



**COUNCIL OF
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"I/A" ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (**first reading**)

- Adoption of the legislative act (**LA + S**)
- = Statements

Joint Statement by the Council and the Commission on Article 67

The Council and the Commission agree that Article 67 (4) which excludes the application of simplified costs set out in Article 67 (1) (b)-(d) in cases where an operation or a project forming part of an operation is implemented exclusively through public procurement procedures does not preclude the implementation of an operation through public procurement procedures which result in payments by the beneficiary to the contractor based on pre-defined unit costs. The Council and the Commission agree that the costs determined and paid by the beneficiary based on these unit costs established through public procurement procedures shall constitute real costs actually incurred and paid by the beneficiary under Article 67 (1) (a).

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

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

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

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

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

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

The European Parliament and the Council agree that:

- concerning the application of Articles 14(2), 15(1)(c), and 26 (2) of Regulation laying down common provisions for the European Structural and Investment Funds, the actions taken by the Member States to involve the partners referred to in Article 5(1) in the preparation of the Partnership Agreement and the programmes referred to in Article 5 (2) include all actions taken on a practical level by the Member States irrespective of their timing as well as actions taken by them before the entry into force of that and before the day of the entry into force of the delegated act for a European code of conduct adopted in accordance with Article 5(3) of the same Regulation, during the preparatory phases of a Member State programming procedure, provided that the objectives of the partnership principle, laid down in that Regulation, are achieved. In this context, Member States, in accordance with their national and regional competences, will decide on the content of both, the proposed Partnership Agreement and proposed draft programmes, in accordance with the relevant provisions of that Regulation and the fund specific rules;
- the delegated act laying down a European code of conduct, adopted in accordance with Article 5(3), will under no circumstances and neither directly nor indirectly have any retroactive effect, especially concerning the approval procedure of the Partnership Agreement and the programmes, since it is not the intention of the EU legislature to confer any powers on the Commission to the effect that it could reject the approval of the Partnership Agreement and programmes solely and exclusively based on any kind of non-compliance with the European code of conduct, adopted in accordance with Article 5(3);

- the European Parliament and the Council invite the Commission to make available for them the draft text of the delegated act to be adopted under article 5(3) as early as possible, but not later than the date when the political agreement on the Regulation laying down common provisions for the European Structural and Investment Funds is adopted by the Council or the date when the draft report on that Regulation is voted at the plenary of the European Parliament, whichever date is the earliest.