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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Second Simplification Scoreboard for the MFF 2014-2020

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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Second Simplification Scoreboard for the MFF 2014-2020

1. APPROACHING THE MOMENT OF TRUTH

The political agreement reached at the European Council on 8 February 2013 paves the way for the adoption of the Multi-annual Financial Framework (MFF) 2014-2020. Little time is left for the adoption of the legislative instruments for the different programmes under the MFF. Only prompt conclusion of the inter-institutional negotiations could enable the budget to be implemented from the start of the next MFF on 1 January 2014. The pending regulatory decisions should take full account of and guarantee the most efficient delivery of the resources programmed under the MFF to the European Union (EU) citizens and businesses.

In the framework of negotiations of sectorial funding proposals under the Multiannual Financial Framework (MFF) 2014-2020, the Commission is pursuing its firm commitment to simplifying funding programmes and procedures[1]. Simplification aims to make access to EU funding easier and to improve delivery of EU policies, whilst maintaining an adequate level of control and assurance. Such a commitment is particularly relevant in the current economic and financial climate, where all resources available for boosting growth, jobs and competitiveness in the European Union should be mobilised in the most efficient manner.

The European Council has recognised the importance of simplification by calling that "all sectoral legislation relating to the next MFF (…) should therefore contain substantial elements contributing to simplification and improving accountability and effective spending of EU funds"[2].

In the same perspective, the Council has recently stressed the need for further simplification efforts at European and national level[3], in order to reduce the complexity of rules that the European Court of Auditors has repeatedly identified as one of the main cause of errors.

Simplification is a strategic issue: simpler rules, less burdensome and less costly procedures mean improved quality of EU funding, better delivery, broader and easier access to EU funds. In one word: resources – for economy, growth and jobs.

In line with the Commission's commitment to monitor and support progress on simplification through negotiations with the European Parliament and the Council, this Communication follows the First Scoreboard presented in September 2012[4]: it acknowledges main

1 Communication "A Simplification Agenda for the MFF 2014-2020", COM(2012)42 final
2 Conclusions of the European Council on the MFF 2014-2020, 8 February 2013, point 9.
3 Council Recommendation on Discharge to be given to the Commission in respect of the implementation of the general budget of the European Union for the financial year 2011, 12 February 2013.
4 Communication, "First Simplification Scoreboard for the MFF 2014-2020", COM(2012)531 final

developments since then, stresses critical issues, and indicates a way forward to simple and efficient EU funding for the period 2014-2020.

This Communication also aims to be a reference point and a support for the Irish Presidency of the Council of the European Union, which has started its work with high ambitions and a strong focus on stability, jobs and growth. In its programme, the Irish Presidency expresses its commitment to "work intensively with partners, particularly the European Parliament, on the inter-institutional agreement of various instruments which will allow funding to be rolled out promptly to stimulate jobs and growth. These instruments will boost the EU's research and innovation capabilities, promote cohesion and boost smart investment in our natural resources on land and sea"[5].

Simple rules, rapid and efficient procedures are essential elements for the foreseen promptness in EU funding.

The European Parliament is also working intensively on the spending programmes: informal trilogues with the Commission and the Council have started in most sectors. The European Parliament's rapporteurs are negotiating amendments to the Commission proposals, in view of first-reading agreement in plenary. The timely adoption of the legislative acts is necessary for the implementation to start at the beginning of 2014, thus ensuring continuity in EU funding. Despite these efforts and significant advancements on some issues, simplification is often not given enough importance in the negotiations: the co-legislators seem to privilege other priorities, even when the recognition of such priorities in the basic act affects the programmes themselves in terms of simplicity and accessibility.

Simplification is often put aside, as a relative issue.

On 20 September 2012, President Barroso addressed a letter to Mr Martin Schulz, President of the European Parliament and Mr Mavroyiannis, the President in Office of the Council, to recall the core relevance of simplification and to invite the co-legislators to co-operate further with the Commission in pursuing simplification[6]. Such an invitation does not seem to have produced the expected effects so far.

The co-operation of the European Parliament and the Council with the Commission has allowed important achievements on some issues: approval of the new Financial Regulation[7], consistency of rules in sectorial programmes with the Financial Regulation. The European Parliament and the Council have been open to simplification proposals across different programmes, with reference to: definition of a single framework, mainstreaming, clear and coherent eligibility rules (and in particular simplified costs), e-governance, more proportionate and effective control. More particularly, the co-legislators have been positive towards proposals to simplify management, especially for the Member States, and are eager to introduce additional flexibility in this respect. In some cases, excessive flexibility, entailing tailor-made solutions, for instance in the reform of the Common Agricultural Policy (CAP), would hinder simplification. Moreover, the co-legislators have shown a desire to increase their ex-ante control over budget execution. To this purpose, they have overloaded

[5] Programme of the Irish Presidency of the Council of the European Union, 1 January-30 June 2013, page 6

[6] EC MEMO 12/697, EUROPA - PRESS RELEASES - Press Release - President Barroso pushes for further simplification of the EU budget

[7] Regulation (EU, EURATOM) No 966/2012, in application as of 1.01.2013

the legislative proposals adding more detailed provisions, burdensome procedures, or simply re-introducing the structure of funding programmes under the MFF 2007-2013. These additions would make the spending programmes hard to access for potential beneficiaries and hamper delivery of EU funds. This approach would also result in limiting the flexibility of the Commission in budget execution. This would be at odds with the obligation of the Commission to assume full responsibility for the execution of the budget on the one hand, and the discharge competences exerted by the European Parliament on the other.

The European Council has called on the co-legislators to adopt swiftly the financing programmes implementing the 2014-2020 MFF so as to ensure their timely roll-out on 1 January 2014. It has recalled the "shared objective and responsibility of the institutions and the Member States to simplify the funding rules and procedures". It urged the legislators to "agree on programmes that are simpler, that mark a clear reduction in administrative burden for public authorities and beneficiaries"[8].

The Commission believes that the elements identified in the present Scoreboard represent major hurdles to simplification and the examples listed below are the most evident expressions of general tendencies. These outstanding obstacles should be removed by the co-legislators, during the final phase of negotiations, in view of achieving results that best correspond to the needs of EU fund beneficiaries and citizens at large.

2. Patterns of Simplification: Critical Issues

2.1. Simpler and More Accessible EU Funding Programmes

The basis of simplification in EU funding is having simple legislative texts. The Commission has proposed funding programmes that often merge different programmes, previously activated in the same policy area, set general policy priorities and objectives, and define the budgetary envelope for the programme. Such general definitions in the basic act are meant to cover priorities and objectives that are broad enough for a long-term financing period of seven years (2014-2020). To respond promptly to changing policy priorities and economic/social needs during that period, flexibility has been left to the Commission services, which will actually manage funds: they would set specific objectives, priorities and consequent allocation of funds in annual/multiannual work programmes, consistently with the Financial Regulation.

This simple, comprehensive and flexible framework is being challenged by some modifications proposed by the European Parliament and the Council. Although keeping the single structure of new funding programmes, the co-legislators are often introducing new sectors and themes, which reproduce previously separate programmes and/or add many technical details.

For example, in the **Erasmus for All**[9] Programme, the Council and the European Parliament have proposed to split the chapter on education, training and youth into two separate chapters, without altering the overall architecture of the Commission proposal. Yet, the objectives are articulated both at programme level and by specific chapter/sector, with a view to increasing

8 Conclusions of the European Council on the 2014-2020 MFF, 8 February 2013, point 12.
9 COM(2011)788

the visibility of the different sectors and their activities. Furthermore, the European Parliament proposes to allocate a predefined percentage of the budgetary envelope to each sector.

A similar tendency has arisen in the negotiation of the **Programme for Social Change and Innovation**[10], which aims to provide financial support to innovative actions contributing to the EU's objectives in terms of employment, social protection, the fight against social exclusion and poverty and the improvement of working conditions. This programme combines three currently separate programmes and extends their coverage, to ensure integration and homogeneity in the pursuit of social policy objectives. Axes for financing already reflect the current programmes. Yet, both the European Parliament and the Council are proposing to introduce thematic sections/areas within each axis and set the minimum budgetary allocation per section, in order to carve up the entire budget of the programme.

In the **Consumer**[11] programme, the inflation of objectives, sub-objectives, eligible actions and indicators to measure achievement of these objectives is accompanied by the attempt by the European Parliament to introduce a binding breakdown of the budget that corresponds to this detailed structure, including a ceiling for technical assistance. In the case of the **Health for Growth** Programme[12], the European Parliament has added objectives, sub-objectives and eligible actions, thus fragmenting the limited budget of the programme and weakening its focus and effectiveness.

For **European Structural and Investment Funds** (hereinafter ESI Funds) [13]with regard to the definition of terms, conditions and procedures of **financial instruments**, the Council has rejected the use of delegated acts to set detailed modalities. The result is a heavy and rigid text, which, if upheld, would complicate the use of financial instruments. This is contradictory with the core relevance of financial instruments in the future MFF and not consistent with the Financial Regulation, where similar elements have been included in the delegated act.

Similarly, provisions which contribute to delays in the delivery of investment on the ground and reduce the orderly and timely operation of the ESI Funds should be avoided, particularly in the current economic circumstances.

Finally, it is crucial to be able to modify non-essential elements contained in the body of the legislative act itself or in annexes to it by delegated acts, to avoid rigidity in budget execution (for example in **External Relations**[14], **innovative financial instruments** and **CAP**). The Council in particular is opposing proposals in this sense by the Commission, although the co-legislators dispose of sufficient powers to oppose and even revoke delegated acts.

These examples show a tendency to perpetuate the status quo and direct EU financing through channels pre-defined in the legislative text: this tendency often includes the attempt to set specific percentages for fund allocation. In fact, detailed provisions in the basic act deepen the ex-ante control of the co-legislators over budget implementation. Yet, these

[10] COM(2011)609
[11] COM(2011)707
[12] COM(2011)709
[13] COM(2012)496, setting common rules for 5 Funds (ERDF, ESF, CF, EARDF, EMFF)
[14] COM(2011)842

provisions overload the text of funding programmes with technical details and limit the necessary flexibility in budget execution, to the detriment of innovative areas and better spending, in line with changes in the economic/social context over the years. Such an approach does not take due account of the fact that the European Parliament and the Council anyway exercise their powers and decide over final budget allocations every year.

The overload of detailed and technical provisions reduces flexibility in budget management and adds complexity into the basic acts. This would make EU funding accessible only with difficulties for beneficiaries, rigid and ineffective. It would also put under question the role of the Commission as the institution accountable for the management of EU budget. These risks should be avoided by overcoming these stumbling blocks in the next steps of negotiations.

2.2. A Power Game over EU Funding: What with Improved Delivery?

2.2.1. Delegated vs. Implementing Acts

Across negotiations of **all funding programmes**, an institutional issue has arisen: the request by the European Parliament to define objectives, priorities, financial allocations and other elements of budget implementation through delegated acts. Currently, these elements are part of the annual/multiannual work programmes, which usually constitute the financing decisions by the Commission. The Commission has proposed that these elements, being part of the work programme-financing decisions (which is a pure act of budget implementation) shall continue to be defined through implementing acts. The Council supports this position. However, the European Parliament wishes to be more involved in the definition of these elements.

This could lead to two alternative options:

– Adoption of the work programmes through delegated acts. This option is not legally acceptable, as it would not be in accordance with articles 290 and 291 of the Treaties; it would alter the institutional balance and it would not be consistent with the recently revised Financial Regulation which foresees the adoption by the Commission of annual / multiannual work programmes.

– Introduction of an intermediate layer of legislation between the basic acts and the work programmes. Such a newly added layer of delegated acts would define elements of financing in a broad way, in view of further implementation through the work programmes. This would risk delaying the start of the implementation of the programmes, in particular for the first financing year.

The initial Commission proposals are legally sound and they aim at ensuring efficiency, flexibility and delivery in EU funding, which are main benchmarks for beneficiaries and citizens.

2.2.2. Comitology

The Council has tried to enhance Member States' ex-ante control over budget implementation, by adding comitology procedures in areas not foreseen in the Commission's proposals.

For example, in **Horizon 2020**[15], the funding programme for research and innovation, and in the **Connecting Europe Facility**[16] (infrastructure), the Council has proposed to apply committee procedures ("comitology")[17] to project selection and individual legal commitments, including award decisions[18]. The adoption of award decisions constitutes execution of the budget, which is an institutional prerogative of the Commission. Moreover, these cumbersome procedures would apply to mere administrative decisions, which should be adopted by the authorising officer by delegation (i.e. Commission's Directors-General). Moreover, experience has shown that these decisions are not controversial. Comitology would make the adoption of these decisions more rigid, bureaucratic, slow and expensive (costs of meetings, translations etc.) The intervention of a committee would have no added value. Rather, it would increase the time between call and signature of grants and thus delay the allocation of funds.

The critical importance of these two programmes has been recognised by the Irish Presidency of the Council[19]*: avoiding cumbersome and bureaucratic procedures would be a practical acknowledgement of such relevance and a significant step towards full deployment of their value for EU economy.*

The Council has proposed to introduce committee procedures even against practical evidence. In the **Home Affairs** area, experience has shown that it is important that funding can be mobilised rapidly and flexibly to respond effectively to unforeseen events, such as urgent or exceptional migratory pressure at the external borders of the Union, terrorist attacks or large-scale cyber-attacks. This is why the Commission has proposed a separate procedure, without comitology, for the adoption of the work programmes for emergency assistance. The Council, at the request of the United Kingdom, has nonetheless proposed to apply the burdensome and time-consuming examination procedure.

Financial assistance for emergency situations should be rapid and efficient; it should not be burdened by cumbersome procedures.

Furthermore, the Council has proposed to introduce an option which prevents the Commission from taking action if the relevant committee has not delivered an opinion. Such a clause, which could block EU financing, has been introduced without proper justification in many cases, for example in the **Common Agriculture Policy (CAP)**[20]**,** in the **Home Affairs** Funds and in the programme for **competitiveness of enterprises and small and medium enterprises (COSME)**[21]**.**

2.3. Simple Eligibility Rules: More Efficiency – Fewer Errors

2.3.1. Single reimbursement rate and mandatory flat rate for indirect costs

The Commission has proposed to significantly simplify EU funding by introducing a single rate for reimbursement and a mandatory flat rate for indirect costs. The single rate would

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15 COM(2011)810
16 COM(2011)665
17 Regulation (EU) No 182/2011
18 An average of 1400 projects per year went through comitology in FP7
19 Programme of the Irish Presidency of the Council of the European Union, 1 January-30 June 2013
20 COM(2011)625; COM(2011)626; COM(2011)627; COM(2011)628
21 COM(2011)834

apply to all beneficiaries under the same project action and the flat rate for indirect costs would apply to all actions and to all types of participants. Both measures would avoid complex calculations, reporting and errors. Such an innovation is particularly relevant in the **Horizon 2020** programme, because of the strategic role of research and innovation for the EU economy. This simplification measure is also meant to free resources, in terms of time and energies, that can be more productively used for the action. In its opinion No 6/2012 of 19 July 2012 the Court of Auditors endorsed this radically simplified cost-funding model considering that it "would facilitate and accelerate the application process" and "decrease the risk of irregularities". However, this major piece of simplification has been questioned during negotiations: the European Parliament has opposed the single reimbursement rate as well as the mandatory flat rate. It proposes instead to reintroduce a differentiation between types of participants in a project. The Council has introduced an exception for non-profit legal entities.

The Irish Presidency of the Council has recalled that "one of key objectives of Horizon 2020 is to simplify all research and innovation funding that the EU currently provides through one single set of rules. This will make it easier for applicants to seek funding, but the approach will also ensure that funds invested in the programme will be used more effectively."[22]

The European Council in its above mentioned conclusions has highlighted the particular importance of simplification in the EU's research, education and innovation programmes as a means of delivering a substantial and progressive enhancement of the relevant policies.

The single reimbursement rate and single flat rate for indirect costs are key elements of simplification in research and innovation funding, in view of easier access for applicants and greater efficiency in delivery.

2.3.2. Quality of projects vs. national allocations

In the same perspective of efficient delivery, the Commission has focused on the quality of projects as the core criterion for fund allocation in the environmental sector, under the **LIFE** programme[23]. This intention is undermined by the attempt of the Council to re-introduce indicative national allocations of EU funds. The European Parliament supports a system based on a public register to measure Member States' performance that could trigger capacity-building projects: this approach retains the psychological incentive of national allocations.

During negotiations, the Commission has provided on many occasions facts showing that national allocations have not led to a more balanced distribution of projects. Under the current programming period, national allocations have reduced the EU added value and affected the average quality of funded projects.

The quality of projects should be maintained as the core criterion for EU funding: national allocations do not guarantee a more balanced distribution of projects. Rather, they affect negatively the average quality of funded projects.

22 Programme of the Irish Presidency of the Council of the European Union, 1 January-30 June 2013, page 30

23 COM(2011)874

2.3.3. Eligibility of VAT costs

The Commission has proposed a clear rule: non-refundable VAT costs, incurred in relation to infrastructure projects in the ESI Funds and for projects under the Connecting Europe Facility, are not eligible. The reimbursement of such VAT costs would absorb a significant part of the budgetary envelope of the programmes; these funds would be used more efficiently if allocated to the financing of new infrastructure projects. The Commission regrets that the European Council has taken position to keep the present rule on eligibility of non-recoverable VAT in relation to the ESI Funds and to the EUR 10 billion contribution transferred from the Cohesion Fund to the Connecting Europe Facility, while this approach has created legal uncertainty under the current programing period.

The Commission proposal clarifying the VAT eligibility rules is essential to assure legal certainty in financial planning and to maximise the contribution of the ESI Funds to growth-enhancing investments.

3. THE WAY FORWARD

Ten months remain left before the next programming period starts: time is needed to prepare the new generation of programmes, particularly under shared management. The European Union cannot afford a delay in the beginning of the new programmes - the sectorial legislation should be in place as soon as possible as a matter of urgency.

The above examples show that critical issues persist in negotiations with the European Parliament and the Council. These issues are often the result of different priorities: deeper ex-ante control or influence over budget implementation, specificities in funding rules and other political priorities may conflict with simplification, efficient and prompt use of EU finances.

Yet, simplification is a horizontal priority: it should be kept at the core of negotiations, to improve delivery of EU funding, enhance quality and make access by beneficiaries easier. Other priorities, although relevant, should not reverse simplification, which respond to basic demands from beneficiaries and citizens at large.

In this perspective, the Commission insists that the European Parliament and the Council re-focus on simplification: this means defending general and comprehensive texts, avoiding burdensome procedures, pursuing simple funding rules and criteria. The improvement in the delivery of EU funds - which would result from a re-launch of the institutional co-operation on simplification - is crucial at this juncture, where the need of resources for economy, growth and jobs is strong and in line with the commonly shared priorities.

For these reasons, the Commission, in pursuing its firm commitment, invites and supports the Irish Presidency of the Council and the European Parliament to put simplification at the centre of the next phase of negotiations, in order to make decisive progress in better spending.

ANNEX

MAIN POINTS OF THE SCOREBOARD IN ALL POLICY AREAS

GENERAL COMMENTS

Significant work has been accomplished in the Council and the European Parliament, in cooperation with the Commission, on most of the proposals for the new spending programmes designed under the new Multiannual Financial Framework (MFF 2014-2020).

The importance of simplification as a horizontal priority is shared by the co-legislators._Achievements have been obtained on some issues recalled in the previous Scoreboard, thanks to the co-operative attitude by the European Parliament and the Council.

However, simplification is often put aside by the European Parliament and the Council during negotiations, to focus on other priorities, even when these priorities impinge on objectives of simplification. Some stumbling blocks persist since the latest Scoreboard; new issues have arisen meanwhile.

The Commission intends to pursue its firm commitment on simplification and will co-operate and support the Irish Presidency of the Council and the European Parliament to put simplification at the centre of next phases of negotiations.

TOPIC	ISSUE*	FIRST SCOREBOARD*	UPDATE
**New issues and text, added to the Annex of the First Scoreboard, are underlined.*			
Reduction of numbers of programmes	Coherence between the common rules and the sector specific rules *(Article 1 of the CPR– now ESI Funds)* *(COM(2011)615 final)*	The Council proposal concerning the Structural Funds Regulation (CPR) may give rise to multiple derogations in the sector specific rules. The Commission considers that derogations from the common rules in sector specific rules should be kept to the minimum necessary; otherwise, there is a risk to undermine the designed harmonization by inserting multiple	Still outstanding: discussions are on-going with a view to achieving a common stand.

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		derogations in the sector specific rules. In this respect, the Commission supports the UK Statement to seek enhanced harmonization of the rules on the Funds covered by the Common Strategic Framework.	
	"FISCUS" programme *(COM (2011)706 final)*	The Council and the European Parliament proposed to split the integrated programme proposed by the Commission for customs and taxation. The Commission maintains that an integrated "FISCUS" programme would ensure robust simplification, boost synergies and safeguard coherence in implementing modalities, without affecting the distinctive features of the two sectors.	The Programme has been split into two separate programmes: "FISCALIS 2020" and "CUSTOMS 2020"
Single sector framework	<u>Code of conduct</u> <u>*(Article 5 of the ESI Funds)*</u>	<u>The deletion by Council of the Code of conduct would diminish the multi-governance approach designed for more effectiveness of the cohesion policy.</u>	The Code of conduct has been restored by the co-legislators.
	Common Strategic Framework	The use of a delegated act for the definition of the non-essential elements of the common strategic framework has been rejected by Council and Parliament; they propose	The Commission has submitted a modified proposal to include the common strategic framework in an annex to the legislative act, even if it believes that this framework

	(Article 12 of the ESI Funds)	to include these elements in the Annex to the legislative act. The Commission has accepted to follow this approach but insists to be empowered to adopt a delegated act to complete the Annex with the more technical non-essential elements of the common strategic framework and to amend the Annex. This is necessary in order to allow for some flexibility in adjusting the relevant elements to take account of practical experience.	concerns non-essential elements of the legislative act. The delegated act for some complementary technical elements and for modification of technical elements in the Annex is still opposed by the Council.
	Common rules for External financial instruments *(COM (2011) 842 final)*	The Council and the European Parliament rapporteurs want to include into the sector specific external financial instruments parts of the Common Implementing Rules Regulation applicable to all external financial instruments. The Commission will work to maintain the integrity of the Implementing Regulation, whilst ensuring a sound legal approach.	Issue not solved.
	Definition of priority axis in Cohesion Policy *(Art. 87 ESI Funds)*	The Council and the European Parliament have agreed to combine investment priorities from more thematic objectives, without any limitation in the programme. The Presidency, supported by the European Parliament, allows multi-	Issue not solved: the Commission considers that this undermines concentration, (the result oriented approach) and complicates implementation. It also creates legal uncertainties because such possibilities require adaptation of

		<u>fund priority axes and multi-category of regions priority axes without requiring all the information per Fund and category of regions.</u>	many legal provisions.
	<u>General rule on technical assistance of Member States</u> *<u>(Article 109 ESI Funds)</u>*		The Council has proposed arrangements which consist of a general rule as regards the ceiling for the technical assistance allocation, and of a series of derogations which to a large extent render the general rule void, as well as create difficulties in interpretation. Issue not solved: the Commission considers that multiple rules and derogations introduced in Council entail extreme complexity in management.
	Single paying agency in CAP *(Article 7 in horizontal CAP Regulation)* *(COM (2011)625 final 2)*	The Council Presidency proposes to limit the number of paying agencies per Member State to "the minimum necessary". The reduction to one paying agency per Member State or per region has been proposed by the Commission in order to ensure further harmonization and simplification of the CAP management notably by reducing administrative burden and improving	Issue not solved: for the Commission, the approval of the Council's proposal would be a missed opportunity to simplify management and reduce administrative costs.

		audit efficiency.	
	Single coordinating national agency in "Erasmus for all" *(Article 21)* *(COM (2011)788 final)*	The Commission proposal for a single national agency per Member State is questioned in the European Parliament competent Committee. The Commission does not agree with this approach, which reflects the current legal situation, as this would reduce the flexible use of the EU funds within the Member States and entail additional administrative work and costs.	Issue not solved: The Council and the EP CULT Committee have introduced the possibility to have more than one national agency in accordance with national legislation and practice.
	Three sector under one single instrument in the Connecting Europe Facility *(COM(2011) 665 final 2)*	The integrated approach of the Connecting Europe Facility was supported by the Council in the Partial General Approach of 7 June 2012. The Parliament, working under a joint TRAN-ITRE Committee on this file, shows signs of broad support to the instrument.	The Council and the competent Committee in the European Parliament have accepted the single structure proposed by the Commission
Synergies/Mainstreaming	Greening of direct payments in CAP *(Articles 29-33 of the Direct Payments Regulation)* *(COM (2011)625 final)* *(Article 65 of the Horizontal*	Tendencies in Council are emerging which risk watering down the Commission proposals. Both the Council and the rapporteur in the European Parliament have suggested amendments aiming at limiting the scope of the greening requirements by for instance raising thresholds and widening definitions. According to	Issue not solved: the revised Presidency text sets out a plethora of different derogations, exemptions, approval procedures, weighing of (ecological focus) areas, etc. aiming at limiting both the scope and the impact of the greening requirements. Although exceptions/particular cases would limit the compliance costs of

	Regulation) *(COM (2011) 628 final)*	the amendments suggested by the rapporteur of the European Parliament to the proposal to the horizontal CAP regulation, the non-respect of the greening requirements should not affect the basic direct payment. This would de facto render greening voluntary for farmers. Whilst certain adaptations of the Commission technical proposals may be negotiated, the mechanisms for greening should remain credible in order to safeguard the objective of linking 30% of direct payments to environment and climate friendly practices.	some farmers, they will add to the complexity of the legislation, in particular in terms of managing and controlling the right use of the EU public funds, and reduce the environmental impact and efficiency of greening. According to the amendments adopted by the EP COMAGRI, the aid reduction in the case of non-compliance shall be of consequence only for the green payment, without any further reductions of other direct payments. Moreover, according to the COMAGRI amendments, greening shall be excluded from the baseline for agri-environmental-climate measures under rural development. This means that funding under the EARDF could be used for farming practices that are already covered by the green payment ("double funding"). The European Council has endorsed the Commission approach of greening and the use of 30% of the national ceiling for greening practices. It has recognized the need for a clearly defined flexibility for the Member States with regard to the choice of measures. The Commission, whilst accepting

			the need for flexibility, is against a tailor-made approach per Member State and numerous derogations which would complicate implementation
	Mainstreaming of horizontal principles *(Articles 7, 8 ,48, 87 of ESI Funds)*	Council and Parliament are supportive of reinforced mainstreaming of the horizontal principles of equality of treatment, non-discrimination, sustainable development and climate change. However, Council's proposal to give the Member States the power to assess their relevance in operational programmes would weaken mainstreaming.	The Council and the European Parliament have agreed on the approach that empowers the Member State to decide whether a horizontal principle is relevant for a particular operational programme under cohesion policy, but that their assessment has to be duly justified. The Commission does not accept this approach.
	CAP - Rural development programme *(COM (2011) 627 final)*		Issues not solved. The Council Presidency has proposed to exclude the EARDF from the scope of the general ex-ante conditionalities set out in the ESI Funds. This could result in different ways of assessing relevance of conditions, thus diminishing the efficient and effective use of the EU funds. Both the EP COMAGRI and the Council Presidency have proposed to allow Member States to submit simultaneous national and regional

			programmes. This could lead to an overly complex management, including problems from a financial perspective.
	CAP - Single Common Market Organisation (Single CMO) *(COM (2011) 626)*		The amendments adopted by the EP COMAGRI maintain or extend the application of certain redundant or outdated market instruments and adds new market regulation tools. This means either a perpetuation or an increase in administrative costs and burdens for both operators and national administrations.
Clear priority objectives and indicators (result oriented)	Minimum allocation to the ESF (Art.84 of ESI Funds)	Council position in the CPR to delete the minimum allocation to the European Social Fund (ESF) would weaken the focus on Europe 2020 priorities for growth and jobs. The Commission insists on the need for the ESF to have a predictable budget through a minimum share in cohesion policy. This is a key to guarantee the necessary level of investments in people in order to deliver ambitious employment objectives, especially in view of the need to tackle levels of unemployment, especially youth unemployment, and	Negotiations are on-going on this point. The European Parliament supports the Commission proposal and has tabled amendments to increase flexibility between regions. This could be accepted by the Commission. The European Council has stressed that the necessary support to human capital development will be ensured through an adequate share of the ESF in cohesion policy

		to fight poverty and social exclusion. The Employment Committee in European Parliament strongly supports all of the above Commission proposals.	
	<u>Financing of basic infrastructures in more developed regions</u> *(Article 5 of the ERDF)*	The Council proposes to open financing to basic infrastructures to more developed regions in the areas of environment, transport and ICT. The Commission considers that making use of the small amounts available under the European Regional Development Fund (ERDF) in more developed regions which are already well endowed would provide little economic benefit. This money is much more effectively used to directly stimulate growth and jobs in the less developed regions in need.	Issue not solved. The Council and the European Parliament appear in agreement in broad terms.
	Thematic concentration in the ESF *(Article 4 of the ESF)* *(COM (2011) 607 final 2)*	The Council proposes to change the concentration mechanism of the European Social Fund (ESF) on the objective "promoting social inclusion and combatting poverty". A derogation proposed by the Council allowing to count ERDF amounts towards the objective of 20% of the ESF allocated to this thematic objective, would make the concentration mechanism irrelevant. The ERDF amounts alone, especially	Issue not solved. The European Parliament strongly supports the Commission proposal.

		in the less developed regions could represent by themselves 20% of the ESF resources.	
	Performance framework in ESI Funds *(Article 20 and Annex I of <u>ESI Funds</u>)*	The Council has introduced changes to provide more flexibility to the Member States and sufficient safeguards to alleviate fears with regard to negative incentives (suspension of payments and financial corrections). The Commission can accept these proposals, but it will not accept to delete or weaken the negative incentives in order to discourage poor performance and unrealistic target setting.	The Council partially accepts the Commission's proposal The European Parliament opposes the Commission proposal to apply financial corrections in cases of serious failure to achieve the targets agreed
	New objectives and indicators	This is a horizontal issue. In many Commission proposals the European Parliament rapporteurs and in some cases the Council suggest adding multiple detailed objectives and new indicators, which are less specific or less-relevant thus weakening the focus on results.	The issue is not solved. For examples of developments in sectorial programmes, see below.
	Erasmus for All (*Articles 4,5 and 11 COM (2011) 788 final)*	In the Council partial general approach all indicators have been removed. The Council proposes to define the indicators in an implementing act. This is not consistent with the other programmes. Indicators are normally a component of the legislative act, or	Indicators remain an open issue between the European Parliament and the Council, as the Council has deleted them from the legal basis. The EP CULT Committee has proposed to include the indicators in an annex to the legislative act

		should be defined through delegated acts.	modifiable by a delegated act. On objectives, the EP CULT Committee has added additional objectives not always consistent between themselves and adding complexity.
	"Creative Europe" programme *(Article 14 COM (2011) 785 final)*	The Council proposes to define the indicators in an implementing act. This is not consistent with the other programs. General indicators of the programme as a whole are a component of the legislative act. This is why the basic indicators are defined in the legislative text itself and they can be detailed in delegated acts.	Issue not solved. The Commission maintains its objection to the use of implementing acts because they lack the necessary visibility and transparency, which are key elements to ensure full awareness by the stakeholders.
	Health programme *(Articles 2 and 7 COM (2011) 709 final)*	The objective of the programme and the indicators are made much broader and less result-oriented and as such lacking a direct link with the financial and operational capacities of the programme. The decision in the Council general approach to generalize the co-financing rate up to 80% for so-called 'joint actions' between the Member States (see below) and the contradictory extension of the objectives covered contribute to a likely dilution of the Programme's impact as fewer actions will be able to be financed.	Issue not solved: Council still proposes to increase co-financing for all Member States; the Commission proposed to limit it to Member States with GNI less than 90% of the EU average in order to increase their participation in joint actions and to take account of the small budget for this programme.

	Maritime and Fisheries Fund (EMFF) *(Article 6 COM (2011) 804 final)*	The Council has added new priorities; in particular, the inclusion of the reference to processing would reduce effectiveness, given the small size of the program compared to other structural instruments, the EMFF proposal should focus on core areas in the fisheries and aquaculture sectors.	The Council persists in its position.
Flexible decision-making procedures	Delegation of powers to Commission is deleted or restricted, <u>examples:</u> 1. <u>In cohesion policy the criteria for designation of managing authorities have been included by Council in the legislative act (whereas delegated acts have been accepted by the Council in EMFF and the EARDF).</u> 2. <u>In ESI Funds, delegated acts are refused by Council in relation to the Common Strategic Framework.</u> 3. <u>In LIFE (criteria for geographical balance), Horizon 2020 (for performance indicators and, partly, for access to finance).</u> <u>The Council also seeks to</u>	These are horizontal issues encountered in many changes suggested by the Council and the European Parliament to the Commission proposals. The Council and in some cases the European Parliament have proposed to remove or restrict the scope of the delegation of powers to the Commission to adopt delegated acts for non-essential elements of the legislative act; they have suggested to include these elements into the legislative act. This approach burdens the legislative texts with too many technical details which complicate the readability of the texts, affect the accessibility of stakeholders and curtails the operational management flexibility which is necessary for a sound and effective financial management of EU funds or imposes lengthy	The Commission has maintained its position to adopt or modify non-essential elements by delegated act. In particular, the Commission considers that the amendment of annexes of a technical nature should be possible by delegated act and that the possibility of objection provides the co-legislators with necessary safeguards.

	restrict the empowerment of the Commission to amend even technical annexes in the form of a delegated act, ex; RELEX, CEF (financial instruments). Moreover, in the RELEX financial instruments, the flexibility introduced by the Commission proposals concerning the use of unallocated funds, the non-substantial modifications to programming documents and financing decisions, and the thresholds for applying comitology, have been severely limited by the Council	decision making. The need for operational flexibility is particularly important for the RELEX financial instruments, given the unpredictability of events in this area and the need for swift response. Depending on the outcome of the negotiations on delegated acts, the lack of flexibility in decision-making could render the EU action ineffective.	
	Delegated acts vs. implementing acts	Council has proposed in many cases, especially in the shared management areas (CAP, Cohesion Policy, Maritime and Fisheries Fund, Home Affairs Funds), the conversion of delegated acts into implementing acts ensuring the right of control by Member States (through comitology procedures). This raises questions on the scope and the nature of acts covered by Articles 290 and 291 of the Treaty (TFEU) and has important institutional consequences. On the contrary, the European Parliament often proposes the conversion of implementing acts into	Issue not solved.

		delegated acts which place it on equal footing with the Council. Such proposals are totally inappropriate with regard to annual work programmes which need to be adopted and subsequently be adapted swiftly to allow for timely reaction to changing circumstances and effective implementation of the programmes. Such delegated acts would not be in compliance with the Treaty and would considerably hamper operational implementation and lengthen "the time to grant and time to pay". They would also be totally inappropriate for programming documents under the Relex instruments, which require in most instances to be discussed and accorded with the beneficiary third countries. It has to be recalled that programming documents are made for implementing, not regulating, the relevant legal instruments and thus lack all the legal characteristics (i.e. the setting of general and binding rules within the EU legal order) which are required for defining a "delegated act".	Issue not solved. Replacement of implementing acts with delegated acts for programming documents or parts of them is now proposed by the EP in most sectorial programmes.
	Restrictions of the budgetary powers of the Commission	Council and in many cases the European Parliament suggest further breakdown of the budget in sub-ceilings for the different activities and/or actions and for technical	Issue not solved. The detailed breakdown of budget, often reproducing structure of previous programmes now merged,

		assistance of the programmes and to fix it on the level of the legislative act. Such proposals restrict the Commission capability to manage the budget as they deprive it of the operational flexibility which is necessary for the proper day-to day management of budget. They are totally inappropriate for programmes with small financial envelopes and disproportionately rigid for the annual work programmes.	or earmarking parts of the budget or transferring elements from the legislative Financial Statement into the legal act itself, occurs particularly in the following programmes: 1. Erasmus for All 2. Consumer 3. Health for Growth 4. Programme for Social Change and Innovation 5. Horizon 2020 6. Programme for Competitiveness of enterprises and Small and Medium Enterprises (COSME) 7. Galileo
	ETC *(Article 20 COM (2011) 610 final)*	In the case of European Territorial Cooperation (ETC), the Council has proposed that the combination of managing and certifying authority functions be made optional. The Commission has not agreed to it and has maintained that this should be mandatory, to ensure proportionate management structures for comparatively small programs under the European Territorial Cooperation and avoid duplication of	Issue not solved

		tasks.	
Comitology	Comitology procedures added by the Council, whereas not foreseen in the Commission's proposals (examples): 1. Project selection and individual legal commitments (including award decisions): Connecting Europe Facility, Horizon 2020; 2. Emergency assistance –work programmes (Home Affairs Funds) More burdensome comitology procedure than in the Commission proposals 3. "No opinion-no act" clause (examples): (Home Affairs Funds COSME, CAP) 4. Advisory committee procedure is replaced in many areas by the more restrictive examination procedure Examples: Structural Funds, CAP, Horizon 2020)		Issue not solved
Eligibility rules	Quality of projects vs. national allocations (LIFE Programme)		The issue is not solved: the Commission proposes to allocate funds on the basis of the quality of projects exclusively. The Council wants to re-introduce indicative national allocations for EU funds. The European Parliament proposes to set a register with indicative national

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			allocation of funds, to trigger capacity-building projects.
	VAT in infrastructure projects: *(Article 8 in "CEF" COM (2011) 665 final),* *(Article 59 in ESI Funds)* *(Article 20 in the "LIFE" programme)* *(COM (2011) 874 final)*	Following agreement on the Financial Regulation (FR), providing for the eligibility of VAT cost, provided that it is not repayable and has been paid by a non-taxable within the meaning of Directives, the sector specific proposals, contained in the Connecting Europe Facility (CEF), the CPR for the Structural Funds, and the LIFE Programme, which exclude the eligibility of VAT are being questioned in the Council and the European Parliament. The Commission believes that the non-eligibility of VAT in particular in infrastructure projects is appropriate and thus should be maintained in the relevant sector specific legislative acts. Otherwise, the European Union budget will be used to finance the national budgets, instead of financing more projects, which could be considered as in contradiction with the objectives and purpose of the financing instruments concerned.	The European Council has pronounced itself for the eligibility, under the conditions of national VAT legislation, of non-recoverable VAT amounts incurred in relation to ESI Funds and the EUR ten billion contribution from the Cohesion Fund to the Connecting Europe Facility. In LIFE programme, it has been agreed to align provisions on VAT costs eligibility with the Financial Regulation. New issue: Some Member States in Council have questioned the non-eligibility of VAT costs incurred by public authorities acting as such, under the Justice Programme and Home Affairs Funds.
	Marketing measures in (EMFF) *(Article 71 in "EMFF")*	Council suggests the deletion of the reference to support for "direct marketing of fishery products for small scale coastal fishermen" in the	Issue not solved

	(COM (2011) 804 final)	Commission proposal concerning the European Maritime and Fisheries Fund (EMFF). The European Parliament has indicated its support to the Commission proposal. The Commission disagrees with the Council proposal as support for small-scale fishing vessels is important as they often lack the experience, knowledge or financial means to engage in direct marketing.	
	Single funding rate	The single reimbursement rate per project as well as the single flat rate for indirect cost are being questioned by the European Parliament rapporteur. In addition, the Council has introduced an exception to the single reimbursement rate for non-profit legal entities. The Commission insists on its proposals contained in the Rules for participation in Horizon 2020, as these issues are two cornerstones of the simplified funding rules in Horizon 2020; they represent the Commission's efforts to reduce administrative burden on beneficiaries and "error rates, allow" a lighter control strategy and speed up the time to grant in the interest of beneficiaries.	Issue not solved: the European

	in "Horizon 2020" *(Articles 22 and 24 of the Rules of Participation)* *(COM(2011) 810 final)*		Parliament still questions the single funding rate; the Council supports the principle of a single rate but introduces exceptions. The European Parliament opposes the single flat rate for indirect costs and proposes the reintroduction of the actual cost method as an option, but the Council has accepted it. The European Council has underlined the particular importance of simplification in in the EU's research, education and innovation programmes in delivering a substantial and progressive enhancement of the efficiency of the relevant policies
	<u>Threshold for loan guarantees in COSME and Horizon 2020</u> <u>*(Annex II COM(2011)834 final*</u>		For COSME, the Programme for the Competitiveness of Enterprises and small and medium-sized enterprises, and Horizon 2020, regarding SME loan guarantees, the demarcation line between the two programmes have been modified by co-legislators. This change leads to an overlap in the scope of both programmes (loan guarantees below € 150,000 for research and innovation-oriented SMEs would be eligible under both

			programmes) and would result in significant administrative burden for SMEs, and dilution of budgetary support and loss of focus on the programme's objectives since a lower number of smaller SMEs would be supported.
Support for knowledge transfer or information action	Definition of the beneficiary *(Article 15 of the EARDF)*		The revised Presidency text reintroduces a reference to the participant in the training as a beneficiary of support, thereby limiting the scope for reducing administrative burdens. The Commission considers that provider of the training or other knowledge transfer should be the sole beneficiary of the support. Administrative burdens can be significantly reduced if it is only the provider of the training, and not the participants, that have to apply for the support.
Simplified cost methods	Average working time (*ESI Funds, (Article 58)*)	A new option has been proposed by Council for the simplified calculation of staff costs by dividing the annual gross employment cost by 1650 hours. Commission has remained reserved as regards this proposal in the absence of underlining method	Issue not solved

		supporting it.	
	<u>Compulsory use of simplified costs for small projects</u> *(ESF, (Article 14))*	In the case of ESF, Council has proposed that operations below 50.000 Euros could also use flat rates in addition to lump sums and unit costs. The Commission would prefer the mandatory use <u>solely of lumps sums and unit costs</u> due to the greater potential for simplification.	The Council has accepted the mandatory use of lump sums or unit costs for small projects, as proposed by the Commission, and added flat rates thereon. The European Parliament agreed with the Commission's proposal. The Commission can agree with the inclusion of flat rates in addition to other simplified cost options.
	<u>Lump sum payment for small farmers</u> <u>*(Articles 47 - 51 Direct Payments Regulation*</u> <u>*Articles 92 Horizontal Regulation)*</u> <u>*Small Farmer Scheme (SFS)*</u>		According to both the Council Presidency revised text and the amendments adopted by the EP COMAGRI, the application of the small farmer scheme (SFS) shall be optional for Member States. To make the scheme optional would possibly mean a simplification for MS with a very limited number of small farmers, but farmers in the Member States which decide to opt out will be deprived of the simplification benefits of the scheme. In addition to the lump-sum model proposed by the Commission, the Presidency proposes an alternative method for calculating the SFS lump-sum payment, whereby farmers joining the SFS would be paid the amounts that they would normally

			have received under the other direct payment schemes in 2014. The resulting amount would remain unchanged in the following years. Issue not solved: the proposed method appears to be simple and could result in more farms being covered by the SFS, if kept compulsory for Member States. Financial management should however be reconsidered in order to avoid additional complexity.
	<u>Basic Payment Scheme, (*Articles 18 - 28 Direct Payment Regulation)*</u>		The Commission has proposed to replace the current models under the Single Payment Scheme (SPS) and the Single Area Payment Scheme (SAPS) by a basic income support in the form of a flat rate model at regional or national level in all MS. There is in the Council a tendency to move towards an approach that would open the door to wide-spread possibilities of differentiating the model and the pace of internal redistribution. This would undermine the objective of having a simple and harmonised approach as proposed by the Commission.

Proportionate control	<u>Audit methods for ERDF, ESF, CF</u> *(Article 140 ESI Funds)*	The Council has proposed amendments which limit Commission audit work to an extent that cannot be accepted as it risks undermining the Commission capacity to monitor the use of EU budget and its capability to account for it.	Issue not solved
	Audit methods <u>for ERDF, ESF, CF</u> *(Article 116 ESI Funds)*	The Council has proposed that national audit bodies in cohesion policy may use non-statistical sampling methods. The Commission has not accepted this proposal as it does not necessarily provide reliable and comparable information across Member States and thus undermines assurance at EU level.	Issue not solved
E-governance	<u>E-cohesion for ERDF, ESF, CF</u> *(Article 112 ESI Funds)*	The Council proposes to postpone the deadline for the implementation of the E-cohesion from 2014 to 2016 delaying by 2 years what constitutes	Issue not solved. The Council insists on implementing e-cohesion from 2016. While the discussions on the implementation deadline of "e-cohesion" are on-going, the co-

		a major simplification for beneficiaries. The Commission cannot accept this delay.	legislators appear to agree that a shift to electronic data exchange is necessary to bring about a significant simplification for beneficiaries. The Commission insists on the application of e-cohesion no later than 31 December 2014 in view of the great potential for simplification of this measure. It is estimated that it would lead to the reduction of 11% of the administrative burden aggregated at EU level.