

Proposals for Amendments to the

Proposal ¹ 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)

Coalition of NGOs for a sustainable EU Budget

January 2012

In order to effectively contribute to the achievement of Europe 2020 Strategy targets:

- delivering an EU economy that is smarter and stronger (through eco-innovation and green technologies),
- more resilient and sustainable (through the emphasis on climate protection, biodiversity conservation and sound natural resources management), and
- more inclusive (through the creation of millions of green jobs in Europe and reduced energy bills for consumers),

NGOs call on MEPs to support the following changes to the Commission 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).

Amendment 1. Improve the scope of sustainable development (article 8)

Text proposed by Commission	NGO Amendment
The Member States and the Commission shall ensure that environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and management are promoted in the preparation and implementation of Partnership Contracts and programmes. Member States shall provide information on the support for climate change objectives using the methodology adopted by the Commission. The Commission shall adopt this methodology by means of an implementing act. The	The Member States and the Commission shall ensure that environmental protection requirements, resource efficiency, biodiversity and ecosystem protection , climate change mitigation and adaptation and ecosystem based disaster resilience and risk prevention and management are promoted in the preparation and implementation of Partnership Contracts and included as objectives in all programmes. Member States shall provide information on the support for climate change and biodiversity objectives using the methodology

¹ http://ec.europa.eu/regional_policy/what/future/proposals_2014_2020_en.cfm

implementing act shall be adopted in accordance with the examination procedure referred to in Article 143(3).	adopted by the Commission. The Commission shall adopt this methodology by means of an implementing act. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 143(3).
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Justification: *Biodiversity and ecosystems should be mentioned as a fundamental basis of our livelihoods and economy. Like for climate change, the 27 EU Member States have taken crucial biodiversity commitments to be reached by 2020. To address the current difficulties to know exactly how much is invested to secure this natural capital, biodiversity tracking (based on a similar Rio markers methodology as the climate tracking and already used in external dimension) is essential to measure the progress made.*

Amendment 2. Improve the thematic objectives for the environment (article 9)

Text proposed by Commission	NGO Amendment
(...) (5) promoting climate change adaptation, risk prevention and management; (6) protecting the environment and promoting resource efficiency;	(...) (5) promoting ecosystem based climate change adaptation, risk prevention and management; (6) protecting the environment, biodiversity and ecosystems and promoting resource efficiency;

Justification: *Options for ecosystem-based climate change adaptation, mitigation and risk-prevention and management are to be mainstreamed because they create numerous additional benefits (such as employment, strengthening of biodiversity resilience) and are often more cost-effective than purely technical solutions – a win win and more innovative approach.*

Amendment 3. Provide adequate time for public participation in the design phase (article 13)

Text proposed by Commission	NGO Amendment
(...) 4. Each Member State shall transmit its Partnership Contract to the Commission within 3 months of the adoption of the Common Strategic Framework	(...) 4. Each Member State shall transmit its Partnership Contract to the Commission within 6 months of the adoption of the Common Strategic Framework

Justification: *given Article 23, programmes must be submitted by the Member States at the same time as the Partnership Contract, which means 3 months. This implies that there wouldn't be sufficient time for a profound public consultation and a meaningful Strategic Environmental Assessment (SEA) including public consultation – which are recognized as crucial to improve the quality of the programmes and ultimately their delivery. Best international practice recommends six months at least.*

Amendment 4. Ensure biodiversity tracking in the Partnership Contracts (article 14)

Text proposed by Commission	NGO Amendment
The Partnership Contract shall set out; (a) arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth, including: (...) (iv) the indicative allocation of support by the Union by thematic objective at national level for each of the CSF Funds, as well as the total indicative amount of support foreseen for climate change objectives;	The Partnership Contract shall set out; (a) arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth, including: (...) (iv) the indicative allocation of support by the Union by thematic objective at national level for each of the CSF Funds, as well as the total indicative amount of support foreseen for climate change and biodiversity objectives;

Justification: Biodiversity and ecosystems should be mentioned as a fundamental basis of our livelihoods and economy. Like for climate change, the 27 EU Member States have taken crucial biodiversity commitments to be reached by 2020. To address the current difficulties to know exactly how much is invested to secure this natural capital, biodiversity tracking (based on a similar Rio markers methodology as the climate tracking and already used in external dimension) is essential to measure the progress made.

Amendment 5. Improve environmental ex ante conditionalities (article 17)

Text proposed by Commission	NGO Amendment
(...) 2. Member States shall assess whether the applicable ex ante conditionalities are fulfilled.	2. Member States shall assess whether the applicable ex ante conditionalities are fulfilled. The assessment shall be based on a common methodology involving the partners referred to in Article 5.

Justification: The introduction of ex-ante conditionality is an important step forward to ensure a better consistency and quality of programmes. To ensure a proper and qualitative implementation of this measure, it is extremely important that the assessment of the fulfilment of ex ante conditionalities is realized with all the relevant partners.

Amendment 6. Ensure adequate consultation and participation in the programming phase (article 23)

Text proposed by Commission	NGO Amendment
(...) 2. Programmes shall be drawn up by Member States or any authority designated by them, in cooperation with the partners.	(...) 2. Programmes shall be drawn up by Member States or any authority designated by them, in cooperation with the partners and undergo public consultation prior to their submission to the Commission.

Justification: Public consultation is needed to ensure a proper implementation of the partnership principle enshrined in Article 5, which is a key principle of the Cohesion Policy. But the public consultation on the programmes is still missing nowadays, making it difficult or impossible for all stakeholders to get involved properly.

Amendment 7. Ensure adequate environmental targets and indicators, and biodiversity tracking (article 24)

Text proposed by Commission	NGO Amendment
(...) 4. Each programme, except those which cover exclusively technical assistance, shall include a description of the actions to take into account the principles set out in Articles 7 and 8. 5. Each programme, except those where technical assistance is undertaken under a specific programme, shall set out the indicative amount of support to be used for climate change objectives.	(...) 4. Each programme, except those which cover exclusively technical assistance, shall include milestones and targets, programme specific indicators and a description of the actions to align with the principles set out in Articles 7 and 8. 5. Each programme, except those where technical assistance is undertaken under a specific programme, shall set out the indicative amount of support to be used for climate change objectives and biodiversity objectives including Natura 2000 as requested by national Prioritized Action Frameworks.

Justification: As required in Article 8, there is a systematic commitment to mainstream the environment in CSF funds. To be consistent, programmes should include targets and indicators (in addition to actions) to indicate how these principles will be implemented. This will increase the consistency, quality and delivery of the programmes.

The Natura 2000 Prioritized Action Frameworks, designed to implement article 8 of the Habitats Directives, are the tools to identify how much funding is committed at national level to effectively achieve the objectives of the Natura 2000 network.

Amendment 8. Strengthen the role of monitoring committees (article 43)

Text proposed by Commission	NGO Amendment
-	New text: 5. The monitoring committee shall approve the annual report on the implementation of the programme(s).

Justification: Monitoring committees make a significant contribution to effective planning, monitoring and evaluation of CSF funding, they are forming the interface between public authorities, partners and civil society. It is important to strengthen their role to improve the quality and delivery of programmes.

Amendment 9. Ensure reporting on biodiversity tracking (article 46)

Text proposed by Commission	NGO Amendments
(...) (b) progress towards achievement of the Union strategy for smart, sustainable and inclusive growth, in particular in respect of the milestones set out for each programme in the performance framework and the support used for climate change objectives;	(b) progress towards achievement of the Union strategy for smart, sustainable and inclusive growth, in particular in respect of the milestones set out for each programme in the performance framework and the support used for climate change objectives and biodiversity objectives including Natura 2000 as requested by national Prioritized Action Frameworks.

Justification: same as amendments 1 and 7.

Amendment 10. Ensure the climate and biodiversity assessment of Programmes (article 48)

Text proposed by Commission	NGO Amendment
(...) 4. The <i>ex ante</i> evaluation shall incorporate, where appropriate, the requirements for Strategic Environmental Assessment set out in implementation of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.	(...) 4. The <i>ex ante</i> evaluation shall incorporate, where appropriate , the requirements for Strategic Environmental Assessment set out in implementation of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment and shall include assessments on the effects of programmes on climate change and biodiversity.

Justification: In order to ensure mainstreaming of sustainable development throughout the programmes as required by Article 8, ex-ante evaluations of the proposed programmes need to assess all relevant environmental aspects, in particular climate change and biodiversity. This is particularly important to achieve EU targets by 2020 in both areas and avoid counter-productive programmes.

Amendment 11. Ensure that technical assistance benefit to all partners including CSOs (article 52-1)

Text proposed by Commission	NGO Amendment
1. At the initiative of a Member State, the CSF Funds may support actions for preparation, management, monitoring, evaluation, information and communication, networking, complaint resolution, and control and audit. The CSF Funds may be used by the Member State to support actions for the reduction of administrative burden for beneficiaries, including electronic data exchange systems, and actions to reinforce the capacity of Member State authorities and beneficiaries to administer and use the CSF Funds.	1. At the initiative of a Member State, the CSF Funds may support actions for preparation, management, monitoring, evaluation, information and communication, networking, complaint resolution, and control and audit. The CSF Funds may be used by the Member State to support actions for the reduction of administrative burden for beneficiaries, including electronic data exchange systems, and actions to reinforce the capacity of Member State authorities, beneficiaries and all partners to administer and use the CSF Funds.

Justification: To implement the partnership principle (article 5), technical assistance should promote capacity building for all partners, not only Member States authorities and beneficiaries as proposed. This should include civil society organisations that have developed a useful expertise. Overall it will improve the efficiency and delivery of programmes.

Amendment 12. Ensure that the approach for revenue generating operations puts rail and road on an equal footing (article 54)

Text proposed by Commission	NGO Amendment
(...) (b) calculation of the current value of the net revenue of the operation, taking into account the application of the polluter-pays principle and, if appropriate, considerations of equity linked to the relative prosperity of the Member State concerned.	(...) (b) calculation of the current value of the net revenue of the operation, taking into account the application of the user pays principle for investments in all modes of transport , polluter-pays principle and, if appropriate, considerations of equity linked to the relative prosperity of the Member State concerned.

Justification: Ensuring that the revenue generation is obligatory for all transport projects and calculated exactly in the same way for all road and rail projects is necessary to stop incentivizing road. Indeed the current Cohesion Policy requires railway projects to deduct revenues generated by operations, but not so for roads projects. As a result road projects can be 85% co-financed by the EU budget, while railway projects can only receive lower co-financing – a perverse incentive against EU climate target.

Amendment 13. Improve the mainstreaming of environment and partnership in Operational Programmes (article 87)

Text proposed by Commission	NGO Amendment
(...) 3. Each operational programme, except those where technical assistance is undertaken under a specific operational programme, shall include: (i) a description of specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and management, in the selection of operations; (...) Member States shall submit an opinion of the national equality bodies on the measures set out in points (ii) and (iii) with the proposal for an	(...) 3. Each operational programme, except those where technical assistance is undertaken under a specific operational programme, shall include: (i) a description of specific actions to include environmental protection requirements, resource efficiency, climate change mitigation and adaptation, ecosystem based disaster resilience and risk prevention and management, in the selection of operations; (...) Member States shall submit an opinion of the national environmental and equality bodies and

operational programme under the Investment for growth and jobs goal.	partners on the measures set out in points (i), (ii) and (iii) with the proposal for an operational programme under the Investment for growth and jobs goal.
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Justifications: *Ecosystem based approach is a win win and more innovative approach that should be supported. To ensure from the start a good design of the operational programmes, expert environmental bodies or relevant expert partners should be involved – in the same way that it is already proposed for equality issues. It will improve the quality of programmes and facilitate their timely and effective implementation.*

Amendment 14. Improve the mainstreaming of environment and partnership in Operational Programmes (article 91)

Text proposed by Commission	NGO Amendments
1. The Member State or the managing authority shall submit the following information on major projects to the Commission as soon as preparatory work has been completed: (...) (f) an analysis of the environmental impact, taking into account climate change adaptation and mitigation needs, and disaster resilience;	1. The Member State or the managing authority shall submit the following information on major projects to the Commission as soon as preparatory work has been completed: (...) (f) an analysis of the environmental impact, taking into account climate change adaptation and mitigation needs, biodiversity protection, resource efficiency and disaster resilience; (new) (j) a description of the way, extent and result of the involvement of partners in the decision on the major project; (new) (k) a description of the public consultation process proposed for the development and implementation of the major project;

Justifications: *Majors projects should not be counter-productive to resource efficiency and biodiversity targets. In addition, experience shows that the involvement of external experts and partners improves not only transparency but also the quality of projects.*

Amendment 15. Improve access to information and communication (article 105)

Text proposed by Commission	NGO Amendment
1. Member States and managing authorities shall be responsible for: (a) ensuring the establishment of a single website or a single website portal providing information on, and access to, all operational programmes in that Member State;	1. Member States and managing authorities shall be responsible for: (a) ensuring the establishment of a single website or a single website portal providing information on, and access to, all operational programmes in that Member State, including programming documents, observations received from the public and partners and how they have been taken into account (including a justification in the case of rejection). (new) (d) informing the public about the timeline of programming and the expected timing and form of all related public consultation processes from the start of the drafting of Partnership Contracts and updating this timeline at least every three months.

Justification: *Some additional information should be made public to improve the partnership principle and the transparency of Cohesion Policy, and finally its quality and delivery. In order to give partners the*

opportunity to fully participate in planning and programming, Member States should better publicise the timeline of the programming and related consultation process in advance.

Amendment 16. Ensure the consistency of the performance framework with key principles (annex I)

Text proposed by Commission	NGO Amendment
(...) 3. Milestones shall be: (...)	(...) 3. Milestones shall be: (...) (New point at the end) - Consistent with the principles set out in Articles 7 and 8.

Justification: The consistency of programmes with the principles of sustainable development (article 8) and of equality and non discrimination (article 7) is requested in Article 24. Therefore, the consistency between programmes and their performance framework will be improved if their performance framework explicitly mentions the same principles. Otherwise there is a risk that milestones and targets will not take into account these principles, losing opportunities to improve the multiple benefits of programmes.

Amendment 17. Improve thematic ex ante conditionalities on energy efficiency (Annex IV)

Text proposed by Commission	NGO Amendment
4. Supporting the shift towards a low-carbon economy in all sectors (referred to in Article 9(4)) 4.1. Energy efficiency (...)	4. Supporting the shift towards a low-carbon economy in all sectors (referred to in Article 9(4)) 4.1. Energy efficiency (...) (...)
	Ex-ante conditionality Criteria for fulfillment

	<p>(new) Transposition into national law, once adopted, of the Energy Efficiency Directive (COM(2011)370 final)</p> <p>(new) Transposition into national law of Directive 2009/125/EC of the European parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (recast)</p>	<p>– Implementation of minimum requirements related to the energy performance of buildings required in line with Article 3, Article 4 and Article 5 of Directive 2010/31/EU</p> <p>(new) – Setting intermediate targets for improving the energy performance of new buildings, by 2015, with a view to preparing the implementation of nearly zero energy buildings, according to Article 9.3(B) of Directive 2010/31/EU.</p> <p>– Adoption of measures necessary to establish a system of certification of the energy performance of buildings in accordance with Article 11 and Article 18 of Directive 2010/31/EU;</p> <p>– Realisation of the required rate of renovation of public buildings;</p> <p>– Final customers are provided with individual meters;</p> <p>– Efficiency in heating and cooling is promoted according to Directive 2004/8/EC. Article 9(4)</p> <p>(new) – National Energy Efficiency Action Plans which translate energy saving objectives into concrete and coherent measures have been submitted in accordance with Directive 2006/32/EC, or equivalent reporting documents in application to the Directive on Energy Efficiency when it will be repealing Directive 2006/32/EC.</p> <p>(new) – Market surveillance mechanisms in accordance with Article 3 of Directive 2009/125/EC are in place.</p>
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Justification: *The Energy Services Directive (Directive 2006/32/EC) and the Cogeneration Directive (Directive 2004/8/EC) will be replaced by the Energy Efficiency Directive. As its adoption is expected at the latest in 2013, the ex-ante conditionality on energy efficiency should include this new piece of legislation to be still relevant in 2014.*

The additional criteria to be fulfilled are based on existing legal obligations under the Energy Performance of Buildings Directive, Energy Services Directive and Ecodesign Directive. There is also a reference to reporting obligation under the Energy Efficiency Directive (now under discussion), which will be the relevant piece of legislation on energy efficiency in 2014.

Amendment 18. Improve thematic ex ante conditionalities on renewable energy (Annex IV)

Text proposed by Commission	NGO Amendment
4. Supporting the shift towards a low-carbon economy in all sectors (referred to in Article 9(4))	4. Supporting the shift towards a low-carbon economy in all sectors (referred to in Article 9(4)) 4.2. Renewable energy (...) (...)

4.2. Renewable energy (...)	
Criteria for fulfillment	Criteria for fulfillment
<p>– A Member State has put in place transparent support schemes, priority in grid access and in dispatching, standard rules relating to the bearing and sharing of costs of technical adaptations which have been made public;</p> <p>– A Member State has adopted a national renewable energy action plan in accordance with Article 4 of Directive 2009/28/EC.</p>	<p>– A Member State has put in place transparent support schemes, priority in grid access and in dispatching, standard rules relating to the bearing and sharing of costs of technical adaptations which have been made public;</p> <p>– A Member State has put in place support schemes for the three renewable energy sectors until 2020: electricity, heat and transport, hence ensuring mid-term investor confidence.</p>

Justification: The second criteria for fulfilment proposed by the Commission is irrelevant: all Member States have already adopted a National Renewable Energy Action Plan. It is necessary to insist on the mid-term framework that Member States provide for renewable energy investments.

Amendment 19. Improve thematic ex ante conditionalities on biodiversity (Annex IV)

Text proposed by Commission	NGO Amendment	
6. Protecting the environment and promoting the sustainable use of resources (referred to in Article 9(6)) (...)	6. Protecting the environment and promoting the sustainable use of resources (referred to in Article 9(6)) (...)	
	Ex-ante conditionality	Criteria for fulfillment

	<p>(new) 6.3. Biodiversity</p> <p>The Member State has submitted, and together with the European Commission has adopted a multi-annual plan for prioritization and budgeting of investments for Natura 2000 sites (Prioritised Action Framework) in accordance with Article 8 of the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.</p> <p>Partnership Contracts and programmes drawn up in the framework of the CSF (including all relevant funds) shall be consistent with the national Prioritised Action Frameworks for financing Natura 2000.</p>	<p>(new)</p> <p>- The Member State has adopted a multi-annual plan for prioritization and budgeting of investments in accordance with Article 8 of the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (national Prioritised Action Frameworks for financing Natura 2000), including: 1. A list of priority measures in Natura 2000 sites and respective EU co-financing needs; 2. An analysis of co-financing sought from different EU funds to realise those measures;</p> <p>- The relevant measures listed in the national Prioritised Action Frameworks for financing Natura 2000 are included in the Partnership Contracts and Operational Programmes as relevant under the different EU funding lines covered by this regulation.</p>
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Justification: Member States and the Commission have agreed in 2004 that the best possibility to finance Natura 2000 is to integrate resources in different EU sectorial funding lines. Natura 2000 has an estimated financing need of 6 billion Euros per year in the EU27². Currently, EU Funds contribute 9-19% of this³, which is clearly insufficient to achieve the EU's ambitious biodiversity objective. Prioritised Action Frameworks for financing Natura 2000 as presented in the Habitats Directive are an effective instrument to make the integrated funding approach for Natura 2000 a reality through defining which actions are most needed and which EU funds can contribute best to achieve the given goals.

Amendment 20. Improve general ex ante conditionalities on public procurement (Annex IV)

Text proposed by Commission	NGO Amendment
4. Public procurement	4. Public procurement
Criteria for fulfillment	Criteria for fulfillment
Effective implementation and application of Directives 2004/18/EC and 2004/17/EC is ensured through: (...)	Effective implementation and application of Directives 2004/18/EC and 2004/17/EC is ensured through: (...) (new) – a strategy for allowing and incentivizing the development of Green Public Procurement (GPP)

Justification: In March 2004, the EU adopted two new public procurement directives, which included provisions regarding integration of environmental considerations into public procurement strategies. This is

² This estimation is based on country-specific assessment made by 25 individual EU Member States in 2008 on request of the European Commission. The overall figure for 25 MS has been extrapolated for 27 MS. Source: European Commission

³ Institute for European Environmental Policy (2011), Assessment of the Natura 2000 co-financing arrangements of the EU financing instruments

Green Public Procurement (GPP), which represents a win win approach boosting innovative environmental products and services in public procurement.

Amendment 23. Improve general ex ante conditionalities (Annex IV)

Text proposed by Commission	NGO Amendment	
	New: 8. Partnership and transparency	
	Ex-ante conditionality	Criteria for fulfillment
	<p>(new)</p> <p>The existence of a mechanism which ensures effective implementation and application of the European Code of Conduct for Partnership.</p> <p>The existence of a mechanism which ensures transparency of CSF programming, implementation and monitoring.</p>	<p>(new)</p> <p>Effective implementation of partnership principle is ensured through:</p> <ul style="list-style-type: none"> ▪ Complete and adequate application of the European Code of Conduct for Partnership; ▪ Effective representation of civil society organisations and other socio-economic partners in the programming, implementation, monitoring and evaluation of Partnership Contracts and programs; ▪ Criteria and indicators. <p>Effective public access to information on CSF programming, implementation, spending and monitoring at national level is ensured through:</p> <ul style="list-style-type: none"> ▪ Full and timely disclosure of the above information; ▪ Measures to enforce the legal provisions on public access to information.

Justification: *The implementation of the crucial partnership principle has varied a lot between Member States and regions. A minimum common level playing field is required through the the Code of conduct on Partnership developed by the European Commission. However, so far the institutional guarantee for compliance is missing. That fore the effective implementation of the Code of Conduct shall become ex-ante conditionality. Transparency is another pre-condition to make the partnership principle meaningful.*

For further information

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