR members. The CoR suggests that these reports also include an analysis of progress in simplifying the implementation system;
39. notes that financial indicators, such as the absorption rate of funds, are not a results-oriented performance indicator. The CoR therefore urges the European Commission to accord less importance to financial indicators within the performance framework;

Simplifying procedures and administrative capacity

Simplifying procedures

40. notes that in the past, cohesion policy has received considerable criticism for its complex implementation system. Most of the managing authorities still see the new regulations as bureaucratic and complex. In this respect, simplifying eligibility rules, avoiding gold plating and focusing on results were considered as most essential by respondents of the CoR consultation;
41. points out that gold-plating is still one of the main reasons for the administrative burden. This overly strict national interpretation of EU rules leads to unnecessary administrative requirements and an additional bureaucratic burden on beneficiaries and managing authorities;
42. asks the European Commission to monitor national application of EU rules and, in the event of gold-plating, to convince national authorities to apply EU rules in a less onerous way. Cases of gold-plating should be made publicly available for mutual learning processes;
43. however, there is ample room for simplification within EU rules as well (regulations, implementing and delegated acts). The CoR therefore insists on further simplification in the management of EU-funded projects. This should include a reduction in the time period for reimbursement for beneficiaries, the creation of one set of common auditing rules for cross-border projects, simpler rules for projects which generate their own revenue, consistent rules concerning the eligibility of costs, the wider use of simplified costs, a closer connection between payments and results, E-cohesion, the "one-stop-shop" principle for beneficiaries, and a proportionate approach to supervision;

44. The CoR firmly believes that specific measures are immediately required to simplify territorial cooperation programmes. The results of European territorial cooperation programmes and projects also need to be made more visible;

Administrative capacity

45. notes that the administrative capacity of LRAs is key to implementing cohesion policy successfully, but unfortunately is still lacking in some LRAs;
46. points out that there are many potential reasons for inadequate administrative capacity, including:
- inefficient distribution of tasks and responsibilities,
 - inefficient cooperation between levels of governance,
 - lack of qualified human resources (skills),
 - lack of financial resources,
 - inappropriate rules and regulations (e.g. gold-plating),
 - political obstacles (e.g. inappropriate strategic planning);
47. calls for the Member States to make greater use of the technical assistance available for operational programmes in order to improve the capacity of local and regional bodies and other participants to draw on EU funds;
48. acknowledges that ex-ante conditionalities (Article 19 CPR) have been introduced to ensure a proper legal and strategic environment for EU co-funded projects and to strengthen the administrative capacity to implement cohesion policy. The CoR believes that ex-ante conditionalities are necessary and useful in principle but draws attention to the following problems:
- ex-ante conditionalities are complex and entail a short-term additional administrative burden. Therefore, they are one of the reasons for delays in the adoption of the OPs;
 - the CoR points out that fulfilling certain ex-ante conditionalities is dependent on the national level. It is unacceptable that funding targeted at LRAs is delayed because of shortcomings at a different policy level. Nevertheless, the CoR hopes that long-term benefits of ex-ante conditionalities will benefit LRAs;
 - The Commission had also proposed to freeze regional aid for Member States which breach EU budget deficit rules. The CoR firmly opposes such "external conditionality" of ESIF. Such measures would primarily penalise LRAs for the failures of their national governments.

Brussels,

II. PROCEDURE

Title	Outcome of the negotiations on the partnership agreements and operational programmes
Reference(s)	N/A
Legal basis	Article 307 TFEU Rule 41(b)(ii) of the CoR's Rules of Procedure
Procedural basis	Own-initiative opinion
Date of Council/EP referral/Date of Commission letter	N/A
Date of Bureau/President's decision	6 October 2014
Commission responsible	Commission for Territorial Cohesion Policy and EU Budget (COTER)
Rapporteur	Ivan Žagar (SI/EPP) Mayor of Slovenska Bistrica
Analysis	21 January 2015
Discussed in commission	Scheduled for 2 March 2015
Date adopted by commission	Scheduled for 12 May 2015
Result of the vote in commission (majority, unanimity)	
Date adopted in plenary	Scheduled for 8 and 9 July 2015
Previous Committee opinions	CdR 2014/4896, CdR 3609/2013, CdR 2027/2012, CdR 1683/2012
Date of subsidiarity monitoring consultation	N/A