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## Summary

This study seeks to explain and identify the ways and means – the modes of governance – in European cohesion policy. By cohesion policy is meant the EU comprehensive regional development policy, which dates back to 1987–8 (and originally 1975) and is financed from the Structural Funds (SFs), as well as EU-level development assistance financed from the Cohesion Fund (dating back to 1993–4). The wider interest of this study is to find answers to the question why did new modes of governance emerge under cohesion policy, how did these new modes evolve during the past three decades, and finally, how can their role be assessed within the overall governance-developments of this policy. This study is composed of three chapters. The first chapter covers briefly the origins of cohesion policy and its initial modes of governance. The second, in three chronological sections, detects the evolution of the governance modes of cohesion policy, including new or alternative modes. The third evaluates governance issues in this policy field and seeks to place this evaluation in a context of existing theoretical approaches to European governance.

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## 1. Introduction

This study seeks to explain and identify the ways and means – the **modes of governance** – in European cohesion policy. By **cohesion policy** is meant the EU comprehensive regional development policy, which dates back to 1987–8 (and originally 1975) and is financed from the Structural Funds (SFs), as well as EU-level development assistance financed from the Cohesion Fund (dating back to 1993–4).

**Governance** embraces a whole process, including the stages of European-level decision-making (including the decision-preparation and decision-making mode, and the legislative end product), the modes of implementing the decisions, and control over the functioning of cohesion policy. The **old mode of governance** was a treaty-based policy decided first by member-states, then regulated in detail through binding Community legislation adopted by the Council, with the Commission involved as initiator and the European Parliament as a political partner (including the two advisory Committees), and finally implemented by the European executive and the member-states. Under the old mode, these legal instruments are also subject to the decisions of the European Court of Justice. The European Commission and the Court of Auditors also have controlling and reporting competence, too, because there is money at stake.

This research involves screening and analysing the relevant primary and secondary legislation and any other forms of cooperation within the policy field, with the aim of finding and identifying such **new or alternative modes of governance** (as opposed to the old, classic Community methods) as have emerged and evolved within cohesion policy. Apart from such identification, there is a wider interest in finding out **why new modes of governance emerged in cohesion policy, how these have evolved over the last three decades, and how their role can be assessed within overall governance developments with the policy.**

The first chapter covers briefly the origins of cohesion policy and its initial modes of governance. The second, in three chronological sections, detects the evolution of the governance modes of cohesion policy, including new or alternative modes. The third evaluates governance issues in this policy field and seeks to place this evaluation in a context of existing theoretical approaches to European governance.

## 2. The origins of cohesion policy – What type of governance emerges?

A new, national approach to development policy began to dominate in Western European countries in the 1960s, and still more the 1970s. Instead of promoting huge industrial investment projects in various parts of the country, central governments started to regulate and assist structural changes in the economy (especially after the oil crisis), stimulate regional and local economic development (via actions managed at regional/local levels), and launch inter-regional transfers (Horváth 1998, p. 268). This shift of policy approach was accompanied from the 1970s onwards by a visible delegation of competences from central to regional and local levels. The changes were prompted by an assumption that it would be more efficient to regionalize economic development than to direct it centrally, and it would make a better response to the complex challenges of structural change (Ibid.)

Concomitant constitutional, legal and institutional changes can be detected in all EC member-states, but to different extents and using various solutions. Four types can be distinguished in the earlier 15 member-states, ranging from the strongest regional and local competences to those offering the least autonomy: federal states (Germany and Austria), regionalized states (Belgium, Italy and Spain), decentralized states (France, Portugal, followed later by the

United Kingdom, too) and unitary states (Denmark, Finland, Sweden, Ireland, the Netherlands, Luxembourg and Greece).

The legal origins of regionalism in the old member-states (excluding Luxembourg) are found in the following basic documents: the 1920 Federal Constitution of Austria, the Constitution of Belgium as amended in 1993, the 1970 Local Authorities Act of Denmark, the 1974 Local Authorities Act of the United Kingdom (and constitutional reforms providing for separate parliaments in Wales and Scotland by 1999), the 1976 Local Authorities Act of Finland, the 1982 Decentralization Act of France, the 1986 Act Establishing the Counties in Greece, the 1962 Act Establishing the Counties in the Netherlands, the 1898 Local Authorities Act of Ireland, the 1949 Basic Law of the Federal Republic of Germany, the 1948 Italian Constitution (with amendments in 2001), the 1976 Constitution of Portugal, the 1978 Constitution of Spain, and the 1977 Local Authorities Act of Sweden (Ibid., p. 304; own Internet research).

As the regional approach to economic and social development gained increasing importance at member-state level, it gradually spread to the European level as well (Ibid., p. 37). It did not become a common issue, while regional disparities were alarming in only one of the founding member-states (Italy), so that the 1957 Treaty of Rome only emphasized in its Preamble the need to strengthen the unity of member-states' economies and "ensure their harmonious development by reducing the differences existing between the regions and the backwardness of the less favoured regions." But as the regional approach became more apparent in practically all member-states and as successive enlargements widened the gaps between regions of the Community, the issue finally joined primary law in the 1986 Single European Act.

However, the aspects of a potential European cohesion policy had been present earlier in the form of financial instruments. The EEC Treaty that came into force in 1958 provided for three financial instruments of importance to regional development:

- The European Social Fund (Art. 123–8) to promote employment and improve the mobility of workers within the Community.
- "One or more agricultural guidance and guarantee funds" (Art. 40/4) realized in the form of the European Agricultural Guidance and Guarantee Fund created in 1962, and split into sections of Guidance and Guarantee in 1964 (the former promoting rural development in the Community).
- The European Investment Bank (Art. 129–30), assisting, among other things, "projects for developing less-developed regions."

The issue of furthering cohesion among the member-states gained fresh impetus after the accession of the United Kingdom, Ireland and Denmark in 1973. This enlargement brought in declining industrial zones (in the UK) and an entire country with low living standards (Ireland). In 1975, a new financial instrument, the European Regional Development Fund (ERDF) was created. Without explicit mention in the primary law, the ERDF was established pursuant to Article 235 of the EEC Treaty, via a Council Regulation. Though this was a very important step forward, the creation of the ERDF did not amount as such to a Community-level regional policy. It only contributed (up to 50 per cent) to certain regional development projects of member-states (under the categories of industrial and infrastructural investment), according to their incumbent financial quota. Nevertheless, the seeds of a future cohesion policy were to be found there, which is why this analysis of governance needs to begin in 1975.

The ERDF decision was preceded by classic bargaining between governments, culminating in a decision at the Paris Summit in December 1972. By that time, the European Parliament had

authorized a supplementary budget to finance the fund (Bache 1998, pp. 41–2). Regulation of a would-be cohesion policy then started, without an explicit treaty basis, as mentioned. These legal instruments merit attention:

- Council Regulation 724/75 (EEC) of 18 March 1975 establishing the European Regional Development Fund (amended later by Council Regulations 214/79 (EEC) of 6 February 1979 and 3325/80 (EEC) of 16 December 1980 to include Greece).
- Council Decision 185/75 (EEC) of 18 March 1975 setting up a Regional Policy Committee “contributing to the coordination of regional policies of the Member States” (amended later by Council Decision 137/79 (EEC) of 6 February 1979).
- Commission Communication of 7 October 1975 on the outline for regional development programmes.
- Council Resolution of 6 February 1979 concerning the guidelines for Community Regional Policy and coordination of national regional policies;
- Commission Recommendation of 23 May 1979 to the Member States on the regional development programmes (535/79 EEC).

The regulations and decisions were adopted by the established method – a Council decision on a Commission proposal, after hearing the opinions of the European Parliament and the Economic and Social Committee (ESC) – while the cited Council Resolution and the Commission Communication and Recommendation were taken by the respective institution on its own initiative. Going beyond the decision-making to the form and content of the legally binding measures, it can be seen that they range from the rigid, detailed Regulation on the Fund, via the Decision on the “contribution to coordination” of regional policies, to what are only “guidelines” for potential regional policy in the Council Resolution, which leaves room for flexibility in implementation.

This is illustrated by Point 3 of the Resolution: “In order to achieve progressively a balanced distribution of economic activities throughout the Community, coordination of national regional policies and of Community policy is essential. In this connection regional development programmes constitute the most appropriate framework for the practical implementation of well organized coordination. From this point of view the coordination of general regional aid schemes constitutes an essential feature. The Council considers that regular comparative examination, particularly within the Regional Policy Committee, of the various Member States’ regional problems, of national regional policies and of the regional policy of the Community is highly desirable from the point of view of achieving such coordination.” Finally, the Commission in its Recommendation asked member-states to take necessary measures to ensure that “projects submitted for assistance from the ERDF reflect all aspects of national regional policies and can thus be used as a framework for policy coordination at Community level.”

In fact, the origins of this would-be regional policy can be described as a mere financial redistribution mechanism, coupled with a strongly inter-governmental approach. Applications were made by member-governments to the Commission, approval given by a Fund Management Committee composed of representatives of the member-states and chaired by the Commission, the final decision taken in the Council by unanimous vote, and control over operation of the Fund at national level left in member-state hands (Ibid., p. 46).

These mechanisms were coupled with a set of weaker measures pointing to “coordination” and “guidelines” or establishment of a consultative committee, while the Commission published only a Recommendation and a Communication, which can be classified in our terminology as **new modes of governance**, suggesting a more voluntary, looser approach to im-

plementing Community-level regional (or cohesion) policy. Bearing in mind the deficiencies of this type of governance – dominance of member-states over funding mechanisms and adherence to alternative methods of governance that prevent this area becoming comprehensive Community policy – the elements of such new modes used between 1975 and 1985 can be rated from this point of view as rather counterproductive. But the emergence of new modes of governance in this policy area still played a pioneer role in the preparations for making cohesion policy a fully fledged Community policy.

The Commission, in later years, “made piecemeal progress rather than great leaps forward” in furthering European-level cohesion policy in the classic sense (Ibid., p. 136). While member-states seemed reluctant to cede more sovereignty in this policy field, the Commission scored some important successes. One was adoption, on the Commission’s proposal, of:

- Council Regulation 1787/84 (EEC) of 19 June 1984 on the European Regional Development Fund (amended by Council Regulations (EEC) 3634/85 of 17 December and 3641/85 of 20 December 1985 to include Spain and Portugal).

Replacing the old ERDF Regulation, the new Regulation introduced lower and upper limits to the national quota and sanctioned the Fund’s participation in financing Community programmes and “national programmes of Community interest”. This brought a gradual shift from the automatism of the national quota system to a problem-based programme/contract system (pointing to the logic of future regional policy). The 1984 reform demonstrated the Commission’s ability to use its proposing skills and institutional expertise, which were vital to the development of cohesion policy into a real Community policy. As its ally, the European Parliament was also keen to have a say in the future of regional policy and fought successfully to classify this budgetary line as non-obligatory expenditure (Allen 1996, p. 213).

But by the mid-1980s, the inadequacies of existing regional policy had become clear and were being aired by the Commission, and the cohesion problem had been exacerbated by the Southern enlargement and the Internal Market. On the one hand, the accession of Greece in 1981 and imminent entry of Spain and Portugal in 1986 highlighted the need for a comprehensive regional development policy to benefit regions lagging behind the Community average. Here an important interim measure came in 1985, with the adoption of the Integrated Mediterranean Programme (IMP) to assist parts of France and Italy and the whole of Greece for up to seven years. Implementing Council Regulation 2088/85 (EEC) of 23 July 1985 (the legal basis for the IMPs) in a series of Commission Decisions, the Commission managed to insist on an integrated programme-based approach, instead of one of funding individual projects (Ibid., p. 232). The need for cohesion was reinforced by the launch of the Internal Market programme, approved by all 12 member-states.

Inadequacies in the functioning of the ERDF, coupled with the new challenges of enlargement and market liberalization, made real reform urgent. As a result of the inter-governmental conference, economic and social cohesion was introduced into the Treaty as a new Community policy via the Single European Act (Articles 130a–e) in 1986. The amended primary law came into force in 1987 as a legal basis for designing, from 1988 onwards, a comprehensive cohesion policy coupled with significant financial resources.

To sum up, the issue of territorial cohesion was rooted in primary law. Yet this area of European governance was treated as irrelevant up to 1975, when the ERDF was born. This regional policy, directed mainly by member-governments, remained fragmentary in 1975–87, as the Commission and the European Parliament struggled to transform an inter-governmentally managed, quota-based redistributive mechanism (as prescribed by the ERDF Regulation) into a genuine Community policy. These efforts were manifest in the Commission Communication

and Recommendation already cited, and in the new approach of the IMPs. The developments were echoed by cautious Council steps in the form of Council Decisions and Resolutions, leaving more space for flexibility and cooperation. **These elements of new or alternative modes of governance revealed tension between the need for intra-Community cohesion with available financial resources and member-state reluctance to cede more sovereignty here. Although the pioneering role of the modes was significant, they were not enough to create comprehensive cohesion policy at Community level.**

### 3. Evolution of cohesion policy governance

#### 3.1. Tendencies between 1988 and 1993

According to Article 130a of the amended Treaty, “In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion. In particular the Community shall aim at reducing disparities between the various regions and the backwardness of the least-favoured regions.” Article 130b enumerated the Structural Funds while Article 130c separately sanctioned the European Regional Development Fund. Based on the objectives and the financial instruments laid down in the articles mentioned, Article 130d stipulated the decision-making regime for this new policy field. Thus the Commission had to present a comprehensive package of measures, subject to unanimity in the Council (after consulting the European Parliament and the Economic and Social Committee). Subsequent implementation measures (relating to the ERDF) had to be taken by qualified majority and in cooperation with the European Parliament (with separate provisions applying to decisions on the ESF and EAGGF/Guidance).

The Commission seized the excellent opportunity to devise and put forward a comprehensive reform package. This so-called Delors I package had two main merits: it proposed doubling expenditure on structural operations between 1988 and 1993, to account for over a quarter of Community expenditure by 1993, and it managed to put through the famous four principles underlying the operation of the funds (see below). After hard intergovernmental debate at the highest political level, wealthier member-states (led by Germany) accepted the 1988 budgetary envelope as a trade-off for the Internal Market programme and a way to integrate Spain and Portugal successfully (Ibid., p. 215). On the other hand, member-states accepted the four principles rejected at the Commission’s earlier attempts.

In governance terms, cohesion policy became in 1987–8 a classic Treaty-based policy, with decision-making mechanisms involving all relevant institutions (Commission, Council, EP, ESC), operating with instruments of legally binding secondary legislation and subject to European Court judgement and Court of Auditors investigations and reporting.<sup>1</sup>

In order to implement the Delors I package and after “the first financial perspective had been agreed upon, the Commission duly proposed, and the Council passed, a package of regulations that amounted to a major reform” (Ibid., p. 222). As a result the following key legal instruments have been adopted:

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<sup>1</sup> In fact, there are few European Court of Justice decisions affecting this policy area. Just to name some in the last decade: T-465/93 *Conzorzio Gruppo di Azione Locale Murgia Mesapica v. Commission* (1994); T-461/93 *An Taisce and WWF UK v. Commission* (1994); T-155/95 *LPN and GEOTA v. Commission* (1998); C-239/97 *Ireland v. Commission* (1998); C-301/03 (Opinion) *Italy v. Commission*. The Court of Auditors scrutinizes financial implementation of cohesion policy regularly in its Annual Reports, and in some other documents such as the Special Report No 15/98 on the assessment of Structural Funds intervention for the 1989–93 and 1994–9 periods, together with the Commission’s replies (98/C 347/01).

- Council Regulation (EEC) 2052/88 of June 1988 on the Tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments. This can be perceived as the foundation of cohesion policy. It set out the four guiding principles of concentration, partnership, additionality and programming. Under the principle of concentration, it defined the five priority objectives of action and matched the Funds and the Objectives. It emphasized the requirements of programming and complementarity (additionality) and called on member-states to involve regional and local authorities on the partnership principle.
- Council Regulation (EEC) 4253/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments.
- This Regulation was accompanied by three others: Council Regulations (EEC) 4254/88, 4255/88 and 4256/88 of 19 December 1988, laying down provisions for implementing Regulation 2052/88 as regards the European Regional Development Fund, the European Social Fund, and EAGGF Guidance, respectively. (Here we have to include Council Regulation (EEC) 3575/90 of 4 December 1990, on the activities of the Structural Funds in the territory of the former German Democratic Republic).
- Based on these Regulations a series of implementing Commission Decisions have been adopted in the coming years.
- As regards soft, non-binding instruments, there are only nine Commission Communications from the over 300 different measures adopted between 1988 and 1992. They deal with competition and sectoral issues, but not with basic aspects of regional policy.

So implementing the Structural Funds was based on the principles of **concentration, partnership, additionality and programming**, which all reinforced the Commission's powers in one way or another. Regarding concentration, it was the Commission who put through the design of the Objectives and later approved the nomenclature of the different regions. Regarding partnership, the Commission launched top-down regionalization enabling regional and local authorities to participate in European-level policy. Regarding additionality and programming, the Commission obtained the power to define the major guidelines of national development programmes and approve the extent of co-financing. To sum up: "These principles were clearly designed to provide for the development of a coherent Community policy, covering both specific regions and the Community as a whole, involving a more autonomous role for the Commission and challenging the stranglehold of national central governments by also seeking to involve sub-national partners" (Ibid., p. 223).

While cohesion policy-making developed a classic mode of Community governance (as opposed to earlier intergovernmental paying mechanisms coupled with loose modes of cooperation), its implementation as part of governance showed some signs of new governance modes. The four principles were **unprecedented** in implementation of Community policy, especially the partnership principle, involving sub-national actors in preparing development programmes and in executing, monitoring and assessing them. The foundations of a multi-faceted, multi-tier system of governance were born: multi-faceted because the Regulation left it quite up to member-states to designate/enable competent regional and local authorities to take part in the policy (giving a variety of institutional choices and degree of involvement), and multi-level, because it involved national, sub-national and supranational levels in a cooperative, and in terms of national discretion, flexible way.

An element in a new mode of governance had emerged within this Treaty-based cohesion policy operating via classical decision-making mechanisms and using traditional legally binding instruments (Council Regulations and Commission Decisions as implementing measures) – new or alternative compared to the old modes whereby (be it the old, pre-1987 regional policy or other Community policies) the exclusive partners of the European Commission had been member-governments. **This emerging mode was marked by a multi-level cooperation dimension and subsidiarity, and by the flexibility in executing these principles.** Its newness was accentuated further by Community Initiatives in which the Commission has discretion in helping regions facing various problems. Yet the importance of the regions in the whole process must not be overestimated, as the policy continued to function within a framework that had been set and managed by the member-states (Bache 1998, p. 155; Allen 1996, p. 229). In fact, sharp criticism in this respect was voiced also by the Committee of the Regions,<sup>2</sup> though if the application of this principle may reveal some shortcomings,<sup>3</sup> partnership can be understood as a new approach to European-level governance, enhancing its legitimacy and helping to implement it more efficiently.

To sum up, by the end of the Delors I package, the Treaty-based cohesion policy had become a classic Community policy governed mainly with old modes (in terms of decision-making and the legal instruments used), though with a dash of new mode emerging with the partnership principle and leading to multi-tier governance or the possibility of it. The Commission played a key role in this multi-tier system and sub-national actors became important too for the first time, even if this importance varied between member-states. The evolution of these tendencies continued in the 1992–3 reform, as will be seen later.

### 3.2. Tendencies between 1994 and 1999

As a result of the 1990–91 intergovernmental conference, the Maastricht Treaty on European Union of 1992 rendered economic and social cohesion one of the Community's priority objectives, along with economic and monetary union and the internal market. The entry of the new Treaty into force on 1 November 1993 made primary law on economic and social cohesion more extensive. Article 2 of the EC Treaty highlighted the task of promoting "throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection ... the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States." More specifically, Articles 130a–e dealt with economic and social cohesion, Article 130a saying, "In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion. In particular, the Community shall aim at reducing the disparities between the levels of development of the various regions and the backwardness of the least-favoured regions, including rural areas."

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<sup>2</sup> "The Commission's report notes that some Member States were reluctant to commit themselves to a full and open partnership. The position in some parts of the UK, for instance, was totally unsatisfactory, although it appears to be improving to some extent, thanks in part to the greater effectiveness of the monitoring committees. However, the European Commission is disappointingly reluctant to act where partnership is weak, and the partnership particularly needs to be reinforced at the programming stage." Cited from the Opinion on the 6th and 7th Annual Report of the Commission on the Structural Funds (CoR 355/96 fin.)

<sup>3</sup> Intensive use of the partnership principle may be time-consuming in decision-preparing and paradoxically, counterproductive in implementation too. Allen (1996, p. 228) notes this problem: "If the principle of partnership really did lead to significant sub-national involvement in actual Structural Fund implementation decisions then the enormous regional variety within the Union, both in terms of organization and influence, would lead to many different solutions to similar problems being pursued by different regions in different ways."

In decision-making, Article 130d of the EC Treaty stipulated, “Without prejudice to Article 130e, the Council, acting unanimously on a proposal from the Commission, and after obtaining the assent of the European Parliament and consulting the Economic and Social Committee and the **Committee of the Regions**, shall define the tasks, priority objectives and the organization of the Structural Funds, which may involve grouping the Funds. The Council, acting by the same procedure, shall also define the general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing financial instruments. 2) The Council, acting in accordance with the same procedure, shall before 31 December 1993 set up a **Cohesion Fund** to provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.”

As primary law on cohesion was being reinforced and enriched, a new financial perspective was adopted by the Edinburgh European Council in December 1992, whereby the appropriations earmarked for structural operations were increased by a further 40 per cent for the 1994–9 period.

These top-level decisions were soon implemented in a series of key Council Regulations:

- Council Regulation (EEC) 2081/93 of 20 July 1993 amending Regulation (EEC) 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments (Annex II containing the financial perspective 1994-1999).
- Council Regulation (EEC) 2082/93 of 20 July 1993 amending Regulation (EEC) 4253/88 laying down provisions for implementing Regulation (EEC) 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments.
- Council Regulation (EEC) 2085/93 of 20 July 1993 amending Regulation (EEC) 4256/88 laying down provisions for implementing Regulation (EEC) 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section.
- Council Regulation (EEC) 2084/93 of 20 July 1993 amending Regulation (EEC) 4255/88 laying down provisions for implementing Regulation (EEC) 2052/88 as regards the European Social Fund.
- Council Regulation (EEC) 2083/93 of 20 July 1993 amending Regulation (EEC) 4254/88 laying down provisions for implementing Regulation (EEC) 2052/88 as regards the European Regional Development Fund.
- Council Regulation (EEC) 2080/93 of 20 July 1993 laying down provisions for implementing Regulation (EEC) 2052/88 as regards the Financial Instrument of Fisheries Guidance.

Based on these Regulations a series of Commission Decisions were adopted in subsequent years up to the end of the financial perspective;

- In the period of 1993–8, there were 19 Commission Communications (out of over 500 measures adopted), dealing either with accompanying sectoral issues (energy, fisheries, research and development, competition) or drawing attention to new challenges of cohesion policy, such as “the urban agenda” or the information society. There was also a Green Paper on the sea ports and maritime infrastructure.

With governance, the 1993 reform was notable for continuity and novelties as well. Regarding programming and additionality, the Regulations did not bring about real change from the previous period. The programming period was extended from five to six years, and verification of additionality capacities had to be documented more extensively by member-states, while of course preparations for economic and monetary union put a squeeze on public spending for every government. The concentration principle (despite its name) was extended to cover a 6th Objective, with a view to developing the extremely scarcely populated areas of some Nordic regions. Some changes were made to the horizontal Objectives too. (Objectives 3 and 4 were merged, the new Objective 4 aiming at helping “restructuring adaptation” of the workforce.) Finally, in response to the difficulties experienced in the fisheries sector, a new Financial Instrument for Fisheries Guidance (FIFG) was added to the group of Structural Funds. Taking all regional Objectives together (1, 2, 5b and 6), Community support was extended to the majority of the EU’s territory and benefited 50 per cent of the total EU population (Horváth 1998, p. 345).

This fact *per se* presupposes a new mode of EU governance in which the regions concerned – in consort with member-governments – were to act to absorb EU funding successfully. Before the launching of structural operations, Community activities had two main kinds of impact on the Community/member-state relationship:

- Elimination of barriers and legal harmonization (as in the case of the customs union or internal market).
- Using Community resources (mainly EAGGF/Guarantee payments under the internal mechanisms of the centrally managed common agricultural policy) or money from the ERDF, and to a more modest extent, ESF and EAGGF/Guidance resources.

**So in general, cohesion policy is a complexity-driven, innovative (new) mode of policy governance, operating neither through negative integration nor legal harmonization measures, supranational rules nor more or less automatic payments, but penetrating national economic and social-development efforts on a regional scale – involving different aspects and different actors of development, stretching beyond one sector and beyond classic Commission/member-state dialogue. Precisely because of these complexities, cohesion policy as such can be perceived as a new approach to European governance.**

This logically entailed introducing the partnership principle in 1988 and gained further importance in the new Regulation 2081/93, whose Article 4 states: “Community operations shall be such as to complement or contribute to corresponding national operations. They shall be established through close consultations between the Commission, the Member State concerned and the competent authorities and bodies – including, within the framework of each Member State’s national rules and current practices, the economic and social partner, designated by the Member State at national, regional, local or other level, with all parties acting as partners in pursuit of a common goal. These consultations shall hereinafter be referred to as the ‘partnership’. The partnership shall cover the preparation and financing, as well as the *ex ante* appraisal, monitoring and *ex post* evaluation of operations. The partnership will be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners.... Within the framework of the partnership, the Commission may ... contribute to the preparation, implementation and adjustment of operations by financing preparatory studies and technical assistance operations locally, in agreement with the Member State concerned and, where appropriate, with the authorities and bodies referred to.”

It is important to underline, in relation to governance, that the role of sub-national actors was reinforced by the Regulation, which involved an increased number of actors in cohesion policy, but doing it in a flexible way (relying on the national rules).

At EU level, the balance of power between the Commission and member states did not undergo significant change with the 1993 reform. The Commission's important competences regarding the whole design of Community assistance remained in place, as did the special (advisory and management) committees of member-states' experts that surrounded the Commission while implementing cohesion policy. The classic European governance model is further underlined by the assent required from the EP and the preliminary consultations with the ESC and the Committee of the Regions. The classic mode is also reflected in the use of Council Regulations and Commission Decisions as the legal tools.

So from the point of view of decision-making, cohesion policy in 1994–9 remained a classic (old) Community policy. But in implementation, the new approach to European governance and elements of new modes of governance are represented by the four principles, especially the reinforced partnership principle, potentially involving a wider circle of sub-national actors.

Parallel with the adoption of the new financial framework and the renewed rules on the Structural Funds came the establishment of a separate Cohesion Fund, as foreseen by the Treaty (Article 130d):

- Council Regulation (EEC) 792/93 of March 1993 establishing a cohesion financial instrument preceded the adoption of the final legal basis.
- Council Regulation (EC) 1164/94 of May 1994 establishing a Cohesion Fund.

The functioning and management of the Cohesion Fund exhibit from a governance angle a clear step back from the Structural Funds, reminiscent of the functioning of the original ERDF. The principles of the Structural Funds, with their innovative governance modes, did not apply. The beneficiaries have been countries, not regions, so that the exclusive partners of the Commission again became member-governments and the multi-tier partnership dimension was abandoned. The Fund was to co-finance investment projects, instead of having several-year development programmes with commonly agreed priorities. Moreover "additionality" was practically reversed: 85 per cent of Cohesion Fund resources and 15 per cent national resources had to be matched under the Fund's rules. The four beneficiary states received allocation quotas reminiscent of the initial rules of ERDF. As Bache (1998, p. 91) concludes, "The creation of the Cohesion Fund was a direct response to the governments of poorer Member States and provided little scope in its administrative arrangements for the innovations of structural policy."

To sum up, cohesion policy in the 1994–9 period became one of the most important Community policies in the Treaty, with increasing budget allocations. **The policy was mainly managed in a classic Community way (with reinforced positions for the Commission and the EP) through legally binding instruments. Yet the impact of the structural operations penetrating into national development strategies and reaching in one way or another 50 per cent of the EU population, along with the innovative four principles of implementation can be considered a new approach to European governance. Within this framework can be emphasized the partnership principle, as a key concept based on subsidiarity. This was further reinforced by the new Committee of the Regions, offering institutionalized participation by regional and local authorities of the member-states. As for the evolution of cohesion policy in 1994–9, it has been mentioned that non-binding Commission Communications played an increasing role in pushing through new ideas and dealing**

**with emerging problems. At the same time, the management of the new Cohesion Fund implied a more “conservative” mode of governance reminiscent of the early functioning of the ERDF and representing a clear retreat from the innovative modes of implementation of the Structural Funds.**

### **3.3. Tendencies between 2000 and 2006**

As a result of the intergovernmental conference to assess the Maastricht achievements, the Fifteen concluded the Amsterdam Treaty in 1997. The amended primary law (new Articles 158–62 dealing with economic and social cohesion) entered into force in 1999 and reaffirmed the strategic importance of cohesion. This was further emphasized by a new specific title on employment, providing some tools with which the EU could combat unemployment.

The new Treaty provisions did not alter the decision-making procedure: decisions had to be taken by the Council unanimously and after assent by the EP and consultations with the two advisory bodies. (Article 162 only transformed cooperation into co-decision with the EP, for ERDF and ESF-related decisions.) Parallel with the development of primary law, the Heads of State and Government at the Berlin European Council in March 1999 reached agreement on a package called Agenda 2000, containing, among other things, some reforms of cohesion policy and the new financial framework for 2000–2006, including preparations for enlargement.

With these developments and as a result of Community-level decision-making, the following key measures have been passed to regulate the renewed cohesion policy for the coming seven-year period:

- Council Regulation (EC) 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (later amended by: Council Regulation (EC) 1447/2001 of 28 June 2001 and Council Regulation (EC) 1105/2003 of 26 May 2003).
- Council Regulation (EC) 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (later amended by: Council Regulation (EC) 1783/2003 of 29 September 2003 and Council Regulation (EC) 567/2004 of 22 March 2004).
- Council Regulation (EC) 1263/1999 of 21 June 1999 on the Financial Instrument for Fisheries Guidance.
- Regulation (EC) 1783/1999 of the European Parliament and of the Council of 12 June 1999 on the European Regional Development Fund.
- Regulation (EC) 1784/1999 of the European Parliament and of the Council of 12 July 1999 on the European Social Fund.
- Council Regulation (EC) 1264/1999 of 21 June 1999 amending Regulation (EC) 1164/94 establishing a Cohesion Fund.
- Council Regulation (EC) 1265/1999 of 21 June 1999 amending Annexe II to Regulation (EC) 1164/94 establishing a Cohesion Fund.
- Regulation (EC) 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (nuts) fixing the existing regional classification in a legal framework and instituting clear rules for future amendments of this classification.

Based on these Regulations, a series of Commission Decisions have been adopted in subsequent years up to the end of the financial perspective:

- In the period 1999–2004, 35 Communications out of over 400 pieces of secondary legislation have been published by the Commission, dealing mainly with “side aspects” of cohesion policy, such as transport, urban development, sustainable development, gender equality and with the future of Community Initiatives.

The 1999 reform of cohesion policy insisted that structural assistance be concentrated on the regions whose development was lagging furthest behind, and that operation of the Structural Funds be simplified. Thus Council Regulation (EC) 1260/1999 provided for only three Objectives: 1) promoting development and structural adjustment of regions whose development is lagging, 2) supporting the economic and social conversion of areas facing structural difficulties, and 3) supporting adaptation and modernization of policies and systems of education, training and employment. It also matched the Funds with the Objectives (Objective 1: ERDF, ESF, EAGGF Guidance Section and FIFG; Objective 2: ERDF and ESF; Objective 3: ESF) and provided for clear concentration of finances on the poorest regions by channelling almost three-quarters of the Structural Funds to Objective 1. The Regulation simplified the administration by introducing a Single Programming Document model and by reducing the number of Community Initiatives to four.

In governance it is important to re-emphasize how the Regulation sought to reinforce the partnership principle. Article 8 of Regulation 1260/1999 stated: “Community actions shall complement or contribute to corresponding national operations. They shall be drawn up in close consultation ... between the Commission and the Member State, together with the authorities and bodies designated by the Member State within the framework of its national rules and current practices, namely: the regional and local authorities and other competent public authorities, the economic and social partners, any other relevant competent bodies within this framework. The partnership shall be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners as defined in the first subparagraph. In designating the most representative partnership at national, regional, local or other level, the Member State shall create a wide and effective association of all the relevant bodies, according to national rules and practice, taking account of the need to promote equality between men and women and sustainable development through the integration of environmental protection and improvement requirements. All the designated parties, hereinafter referred to as the “partners”, shall be partners pursuing a common goal. 2. Partnership shall cover the preparation, financing, monitoring and evaluation of assistance. Member States shall ensure the association of the relevant partners at the different stages of programming, taking account of the time limit for each stage.”

In this context, for the first time since cohesion policy was set in course – and very much in line with the European Commission’s 2001 White Paper on Governance – so-called **target-based tripartite contracts and agreements** between the EU, member-states and regional authorities and relevant bodies can be concluded. In an effort to stimulate the conclusion of such binding contracts or **voluntary agreements**, the Commission published a framework for target-based tripartite contracts and agreements between the Community, the Member States and regional and local authorities in its Communication of 11 December 2002.<sup>4</sup>

According to the Commission, the growing role of regional and local authorities in the design, and especially the execution of Community policies must be given recognition. Under the condition of full compatibility with the Treaties and with the member-states’ constitutional systems, the Commission proposed that these contractual tools take two possible forms: either

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<sup>4</sup> COM (2002) 709 final.

target-based tripartite contracts concluded between the Commission, a member-state and regional and local authorities in direct application of binding secondary Community law (regulations, directives or decisions), or target-based tripartite agreements concluded between the same partners, but remaining outside a binding Community framework.

From the point of view of our research the latter type agreements would represent a typical element of new modes of European governance. However this cannot be deemed as a widely used instrument yet, since according to the Committee of the Regions: „The Italian region of Lombardy was the first in Europe to sign a tripartite agreement with the Commission, on 15 October 2004, to smooth the implementation of EU laws affecting urban transport. The cities of Birmingham (UK), Lille (France) and Pescara (Italy) have also launched pilot projects, with a view to establishing fully-fledged tripartite agreements, in the environment field.” (Committee of the Regions 2005, p. 3) This is why the institution’s plenary assembly “urged the Commission to encourage Member-states to promote tripartite agreements with regional authorities.” As the Committee of the Regions highlighted: “It is not simply a question of decentralization, it is also a question of giving responsibility to the players at all levels.” (Committee of the Regions 2005, p. 3)

To these developments must be added two special aspects accompanying cohesion policy: employment issues and environmental concerns. With employment, this policy has been done through the Employment Guidelines since Amsterdam, and since 2000, through a series of Council Recommendations that are not legally binding measures, but chances for member-states to reshape the framework of their job markets on a rather voluntary basis. As the Commission stated, “The instrument of Recommendations ... has demonstrated its value in focusing member-state efforts on key challenges. Most member-states have taken action to respond to the Recommendations addressed to them” (European Commission 2001, p. 90). And in close connection with the present subject, the Commission warned that the “regional pattern of employment has changed little since 1980, and there appears to be little evidence of a more balanced distribution of net job creation between the regions” (European Commission 2001, p. 91). So the Employment Guidelines contained from the outset regional and local dimensions too, but according to the Commission, “More needs to be done to increase cooperation between the different levels of government, to develop a comprehensive regional and local employment strategy” (Ibid., p. 91). As fighting unemployment and assisting those in employment to keep pace with structural changes is integral to European cohesion policy, it is apparent here again that there is a reinforced partnership principle coupled with non-binding measures – both being important elements of new modes of governance, in our approach.

Similarly, environmental impact assessments had been annexed to all Operational Programmes as early as 1993. According to Council Regulation (EEC) 2081/93, this was to be “an assessment of the environmental situation of the region concerned and an evaluation of the environmental impact of the strategy and operations ... in accordance with the principles of sustainable development in agreement with the provisions of Community law in force, the arrangements [being] made to associate the competent environmental authorities designed by the Member State in the preparation and implementation of the operations foreseen in the plan and to ensure compliance with Community rules concerning the environment.” At this point, an important legal instrument merits mention in the “neighbouring” field of environment policy: Regulation (EC) 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organizations in a Community eco-management and audit scheme (EMAS), and potentially playing a key role in proper implementation of operational programmes.

These are additional examples from two relevant “neighbouring” policies to cohesion policy, reinforcing earlier findings that employment and environment were clearly the areas where new modes of European governance involving “more flexibility, subsidiarity and soft methods” were most apparent (Diedrichs 2005, pp. 11–12).

Returning to cohesion policy proper, further elements of new modes of governance can be detected lately, as the EU prepares for the next financial framework and re-shapes the rules accompanying the Funds, and ever more civil organizations try to assert their interests at EU level, with the main aim of guaranteeing/reinforcing the partnership principle, and thereby strengthening the role of civil organizations in all stages of cohesion policy.

Two examples can well illustrate the conscious lobbying of some non-governmental organizations. One is the case of the “Coalition for sustainable EU funds”,<sup>5</sup> which has made four main recommendations on the draft Regulation on the Structural Funds. “1. The Commission must be able to *suspend payments where environmental law is breached* or where serious concern is raised about the environmental impacts of a project. 2. *Member States must show how they intend to finance the needs of the environment*, in particular, supporting the Natura 2000 network, implementing the Water Framework Directive and achieving Kyoto targets, as a condition for the approval of national strategic reference frameworks and operational programmes. 3. *Environmental NGOs must be recognized as equal partners to their social and economic colleagues*, and enabled to participate fully through training, capacity building and coverage of direct costs. 4. *The Structural Funds and the Cohesion Fund must be evaluated for their contribution to the EU Sustainable Development Strategy*, and positive actions must be acknowledged and rewarded through the Community Performance Reserve.”<sup>6</sup>

Another example is a joint statement by ten Europe-wide (even worldwide) NGOs<sup>7</sup> with concrete proposals for amending the new Regulation being prepared. They fear member-states are tending to cut back the participation of civil society under the partnership principle, and their main argument that the NGOs’ role must be reinforced, not weakened: “Partnership refers to the inclusion of a broad range of stakeholders, such as non-governmental organizations, regional, local and other authorities in the programming, implementation and monitoring of the Structural and Cohesion Funds programmes and its weakening would be an unfortunate step back.”<sup>8</sup> Partnership, they say, “leads to improved absorption of the funds ... improves transparency and prevents misuse and corruption ... contributes to democracy ... [and] strengthens both society’s sense of ownership of the projects funded and the legitimacy of cohesion policy.”

Other developments have occurred in the period in deepening and enlargement, but without a significant direct impact on cohesion policy design until 2006. Now the decision-making procedure has been changed by the Treaty of Nice, which prescribes from 1 January 2007 that the Council act by a qualified majority in matters relating to the Structural Funds and Cohesion Fund (Article 161), while retaining the requirement of EP assent. Similarly, measures to prepare the accession countries for membership – setting up Accession Partnerships and assisting

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<sup>5</sup> The Coalition consists of Bird Life International, CEE Bankwatch Network, Friends of the Earth, WWF, European Environmental Bureau, Central and East European Working Group for the Enhancement of Biodiversity, and Milieu-Kontakt Oosteuropa.

<sup>6</sup> <http://www.coalition-on-eufunds.org>

<sup>7</sup> Those enumerated in Note 5, plus the Social Platform, the European Citizens Action Service and the European Disability Forum.

<sup>8</sup> [http://Partnership\\_statement\\_031005.pdf](http://Partnership_statement_031005.pdf), p. 1.

them through the three Pre-Accession Funds, and integrating the ten new member-states in structural operations from 2004 onwards – can be seen as important developments for those countries, although they do not influence directly the field of research discussed here.<sup>9</sup>

**To sum up, the place of cohesion policy in the present period has gained further importance in primary law and in the budget. The powers of the Commission, the Council and the European Parliament and the advisory bodies have been reaffirmed, with special emphasis on the Committee of the Regions.** Following the key Council Regulations, there were major changes pointing towards visible simplification of the functioning of the Funds, including Community Initiatives (although no significant reform of the Cohesion Fund.) **These developments can be seen as streamlining the classic mode of cohesion-policy governance. However, the partnership principle – seen here as a new governance mode – was reinforced in the Regulation, while the invention of the European Commission on target-based tripartite contracts/agreements and the enhanced influence of civil organizations on the shaping of forthcoming EU Regulations can be rated as important elements in the new modes of governance applying to cohesion policy.**

As for the foreseeable future, EU cohesion policy will continue to face governance challenges. According to the most modest calculations for the period 2007–13, over €450 billion will be allocated to the highest number of European regions ever (although some regions are being phased out.) This substantial sum will have to be absorbed in a successful response to the threefold challenges of intra-European and global competition, the complex requirements of sustainable development, and the tasks of enlargement. Here subsidiarity and more intense involvement of beneficiary regions and their relevant partners will become vital to efficiency. This is echoed by the Committee of the Regions in its 2003 Report on the Governance and simplification of the Structural Funds after 2006 (Committee of the Regions 2003, p. 8): “The regions are calling for greater coherence with respect to the Structural Funds: a) internal coherence (between the Funds, between the different departments of the European Commission, and between the different departments of central government); b) external coherence (vertical and horizontal coordination between Community, national and regional programmes). *The regions are also calling for better application of the subsidiarity and proportionality principles: this means re-establishing the original concept of subsidiarity, with due respect for constitutional limits of each national system, and considering whether the regions’ role should be set out in the Treaty. As far as Structural Fund policy is concerned, the regions represent the most efficient level of government, and therefore subsidiarity in this policy area must start at the regional level, especially since most European regions have embarked, partly on the basis of European programmes, on a learning process which has enabled them to move towards integrated regional development.*” (Part Two). “We interpret the strong interest shown by the regions in this report and the basic messages contained in the findings obtained as *a call for the introduction of a new model of governance in European cohesion policy, within which the emergence of the regions as key players acting as anchors and centres of gravity for integrated regional development strategies must be recognized as a major factor. This new model must be systematically developed on the basis of concepts such as subsidiarity, co-responsibility, internal and external coherence, flexibility, procedural simplification, additionality and partnership*” (Part Three).

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<sup>9</sup> See detailed analysis of these events in the relevant papers of the Hungarian team.

## 4. Conclusion: Evaluation of the governing modes of cohesion policy

### 4.1. Emergence, evolution and evaluation of NMG within cohesion policy

Analysing the governance modes of cohesion policy over the past three decades, it can be stated that it has developed into one of the most important EU policies in terms of its place in the Treaties and in the budget. Cohesion policy had its roots in the Rome Treaty. It started in the mid-1970s with rather intergovernmental paying mechanisms coupled with weaker Community measures (elements of new modes of governance). These foresaw a degree of cooperation in a rather weak (even counterproductive) manner, but paved the way for more comprehensive cohesion policy.

By 1987–8, with the Single European Act and the Delors I package, cohesion policy had developed into a full-fledged Treaty-based policy. This was reinforced by the Maastricht and Amsterdam treaties, which involved more intensively the European Parliament, and a new institution, the Committee of the Regions was created alongside the Economic and Social Committee. Furthermore, the Treaty of Nice is transforming unanimity into qualified majority for the Council from 2007 onwards. Meanwhile structural operations have become the second largest budgetary line after agricultural payments, increasing in absolute terms throughout the past three financial perspectives.

Based on the Treaty, the Council has passed the most important Regulations laying down the basic rules of the functioning of this policy, while the Commission issued a large number of Decisions to implement the operations of the Funds. So at the level of decision-making and legal implementation, cohesion policy gradually developed into a classic (old) mode of European governance. At the same time, it must be borne in mind that classic/old modes of Community governance have been developing throughout the Treaty amendments, leading to a more balanced relationship among institutions and involving a new institution (the Committee of the Regions). This concept is therefore a “moving target” *per se*.

Turning to legal implementation, it can be established that the tools used – Council Regulations and Commission Decisions – can be considered rather rigid as legally binding instruments. On the other hand, the basic principles contained in them reflect a new approach to European governance, providing for multi-tier participation of actors in the preparations, implementation, monitoring and evaluation of cohesion policy, especially through the partnership principle. This principle was mainly initiated by the Commission (a top-down approach) and has been positively received by regional and local authorities and civil organizations in the member-states. Thus partnership and subsidiarity have been gaining importance in the Treaties, and have played a major role in the constitutional process too.

Further elements of new approaches to governance (leaving more room for sub-national actors and operating with voluntary, cooperative and soft measures, instead of legally binding ones) can be detected in cases such as target-based tripartite agreements, employment policy guidelines and recommendations, and environmental audit methods (required also when executing operative programmes under the Structural Funds). These examples merit mention even if they emerged and evolved mainly within closely related “neighbouring” policies to cohesion policy. Furthermore, it has been found that apart from binding instruments of secondary legislation, there seem to be an increasing number of non-binding Commission Communications that are important in shaping cohesion policy and adjusting it to new challenges.

After dealing with the emergence and evolution of cohesion-policy governance – including new modes of governance – it is time to evaluate the tendencies described, against the under-

lying hypotheses of this study: that new modes of governance may emerge and evolve for three reasons:

1. There is **tension** between member-states wanting to act at EU level but showing reluctance to cede sovereignty. Thus new modes can serve as a learning path before making more decisive steps towards deepening. This applied in the pre-1987 period and continues to do so, e. g. in the form of Commission Communications highlighting new challenges of cohesion policy but leaving member-states to reflect on them.
2. The policy has already become a common policy, but greater **efficiency** is needed in implementing it. With cohesion policy, efficiency has become crucial, as European taxpayers' money is at stake. Implementation of cohesion policy can be efficient if all potential beneficiaries have a say in the process, which was why the partnership principle (based on subsidiarity) was introduced and reinforced.
3. The policy has already become a common policy, but more **democracy, legitimacy and transparency** are needed in its implementation. Actually, partnership (including civil society) complies with these principles, which is why there is ever increasing pressure from the partners involved to respect and reinforce this principle at EU level.

**In conclusion, the existence of new modes of governance in cohesion policy does not mean they either compete with or replace the classic modes. The elements of the new modes complement the classic modes by providing for a learning path before ceding sovereignty to the EU level, and for more transparency, efficiency and legitimacy after the sovereignty has been ceded.**

#### **4.2. NMG in cohesion policy in the context of existing theoretical approaches**

From the theoretical point of view, it is intriguing to see how far any new modes of governance apply, when analysing European cohesion-policy governance. In our view, the following theoretical approaches are useful for research:

**Neo-functionalism** supplies the idea of a spillover effect. It has been mentioned that the emergence of cohesion policy at EC level as a common policy was due to the need for member-states to tackle this problem partly at European level. In this sense, economic and social necessity coupled with political will helped this policy issue to spill over to a higher level. According to **liberal intergovernmentalists**, member-states are exclusive masters of European integration and not very willing to cede bits of their sovereignty to the European level. This approach applied especially in the initial phase of cohesion policy (pre-1987), whereby member-states “used” the Community forums and budget for “egoistic” purposes, but prevented such assistance from becoming a genuine Community policy. Of course, the evolution and continual implementation of the policy finds an intergovernmentalist interpretation as well, since major decisions on cohesion policy have always been viewed as outcomes of intergovernmental bargains, and as a general rule, unanimity must apply in the Council for key decisions on both the design and the financing of cohesion policy. As regards implementation (especially the partnership principle), it is again largely in the hands of member-states, even if the Commission and the regions can be seen as independent actors – inside the framework set by member-governments as “flexible gatekeepers” of cohesion policy (Bache 1998, pp. 155–6). Also applicable here are the arguments of **institutionalism**, which stress the possible driving forces and key role of supranational institutions in developing common policies. The Commission characteristically and continually asserted initiative power under this policy from the 1970s onwards and “accumulated informal resources independently of decisions taken by the national governments” (Ibid., p. 145). Thus the supranational executive has been able to

initiate and help to develop cohesion policy over the past three decades and become an ally for the regions and NGOs. The **multi-tier governance model** first identified the interrelationship between the supranational, national and sub-national levels in EU decision-making, decision implementation and monitoring. This model is highly appropriate to accommodating the sub-national (regional, local) levels in the evolution of cohesion policy. The **policy-networks approach** is also highly relevant. As opposed to the vertical vision of multi-tier governance, this model has a spider's-web approach that draws attention to interactions among "private, civil, governmental, transnational and supranational actors" and emphasizes the existence of "highly complex networks of varying density" (Risse-Kappen 1996, p. 62). This is called by Kohler-Koch (2002, p. 5) "a system of 'network governance' which thrives on coordinating a multitude of actors and approximating diverse interests."

Considering all these (and other) theories on European integration, it can be established that all of them highlight special features of the EU and help towards a better understanding of its complex functioning. They are useful in detecting the emergence and evolution of cohesion policy and in explaining how it has been functioning so far. This, however, also means that in analysing and explaining the development of cohesion policy, it is profitable to pursue several simultaneous approaches – or in reverse, that one cannot use only one existing model or theory to describe it. For the various evolutionary stages of this policy and for its present functioning, different approaches may be applied. The same applies to the emergence, evolution and evaluation of new modes of governance in the EU (including cohesion policy). Hopefully, this study has made a modest contribution to elaborating and modelling theoretically this interesting phenomenon. It was undertaken by the trans-European scientific consortium of the NEWGOV venture.

## 5. Annexes

### 5.1. References

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### 5.2. Glossary

**Cohesion policy:** a complexity-driven innovative or new mode of policy governance, operating neither via negative integration and legal harmonization measures, nor via supranational rules and more or less automatic payments, but penetrating national economic and social-development efforts on a regional scale – involving at the same time various aspects of development and actors in it, stretching beyond one sector, and beyond classic Commission/member-state dialogue.

**Inter-governmentally managed paying mechanisms:** the original mechanisms of ERDF payments contributing to national development programmes, but used at national discretion (without being integrated into a genuine Community policy.)

**Partnership principle:** one of the key principles introduced by the EU under cohesion policy, prescribing **multi-tier** (sub-national, national, supranational) and **multi-actor** (local/regional authorities, private/civil organizations) participation of partners in cohesion policy-making, implementation, monitoring and evaluation.

**Voluntary target-based tripartite agreements:** bottom-up voluntary agreements between a local unit, the national government and the European Commission, with a view to completing a certain project, but remaining outside the binding Community legal framework.

**Voluntary target-based tripartite contracts:** bottom-up voluntary contracts between a local unit, the national government and the European Commission, with a view to completing a certain project and having recourse to direct application of binding secondary Community law (regulations, directives or decisions).

### 5.3. Tables

**Table 1: EU cohesion policy – elements of old modes of governance**

|                          |  |
|--------------------------|--|
| Treaty-based policy      | Art. 2 EC, Art. 158-162 EC   |
| European Commission      | Right of proposal since 1987, duty of implementation   |
| Council of Ministers     | Unanimity voting on the design and the financial package   |
| European Parliament      | Assent on fundamental decisions of Structural Funds and Cohesion Fund, co-decision on ERDF, ESF, consultation on EAGGF/Guidance and FIFG |
| ESC                      | Opinion  |
| Committee of the Regions | Opinion  |
| Court of Justice         | Competence of jurisdiction   |
| Court of Auditors        | Competence of financial control  |
| Major legal tools used   | Council Regulations, Commission Decisions  |

**Table 2: EU cohesion policy – elements of new modes of governance**

|   | Pre-1987  | Post-1987   |
|---|---|---|
| <b>Commission/member-state relationship</b> | Broad discretion of member-states in national development; no conditionality on using the money     | Commission intrusion into national development programmes, assertion of the partnership principle and conditionality  |
| <b>Commission – Regions relationship</b>    | Non-existent  | Existent: directly via the Commission Initiatives and indirectly via partnership  |
| <b>Implementation</b>                       | Decentralization and flexibility  | Partnership, multi-tier cooperation, flexibility  |
| <b>Existence of soft measures</b>           | Not significant   | Gaining importance  |
| <b>Type of soft measures</b>                | Commission Communications and Recommendations, Council Resolutions on guidelines of regional policy | Commission Communications, target-based tripartite agreements   |
| <b>Role of regional and local actors</b>    | Not significant   | Growing awareness, increasing role of the regions via Committee of the Regions and increasing activities of NGOs via EU-level coalition-building and lobbying |