



## **Comment on the compliance of COM (2018) 375, COM (2018) 372 and COM (2018) 382 with the principles of subsidiarity and proportionality**

(Non-official summary of the original version, drafted by the commenting region)<sup>1</sup>

### **1. Commenting region / institution**

**Please specify the region and institution that comments.**

*Thüringen State Parliament, DE*

### **2. COM - Document**

**Please specify the EU initiative the comment refers to by indicating its reference and its title.**

*COM (2018) 375*

*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 Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument*

***and***

*COM (2018) 372*

*Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the European Regional Development Fund and on the Cohesion Fund*

***and***

*COM (2018) 382*

*Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the European Social Fund Plus (ESF+)*

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<sup>1</sup> The form has been developed in cooperation with the Thuringia State Parliament.

### 3. Type of Comment

Please specify the type of comment.

- ☒ Comment
  - ☐ on the legal basis of the EU initiative
  - ☐ on the infringement of the principle of subsidiarity
  - ☒ on the infringement of the principle of proportionality
  - ☒ on better lawmaking
- ☒ General Comment

### 4. Legal basis

Please specify your comment in relation to the EU competence to act regarding the initiative.

- ☐ No / wrong legal basis conferring on the EU the competence to act

### 5. Subsidiarity and proportionality

Please specify the reasons why the draft legislative act in question does not comply with the principles of subsidiarity and/or proportionality.

- ☐ **Infringement of the principle of *subsidiarity*<sup>2</sup>**
- ☐ **Formal infringement**
  - ☐ The **justification** concerning subsidiarity included in the draft legislative act does not fulfill the requirements set in article 5 of the Protocol on the application of the principles of subsidiarity and proportionality.
- ☐ **Substantive infringement**
  - ☐ The proposed action is **not necessary** because
    - ☐ the objective/s of this action can be sufficiently achieved by the Member States, either at central, regional or local level;
    - ☐ the issue being addressed has no transnational aspects;
    - ☐ existing EU measures and/or targeted assistance provided in this framework are sufficient to achieve the intended objective/s.
  - ☐ The proposed action **does not provide a clear benefit** (like economies of scale, legal clarity, homogeneity in legal approaches) compared with action at central, regional or local level.

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<sup>2</sup> Art. 5 (3) TEU

☐ Other reasons or explanations (please specify):

☒ **Infringement of the principle of *proportionality*<sup>3</sup>**

☐ The proposed **form** of action (legal instrument) legislates to an extent which is not necessary to achieve the intended objective/s (e. g. a directive instead of a regulation would be sufficient)

☒ The **content** of the proposed action exceeds what is necessary to achieve the Intended objective/s (e.g. too detailed directive).

☒ The proposed action does **not leave sufficient room for national decision**.

☒ Other reasons or explanations (please specify):

➤ **The planned transmission of implementation data every two months, which lead to an increased pre-transmission audit burden, and the significant increase in ESF + indicators could jeopardize the aim of simplification.**

➤ **The allocation of funds for the last 2 years only after the conclusion of a mid-term evaluation and the return to the "n + 2" regime severely restrict the promotion of long-term projects throughout the entire funding period. The thematic concentration of ERDF resources at national level, which is based on the economic performance of the Member States and not of the regions, does not give sufficient room for regional decisions. Overall, these measures jeopardize the goal of allowing a more flexible use of the funds.**

## 6. Better lawmaking

**Please indicate the reasons why the EU initiative at stake does not respect the principle of better lawmaking.**

☒ Local and regional aspects are not taken properly into account.

☐ Local and regional authorities have not been properly consulted in the process leading to the EU initiative.

☐ Arguments put forward in the impact assessment in support of compliance with the subsidiarity and proportionality principals are not sufficient.

☒ The implementation of the proposed action would entail disproportionate financial/and or administrative burdens<sup>4</sup> and associated costs.

☐ In the case of a draft regulation: the proposal is not sufficiently detailed (essential elements may have to be provided for by delegated acts).

☐ Other reasons or explanations (please specify):

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<sup>3</sup> Art. 5 (4) TEU

<sup>4</sup> Administrative burdens are the costs borne by business, economic operators, citizens and public authorities in the process of complying with information obligations imposed by legislation which they would not have collected and provided in the absence of such legislation.

## 7. General comment

**Please specify your comment.**

**Some of the proposed actions are jeopardizing progress in economic, social and territorial cohesion in some regions:**

- **Increasing the threshold for the transitional regions will also require a corresponding increase in the share of cohesion funds allocated to the transitional regions.**
- **The reduction of the co-financing rate may lead to a lower use of cohesion funds, especially for economically weaker municipalities, for which funding is particularly important. For the regional state budget, a significant additional financial burden is expected.**