



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 18 June 2012**

**9145/12  
ADD 1**

**PV CONS 21**

**ADDENDUM to DRAFT MINUTES**

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Subject: **3160th** meeting of the Council of the European Union (**GENERAL AFFAIRS**)  
held in Luxembourg on 24 April 2012

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## PUBLIC DELIBERATION ITEMS <sup>1</sup>

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<sup>1</sup> Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

## **LEGISLATIVE DELIBERATIONS**

*(public deliberation in accordance with Article 16(8) of the Treaty on European Union)*

### **4. Multiannual Financial Framework (2014/2020)**

- Sections of Negotiating Box relating to Headings 1 (cohesion and CEF), 2 and to provisions relating to the funds under the Common Strategic Framework  
8966/12 CADREFIN 202 POLGEN 63  
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In the framework of discussions on the future multiannual financial framework, the Council had an exchange of views on the sections of the Negotiating Box relating to cohesion, Connecting Europe Facility, sustainable growth : natural resources as well as those relating to provisions concerning the funds under the Common Strategic Framework.

### **5. Cohesion Policy legislative package**

- *Elements of a partial general approach*  
8207/2/12 REV 2 FSTR 26 FC 17 REGO 39 SOC 240 AGRISTR 40 PECHE 103  
CADREFIN 165 CODEC 831  
8207/12 ADD 1 REV 2 to ADD 6 REV 2  
8207/12 ADD 7 REV 1

#### The Council

- reached an agreement, subject to the principle that "nothing is agreed until everything is agreed", on the following elements for a partial general approach concerning:
  - a) programming, as set out in ADD 1 REV 3 to document 8207/2/12 REV 2, on the understanding that the references to country-specific recommendations in Articles 14(1), 15(1), 25(1) and 87(2) of the Common Provisions Regulation are put in brackets and will be examined again at the General Affairs Council in June 2012;
  - b) *ex ante* conditionality, as set out in ADD 2 REV 2 to document 8207/2/12 REV 2;
  - c) management and control, as set out in ADD 3 REV 2;

- d) monitoring and evaluation, as set out in ADD 4 REV 2;
  - e) eligibility, as set out in ADD 5 REV 2 and
  - f) major projects, as set out in ADD 6 REV 2.
- decided, that the elements for the agreed partial general approach do not prejudice the outcome of negotiations on other elements of the Cohesion Policy legislative package, the Financial Regulation, or the Multiannual Financial Framework, while necessary amendments in the elements agreed may occur as a result of these negotiations as a global picture emerges.
  - decided to enter into its minutes the statements set out hereafter :

**A. Joint Statement by the Council and the Commission**

**On Article 57 of the Common Provisions Regulation (CPR)**

"The Council and the Commission agree that Article 57 (3) which excludes the application of simplified costs set out in Article 57 (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 57 (1) (a)."

**B. Statement by the Commission**

**On Article 113 paragraph 5 CPR**

The purpose of this Article is to ensure that there are guarantees of the real independence of audit authorities where the size of the operational programme means that the risk is higher, without putting in question the organisational arrangements of those audit authorities for which the experience of the 2007-2013 programming period demonstrates their effective independence and reliability.

The Commission will actively seek to apply the provisions of Article 73(3) of Council Regulation (EC) N° 1083/2006 so that in the cases where it is able to conclude that the criteria are fulfilled, it will be able to inform the Member State as soon as possible, and before the end of 2013, that it can rely principally on the opinion of the audit authority.

### **C. Statement by Poland and Italy**

#### **Declaration on the role of Cohesion Policy**

"Bearing in mind the demanding development challenges standing in front of the European Union, it is necessary to ensure highest possible effectiveness and efficiency of investments co-financed from the EU budget. In order to fulfil the goals of the Europe 2020 strategy, Cohesion policy should promote a clear orientation towards results as well as a streamlined and less burdensome delivery system. This direction was indicated by the Council during its debate on the Cohesion policy legislative package on 16<sup>th</sup> December 2011. So far it has been duly reflected in the provisions for strategic programming, ex ante conditionality, major projects and monitoring and evaluation. We are deeply convinced that our next steps regarding thematic concentration, performance framework and financial management should not be less ambitious if the European Union is to achieve smart, sustainable and inclusive growth. Regular debate on the political level on issues of strategic importance for Cohesion policy should become an integral part of continuous assessment of progress in realisation of the Europe 2020 Strategy."

### **D. Statements by Poland**

#### **1. Declaration on Article 59(1) CPR (contributions in kind)**

"Poland considers that Article 59(1) does not exclude the possibility for a beneficiary to declare the value of project documentation, land and real estate which was purchased and paid by the beneficiary before the beginning of the eligibility period for the operational programme as eligible contribution in kind."

#### **2. Declaration on Article 63(3) CPR (examination of complaints)**

"Poland understands that under Article 63(3) the scope of the system of the examination of complaints is subject to the sole decision of the Member State concerned and therefore may be limited only to the stage of selection of operations for co-financing, if the Member State deems it appropriate."

#### **3. Declaration on Article 55(2) CPR (eligibility)**

"Poland understands that the word 'paid' used in Art. 55(2) does not mean 'reimbursed to beneficiary'."

#### **4. Declaration on Articles 91-92 CPR (major projects)**

"Poland understands that under Articles 91-92 it is the right of Member States to submit, in particular due to cost overruns, a revised application requesting an amendment of a previously approved major project. Such an amended application should be assessed on its own merits."

**E. Statement by Italy**

**Declaration on Article 17 CRP**

"Italy understands that the decision to see the preliminary agreement on the thematic blocs submitted for a partial general approach at the General Affairs Council of 24 April 2012 in the overall context of the negotiations on the Cohesion Policy legislative package implies that the reference to proportionality in Article 17 concerning ex ante conditionality should be evaluated at a later stage, and in any case before the final approval of the legislative package, by taking into account the global picture emerging on other thematic blocs and need for internal coherence, with a view to ensuring higher effectiveness of Cohesion Policy."

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