



EUROPEAN COMMISSION

High Level Group of Independent Stakeholders on Administrative Burdens

## OPINION OF THE HIGH LEVEL GROUP

**Subject: Administrative burden reduction; priority area *Cohesion Policy***

### **Executive summary:**

The **administrative costs** for the legislative act in scope of the Action Programme for Reducing Administrative Burdens in the EU for the priority area Cohesion Policy (Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds) **amount to € 929 m.**, which represent 0.7% of the costs for all acts measured. Due to the similarities of the old and the new regime, the advice of the HLG refers to the current programming period.

Exceptionally in this priority area the measurement of administrative costs and burdens is not limited to businesses, but covers all final beneficiaries including public and private (firms) bodies.

The **HLG supports the reduction recommendation** and the suggestions from stakeholders as specified in section III.2. The Consortium recommends developing a central clearing house at national and regional level. It should connect the national / regional databases, in order to get interactive portals for the data submitted by the final beneficiaries. The recommendation affects five out of six information obligations measured, € 863 m. i.e. 92% of all administrative burdens. When fully implemented by Member States it is expected to **reduce the administrative burdens by 25%** in this priority area. The HLG invites the Commission to start swiftly assessing the feasibility of this recommendation, considering the long implementation time needed.

### **I. Background**

- (1) The High Level Group (HLG) was set up to advise the Commission with regard to the Action Programme for Reducing Administrative Burdens in the EU, and in particular to provide advice on administrative burden reduction measures.<sup>1</sup> The HLG has appointed Mr. Illy, Mrs. Jongerius and Mr. Telicka as its reporting members for the priority area 'Cohesion policy'.

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<sup>1</sup> Cf. Commission Decision C(2007)4063.

- (2) 'Cohesion Policy' is one of the 13 priority areas in scope of the Action Programme which covers more than 40 pieces of legislation in these priority areas.<sup>2</sup> For the priority area Cohesion Policy the Action Programme covers one piece of legislation:

Ø Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ('General Regulation')

- (3) The principles of cohesion and solidarity are explicitly mentioned in the EC-Treaty and constitute two of the main vehicles for the integration of peoples and territories. The main objective of the EU's Regional Policy is to decrease the regional disparities in development and promote economic and social cohesion within the European Union.

The Structural Funds<sup>3</sup> and the Cohesion Fund are the financial instruments provided for achieving these objectives. Close cooperation between the European Commission, national authorities, intermediary bodies responsible for the implementation, economic and social partners, civil society and final beneficiaries<sup>4</sup> is one of the basic principles to achieve results in this policy area.

- (4) The General Regulation sets out the main requirements for the European Commission and for the Member States concerning the process of financial management and control as well as the process of monitoring and reporting on the implementation. On the basis of the General Regulation and within the context of the subsidiarity principle, each Member State determines the modalities of its relationship with the authorities charged with the implementation of the Programmes.
- (5) The main focal point of the Action Programme is businesses. The final beneficiaries of the Structural Funds and the Cohesion Fund are not only private firms but also public and semi-public authorities and non-profit organisations. That is why 'Cohesion policy' is the only priority area where the measurement of administrative costs and burdens is not limited to businesses, but covers all final beneficiaries.<sup>5</sup>

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<sup>2</sup> Cf. Communication from the Commission COM(2007)23 final, 2.3.

<sup>3</sup> For 2000-2006 period, Council Regulation N. 1260/99, Article 2 'Means and tasks' stated as follows: "For the purposes of this Regulation, 'Structural Funds' shall mean the European Regional Development Fund (ERDF), the European Social Fund (ESF), the European Agricultural Guidance and Guarantee Fund (EAGGF), Guidance Section, and the Financial Instrument for Fisheries Guidance (FIFG), hereinafter referred to as \_the Funds'.

<sup>4</sup> According to art.9 lett. 1) of Council Regulation N.1260/1999, "*final beneficiaries: means the bodies and public or private firms responsible for commissioning operations. In the case of aid schemes pursuant to Article 87 of the Treaty and in the case of aid granted by bodies designated by the Member States, the final beneficiaries are the bodies which grant the aid*".

<sup>5</sup> Given the definition of 'final beneficiaries' these bodies will be asked by the managing authorities to provide information, are subject financial control and other information obligations.

## II. State of play

- (6) During the outset of the Action Programme for Reducing Administrative Burdens for businesses a new regulation<sup>6</sup> entered into force for the funding period 2007 - 2013. When the measurement started no information was available on the implementation of the new regulation for the current period. The Commission decided to measure the administrative costs and burdens for the former funding period, i.e. 2000 - 2006<sup>7</sup>, because the information obligations in both regulations are similar. The advice in this opinion is therefore also applicable to the current programming period.
- (7) In the context of the Action Programme for Reducing Administrative Burdens, the Commission hired a Consortium<sup>8</sup> to help with mapping and measuring information obligations. According to the figures presented by the Consortium the total administrative costs/burdens for the act in scope within the priority area amount to €929 m. This figure presents 0.7% of the total administrative costs measured in the 42 acts in 13 priority areas.<sup>9</sup> The HLG is of the opinion that the final beneficiaries nonetheless perceive certain obligations stemming from this priority area as burdensome.
- (8) The Consortium identified 6 information obligations and considered all administrative costs as administrative burdens. The obligation for final beneficiaries to submit information to the management authorities in order to draft the annual implementation and / or final report is the most burdensome. It accounts for 63% of all administrative burdens in this priority area. Information obligations arising from the financial controls on the final beneficiaries on behalf of the Member State authorities also give rise to a considerable share (14%) of the total administrative burdens within this priority area.
- (9) In the context of the financial crisis the Commission has taken measures as part of the recovery package<sup>10</sup> with the purpose of accelerating Cohesion Policy investments and payments by introducing several amendments to the Council and the European Parliament concerning the Council regulations. As well as amendments to allow flat rates and lump sums which simplify the control of small amounts of expenditure, the Commission also proposed in 2008 an amendment to

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<sup>6</sup> Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999

<sup>7</sup> Bulgaria and Romania are therefore excluded from this measurement exercise. They joined the European Union on 1 January 2007.

<sup>8</sup> Capgemini, Deloitte, Rambøll management; assigned by the Commission to measure administrative burden based on certain EU legislation and to identify measures to reduce this burden.

<sup>9</sup> The provisions of Council Regulation N.1260/1999 applied to the Structural Funds as defined by the above mentioned art.2. In the current programming period 2007-2013, the European Agricultural Guidance and Guarantee Fund (EAGGF) has been replaced by the European Agricultural Fund for Rural development (EAFRD) and the Financial Instrument for Fisheries Guidance (FIFG) has been replaced by the European Fisheries Fund (EFF). These Funds now have their own legal framework and are no longer involved in the Cohesion policy, neither are the related information obligations.

<sup>10</sup> Cf. COM(2008) 800

Council Regulation (EC) No 1083/2006 which should simplify the financial management rules for certain revenue-generating projects.<sup>11</sup> The Commission envisages additional amendments to the relevant regulations and will explore the possibility of simplification in working methods to improve the effectiveness of Cohesion policy. The HLG appreciates these efforts of the Commission as they could contribute to an administrative burden reduction. At the same time the HLG calls upon the Commission to take into account what the services of the Commission are doing themselves in the area of administrative burden reduction, once identifying further future work for the HLG. This should lead to avoiding unnecessary overlapping between the Commission and the HLG, as well as enabling the HLG to focus on more burdensome legislation.

- (10) The HLG acknowledges the measures already taken as well as ongoing reduction activities by the Commission concerning the act replacing the legislation currently in scope of the Action Programme.<sup>12</sup> The HLG recognizes that in the short term reduction perspectives are fairly limited in this priority area. The national and regional management and control systems are already established for the funding period 2007 - 2013, and it seems therefore not feasible to introduce fundamental legislative adjustments. However the HLG considers that, in the meantime, in light of the economic crisis the Commission should undertake every effort to reduce unnecessary administrative burdens for final beneficiaries where a direct result is possible.

### **III. Reduction recommendations / stakeholders' suggestions**

- (11) The HLG has taken into consideration one recommendation collected by the Consortium concerning the act in scope of the Action Programme (cf. below 1.) as well as suggestions submitted by stakeholders (cf. below 2.).

#### *1. Recommendation collected by the Consortium*

- (12) The Consortium recommends developing a central clearing house at national and regional level. It should connect the national / regional databases, in order to get interactive portals for the data submitted by the final beneficiaries. According to the Consortium all different authorities and bodies involved in the management, monitoring and control of the programmes have their own electronic system. Hence, the data submitted by the final beneficiaries is not stored centrally but distributed to the different databases. A central electronic repository on national or regional level should ensure that all information will be submitted *only once* by final beneficiaries. Thus Member States' paying authorities, managing authorities and regional intermediary bodies can deal with project information delivered by final beneficiaries, without multiple information requests to final beneficiaries. The recommendation affects five out of six information obligations measured, €63 m., i.e. 92% of all administrative burdens. The reduction would amount to 25% of all administrative burdens. According to the Consortium the clearing house will substantially reduce the additional information requests for financial controls by control bodies to the final beneficiaries.

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<sup>11</sup> Cf. Council Regulation (EC) No 1341/2008 of 18 December 2008

<sup>12</sup> Council Regulation (EC) No 1083/2006 of 16 July 2006

- (13) In 2007 the Commission introduced a Structural Funds Common Database (SFC 2007). This electronic system transfers data from Member States (i.e. managing authorities) to the Commission. This is mandatory under the funding period 2007 - 2013. National or regional systems can interface with the new EC system. SFC 2007 however does not concern the transfer of the data inside the Member States, between the relevant authorities, the intermediary bodies and final beneficiaries. The HLG welcomes the recommendation addressed to national / regional authorities, although it highlights that some Member States already have national and / or regional systems in place and the proposal of the Consortium could not be implemented earlier than for the next programming period 2014 – 2020. Furthermore, the HLG finds that this recommendation should be examined further from a technical and budgetary point of view.
- (14) A limited number of Member States complained to the Commission that information requested in the system is not limited to those mentioned in the regulation, but also other kind of information for statistical purposes is requested. These additional information requests will in many cases result in additional obligations placed upon final beneficiaries. The Commission explained that specific problems encountered were related to the youth of the SFC2007 tool. Any eventual additional features were asked to guarantee better implementation and a proper functioning of the system and were facultative<sup>13</sup> and not affecting final beneficiaries. The HLG urges the Commission to end additional requests and limit the information requests to Member States via the SFC 2007 to what is explicitly mentioned in the regulation. In a similar vein, the HLG notes that the Consortium has identified certain information obligations imposed by Member States going beyond what is required by the legislation (“gold plating”). Even though this does not result in this case in considerable administrative burdens, the HLG asks the Commission to urge Member States to refrain from requesting the submission of additional information.<sup>14</sup>
- (15) The HLG recognizes that the implementation of this recommendation mainly relies on the responsibility of the public sector in the Member States, within the context of the subsidiarity principle. The Commission should swiftly start to assess the feasibility of this recommendation, considering the long implementation time needed. Furthermore, the Commission could play a coordinating and leading role to decide collectively whether this recommendation should be taken forward. The subsidiarity principle should be taken into account when determining the exact design and practicalities concerning the central clearing houses. The HLG stresses that the introduction of such a system should be done in cooperation with all parties / partners involved in the Regional Policy. The HLG stresses the need to conduct such an examination as quickly as possible, at the latest by June 2010. The HLG invites the Commission to provide the HLG with information about the examination by the end of 2009.

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<sup>13</sup> For example, to allow the use of SFC 2007 in different constitutional frameworks (centralized versus decentralized countries)

<sup>14</sup> Mr Hontelez disagrees with this paragraph.

## 2. Stakeholders' suggestions

- (16) In November 2008 the Commission established an internal Simplification Task Force working together with experts from several Member States to consider the simplification possibilities for the 2007 - 2013 regulation. This has led to many contributions from Member States. These suggestions show that the regulation in the priority area Cohesion Policy is perceived to be complicated and burdensome. However, many suggestions concern the substance of the regulation. The HLG welcomes this initiative of the Commission. The Group calls upon the Commission to consider all suggestions from Member States to simplify the regulations and working methods thoroughly and implement where possible. The HLG will assess the suggestions of the Member States taking into account the Commission's evaluation and might consider to propose by Autumn 2009 an additional opinion with recommendations for further administrative burden reduction measures.
- (17) Some stakeholders find the control and audit of the operational programmes<sup>15</sup> by the Commission and Member States to be disproportionate for small projects. Furthermore, the controls are mainly focused on compliance and less on efficiency and results. Although the General Regulation states clearly that audit authorities on Commission and Member State level should cooperate, according to stakeholders this is not always the case. The HLG advises the Commission to establish clear thresholds for small projects in order to limit the intensity and number of controls. The HLG calls upon the Commission to limit its audits on project level and apply a risk based approach, bearing in mind its judgement on the audit structure for projects in a specific Member State.
- (18) The HLG also points out that different procedural requirements in regional policy and competition policy (especially as regards regional state aid) as well as differences in the definitions used in the legal instruments in place within the two aforementioned domains can be regarded as a source of legal uncertainty and potential administrative burdens experienced in particular by public authorities entrusted with the implementation of these policies. Therefore, the HLG urges the Commission to consider streamlining and better coordinating the applicable procedures and definitions.<sup>16</sup>

Brussels, 8 July 2009

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<sup>15</sup> According to Art 2.lett. f) of Council Regulation (EC) N. 1083/2006 Operational programme is defined as: "Document submitted by a Member State and adopted by the Commission setting out the development strategy with a coherent set of priorities to be carried out with the aid of a Fund. (...)"

<sup>16</sup> Mr Murray abstains from the opinion.