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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the European Social Fund

(presented by the Commission)

EXPLANATORY MEMORANDUM

New challenges for the future ESF

The European Social Fund (ESF) contributes to the economic and social cohesion objective set in article 158 of the EC Treaty, by supporting policies and priorities aimed to achieve progress towards full employment, improve quality and productivity at work, and promote social inclusion and cohesion, in line with the guidelines and recommendations under the European Employment Strategy (EES).

In order to achieve this objective, the ESF needs to address three major challenges: addressing the considerable employment disparities, social inequalities, skills gaps and labour shortages in an enlarged Union; an increasing pace of economic and social restructuring due to globalisation and the development of the knowledge-based economy; and demographic changes, which have resulted in shrinking and ageing workforce.

Enhancing the links between the ESF, the European Employment Strategy and the agreed objectives of the Union in relation to social inclusion and education and training

The links between the Community financial instrument and the Union's policy framework need to be reinforced in the future programming period to better contribute to the employment objectives and targets of the Lisbon strategy. To this end, the ESF should support the policies of Member States which are closely in line with the guidelines and recommendations made under the European Employment Strategy and the agreed objectives of the Union in relation to social inclusion and education and training.

The draft ESF Regulation for 2007-2013 provides a focussed framework for ESF interventions throughout the Union. Under both the 'Convergence' and the 'Regional Competitiveness and Employment' objectives, the ESF will provide support with a view to anticipating and managing economic and social change. Its intervention will focus on four key areas for action endorsed by the European Council: increasing adaptability of workers and enterprises; enhancing access to employment, preventing unemployment, prolonging working lives and increasing participation in the labour market; reinforcing social inclusion by promoting the integration in work of disadvantaged people and combating discrimination; and promoting partnership for reform in the fields of employment and inclusion.

In the least prosperous regions and Member States, the Funds will concentrate on promoting structural adjustment, growth and job creation. To this end, under the Convergence objective, in addition to the above-mentioned priorities, the ESF will also support action to expand and improve investment in human capital, in particular by improving education and training systems, and action aimed at developing institutional capacity and the efficiency of public administrations, at national, regional and local level.

Furthermore, the proposal gives a greater emphasis to the Union's commitment towards the elimination of inequalities between women and men: specific actions addressed to women are combined with a robust gender mainstreaming approach, to increase participation and progress of women in employment.

Equally, the promotion of innovative activities and trans-national co-operation will be fully integrated in the scope of the ESF, and mainstreamed within the national and regional operational programmes. Under both the 'Convergence' and the 'Regional Competitiveness

and Employment' objectives, the ESF will give priority to funding trans-national cooperation, including exchanges of experiences and best practices across the Union and joint actions, ensuring where appropriate, coherence and complementarity with other trans-national Community programmes.

Finally, the proposal attaches a particular importance to the promotion of good governance. The involvement of the social partners is of particular importance in the programming and implementation of the Fund priorities and operations. To this end, under the new Convergence objective, social partners will be encouraged to actively participate in capacity building actions and to undertake joint activities in the policy areas where they play a decisive role.

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,

Whereas:

- (1) Regulation (EC) No [...] laying down general provisions on the Structural Funds and the Cohesion Fund⁵ 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 co-ordinated 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 Fund⁶ 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 should support the policies of Member States which are closely in line with the guidelines and recommendations made under the European Employment Strategy and the agreed objectives of the Community in relation to social inclusion and

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

⁵ OJ L [...], [...], p. [...].

⁶ OJ L 213, 13.8.1999, p. 5.

education and training, to better contribute to the implementation of the objectives and targets agreed at the Lisbon and Goteborg European Councils .

- (4) With a view to better anticipating and managing change under the regional competitiveness and employment objective, assistance by the ESF should focus, in particular, on increasing adaptability of workers and enterprises, enhancing access to employment and participation in the labour market, reinforcing social inclusion of people at a disadvantage and combating discrimination, and promoting partnerships for reform.
- (5) 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.
- (6) The promotion of innovative activities and trans-national co-operation is a fundamental dimension which should be integrated in the scope of the ESF.
- (7) 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.
- (8) 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 partners and other stakeholders including at regional and local level.
- (9) 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.
- (10) 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.
- (11) 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

This Regulation establishes the tasks of the European Social Fund ("ESF") and the scope of its assistance with regard to the "Convergence" and the "Regional competitiveness and employment" objectives as defined in Article 3 of Regulation (EC) N° [...] and the types of expenditure eligible for assistance.

Article 2

Mission

1. The ESF shall strengthen economic and social cohesion by supporting Member States' policies aiming to achieve full employment, improve quality and productivity at work and promote social inclusion and the reduction of regional employment disparities.

In particular, the ESF shall support action in line with the guidelines and recommendations adopted under the European Employment Strategy.

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 competitiveness and promote environmentally sound economic growth. In particular, it shall take into account the objectives of the Community in the fields of social inclusion, education and training and equality between women and men.

Article 3

Scope of assistance

1. Within the framework of the convergence and the regional competitiveness and employment objectives, the ESF shall support action under the following priorities:
 - (a) increasing adaptability of workers and enterprises, in particular by promoting:
 - (i) increased investment in human resources by enterprises, especially SMEs, and workers, through the development and implementation of lifelong learning systems and strategies which ensure improved access to training of low skilled and older workers, transparency of qualifications and competences, dissemination of ICT and management skills and the promotion of entrepreneurship and innovation;
 - (ii) the anticipation and positive management of economic change, notably through the design and dissemination of innovative and more productive forms of work organisation, including better health and safety, the identification of future occupational and skills requirements, and the

development of specific employment, training and support services to workers in the context of company and sector restructuring.

- (b) enhancing access to employment of job seekers and inactive people, preventing unemployment, prolonging working lives and increasing participation in the labour market of women and migrants, in particular by promoting:
 - (i) the modernisation and strengthening of labour market institutions, in particular employment services;
 - (ii) the implementation of active and preventive measures ensuring early identification of needs and personalised support, job search and mobility, self-employment and business creation;
 - (iii) specific action to increase sustainable participation and progress of women in employment, to reduce gender-based segregation in the labour market including by addressing the roots of the gender pay gaps, and to reconcile work and private life including by facilitating access to childcare and care for dependent persons;
 - (iv) specific action to strengthen the social integration of migrants and increase their participation in employment, including guidance and language training and validation of competences acquired abroad.
- (c) reinforcing social inclusion of people at a disadvantage and combating discrimination, in particular by promoting:
 - (i) pathways to integration in employment for disadvantaged people, people experiencing social exclusion, early school leavers, minorities and people with disabilities, through employability measures, including in the field of the social economy, accompanying actions and relevant social support and care services;
 - (ii) diversity in the workplace and the combat against discrimination in accessing the labour market through awareness-raising and the involvement of local communities and enterprises.
- (d) mobilising for reforms in the fields of employment and inclusion, in particular by promoting the development of partnerships and pacts through networking of relevant stakeholders at national, regional and local level.

2. Within the framework of the convergence objective the ESF shall also support action under the following priorities:

- (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 their responsiveness to the needs of a knowledge-based society, improving the labour market relevance of initial education and training and continually updating of skills of teaching and other personnel;

- (ii) increased participation in education and training throughout the life-cycle, including through action to achieve a significant decline in early school leaving and increased access to initial vocational and tertiary education;
 - (iii) the development of human potential in research and innovation, notably through post-graduate studies and training of researchers and related networking activities between universities, research centres and enterprises.
- (b) Strengthening institutional capacity and the efficiency of public administrations and public services at national, regional and local level to embrace reforms and good governance especially in the economic, employment, social, environmental and judicial fields, in particular by promoting:
- (i) good policy and programme design, monitoring and evaluation, through studies, statistics and expertise, support to interdepartmental coordination and dialogue between relevant public and private bodies;
 - (ii) capacity building in the delivery of policies and programmes, including with regard to the enforcement of legislation, especially through managerial and staff training and specific support to key services, inspectorates and socio-economic actors including social partners and relevant non-governmental organisations.
3. In implementing the objectives and priorities referred to in paragraphs 1 and 2, the ESF shall support the promotion and mainstreaming of innovative activities as well as trans-national and inter-regional cooperation in particular through sharing of information, experiences, results and good practices, and through developing complementary approaches and coordinated or joint action.
4. In implementing the social inclusion priority referred to in paragraph 2 (c) (i), the financing by the ESF of actions within the scope of the Regulation (EC) N° [...] [ERDF] may amount to a maximum of 10% of the priority axis concerned.

Article 4

Coherence and concentration

1. The Member States and managing authorities shall ensure that the action supported by the ESF is consistent with and underpins the implementation of the European Employment Strategy. In particular, they shall ensure that the action set out in the strategic frame of reference and in the operational programmes promote the objectives, priorities and targets of the Strategy in each Member State and concentrate support in particular on the implementation of the employment recommendations made under Article 128(4) of the Treaty as well as of the relevant objectives of the Community in the field of social inclusion.
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 take particular account of the regions and localities facing most serious problems, including deprived urban and declining rural and fisheries dependent areas.

3. The relevant elements of the Member States' annual report referred to in Article 19 of regulation (EC) No [...] [laying down general provisions on the Structural Funds and the Cohesion Fund], shall be integrated respectively in the corresponding national action plans for employment and national action plans for social inclusion.
4. The quantified objectives and indicators selected to monitor the implementation of the national strategic frame of reference defined in Article 18 of regulation (EC) No [...] [laying down general provisions on the Structural Funds and the Cohesion Fund], shall be those used in the implementation of the European Employment Strategy and in the context of the agreed objectives of the Community in the fields of social inclusion and education and training. The monitoring indicators of operational programmes should be coherent with these quantified objectives.
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 and education and training in the Member State concerned.

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, with particular attention to the regional and local level, according to the institutional arrangements specific to each Member State.
2. The Member States and the managing authority of each operational programme shall ensure the involvement of the social partners and adequate consultation of non-governmental stakeholders, at the appropriate territorial level, in the programming, implementation and monitoring of ESF support.
3. The managing authorities of each operational programme shall encourage adequate participation and access of social partners to the activities funded under Article 2 of this Regulation.

Under the "Convergence" Objective, at least 2% of the ESF resources shall 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 2 (1) (a).

4. The managing authority of each operational programme shall encourage adequate participation and access of non-governmental organisations to the funded activities, notably in the domain of social inclusion and equality between women and men.

5. When responsibility for implementation is delegated, support in the framework of a programme may be provided through global grants.

Article 6

Gender equality

The Member States and the managing authorities shall ensure that operational programmes include a description on how gender equality is promoted in the programming, implementation and monitoring including any specific indicators, and in the evaluation.

Article 7

Innovation

In the framework of each operational programme, Member States and managing authorities shall pay particular attention to the promotion and mainstreaming of innovative activities. After consulting the Monitoring Committee referred to in Article 47 of Regulation (EC) N° [...] [laying down general provisions on the Structural Funds and the Cohesion Fund], the managing authority shall choose the themes for the funding of innovation and shall define the appropriate modalities of implementation.

Article 8

Trans-national co-operation

1. The Member States and managing authorities shall ensure that programming of trans-national and inter-regional co-operation activities takes the form of a specific priority axis within an operational programme or a specific operational programme.
2. The Member States shall ensure coherence and complementarity between the action of the Fund and actions supported through other Community trans-national programmes, in particular in the field of education and training, through appropriate co-ordination mechanisms, to optimise the use of Community resources in support of education and life-long learning.

Article 9

Technical assistance

The Commission shall promote in particular exchanges of experiences, awareness raising activities, seminars, networking and peer reviews to identify and disseminate good practices and encourage mutual learning 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

Annual and final reports

The annual and final implementation reports referred to in Article 49 of regulation (EC) No [...] [laying down general provisions on the Structural Funds and the Cohesion Fund], shall contain a synthesis of the implementation of :

- (a) gender mainstreaming as well as of any gender specific action;
- (b) action to strengthen social integration and employment of migrants;
- (c) action to strengthen social integration and employment of minorities;
- (d) innovative activities, including a justification of the themes selected for innovation, a presentation of their results and of their dissemination and mainstreaming;
- (e) trans-national and inter-regional co-operation activities.

Article 11

Eligibility

1. The ESF shall provide support towards public expenditure which takes the form of non-reimbursable individual or global grants, reimbursable grants, loan interest rebates and micro-credits and the purchase of goods and services through public tenders.
2. The following expenditure shall not be eligible for ESF support:
 - (a) Reimbursable VAT;
 - (b) Interests on debt;
 - (c) Purchase of infrastructure, depreciable movables, real estate and land.
3. Notwithstanding paragraph 2 of this Article, the eligibility rules set out in Article 6 of regulation (EC) No [...] [on the ERDF] shall apply to actions co-financed by the ESF which fall within the scope of Article [2] of [Regulation on the ERDF].
4. Notwithstanding national eligibility rules, the expenditure declared under the operational programmes co-financed by the ESF can include:
 - (a) the allowances or salaries disbursed by a third party to the benefit of the participants in an operation and certified to the beneficiary, on condition that such disbursements constitute the national public co-financing to the operation, in conformity with national rules in force.
 - (b) the indirect costs of an operation fixed on a flat-rate basis, up to 20 % of the direct costs declared for this operation, according to the type of operation, the context in which it is implemented and its location.

Article 12

Transitional provisions

This Regulation shall not affect neither the continued implementation nor the modification, including the total or partial cancellation, of measures approved by the Council or by the Commission on the basis of Regulation (EC) No 1784/99, which applied prior to 1 January 2007.

Applications made under Regulation (EEC) No 1784/94 shall remain valid.

Article 13

Repeal

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty, the European Parliament and the Council shall review this Regulation by 31 December 2013 at the latest.

Article 15

Entry in force

This Regulation shall enter into force on the twentieth 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
[...]