

**15.06.12****Decision****Of the Bundesrat**

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**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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No. 1083/2006**

**COM(2011) 615 final; Council doc. 15243/11**

In its 897th session on 15th June 2012, the Bundesrat adopted the following Resolution pursuant to §§ 3 and 5, Act on Cooperation between the Federation and the Federal States in European Union Affairs (EUZBLG):

1. The Bundesrat refers to its Opinions on the Commission Communication: The EU Budget Review (BR Official Document 667/10 (Decision) of 17th December 2010), on the Commission's proposal for a Regulation laying down the Multi-annual Financial Framework for the years 2014 to 2020 (BR Official Document 399/11 (Decision) of 14th October 2011), and on the draft Regulation addressed specifically here (BR Official Document 629/11 (Decision) of 16th December 2011).

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\*) First Bundesrat Decision of 16th December 2011, BR Official Document 629/11 (Decision)

2. In the light of the current state of play in negotiations on the Commission's proposals, the Bundesrat reiterates its opinion that European cohesion policy with all its different facets makes a significant contribution to reducing economic, social, territorial and ecological disparities in the European Union and should make an even clearer contribution in the future to supporting implementation of the Europe 2020 Strategy to foster intelligent, sustainable and integrative growth and employment and to ensure this is rooted in the regions. This challenge must be tackled both in less developed and in economically stronger regions of Europe. Cohesion policy should therefore be continued after 2013 too in all European regions.
3. In the light of the ongoing negotiations on the 2014 to 2020 Multi-annual Financial Framework, the Bundesrat calls for appropriate funding levels to be maintained for European Cohesion Policy. If however cuts are to be made, these must not disproportionately affect the funding allocated to the EU Structural Funds. Within the Cohesion Policy context, any cuts must not have a one-sided negative impact on the safety net for former convergence and phasing-out regions, nor should such cuts disadvantage more developed regions. Against the backdrop of the straitened budgetary situation and in the light of the debt brake and the Fiscal Pact, the federal states (*Länder*) and local authorities are not in a position to provide extra funding from their budgets to compensate for any reduction in EU funding.
4. The Bundesrat draws attention to the fact that European Structural Policy makes a decisive contribution to adjusting to structural change in the regions, as well as to European territorial cooperation. Sustainable solutions are of particular importance to the federal states (*Länder*) in this context. The European Structural Funds are likely to become even more significant for the federal states over the next few years.
5. The Bundesrat supports the objective of increasing the effectiveness of the EU Funds for sustainable growth and employment and making structural policy more efficient. However, the Bundesrat considers that for Member States not subject to the deficit procedure and not receiving aid from the EU rescue packages, it is not appropriate to couple national and regional programming to the Country-specific Recommendations in seeking to attain this objective.

6. The Bundesrat takes the view that the Structural Funds will play a significant role in the growth strategy to be implemented to complement the Fiscal Pact. However, the Structural Funds will only be able to assume this role if a balance is maintained between European control and scope for decision-making by the regions.
7. The Bundesrat advocates greater coordination of European economic policy and in this respect also supports the European Semester. However the Bundesrat considers that a sufficient level of European control is already ensured across the board via the Europe 2020 Strategy, the Structural Funds Regulations, the Common Strategic Framework, the Partnership Agreements and approval of the Operational Programmes. Stipulating further provisions on structural policy for Member States not subject to the deficit procedure and/or not receiving aid from the EU rescue packages would amount to over-regulation, which would ultimately jeopardise the effectiveness of structural policy.
8. The Bundesrat confirms its view that the Partnership Agreement is not the appropriate instrument for implementation of general economic and employment policy requirements arising from the Country-specific Recommendations or the National Reform Programmes and for application of penalties as required by freezing, suspending or reclaiming Structural Funds payments.
9. The Country-specific Recommendations are just as ill-suited as a basis for shaping the content of the Operational Programmes, because adjustments are made to the National Reform Programmes and the Country-specific Recommendations every year within the framework of the European Semester. This runs counter to the notion of coordinated multi-annual programme planning, which is however a prerequisite for successful regional policy. In addition, the Country-specific Recommendations are directed to the national level and may not accurately represent regional particularities and needs. If the coupling of programme planning and Country-specific Recommendations is to be maintained, the Bundesrat takes the precaution of pointing out that the procedure for drawing up National Reform Programmes would have to be adapted to reflect the division of competences within states organised along federal lines, with a view to ensuring in Germany, for example, that the federal states (*Länder*) would have sufficient time to participate in the relevant

domestic processes.

10. The Bundesrat shares the view that the Common Strategic Framework should be adopted using standard legislative procedure as an annex to the Regulation with general provisions. The Common Strategic Framework should offer guidelines for programme planning applicable to all Funds and should foster improved coordination between the various instruments. However, the Regulations must remain the decisive legal texts for disbursement of monies from the EU Funds and must continue to constitute binding legislation with no additional caveats. For reasons of legal security there is therefore a need to clarify that the central actions would constitute at most a strategic reference point when determining the direction measures should take.
11. The Bundesrat continues to be opposed to the introduction of a performance reserve. This would not help to improve the quality and efficiency of the programmes. Instead it would probably increase the risk of individual programmes adopting unambitious goals. In addition the individual programmes are not comparable due to differing scenarios in terms of regional problems and approaches to solving these problems. For that reason there is also no substantiated basis for competition and redistribution of funds between the federal states (*Länder*). At most it might be possible to conceive of a performance reserve at the level of the Operational Programmes; this could be allocated to successful priority axes at the midterm point of the programme by the respective fund administrator in coordination with the Monitoring Committee.
12. The option of pooling different measures within one priority axis (“hybrid axis”) is essential to implement integrated approaches drawing on investment priorities from various thematic objectives. The Bundesrat advocates adopting flexible arrangements here to promote coordinated responses to economic, ecological, climatic and social challenges.
13. The Commission should maintain the administration and control system established in the 2007 to 2013 funding period, which has proved its worth. Rather than adopting the proposed comprehensive new provisions, the necessary adaptations should be made in a targeted fashion focusing on concrete sources of error and should be based as much as possible on the

existing system. There is sufficient scope to further reduce the error rate whilst at the same time reducing the administrative burden for beneficiaries. The new accreditation system, the planned annual clearance of accounts and the envisaged financial penalties complicate the procedures unnecessarily. This would give rise to increased administrative burdens and more bureaucracy. Non-statistical sampling should also be authorised for financial controls. As stipulated in international audit standards, non-statistical sampling is a method approved for use by audit authorities and accountants/financial auditors. It would constitute a considerable simplification.

14. The Bundesrat once more explicitly emphasises that non-refundable value-added tax must continue to constitute eligible expenditure. As this is an item of expenditure for beneficiaries, the funding rate would otherwise be considerably reduced compared with practice to date. In the light of the straitened budgetary situation for many local authorities and federal states (*Länder*), this would pose a threat to the feasibility of projects, particularly local authority projects.
15. Good cooperation and the joint approach adopted by the Federal Government and the Bundesrat Plenipotentiaries have made a substantial contribution to ensuring that German positions have been presented emphatically and with due substantiation in the Council Working Group. The Bundesrat anticipates that this joint approach and close coordination will be continued in the future.
16. The Bundesrat shall transmit this Opinion directly to the Commission.