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Subject : Proposal for a Regulation of the European Parliament and of the Council on the
 European Social Fund
 - Presidency compromise

Delegations will find attached a Presidency compromise text on the Proposal for a Regulation of the European Parliament and of the Council on the European Social Fund following the discussions held by the Structural Actions Working Party on 22 July 2005.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the European Social Fund**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 148 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

Whereas:

- (1) Regulation (EC) No [...] laying down general provisions on the Structural Funds and the Cohesion Fund¹ establishes the framework for action by the Structural Funds and the Cohesion Fund and lays down, in particular, the objectives, principles and rules concerning partnership, programming, evaluation and management. It is therefore necessary to define the mission of the European Social Fund (hereinafter "ESF") in relation to the tasks prescribed under Article 146 of the Treaty, and in the context of the Member States and the Community work towards developing a coordinated strategy for employment, as provided for under Article 125 of the Treaty. In the interest of clarity, Regulation (EC) No 1784/1999 of the European Parliament and of the Council of 12 July 1999 on the European Social Fund² should be replaced.
- (2) Specific provisions concerning the type of activities which may be financed by the ESF under the objectives defined in Regulation (EC) No [...] [laying down general provisions on the Structural Funds and the Cohesion Fund] need to be laid down.
- (3) **The ESF shall strengthen economic and social cohesion by improving employment opportunities within the framework of the tasks entrusted to the ESF by Article 146 of the Treaty , and of the tasks entrusted to the Structural Funds under Article 159 of the Treaty, in accordance with the provisions of Regulation (EC) No [...] laying down general provisions on the Structural Funds and the Cohesion Fund**
- (4) **This approach is all the more significant in the light of the challenges arising from the enlargement of the Union and the phenomenon of economic globalisation. In this connection, the importance of the European social model and its modernisation must be acknowledged.**

¹ OJ L [...], [...], p. [...].

² OJ L 213, 13.8.1999, p. 5.

- (5) **In accordance with Articles 99 and 128 of the Treaty, and with a view to refocusing the Lisbon strategy on growth and jobs, the Council has adopted an integrated package comprising Broad Economic Policy Guidelines and Employment Guidelines; the latter set out employment objectives, priorities and targets. In this regard, the European Council of 22 and 23 March 2005 has called for the mobilisation of all appropriate national and Community resources including cohesion policy.**
- (6) **New lessons have been learnt from the Community Initiative programme known as EQUAL, especially in respect of the combination of local, regional, national and European action. These lessons should be integrated into European Social Fund support. Particular attention should be paid to the participation of target groups, the identification of policy issues and their subsequent mainstreaming, innovation and experimentation techniques, methodologies for transnational co-operation, outreach to groups marginalised from the labour market, the impact of social issues on the internal market, and access to and management of projects taken on by non-governmental organisations.**
- (7) The ESF should support the policies of Member States which are closely in line with the **integrated** guidelines and recommendations made under the European Employment Strategy and the **relevant** objectives of the Community in relation to social inclusion, **non-discrimination, the promotion of equality**, education and training, to better contribute to the implementation of the objectives and targets agreed at the Lisbon and Goteborg European Councils .¹

¹ IE suggested to examine this recital in light with the new Lisbon objectives.

- (8) **The ESF should also act to tackle the relevant dimensions and consequences of demographic changes in the active population of the Community, in particular through lifelong vocational training.**
- (9) With a view to better anticipating and managing change, under the regional competitiveness and employment objective **and the convergence objective** , assistance by the ESF should focus, in particular, on increasing adaptability of workers and enterprises, enhancing **human capital and** access to employment and participation in the labour market, reinforcing social inclusion of people at a disadvantage and combating discrimination, **encouraging economically inactive persons to enter the labour market, enhancing human capital** and promoting partnerships for reform.
- (10) In addition to these priorities, in the least developed regions and Member States, under the convergence objective and with a view to increasing economic growth, employment opportunities for women and men and quality and productivity at work, , it is necessary to expand and improve investment in human capital and to improve institutional, administrative and judicial capacity, in particular to prepare and implement reforms and enforce the acquis.
- (11) **Whereas, within the range of these priorities, the selection of ESF interventions should be flexible in order to address the specific challenges in each Member State and the types of priority action financed by the ESF should allow for a margin of flexibility to respond to these challenges¹.**

¹ EL, NL, SI and UK suggested replacing: "**should allow for a margin of flexibility to respond to these challenges**" by "*could support activities in addition to those listed within each priority.*";

- (12) The promotion of innovative **trans-national and inter-regional** activities [...] is an **important** dimension which should be integrated in the scope of the ESF.¹
- (13) It is necessary to ensure the coherence of the action of the ESF with the policies provided for under the European Employment Strategy and to concentrate ESF support on the implementation of the guidelines and recommendations on employment.
- (14) An efficient and effective implementation of the action supported by the ESF relies on good governance and partnership between all relevant territorial and socio-economic actors and in particular the social ²partners and other stakeholders including at **national**, regional and local level. **Social partners have a central role in the broad partnership for change, and their commitment to strengthening economic and social cohesion by improving employment and job opportunities is essential. In this context, where both sides of industry collectively contribute to financially support ESF actions, this financial contribution, although private expenditure, would be included for the purposes of calculating ESF co-financing.**

¹ FR and AT pointed out that transnational cooperation could only be financed by the ERDF and that it should therefore be deleted from the scope of the ESF Regulation. DE entered a scrutiny reservation. ES suggested broadening this recital along the lines of EP amendment n° 11: "(6) The promotion of innovative activities *should be integrated as a fundamental dimension in the scope of the ESF as regards both the convergence objective and the regional competitiveness and employment objective. It should be ensured that innovative ideas and measures are promoted and tried out in accordance with the European guidelines and recommendations under the European Employment Strategy, and with the Community's objectives in the field of social inclusion. For such activities, the ceiling for contributions from the ESF should be raised to 85%.*".

² AT suggested adding "environmental".

- (15) Whereas the European Social Fund shall support action in line with the guidelines and relevant recommendations adopted under the European Employment Strategy. However, changes of the guidelines and recommendations adopted under the European Employment Strategy would not require the revision of an operational programme, except where a Member State, or the Commission in agreement with a Member State, consider that the operational programme should take account of significant socio-economic changes, or take greater or different account of major changes in national or regional priorities; or in the light of evaluations; or following implementation difficulties.**
- (16) The Member States and the Commission must ensure that the implementation of the priorities financed by the ESF under the Convergence and Regional Competitiveness and Employment Objectives contribute to the promotion of equality and elimination of inequalities between women and men; a gender mainstreaming approach should be combined with specific action to increase sustainable participation and progress of women in employment.
- (17) The ESF should also support technical assistance, with a particular focus on encouraging mutual learning through exchanges of experiences dissemination, transfer of good practices and on highlighting the contribution of the ESF to the policy objectives and priorities of the Community in relation to employment and social inclusion.
- (18) Regulation (EC) No [...] [laying down general provisions on the Structural Funds and the Cohesion Fund] provides that eligibility of expenditure is to be established at national level, with certain exceptions, for which it is necessary to lay down specific provisions. The exceptions relating to the ESF should therefore be laid down.

HAVE ADOPTED THIS REGULATION:

Article 1

Subject

1. This Regulation establishes the tasks of the European Social Fund ("ESF"), the scope of its assistance [...], **specific provisions** and the types of expenditure eligible for assistance.
2. **The European Social Fund is governed by the provisions of Regulation (EC) No (...) and by the provisions of this Regulation.**

Article 2

Tasks

1. The ESF shall [...] **contribute to the priorities of the Community as regards strengthening economic and social cohesion¹ by improving employment and job opportunities, encouraging a high level of employment and more and better jobs. It shall do so** by supporting Member States' policies aiming to achieve full employment² **and** quality and productivity at work; **to promote social inclusion, including [...] disadvantaged people's access to employment; and to reduce national, regional and local employment disparities³.**

In particular, the ESF shall support actions in line with **measures taken by Member States on the basis of the guidelines adopted under the European Employment Strategy, as incorporated into the Integrated guidelines for growth and jobs, and the accompanying recommendations.**

¹ PT suggested adding "*namely*".

² IE and CION suggested adding "*improved employment opportunities*".

³ NL suggested deleting "and **to reduce national, regional and local** employment disparities". CION saw no reasons for this deletion.

2. In carrying out the tasks referred to in paragraph 1, the ESF shall **support** the priorities of the Community as regards the need to reinforce social cohesion, strengthen **productivity and** competitiveness, and promote [...] economic growth **and sustainable development**.

[...] ¹**In doing so, the ESF** shall take into account the **relevant priorities and** objectives of the Community in the fields of [...] ²education and training, **increasing the participation of economically inactive people in the labour market, combating social exclusion – especially that of disadvantaged groups such as people with disabilities – promoting** equality between women and men **and non-discrimination**.

Article 3³

Scope of assistance

1. Within the framework of the convergence and the regional competitiveness and employment objectives, the ESF [...] **may** support actions **in Member States** under the following priorities:
- (a) increasing adaptability of workers, enterprises **and entrepreneurs⁴**, **with a view to improving the anticipation and positive management of economic change**, in particular by⁵ promoting:

¹ IE suggested to review the paragraph in order to avoid repetitions.

² DE suggested adding “*vocational*”.

³ AT considered that the list of activities (i, ii, iii, etc) should be reduced to further concentrate the scope. PT considered this Article to be discriminatory as it provided a differentiated scope of assistance for the “Convergence” objective.

⁴ AT suggested deleting “**and entrepreneurs**”.

⁵ NL suggested replacing “in particular” by “*including*”. CION opposed to this idea.

- (i) **lifelong learning and** increased investment in human resources by enterprises, especially SMEs, and workers, through the development and implementation of [...] systems and strategies, **including apprenticeships**, which ensure improved access to training of, **in particular**¹, low skilled and older workers, **development** of qualifications and competences, dissemination of ICT, **e-learning**² and management skills, [...] the promotion of entrepreneurship **and innovation**, [...] **and business start ups**³;
- (ii) [...] the design and dissemination of innovative and more productive forms of work organisation, including better health and safety **at work**, the identification of future occupational and skills requirements, and the development of specific employment, training and support services, **including outplacement**, **for** workers in the context of company and sector restructuring.
- (b) enhancing access to employment **and the sustainable inclusion in the labour market** of job seekers and inactive people, preventing unemployment, **in particular long-term and youth unemployment**, [...] **encouraging active ageing** and prolonging working lives, and increasing participation in the labour market [...], in particular by promoting⁴:
- (i) the modernisation and strengthening of labour market institutions, in particular employment services **and other relevant initiatives in the context of the European Union's and the Member States' strategies for full employment**⁵;

¹ NL suggested replacing “**in particular**” by “*including*”.

² ES suggested adding “eco-friendly technologies”.

³ SI, SK, FI and CION suggested adding “*and innovation*”. FI entered a reservation. IE, FI, SI, SE and CION suggested deleting “**responsibility taking and business start ups**”. NL suggested adding “*business succession*” and deleting “responsibility taking”.

⁴ SK suggested more focus should be put on the integration of the cross-border labour market. AT and CION suggested adding a reference to gender equality and migrants.

⁵ FI suggested deleting “and other relevant initiatives in the context of the European Union's and Member States' strategies for full employment”. IE considered this part of the sentence was repetitive.

- (ii) the implementation of active and preventive measures ensuring early identification of needs **with individual action plans** and personalised support, **such as tailored training**, job search, ¹outplacement² and mobility, self-employment and business creation – **including co-operative enterprises, incentives to encourage participation in the labour market, flexible measures to retain older workers longer in employment and measures to reconcile work and private life, such as facilitating access to childcare and care for dependent persons.**³
- (iii) **mainstreaming**⁴ and specific action⁵, to **improve access to employment and** increase sustainable participation and progress of women in employment, to reduce gender-based segregation in the labour market including by addressing the root **causes, direct and indirect**, of the gender pay gaps [...].
- (iv) specific action to [...] increase **migrants'** participation in employment and **thereby**⁶ **strengthen their social integration, facilitate geographic and occupational**⁷ **mobility of workers and integration of cross-border labour markets**⁸, including **through** guidance and language training and validation of competences⁹ **and acquired skills.**

¹ CION suggested adding "*support services, including*".

² IE suggested replacing "outplacement" by "*work experience*".

³ SI called for a simplification of this paragraph. IE, suggested drafting this paragraph as follows "*the implementation of active and preventive measures ensuring early identification of needs and personalised support, and measures to reconcile work and private life*". PT suggested including amendment 27 of the EP.

⁴ IE suggested deleting the word "**mainstreaming**", as this phrase had no purposeful meaning within this paragraph. On the other hand, reference to the promotion and mainstreaming of innovative activities was acceptable in Article 7 as it covered a wider range of activities.

⁵ IE suggested deleting "**mainstreaming and**".

⁶ PT suggested deleting "**thereby**".

⁷ FI considered that this provision should not be limited to migrants only and thus it should be transferred to Article 3.1.b.ii.

⁸ SK and SI suggested extending the actions aimed at migrants to all workers.

⁹ DE suggested deleting "validation of competences".

- (c) reinforcing social inclusion of people at a disadvantage **with a view to¹ their sustainable integration in employment** and combating **all forms of discrimination in the labour market**, in particular by promoting:
- (i) pathways to integration **and re-entry** into employment for disadvantaged people **such as,** ²people experiencing social exclusion, early school leavers, minorities, people with disabilities and people providing care for dependent persons, through employability measures³ including in the field of the social economy, **access to vocational education and training, and** accompanying actions and relevant [...] support, **community** and care services **that improve employment opportunities⁴**;
- (ii) **acceptance of** diversity in the workplace and combating [...] discrimination in accessing **and progressing in** the labour market, **including** through awareness-raising, the involvement of local communities and enterprises **and the promotion of local employment initiatives.**

¹ PT suggested replacing “**with a view to**” by “*and*”.

² PT suggested adding “*migrants*”.

³ ES suggested adding “*and measures to keep them at work*”.

⁴ DE suggested deleting " including in the field of the social economy, **access to vocational education and training, and** accompanying actions and relevant [...] support, **community⁴** and care services **that improve employment opportunities**".

- (d) **Enhancing human capital, in particular by promoting¹:**
- (i) **the design and introduction of reforms² in education and training systems³ in order to develop employability, improving the labour market relevance of initial⁴ and vocational⁵ education and training and continually updating⁶ skills of training personnel with a view to innovation and a knowledge based economy;**
 - (ii) **⁷networking activities between higher education institutions, research and technological centres and enterprises**
- (e) **[...] Promoting [...] partnerships, pacts and [...] initiatives through networking⁸ of relevant stakeholders, such as social partners and NGOs, at national, regional, local and transnational level in order to mobilise for reforms in the field of employment and labour market inclusiveness.⁹**

¹ AT entered a scrutiny reservation on this point. DE entered a reservation as these were national tasks and not those of the ESF. IE entered a scrutiny reservation over the priority actions identified under human capital. It suggested including the text of Article 3(2)(a)(iii) under competitiveness and employment. NL suggested deleting "systems".

² NL suggested deleting "the design and introduction of reforms".

³ EL suggested adding "*in particular*".

⁴ DE, EL, NL and FI suggested deleting "initial" and entered a reservation.

⁵ NL suggested deleting "vocational".

⁶ NL suggested deleting "continually".

⁷ FI suggested adding "*Innovations related to the use of human resources and*".

⁸ UK expressed its concern about using ESF money to fund networking activities.

⁹ ES considered that actions under Art. 3(2)(b) should be included here as they should be eligible for both objectives.

2. Within the framework of the convergence objective, the ESF [...] **may** also support actions **in Member States** under the following priorities¹:
- (a) expanding and improving investment in human capital, in particular by promoting:
- (i) the implementation of reforms in education and training systems especially with a view to raising **people's**² responsiveness to the needs of a knowledge-based **society and lifelong learning**. [...] ³;
- (ii) increased participation in education and training throughout the life-cycle, including through action to achieve a **reduction** in early school leaving, **gender-based segregation of subjects and [...] increased access to and quality [...] of initial**⁴, vocational and tertiary education **and training**⁵.
- (iii) the development of human potential in research and innovation, notably through post-graduate studies and training of researchers⁶ [...].

¹ IT and PT expressed their concern over the different menus proposed for the two objectives as the ESF had a broader Treaty scope.

² SK suggested replacing “people’s” by “their” alongside the original CION proposal.

³ IT suggested to move at least the part concerning implementation to Art. 3(1)(d).

⁴ DE suggested deleting “initial”.

⁵ PL suggested adding "*levelling out disparities in access to education*".

⁶ DE considered these were national tasks and not to be funded by the ESF. IT, SK and HU suggested to cover this point also under the Regional competitiveness and employment objective. ES suggested adding "*and related networking activities between universities, research centres and enterprises*". PT suggested adding "*and related networking activities between universities, research centres and enterprises in the form of public-private partnerships or other types of cooperation between the various economic and social players.*" (EP Am.43).

- (b) Strengthening institutional capacity and the efficiency of public administrations and public services at national, regional and local level **and, where relevant, the social partners and non-governmental organisations [...] with a view to reforms, better regulation** and good governance especially in the economic, employment, **education, social and environmental [...]**¹ fields, in particular by promoting²:
- (i) **mechanisms to improve** good policy and programme design, monitoring and evaluation, **including** through studies, statistics and **expert advice**, support to interdepartmental coordination and dialogue between relevant public and private bodies;
 - (ii) capacity building in the delivery of policies and programmes **in the relevant fields**, including with regard to the enforcement of legislation, especially through **continuous** managerial and staff training and specific support to key services, inspectorates and socio-economic actors including social ³partners, relevant non-governmental organisations **and representative professional organisations**.
3. **The ESF may support actions set out in Article 3 paragraph 2 throughout the territory of the Member States eligible under the Cohesion Fund, as defined in Article 5 paragraph 3 of Regulation N° (...) [laying down general provisions on the Structural Funds and the Cohesion Fund]**⁴.

¹ CION opposed to the deletion of "judicial".

² DE insisted on the fact that the tasks mentioned in this point are of the responsibility of the Member States and suggested the deletion of this point.

³ ES suggested adding "*and environmental*".

⁴ AT entered a scrutiny reservation. DE entered a reservation.

4. In implementing the objectives and priorities referred to in paragraphs 1 and 2, the ESF [...] ¹ **may** support the promotion and mainstreaming of innovative activities in the Member States as well as trans-national and ² inter-regional **actions** in particular through sharing of information, experiences, results and good practices, and through developing complementary approaches and coordinated or joint action.
5. **By way of derogation from Article 33(2) of Regulation EC No (...) [General Regulation] the funding of measures under the social inclusion priority referred to in Article 1 (c) i falling under the scope of Regulation EC No (...) [ERDF regulation] may be raised to 15% of the priority axis concerned.**

Article 4

Coherence and concentration

1. The Member States [...] shall ensure that the action supported by the ESF is consistent with and [...] **contributes to actions undertaken** ³ **in pursuance** of the European Employment Strategy. In particular, they shall ensure that the **strategy** set out in the [...] **National Strategic Reference Framework** ⁴ and **the actions set out** in the operational programmes promote the objectives, priorities and targets of the Strategy in each Member State **within the framework of the national reform programmes and national action plans for social inclusion**. [...].

¹ CZ, ES, IT, PL, FI and CION suggested replacing "may" by "*shall*".

² IE suggested adding "*or*".

³ IE suggested deleting "**contributes to actions undertaken**".

⁴ DE entered a reservation on the NSRF.

The Member States shall also concentrate support [...], where ESF can contribute to policies, on the implementation of¹ the relevant employment recommendations² made under Article 128(4) of the Treaty [...] and of the relevant employment related objectives of the Community in the field of social inclusion, education, and training. Member States shall do so in a stable programming environment³.

2. Within operational programmes, resources shall be directed towards the most important needs and focus on those policy areas to which ESF support can bring about a significant effect in view of the attainment of the objectives of the programme. To maximise the efficiency of ESF support, operational programmes shall, **where appropriate**, take particular⁴ account of the regions and localities facing most serious problems, **such as** deprived urban **and outermost regions**, declining rural and fisheries dependent areas, **and those particularly adversely affected by business relocations⁵.**

¹ IE and AT suggested replacing “**where ESF can contribute to policies**, on the implementation of” by “*on actions in line with*”.

² EL, NL and AT suggested deleting "recommendations". IE suggested replacing the last sentence by "*In particular, they shall ensure that the operational programmes promote the objectives, priorities and targets of the European Employment Strategy in each Member State within the framework of the national reform programmes and the national action plans for social inclusion. However, within this context, operational programmes shall operate in a stable manner*" and deleting the 1st subparagraph.

³ NL, AT and FI wondered about the meaning of the stable programming environment.

⁴ AT suggested deleting “particular”.

⁵ PT suggested adding EP amendment n°51, i.e. “*islands, mountainous and remote regions, regions with a low population density or a demographic handicap and those particularly adversely affected by business relocations.*”. NL suggested deleting this sentence.

3. **Where appropriate, a concise section on the contribution of the European Social Fund in promoting the relevant labour market aspects of social inclusion shall be included in Member States' national reports under the Open Method of Coordination on social protection and social inclusion.**

[...] ¹

4. ²[...] **The indicators [...] included in the operational programmes cofinanced by the ESF shall be strategic in nature, limited in number and shall reflect** those used in the implementation of the European Employment Strategy and in the context of the relevant objectives of the Community in the fields of social inclusion and education and training [...] ³.
5. Evaluations undertaken in relation to the action of the ESF shall also assess the contribution of the action supported by the ESF to the implementation of the European Employment Strategy and to the objectives of the Community in the fields of social inclusion, **non-discrimination and equality between men and women**, and education and training in the Member State concerned ⁴.

¹ BE, FI, UK and CION indicated that Article 27 of the draft General Regulation should include a reference to the need to report in the national reform programmes. The link between the use of the funds and the national reform programmes being of key interest for both the Member States and the Commission..

² CION suggested starting the sentence by the following wording: “*The quantified goals and priorities and indicators included in the NSRF and in the operational programmes*”.

³ LU and SK suggested deleting this paragraph.

⁴ SK suggested adding “*and using indicators used in the implementation of the European Employment Strategy*”.

Article 5

Good governance and partnership

1. The ESF shall promote good governance and partnership. Its support shall be designed and implemented at the appropriate territorial level [...] **taking into account the national, regional and local level** according to the institutional arrangements specific to each Member State.
2. The Member States [...] shall ensure the involvement of the social partners and adequate consultation **and participation** of [...] **other** [...] stakeholders, at the appropriate territorial level, in the **preparation**¹, implementation and monitoring of ESF support.
3. The managing authority of each operational programme shall² encourage adequate participation [...] of social partners **in** the activities funded under Article 3 [...].

Under the "Convergence" Objective, **[an appropriate amount]**³ of the ESF resources shall⁴ be allocated to capacity-building and activities jointly undertaken by the social partners, in particular as regards adaptability of workers and enterprises referred to in Article 3 (1) (a).

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¹ IE suggested reverting back to "*programming*".

² DE and AT suggested replacing "shall" by "*may*".

³ LU suggested replacing "an appropriate amount" by "*a maximum of 2%*". SE wondered who would decide whether an amount was appropriate or not.

⁴ DE, EL, NL, AT and SK suggested replacing "shall" by "*may*".

⁵ ES suggested taking on board EP amendment n° 55, i.e. including a subparagraph which would read as follows: "*The Member States shall take the necessary measures to inform the population and the relevant stakeholders about the operational programmes and activities eligible for financing by the ESF.*"

4. The managing authority of each operational programme shall¹ encourage adequate participation and access² of non-governmental organisations to³ the funded activities, notably in the domain of social inclusion, [...] **gender equality and equal opportunities**. [...].
5. [...]

Article 6

*Gender equality and equal opportunities*⁴

The Member States [...] shall ensure that operational programmes include a description on how **gender equality and [...] equal opportunities [...] are promoted in the, preparation⁵, implementation, monitoring [...] and in the evaluation⁶ of operational programmes. Member states shall promote a balanced participation of women and men in the management and realisation of the operational programmes at local, regional and national level, as appropriate.**⁷

¹ DE, EL and AT suggested replacing "shall" by "may".

² IE and CION suggested deleting "and access".

³ IE suggested replacing "to" by "in".

⁴ AT preferred "gender equality" to "*equal opportunities*".

⁵ IE suggested reverting back to "*programming*".

⁶ IE and SK suggested deletion of "and in the evaluation". AT suggested adding "*budgeting*".
SK suggested deleting "monitoring".

⁷ BE and SK suggested deleting this sentence. DE and NL suggested deleting "at local, regional and national level".

Article 7
Innovation

In the framework of each operational programme, [...] particular attention **shall be paid** to the promotion and mainstreaming of innovative activities. [...] The managing authority¹ shall choose the themes for the funding of innovation **in the context of partnership**² and shall define the appropriate modalities of implementation. **It shall inform the Monitoring Committee referred to in Article [...] 62 of Regulation (EC) N° (...) [laying down general provisions on the Structural Funds and the Cohesion Fund] of the chosen themes.**

Article 8³
Trans-national and inter-regional actions

1. **Where Member States [...] support actions in favour of transnational and/or interregional actions as set out in Article 3 paragraph 4, as a specific priority axis within an operational programme⁴, the contribution of the ESF may be increased by 10% at the priority axis level. This increased contribution shall not be included in calculating the ceilings set out in Article 51 of Regulation N° (...).**

2. **When Member States [...] choose to avail of the facility provided for in paragraph 1, they shall, with the assistance of the Commission where appropriate, ensure [...] that the ESF does not support specific operations being concurrently supported through other Community trans-national programmes, in particular in the field of education and training [...]⁵.**

¹ EL, LV and NL suggested adding "*and/or the Member State*".

² IE suggested deleting "in the context of partnership".

³ DE suggested deleting this Article.

⁴ ES, IE and FI suggested adding "*or a specific operational programme*". In the same vein, IT suggested reverting back to the previous Presidency proposal.

⁵ IT, LU and FI requested reinstating the original paragraph 2 of the Commission proposal.

Article 9¹

Technical assistance

The Commission shall promote in particular exchanges of experiences, awareness raising activities, seminars, networking and peer reviews **servi**ng to identify and disseminate good practices and encourage mutual learning, **transnational and interregional co-operation** with the aim of enhancing the policy dimension and contribution of the ESF to the objectives of the Community in relation to employment and social inclusion.

Article 10

Reports

The annual and final implementation reports referred to in Article [...] **66** of regulation (EC) No [...] [laying down general provisions on the Structural Funds and the Cohesion Fund], shall contain, **where appropriate**, a synthesis of the implementation of:

- (a) gender mainstreaming as well as of any gender specific action;
- (b) action to **increase participation in employment of migrants and thereby** strengthen **their** [...] integration [...];

¹ DE suggested its deletion as it is opposed to Commission technical assistance. EL suggested that it should be clearly stated that it is about Commission technical assistance.

- (c) action to strengthen [...] integration **in employment and thereby improve the social inclusion** of minorities **and other disadvantaged groups**¹;
- (d) **action to strengthen integration in employment and social inclusion of other disadvantaged groups**²;
- (e) innovative activities, [...] **including** a presentation of **the themes**, their results and of their dissemination and mainstreaming;
- (f) trans-national and/or inter-regional **actions**.

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4

¹ LV suggested fixing the definition of "migrants" and of "minorities" at national level, as suggested by the Commission. LV suggested adding "*as defined in national legislation*".

² CION suggested adding "*including people with disabilities*".

³ ES suggested adding a new indent g) "*measures aimed at the protection and the improvement of the environment*".

⁴ ES suggested adding a new indent h) "*the elements aiming at ensuring the publicity and the information of the operational programme*".

Article 11¹

Eligibility

1. The ESF shall provide support towards public expenditure² **and, notwithstanding Article 51 of Regulation No (...) [General regulation] any financial resources collectively constituted by employers and workers³**, which takes the form of non-reimbursable individual or global grants, reimbursable grants, loan interest rebates, micro-credits, **guarantee funds**, and the purchase of goods and services **in compliance with [...]** public procurement rules.
4
2. The following expenditure shall not be eligible for ESF support:
 - (a) [VAT⁵, except for non recoverable VAT, when it is genuinely and definitively borne by a beneficiary other than a non taxable person foreseen at Art 4(5), 1st sub-paragraph of the 6th VAT Council Directive (States, regional and local government authorities and other bodies governed by public law).]

¹ CY, ES, NL, PT, SI and SK entered a scrutiny reservation.

² DK entered a scrutiny reservation linked to its position on the paragraph on the corresponding provision in the draft general Regulation (notwithstanding Article 51(2) of the draft General Regulation. CZ, EE, IE and LV suggested replacing "public expenditure" by "*total expenditure*" in the whole article. IE suggested replacing "public expenditure" by "*total public expenditure*" or "*total eligible costs*".

³ CZ, IE, AT, PT and SK wondered about the meaning of "any financial resources collectively constituted by employers and workers". CION suggested including a recital precisising this notion. DE and IT suggested deleting this text. ES suggested adding a reference to the General Regulation. EL questioned that the contributions of employers and workers should be considered as public expenditure.

⁴ DE and NL suggested adding "*Private funds instead of national public funds may, up to a level of 50% of the required national co-financing be include at programme level as co-financing for the total costs eligible for support under ESF.*".

⁵ BE, CZ, EE, EL, CY, LT, LV, HU, MT, AT, PL, PT, SI, SK and FI suggested replacing the text by "*reimbursable VAT*". DE and FI entered a reservation on this point. SK suggested reverting to the text in document 8631/05.

(b) Interests on debt;

(c) ¹Purchase of **furniture, equipment, vehicles**, infrastructure, [...] real estate and land.²

3. ³The following costs shall be eligible expenditure for ESF support as defined in paragraph 1 provided they are incurred in accordance with national rules, including accountancy rules, and under the specific conditions provided for below:

a) the allowances or salaries disbursed by a third party to the benefit of the participants in an operation and certified to the beneficiary⁴ [...].

b) [...] **in the case of grants**, the indirect costs⁵ [...] **declared** on a flat-rate basis up to 20%⁶ of the direct costs of **an operation, provided these indirect costs appear in the accounts of the beneficiary.**

c) **the depreciation costs of depreciable assets listed under paragraph 2(c), allocated exclusively for the duration of an operation, to the extent that public⁷ grants have not contributed towards the acquisition of those assets.**

4. [...] The eligibility rules set out in Article 7 of Regulation (EC) No (...) [on the ERDF] shall apply to the action co-financed by the ESF which fall within the scope of Article 3 of Regulation (EC) No (...) [on the ERDF].

¹ IE suggested adding "*Subject to Article 33 of the General Regulation*".

² LV suggested rendering some small amount of equipment eligible despite the possibility of cross-financing. SK suggested adding: "*With exception of purchase of depreciable movables of short durability (5 years and less)*". EE entered a reservation. IT suggested, as it could be more convenient, to allow the eligibility of purchase (of small amount of equipment) instead of the depreciation cost.

³ DE, LV and AT entered a scrutiny reservation. AT suggested deleting paragraph 3.

⁴ EL and AT wondered if staff costs would be covered. DK wondered how the "certified to the beneficiary" criteria is fulfilled.

⁵ CZ sought for clarification of the eligibility of "indirect costs" in this subparagraph.

⁶ SE wondered whether it would be possible to go further than this threshold.

⁷ IE and SK suggested replacing "public" by "*Community*".

Article 12

Transitional provisions

1. This Regulation shall not affect [...] the continued implementation **or** the modification, including the total or partial cancellation, of **assistance** approved [...] by the Commission on the basis of Regulation (EC) No 1784/99 **on the European Social Fund, or any other legislation** which applies **to that assistance** [...] on 31 December 2006, **which shall consequently apply thereafter to that assistance or projects until their closure.**
2. Applications made under Regulation (EEC) No 1784/99 shall remain valid.

Article 13

Repeal

Without prejudice to the provisions laid down in article 12, Regulation (EC) No 1784/99 is repealed with effect from 1 January 2007.

References to Regulation (EC) No 1784/99 shall be construed as reference to this Regulation.

Article 14

Review clause

[...] The European Parliament and the Council shall review this Regulation by 31 December 2013 [...] **in accordance with the procedure laid down in Article 148 of the Treaty.**

Article 15
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*.

It shall apply from 1 January 2007.

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

[...]