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from: Presidency
to: Permanent Representatives Committee (part 2)/Council

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No. Cion prop.: COM(2011) 615 final/2, COM(2011) 607 final/2, COM(2011) 611 final/2

Subject: Cohesion Policy legislative package
- Presidency compromise on Programming

Delegations will find attached a compromise text on the Programming parts of the proposals for the Common Provisions Regulation, the ESF Regulation and the ETC Regulation.

The modifications highlighted in bold are those in comparison to the revised versions (corrigendum) presented by the Commission on 14 March 2012.

Revision 3 has been issued in order to take into account the outcome of the General Affairs Council on 24 April. Therefore, the references to country-specific recommendations in Articles 14(1), 15(1), 25(1), and 87(2) have been put into square brackets.

PART ONE

SUBJECT-MATTER AND DEFINITIONS

Article 1

Subject-matter

This Regulation lays down the common rules applicable to the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF), which are operating under the Common Strategic Framework (the 'CSF Funds'). It also defines the provisions necessary to ensure the effectiveness of the CSF Funds and their coordination with one another and with other Union instruments.

This Regulation also lays down the general rules governing the ERDF, the ESF (together referred to as the 'Structural Funds') and the CF. The Regulation defines the tasks, priority objectives and organisation of the Structural Funds and the CF (the 'Funds'), the criteria for Member States and regions to be eligible for support from the CSF Funds, the financial resources available and the criteria for their allocation.

The rules set out in this Regulation apply without prejudice to the provisions laid down in Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the financing, management and monitoring of the common agriculture policy¹ (hereinafter referred as the 'CAP' Regulation) and to the specific provisions laid down in the following Regulations **in accordance with the last sub-paragraph of this Article:**

¹

- (1) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the European Regional Development Fund and repealing Regulation (EC) No 1080/2006¹ (the 'ERDF Regulation');
- (2) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the European Social Fund and repealing Regulation (EC) No 1081/2006² (the 'ESF Regulation');
- (3) Regulation (EU) No [...] /2012 of the European Parliament and of the Council establishing a Cohesion Fund and repealing Regulation (EC) No 1084/2006³ (the 'CF Regulation');
- (4) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on European territorial cooperation⁴ (the 'ETC Regulation');
- (5) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the European Agricultural Fund for Rural Development and repealing Regulation (EC) No 1698/2005⁵ (the 'EAFRD Regulation'); and
- (6) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the European Maritime and Fisheries Fund and repealing Regulation (EC) No 1198/2006⁶ (the 'EMFF Regulation').

Part II of this Regulation shall apply to all the CSF Funds except when the relevant Fund-specific rules establish special rules, which derogate from the common provisions in which case the special rules shall apply. Any Fund-specific rules falling under the Common Strategic Framework can establish complementary rules to the common provisions. These complementary rules, however, cannot be contradictory to the common provisions. In case of doubt about the application between Part II of this regulation and the corresponding Fund-specific rules, the common provisions shall apply.

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Article 2

Definitions

For the purposes of this Regulation, the definitions on financial instruments as laid down in the Financial Regulation shall apply to financial instruments supported by the CSF Funds, except where otherwise provided in this Regulation.

In addition, the following definitions shall apply:

- (7) 'Union strategy for smart, sustainable and inclusive growth' means the targets and shared objectives guiding the action of Member States and the Union set out [...] in the Conclusions adopted by the European Council of 17 June 2010 as Annex I (New European Strategy for Jobs and Growth, EU Headline Targets), Council Recommendation of 13 July 2010 on broad guidelines for the economic policies of the Member States and the Union¹ and Council Decision of 21 October 2010 on guidelines for the employment policies of the Member States, and any revision of such targets and shared objectives.
- (8) 'Common Strategic Framework' means the document translating the objectives and targets of the Union strategy for smart, sustainable and inclusive growth into [key actions] for the CSF Funds, establishing for each thematic objective [the key actions to be supported by each CSF Fund and] the mechanisms for ensuring the coherence and consistency of the programming of the CSF Funds with the economic and employment policies of the Member States and of the Union;
- (4) 'programming' means the process of organisation, decision-making and allocation of financial resources in several stages intended to implement, on a multi-annual basis, the joint action by the Union and the Member States to achieve the Union strategy for smart, sustainable and inclusive growth;

¹ OJ L 191, 23.7.2010, p.28.

(18) 'Partnership **Agreement**' means the document prepared by the Member State with the involvement of partners in line with the multi-level governance approach, which sets out the Member State's strategy, priorities and arrangements for using the CSF Funds in an effective and efficient way to pursue the Union strategy for smart, sustainable and inclusive growth, and which is approved by the Commission following assessment and dialogue with the Member State;

Article 2A

Where pursuant to Articles 15(2) and (3), 25(3), 26 (2), 92(2), 96(2), and 97(3), a time limit is set for the Commission to adopt or amend a decision, by means of an implementing act, the time limit shall not include the period which starts on the day following the date on which the Commission has sent its observations to the Member State and lasts until the Member State has responded to the observations.

PART TWO

COMMON PROVISIONS APPLICABLE TO CSF FUNDS

TITLE I

Principles of Union support for the CSF Funds

Article 3

[...]

Article 4

General principles

1. The CSF Funds shall provide support, through multi-annual programmes, which complements national, regional and local intervention, to deliver the Union strategy for smart, sustainable and inclusive growth **as well as the Fund-specific missions pursuant to their Treaty-based objectives**, taking account of the **relevant** Integrated Guidelines, the **relevant** country-specific recommendations under Article 121(2) of the Treaty and the relevant Council recommendations adopted under 148(4) of the Treaty.
2. The Commission and the Member States shall ensure that support from the CSF Funds is consistent with the **relevant** policies and priorities of the Union and complementary to other instruments of the Union **while taking account of the specific context of each Member State**.
3. Support from the CSF Funds shall be implemented in close cooperation between the Commission and the Member States **in accordance with the principle of subsidiarity**.

- 4 Member States, **at the appropriate territorial level in accordance with their institutional, legal and financial framework** and the bodies designated by them for that purpose shall be responsible for **preparing and** implementing programmes and carrying out their tasks **in compliance with** this Regulation and the Fund-specific rules [...].
5. Arrangements for the implementation and use of the CSF Funds, and in particular the financial and administrative resources required for the **preparation and** implementation of the CSF Funds, in relation to the reporting, evaluation, management and control shall **respect** the principle of proportionality having regard to the level of support allocated **and taking into account the overall aim of reducing administrative burdens.**
6. In accordance with their respective responsibilities, the Commission and the Member States shall ensure coordination among the CSF Funds, and with other **relevant** Union policies, **strategies** and instruments, including those in the framework of the Union's external action.
7. The part of the Union budget allocated to the CSF Funds shall be implemented within the framework of shared management between the Member States and the Commission, in accordance with Article 53(b) of the Financial Regulation, with the exception of [the amount of the CF transferred to the Connecting Europe Facility referred to in Article 84(4) and] innovative actions at the initiative of the Commission under Article 9 of the ERDF Regulation, and technical assistance at the initiative of the Commission.
8. The Commission and the Member States shall apply the principle of sound financial management in accordance with Article 27 of the Financial Regulation.
9. The Commission and the Member States shall ensure the effectiveness of the CSF Funds **during preparation and implementation, including through monitoring, reporting and evaluation.**

10. The Commission and the Member States shall carry out their respective roles in relation to the CSF Funds with the aim of reducing the administrative burden for beneficiaries.

Article 5

Partnership and multi-level governance

1. For the Partnership **Agreement** and each programme respectively, a Member State shall **in accordance with national rules and practices** organise a partnership with the following partners:
- (a) competent regional, local, urban and other public authorities;
 - (b) economic and social partners; and
 - (c) **concerned** bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination.
2. In accordance with the multi-level governance approach, the partners **referred to in paragraph 1** shall be involved by Member States in the preparation of Partnership **Agreements** and progress reports and in the preparation **and** implementation [...] of programmes, **including participation in the monitoring committees for programmes**.
3. [...]
4. At least once a year, for each CSF Fund, the Commission shall consult the organisations which represent the partners at Union level on the implementation of support from the CSF Funds.

Article 6

Compliance with Union and national law

Operations financed by the CSF Funds shall comply with applicable Union and national law.

Article 7

Promotion of equality between men and women and non-discrimination

The Member States and the Commission shall ensure that equality between men and women and the integration of gender perspective is promoted in the preparation and implementation of programmes.

The Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation and implementation of programmes.

Article 8

Sustainable development

The objectives of the CSF Funds shall be pursued in the framework of sustainable development and the Union's promotion of the aim of protecting and improving the environment, as set out in Article 11 of the Treaty, taking into account the polluter pays principle.

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 **Agreements** and programmes. Member States shall provide information on the support for climate change objectives using the methodology **based on the categories of intervention or measures**

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).

Article 10

Common Strategic Framework

In order to promote the harmonious, balanced and sustainable development of the Union, a Common Strategic Framework shall **provide strategic orientation on the contribution of the CSF Funds to the achievement of the** objectives and targets of the Union strategy for smart, sustainable and inclusive growth **taking into account the key territorial challenges for different types of territories** [and key actions for the CSF Funds].

Article 11

Content

The Common Strategic Framework shall present:

- (a) [for each thematic objective, the key actions to be supported by each CSF Fund;]
- (b) the key territorial challenges for urban, rural, coastal and fisheries areas, as well as for areas with particular territorial features referred to in Articles 174 and 349 of the Treaty **and the means with which the CSF Funds can translate the key territorial challenges into national, regional and local interventions and address them in an integrated way;**
- (c) horizontal principles and policy objectives for the implementation of the CSF Funds;
- (d) priority areas for cooperation activities for each of the CSF Funds, where appropriate, taking account of macro-regional and sea basin strategies;
- (e) coordination mechanisms among the CSF Funds, and with other relevant Union policies and instruments, including external instruments for cooperation;

- (f) mechanisms for ensuring the coherence and consistency of the programming of the CSF Funds with the **relevant** country-specific recommendations under Article 121(2) of the Treaty and the relevant Council recommendations adopted under Article 148(4) of the Treaty.

Article 12

Adoption and review

The Common Strategic Framework is set out in Annex [X].

Where there are major changes **in the social and economic situation in the Union or** in the Union strategy for smart, sustainable and inclusive growth, **the Common Strategic Framework may be subject to revision in which case either the European Parliament or the Council may ask the Commission to submit a proposal for the necessary amendments.**

[...].

CHAPTER II

Partnership Agreement

Article 13

Preparation of the Partnership Agreement

1. Each Member State shall prepare a Partnership **Agreement** for the period from 1 January 2014 to 31 December 2020.
2. The Partnership **Agreement** shall be drawn up by Member States in cooperation with the partners referred to in Article 5. The Partnership **Agreement** shall be prepared in dialogue with the Commission.
3. The Partnership **Agreement** shall cover all support from the CSF Funds in the Member State concerned.
4. Each Member State shall transmit its Partnership **Agreement** to the Commission within **4** months of the entry into force of this Regulation.

Article 14

Content of the Partnership Agreement

1. The Partnership **Agreement** shall set out:
 - (a) arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth, including:

- (i) an analysis of disparities, [...] development needs, **and growth potentials** with reference to the thematic objectives and **the territorial challenges and** [key actions defined in the Common Strategic Framework [...]] **taking account of the national reform programme, where appropriate, [and [...] relevant** country-specific recommendations under Article 121(2) of the Treaty and [...] relevant Council recommendations adopted under Article 148(4) of the Treaty;
- (ii) **a summary** of the *ex ante* evaluations of the programmes **or key findings of the ex ante evaluations of the Partnership Agreement where undertaken by the Member State at its own initiative** [...];
- (iii) **selected** thematic objectives, **and for each of the selected thematic objectives** a summary of the main results expected for each of the CSF Funds;
- (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;
- (v) [...];
- (v) **planned application of** horizontal principles and policy objectives for the implementation of the CSF Funds;
- (vi) the list of the programmes under the ERDF, the ESF and the CF, except those under the European territorial cooperation goal, and of the programmes of the EAFRD and the EMFF, with the respective indicative allocations by CSF Fund and by year;

- (b) **arrangements to ensure effective implementation, including:**
- (i) **the information required for ex ante verification of compliance with the rules on additionality as they are defined in Part Three of this Regulation;**
 - (ii) **a summary of the assessment of the fulfilment of ex ante conditionalities relevant at national level and of the actions to be taken, the responsible bodies and the timetable for their implementation, where ex ante conditionalities are not fulfilled;**
 - (iii) **the methodology and mechanism to ensure consistency in the functioning of the performance framework across programmes and CSF Funds;**

These elements shall be subject to approval by a Commission decision as set out in Article 15.

2. The Partnership Agreement shall also indicate:

- (a) **an integrated approach to territorial development supported by the CSF Funds or a summary of the integrated approaches to territorial development based on the content of the operational programmes, setting out:**
- (i) **the arrangements** at national and, **where appropriate,** regional level that ensure coordination between the CSF Funds and other Union and national funding instruments and with the EIB;
 - (ii) the arrangements to ensure an integrated approach to the use of the CSF Funds for the territorial development of **different types of territories, including** urban, rural, coastal and fisheries areas and areas with particular territorial features, in particular the implementation arrangements for Articles 28, 29 and 99 [accompanied, where appropriate, by a list of the cities to participate in the urban development platform referred to in Article 8 of the ERDF Regulation];

(iii) the main priority areas for cooperation, taking account, where appropriate, of macro-regional strategies and sea basin strategies;

(iv) where appropriate, an integrated approach to address the specific needs of geographical areas most affected by poverty or of target groups at highest risk of discrimination or exclusion, with special regard to marginalised communities [...];

(d) [...];

(v) a summary of the actions taken to involve the partners **referred to in Article 5** and their role in the preparation of the Partnership **Agreement** and the progress report as defined in Article 46 of this Regulation;

(i) [...];

(ii) [...];

(iii) [...];

(iv) [...];

(b) arrangements to ensure efficient implementation of the CSF Funds, including:

(i) **where necessary, measures** to reinforce the administrative capacity of the authorities and, where appropriate, beneficiaries, and **a summary of** actions to be taken for this purpose;

(ii) a summary of the actions planned [...] in the programmes to achieve a reduction in the administrative burden for beneficiaries;

- (iii) an assessment of the existing systems for electronic data exchange, and **a summary of** the actions planned to **gradually** permit all exchanges of information between beneficiaries and authorities responsible for management and control of programmes to be carried out [...] by electronic data exchange.

These elements shall not be subject to approval by Commission decision except, in cases where a Member State has made use of the provisions of Article 87(8), for the elements requiring a Commission decision under Article 87(10).

Article 15

Adoption and amendment of the Partnership Agreement

1. The Commission shall assess the consistency of the Partnership **Agreement** with this Regulation **and** with the Common Strategic Framework, [and [...] **relevant** country specific recommendations under Article 121(2) of the Treaty and [...] **relevant** Council recommendations adopted under Article 148(4) of the Treaty,] taking account of the *ex ante* evaluations of the programmes, and shall make observations within three months of the date of submission of the Partnership **Agreement**. The Member State shall provide all necessary additional information and, where appropriate, shall revise the Partnership **Agreement**.
2. The Commission shall adopt a decision, by means of implementing acts, approving the **elements of the Partnership Agreement falling under paragraph 1 of Article 14 and under paragraph 2 of Article 14 in cases where a Member State has made use of the provisions of Article 87(8), for the elements requiring a Commission decision under Article 87(10)** no later than **four** months after its submission by the Member State, provided that any observations made by the Commission have been **adequately** taken into account. The Partnership **Agreement** shall not enter into force before 1 January 2014.

3. Where a Member State proposes an amendment to **the elements of** the Partnership **Agreement covered by the Commission's decision as referred to in paragraph 2**, the Commission shall carry out an assessment in accordance with paragraph 1 and, where appropriate, shall adopt a decision, by means of implementing acts, approving the amendment **within three months of its submission by the Member State.**

4. **Where a Member State amends elements of the Partnership Agreement not covered by the Commission decision as referred to in paragraph 2, it shall notify the Commission thereof within one month of the date of the decision of the amendment.**

TITLE III

PROGRAMMING

CHAPTER I

General provisions on the CSF Funds

Article 23

Preparation of programmes

1. The CSF Funds shall be implemented through programmes in accordance with the Partnership **Agreement**. Each programme shall cover the period from 1 January 2014 to 31 December 2020.
2. Programmes shall be drawn up by Member States or any authority designated by them, in cooperation with the partners **referred to in Article 5**.
3. Programmes shall be submitted by the Member States at the same time as the Partnership **Agreement** [...] **or at the latest three months after**. **European territorial cooperation programmes shall be submitted within nine months of the entry into force of this Regulation**. All programmes shall be accompanied by the *ex ante* evaluation as set out in Article 48.

Article 24

Content of programmes

1. Each programme shall set out a strategy for the programme's contribution to the Union strategy for smart, sustainable and inclusive growth consistent with the Common Strategic Framework and Partnership **Agreement**. Each programme shall include the arrangements to ensure effective, efficient and coordinated implementation of the CSF Funds and actions to achieve a reduction of administrative burden for beneficiaries.
2. Each programme shall define priorities setting out specific objectives, financial appropriations of support from the CSF Funds and corresponding national co-financing.
3. Each priority shall set out indicators to assess progress of programme implementation towards achievement of objectives as the basis for monitoring, evaluation and review of performance. These shall include:
 - (a) financial indicators relating to expenditure allocated;
 - (b) output indicators relating to the operations supported;
 - (c) result indicators relating to the priority.

For each CSF Fund, the Fund-specific rules shall set out common indicators and may provide for programme-specific indicators.

4. Each programme, except those which cover exclusively technical assistance, shall include a description of the actions **in accordance with the Fund-specific rules** 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.
6. Member States shall draft the programme in accordance with the Fund-specific rules.

Article 25

The procedure for adoption of programmes

1. The Commission shall assess the consistency of programmes with this Regulation, the Fund-specific rules, their effective contribution to the **selected** thematic objectives and the Union priorities specific to each CSF Fund, the Common Strategic Framework, **and** the Partnership **Agreement**, [...] **relevant** country specific recommendations under Article 121(2) of the Treaty and [...] **relevant** Council recommendations adopted under 148(4) of the Treaty,] taking account of the *ex ante* evaluation. The assessment shall address, in particular, the adequacy of the programme strategy, the corresponding objectives, indicators, targets and the allocation of budgetary resources.
2. The Commission shall make observations within three months of the date of submission of the programme. The Member State shall provide to the Commission all necessary additional information and, where appropriate, revise the proposed programme.
3. In accordance with the Fund-specific rules, the Commission shall approve each programme no later than six months following its formal submission by the Member State(s), provided that any observations made by the Commission have been **adequately** taken into account, but not before 1 January 2014 or before adoption by the Commission of a decision approving the Partnership **Agreement**. **The condition concerning the decision approving the Partnership Agreement does not apply to programmes under the European territorial cooperation goal.**

Amendment of programmes

1. Requests for amendment of programmes submitted by a Member State shall be duly substantiated and shall in particular set out the expected impact of the changes to the programme on achieving the Union strategy for smart, sustainable and inclusive growth and the specific objectives defined in the programme, taking account of the Common Strategic Framework and the Partnership **Agreement**. They shall be accompanied by the revised programme [...].

[...]
2. The Commission shall assess the information provided in accordance with paragraph 1, taking account of the justification provided by the Member State. The Commission may make observations **within one month following the formal submission of the revised programme** and the Member State shall provide to the Commission all necessary additional information. In accordance with Fund-specific rules, the Commission shall approve requests for amendment of a programme **as soon as possible but** no later than **three** months after their formal submission by the Member State provided that any observations made by the Commission have been **adequately** taken into account. [...].

Where the amendment of a programme affects the information provided in the Partnership Agreement in accordance with Article 14(1)(a)(iii), (iv), (vi), the approval of the amendment of the programme by the Commission shall at the same time constitute an approval for the consequential revision of the information in the Partnership Agreement.

TITLE II

PROGRAMMING

CHAPTER I

General provisions on the Funds

Article 87

Content, adoption and amendment of operational programmes under the Investment for growth and jobs goal

1. An operational programme shall consist of priority axes. A priority axis shall concern one Fund **and one** category of region, **except for the Cohesion Fund**, and shall correspond, without prejudice to Article 52, to a thematic objective and comprise one or more investment priorities of that thematic objective, in accordance with the Fund-specific rules. **In duly justified circumstances**, a priority axis may **where necessary to increase impact and effectiveness in a thematically coherent integrated approach to pursuing the objectives and targets of the Union strategy for smart, sustainable and inclusive growth**:
 - a. **concern more than one category of region**;
 - b. **combine one or more complementary investment priorities from the ERDF, CF and ESF under one thematic objective**;
 - c. **combine one or more complementary investment priorities from different thematic objectives up to 20 % of the EU contribution to an operational programme**;
 - d. For the ESF [...] **combine investment priorities from different thematic objectives set out in Article 9(8), (9), (10) and (11) in order to facilitate their contribution to other priority axes [...]**.

Member States may combine two or more of the options a)-d).

2. An operational programme shall set out:

(a) **a justification of the choice of thematic objectives, corresponding investment priorities and financial allocations having regard to the Partnership Agreement, based on** an identification **of regional and, where appropriate, national** needs **[including the needs** addressing the challenges identified in [...] **relevant** country-specific recommendations **and [...] broad guidelines of the economic policies of the Member States and of the Union** under Article 121(2) and [...] **relevant** Council recommendations **which the Member States shall take into account in their employment policies** adopted under Article 148(4) of the Treaty] taking into account the **ex ante evaluation**.

(i) [...];

(ii) [...];

(b) for each priority axis **other than technical assistance**:

(i) the investment priorities and corresponding specific objectives;

(ii) **in order to strengthen the result-orientation of the programming, the expected results for each specific objective, and the corresponding** result indicators, with a baseline value and a target value, **where appropriate quantified**, in accordance with the Fund-specific rules;

(iii) a description of **the type and examples of** actions to be supported **under each investment priority and their expected contribution to the specific objectives referred to in point (i) including the guiding principles for the selection of operations and where appropriate, the identification of main target groups, specific territories targeted and types of beneficiaries** and the planned use of financial instruments **and major projects**;

- (iv) **the common and specific output indicators, including the quantified target value, which are expected to contribute to the results, in accordance with Fund-specific rules, for each investment priority;**
- (v) **identification of implementation steps and financial and output indicators to act as milestones and targets for the performance framework in accordance with Article 19(1) and annex I;**
- (vi) the corresponding categories of intervention based on a nomenclature adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to Article 143(3), and an indicative breakdown of the programmed resources;
- (vii) **where appropriate, a summary of the planned use of technical assistance including actions to reinforce the administrative capacity of authorities and beneficiaries;**

(c) [...]:

(i) [...];

(ii) [...];

(iii) [...];

(iv) [...];

(v) [...];

(vi) [...];

(d) [...];

(e) [...]:

(i) [...];

(ii) [...];

(iii) [...];

(f) [...]:

(i) [...];

(ii) [...];

(iii) [...];

(c) For each priority axis concerning technical assistance:

(i) specific objectives;

(ii) the expected results for each specific objective, and, where objectively justified given the content of the actions, the corresponding result indicators, with a baseline value and a target value, in accordance with the Fund-specific rules;

(iii) a description of actions to be supported and their expected contribution to the specific objectives referred to in point (i);

(iv) the specific output indicators which are expected to contribute to the results.

(v) the corresponding categories of intervention based on a nomenclature adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to Article 143(3), and an indicative breakdown of the programmed resources;

Point (ii) shall not apply where the Union contribution to the priority axis or axes concerning technical assistance in an operational programme does not exceed EUR 15.000.000.

(d) a financing plan containing two tables:

- (i) a table specifying for each year, in accordance with Articles 53, 110 and 111, the amount of the total financial appropriation envisaged for the support from each of the Funds;
- (ii) a table specifying, for the whole programming period, for the operational programme and for each priority axis, the amount of the total financial appropriation of the support from **each of** the Funds and the national co-financing. **For priority axes, which concern several categories of region, the table shall specify the amount of total financial appropriation from the Funds and the national co-financing for each category of region.**

For priority axes, which combine investment priorities from different thematic objectives, the table shall specify the amount of total financial appropriation from each of the Funds and the national co-financing for each of the corresponding thematic objectives.

Where the national co-financing is made up of public and private co-financing, the table shall give the indicative breakdown between the public and the private components. It shall show, for information purposes, the envisaged participation from the EIB;

(e) A list of major projects for which the implementation is planned during the programming period;

(h) [...]:

(i) [...];

(ii) [...].

3. **The Operational Programme shall describe, taking into account its content and objectives, the integrated approach to territorial development, having regard to the Partnership Agreement, and showing how it contributes to the accomplishment of the programme objectives and expected results, specifying, where appropriate, the following:**

(i) [...];

(ii) [...];

(iii) [...].

[...].

(a) the approach to the use of community led local development instruments and the principles for identifying the areas where it will be implemented;

(b) [the principles for identifying the cities where integrated actions for sustainable urban development will be implemented, the indicative annual allocation of the ERDF support for these actions, including the resources delegated to cities for management under Article 7(2) of Regulation (EU) No [ERDF] and the indicative allocation of ESF support for integrated actions;]

(c) the approach to the use of the Integrated Territorial Investment instrument [other than in cases covered by b)], and their indicative financial allocation from each priority axis;

(d) the arrangements for interregional and transnational actions with beneficiaries located in at least one other Member State;

(e) the contribution of the planned interventions to macro-regional strategies and sea-basin strategies subject to the needs of the programme area as identified by the Member State.

4. **In addition, the Operational Programme may, where appropriate, specify the following:**

[...].

(a) the identification of whether and how it addresses the specific needs of geographical areas most affected by poverty or target groups at highest risk of discrimination or exclusion, with special regard to marginalised communities, where relevant the contribution to the integrated approach set out in the Partnership Agreement to this end;

5. **The Operational Programme shall identify:**

(a) the [accrediting body], the managing authority, the certifying authority, where applicable, and the audit authority;

(b) the body to which payments will be made by the Commission;

(c) the actions taken to involve the partners referred to in Article 5 in the preparation of the operational programme, and the role of the partners in the implementation, monitoring and evaluation of the operational programme;

- 6. The Operational Programme shall also set out the following, having regard to the content of the Partnership Agreement and taking into account the Institutional Framework of the Member States:**
- (a) the mechanisms that ensure coordination between the Funds, the EAFRD, the EMFF and other Union and national funding instruments, and with the EIB;**
 - (b) for each ex ante conditionality, established in accordance with Article 17 and Annex IV, that is not fulfilled at the date of submission of the Partnership Agreement and operational programme, a description of the actions to fulfil the ex ante conditionality, the responsible bodies and a timetable for such actions where applicable in accordance with the summary submitted in the Partnership Agreement;**
 - (c) a summary of the assessment of the administrative burden for beneficiaries and the actions planned to achieve a reduction;**
- 7. Each operational programme, except those where technical assistance is undertaken under a specific operational programme, shall, subject to the Member State's assessment of their relevance to the content and objectives of the programmes, include:**
- (a) 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;**

- (b) a description of the specific actions to promote equal opportunities and prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, design and implementation of the operational programme and in particular in relation to access to funding, taking account of the needs of the various target groups at risk of such discrimination and in particular the requirements of ensuring accessibility for disabled persons;**
- (c) a description of its contribution to the promotion of equality between men and women and, where appropriate, the arrangements to ensure the integration of gender perspective at operational programme and operation level.**

Member States may submit an opinion of the national equality bodies on the measures set out in points (b) and (c) with the proposal for an operational programme under the Investment for growth and jobs goal.

- 8. When a Member State prepares a maximum of one operational programme for each Fund, the elements of the operational programme falling under paragraphs 2(a), 3(a), (c) and (d), 4, and 6 of this Article may be incorporated solely under the relevant provisions of the Partnership Agreement.**
- 9. The operational programme shall be prepared according to the model, which shall be adopted by the Commission, by means of an implementing act, with advisory procedure in accordance with Article 143 (2).**
- 10. The Commission shall adopt a decision, by means of implementing acts, approving all the elements (including any of its future amendments) of the operational programme falling under this Article, except those falling under paragraphs 2(b)(vi), 2 (e), 4, 5, 6(a), 6(c) and 7 of this Article, which remain under the responsibility of the Member States.**

- 11. Any decision amending the elements of the operational programme not covered by the Commission decision pursuant to paragraph 10 shall be notified by the managing authority to the Commission within one month of the date of the decision. The decision shall specify the date of its entry into force, which shall not be earlier than the date of its adoption.**

CHAPTER III

Joint action plan

Article 93

Scope

1. A joint action plan is an operation defined and managed in relation to the outputs and results which it will achieve. It comprises **a project** or a group of projects, not consisting in the provision of infrastructure, carried out under the responsibility of the beneficiary, as part of an operational programme or programmes. The outputs and results of a joint action plan shall be agreed between the Member State and the Commission and shall contribute to specific objectives of the operational programmes and form the basis of support from the Funds. Results shall refer to direct effects of the joint action plan. The beneficiary shall be a public law body. Joint action plans shall not be considered as major projects.
2. The public support allocated to a joint action plan shall be a minimum of EUR 10 000 000 or 20 % of the public support of the operational programme or programmes, whichever is lower. **The public support allocated to one joint action plan per Member State may be a minimum of EUR 5 000 000.**

Article 94

Preparation of joint action plans

1. The Member State, the managing authority or any designated public law body may submit a proposal for a joint action plan at the same time as or subsequent to the submission of the operational programmes concerned. It shall contain all the elements referred to in Article 95.

2. A joint action plan shall cover part of the period between 1 January 2014 and 31 December 2022. The outputs and results of a joint action plan shall give rise to reimbursement only if attained after the date of the decision of approval of the joint action plan and before the end of the implementation period defined.

Article 95

Content of joint action plans

The joint action plan shall contain:

- (1) an analysis of the development needs and objectives justifying the joint action plan, taking into account the objectives of the operational programmes and, where applicable, the country-specific recommendations and the broad guidelines of the economic policies of the Member States and of the Union under Article 121(2) and the Council recommendations which the Member States shall take into account in their employment policies under Article 148(4) of the Treaty;
- (2) the framework describing the relationship between the general and specific objectives of the joint action plan, the milestones and the targets for outputs and results, and the projects or types of projects envisaged;
- (3) the common and specific indicators used to monitor outputs and results, where relevant, by priority axis;
- (4) information on the geographic coverage and target groups of the joint action plan;
- (5) the expected implementation period of the joint action plan;
- (6) an analysis of the effects of the joint action plan on the promotion of equality between men and women and the prevention of discrimination;

- (7) an analysis of the effects of the joint action plan on the promotion of sustainable development, where appropriate;
- (8) the implementing provisions for the joint action plan, including the following:
 - a) the designation of the beneficiary responsible for the implementation of the joint action plan, providing guarantees of its competence in the domain concerned as well as its administrative and financial management capacity;
 - b) the arrangements for steering the joint action plan, in accordance with Article 97;
 - c) the arrangements for monitoring and evaluating the joint action plan including arrangements ensuring the quality, collection and storage of data on the achievement of milestones, outputs and results;
 - d) the arrangements ensuring the dissemination of information and communication on the joint action plan and on the Funds;
- (9) the financial arrangements of the joint action plan, including the following:
 - a) the costs of achieving milestones, outputs and result targets with reference to point (2), based on the methods set out in Article 57(4) and in Article 14 of the ESF Regulation;
 - b) an indicative schedule of payments to the beneficiary linked to the milestones and targets;
 - c) the financing plan by operational programme and priority axis, including the total eligible amount and the public support.

The format for the joint action plan shall be set up in accordance with the model adopted by the Commission, by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 143(2).

Article 96

Decision on the joint action plan

1. The Commission shall appraise the joint action plan on the basis of the information referred to in Article 95 in order to determine whether support from the Funds is justified.

Where the Commission, within **two** months following the submission of a joint action plan proposal, considers that it does not meet the appraisal requirements, it shall make observations to the Member State. The Member State shall provide to the Commission all necessary additional information requested and, where appropriate, revise the joint action plan accordingly.

2. Provided that any observations have been **adequately** taken into account, the Commission shall adopt a decision, **by means of an implementing act**, approving the joint action plan no later than **3** months after its submission by the Member State but not before the adoption of the operational programmes concerned.
3. The decision referred to in paragraph 2 shall indicate the beneficiary and the objectives of the joint action plan, the milestones and targets for outputs and results, the costs of achieving these milestones, outputs and result targets, and the financing plan by operational programme and priority axis, including the total eligible amount and the public contribution, the implementation period of the joint action plan and, where relevant, the geographical coverage and target groups of the joint action plan.

4. Where the Commission refuses, **by means of an implementing act**, to allow support from the Funds to be given to a joint action plan, it shall notify the Member State of its reasons within the period laid down in paragraph 2.

Article 97

Steering Committee and amendment of the joint action plan

1. The Member State or the managing authority shall set up a steering committee for the joint action plan, distinct from the monitoring committee of the operational programmes. The steering committee shall meet at least twice a year.

Its composition shall be decided by the Member State in agreement with the managing authority, respecting the principle of partnership.

The Commission may participate in the work of the steering committee in an advisory capacity.

2. The steering committee shall carry out the following activities:
 - a) review progress towards achieving the milestones, outputs and results of the joint action plan;
 - b) consider and approve any proposal to amend the joint action plan in order to take account of any issues affecting its performance.
3. Requests for amendment of joint action plans submitted by a Member State shall be duly substantiated. The Commission shall assess whether the request for amendment is justified, taking account of the information provided by the Member State. The Commission may make observations and the Member State shall provide to the Commission all necessary additional information. The Commission shall adopt a decision, **by means of an implementing act**, on a request for amendment no later than three months after its formal submission by the Member

State, provided that any observations made by the Commission have been satisfactorily taken into account. The amendment shall enter into force from the date of the decision, unless otherwise set out in the decision.

Article 98

Financial management and control of the joint action plan

1. Payments to the beneficiary of a joint action plan shall be treated as lump sums or standard scales of unit costs. The ceiling for lump sums set out in Article 57(1)(c) shall not apply.
2. The financial management, control and audit of the joint action plan shall aim exclusively at verifying that the conditions for payments defined in the decision approving the joint action plan have been fulfilled.
3. The beneficiary and bodies acting under its responsibility may apply their accounting practices for the costs of implementing operations. These accounting practices and the costs actually incurred by the beneficiary shall not be subject to audit by the audit authority or the Commission.

Programming ESF

Chapter II

Specific provisions for programming and implementation

Article 6

Involvement of partners

1. The involvement of the social partners and other stakeholders, in particular non-governmental organisations, in the implementation of operational programmes, as referred to in Article 5 of Regulation (EU) No [...], may take the form of global grants as defined in Article 113(7) of Regulation (EU) No [...]. In such a case, the operational programme shall identify the part of the programme concerned by the global grant, including an indicative financial allocation from each priority axis to it.
2. To encourage adequate participation of the social partners in actions supported by the ESF, managing authorities of an operational programme in a region as defined in Article 82(2)(a) of Regulation (EU) No [...] or in Member States eligible for Cohesion Fund support **may** ensure that an appropriate amount of ESF resources is allocated to capacity-building activities, in the form of training, networking measures, and strengthening of the social dialogue, and to activities jointly undertaken by the social partners.
3. To encourage adequate participation of and access by non-governmental organisations to actions supported by the ESF, notably in the fields of social inclusion, gender equality and equal opportunities, the managing authorities of an operational programme in a region as defined in Article 82(2)(a) of Regulation (EU) No [...] or in Member States eligible for Cohesion Fund support **may** ensure that an appropriate amount of ESF resources is allocated to capacity-building for non-governmental organisations.

Article 7

Promotion of equality between men and women

The Member States and the Commission shall promote equality between men and women through mainstreaming as referred to in Article 7 of Regulation (EU) No [...] and specific targeted actions as referred to in Article 3(1)(a)(iv), in particular with the aim of increasing the sustainable participation and progress of women in employment, reducing gender-based segregation in the labour market, combating gender stereotypes in education and training and promoting reconciliation of work and personal life for men and women.

Article 8

Promotion of equal opportunities and non-discrimination

The Member States and the Commission shall promote equal opportunities for all, including accessibility for disabled persons through mainstreaming the principle of non-discrimination, as referred to in Article 7 of Regulation (EU) No [...]. **They may also be promoted** through specific actions within the investment priorities as defined in Article 3, and in particular Article 3(1)(c)(iii). Such actions shall target people at risk of discrimination and people with disabilities, with a view to increasing their labour market participation, enhancing their social inclusion, reducing inequalities in terms of educational attainment and health status and facilitating the transition from institutional to community-based care.

Article 9

Social innovation

1. The ESF shall promote social innovation within all areas falling under the scope of the ESF, as defined in Article 3 of this Regulation, in particular with the aim of testing and scaling up innovative solutions to address social needs.
2. Member States **may** identify themes for social innovation, corresponding to their specific needs in their operational programmes.

3. The Commission shall facilitate capacity building for social innovation, in particular through supporting mutual learning, establishing networks, and disseminating good practices and methodologies.

Article 10

Transnational cooperation

1. Member States **may** support transnational cooperation with the aim of promoting mutual learning and thereby increasing the effectiveness of policies supported by the ESF. Transnational cooperation shall involve partners from at least two Member States.
2. Member States may select themes for transnational co-operation from a list proposed by the Commission and endorsed by the ESF Committee.
3. The Commission shall facilitate transnational cooperation on the themes referred to in paragraph 2 through mutual learning and coordinated or joint action. In particular, the Commission shall operate an EU-level platform to facilitate the exchange of experience, capacity building and networking, as well as dissemination of the relevant outcomes. In addition, the Commission shall develop a coordinated implementation framework, including common eligibility criteria, types and timing of actions, and common methodological approaches for monitoring and evaluation, with a view to facilitating transnational cooperation.

Article 11

Fund-specific provisions for operational programmes

1. By way of derogation from Article 87(1) of Regulation (EU) No [...], operational programmes may set out priority axes for the implementation of social innovation and transnational cooperation as referred to in Articles 9 and 10.

2. By way of derogation from Article 110(3) of Regulation (EU) No [...], the maximum co-financing rate for a priority axis shall be increased by ten percentage points, but not exceeding 100%, where the whole of a priority axis is dedicated to social innovation or to transnational cooperation, or a combination of both.
3. In addition to the provision made in Article 87(3) of Regulation (EU) No [...], operational programmes shall also set out the contribution of planned ESF-supported actions:
 - (a) to the thematic objectives listed under Article 9(1) to (7) of Regulation (EU) No [...] by priority axis, as appropriate;
 - (b) to social innovation and transnational cooperation, as referred to in Articles 9 and 10, where they are not covered by a dedicated priority axis.

Programming ETC

CHAPTER III

PROGRAMMING

Article 7

Content of cooperation programmes

1. A cooperation programme shall consist of priority axes. A priority axis shall concern one Fund, shall correspond to a thematic objective and comprise one or more investment priorities of that thematic objective in line with Articles 5 and 6 of this Regulation. **In duly justified circumstances, a priority axis may combine one or more complementary investment priorities from different thematic objectives where necessary to increase impact and effectiveness in a thematically coherent integrated approach to pursuing the objectives of the Union strategy for smart, sustainable and inclusive growth.**
2. A cooperation programme shall set out:
 - (a) a strategy for the cooperation programme's contribution to the Union strategy of smart, sustainable and inclusive growth including:
 - (i) an **analysis of the situation of [...]** the programme area as a whole **in terms of needs and the strategy chosen in response;**
 - (ii) a justification of the choice of thematic objectives and corresponding investment priorities, having regard to the Common Strategic Framework and the results of the *ex ante* evaluation;

- (b) for each priority axis:
- (i) the investment priorities and corresponding specific objectives;
 - (ii) **in order to strengthen the result-orientation of the programming, the expected results for each specific objective, and the corresponding result indicators, with a baseline value and a target value, in accordance with Article 15;**
 - (iii) a description of **the type and examples of** actions to be supported **under each investment priority and their expected contribution to the specific objectives referred to in point (i), including the guiding principles for the selection of operations and, where appropriate,** the identification of the main target groups, specific territories targeted and types of beneficiaries and the planned use of financial instruments;
 - (iv) **the common and specific output indicators, including the quantified target value, which are expected to contribute to the results, in accordance with Article 15, for each investment priority;**
 - (v) **identification of implementation steps and financial and output indicators to act as milestones and targets for the performance framework in accordance with Article 19(1) of Regulation (EU) No./2012 [CPR];**
 - (vi) **a summary of the planned use of technical assistance including actions to reinforce the administrative capacity of authorities and beneficiaries;**
 - (vii) the corresponding categories of intervention based on a nomenclature adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to in Article 30(3) and an indicative breakdown of the programmed resources;

- (c) **subject to their relevance for the content and objectives of the cooperation programme**, the contribution to the integrated strategy for territorial development set out in the partnership **agreement of the participating Member States** including;
- (i) the mechanisms that ensure coordination between the Funds, the EAFRD, the EMFF and other Union and national funding instruments, **including ENI, EDF, and IPA**, and with the European Investment Bank (EIB);
 - (ii) [...] a planned integrated approach to the territorial development of urban, rural, coastal areas and areas with particular territorial features, in particular the implementation arrangements for Articles 28 and 29 of Regulation (EU) No./2012 [CPR];
 - (iii) **the principles for identifying the [...]** cities where integrated actions for sustainable urban development will be implemented; the indicative annual allocation of the ERDF support for these actions, including the resources delegated to cities for management under Article 7(2) of Regulation (EU) No./2012 [ERDF];
 - (iv) **the approach to the use of** community-led local development **instruments and the principles for identifying the areas where it** will be implemented;
 - (v) [...] the contribution of the planned interventions towards macro regional strategies and sea basin strategies **subject to the needs of the programme area as identified by the relevant Member States**;
- (d) arrangements to ensure the effective implementation of the funds including:
- (i) [...]
 - (ii) the actions taken to involve the partners **referred to in Article 5 of Regulation (EU) No./2012 [CPR]** in the preparation of the cooperation programme, and the role of these partners in the **preparation** and implementation [...], of the cooperation programme, **including their involvement in the monitoring committee**;

- (e) arrangements to ensure the efficient implementation of the funds including:
- (i) [...]
 - (ii) **a summary of the** assessment of the administrative burden for beneficiaries and the actions planned to achieve a reduction [...];
 - (iii) a list of major projects for which **the implementation is planned during the programming period;**
- (f) a financing plan containing two tables (without any division per participating Member State):
- (i) a table specifying for each year, in accordance with Articles 53, 110 and 111 of Regulation (EU) No./2012 [CPR], the amount of the total financial appropriation envisaged for the support from the ERDF;
 - (ii) a table specifying, for the whole programming period, for the cooperation programme and for each priority axis, the amount of the total financial appropriation of the support from the ERDF and the national co-financing. **For priority axes, which combine investment priorities from different thematic objectives, the table shall specify the amount of total financial appropriation and the national co-financing for each of the corresponding thematic objectives.** Where the national co-financing is made up of public and private co-financing, the table shall give the indicative breakdown between the public and the private components. It shall show, for information purposes, the envisaged participation from the EIB;
- (g) the implementing provisions for the cooperation programme containing:
- (i) identification of [the accreditation body,] the managing authority, **the certifying authority, where appropriate,** and the audit authority;
 - (ii) the body or bodies designated to carry out control tasks;

- (iii) the body or bodies designated to be responsible for carrying out audit tasks;
- (iv) the procedure for setting up the joint secretariat;
- (v) a summary description of the management and control arrangements;
- (vi) the apportionment of liabilities among the participating Member States in case of financial corrections imposed by the managing authority or the Commission.

Information required under points (a) to (d) shall be adapted to the specific character of cooperation programmes under Article 2(3)(b), (c) and (d) of this Regulation.

Information required under point (e)(ii) and (iii) shall not be included in cooperation programmes under Article 2(3)(b), (c) and (d) of this Regulation.

3. Each cooperation programme shall **subject to the relevant Member States' assessment of their relevance to the content and objectives of the programme** include:

- (i) a description of specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, and risk prevention and risk management in the selection of operations;
- (ii) a description of the specific actions to promote equal opportunities and prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, design and implementation of the cooperation programme and in particular in relation to access to funding taking account of the needs of the various target groups at risk of such discrimination and in particular the requirements of ensuring accessibility for disabled persons;
- (iii) a description of its contribution to the promotion of equality between men and women and where appropriate the arrangements to ensure the integration of gender perspective at programme and operation level.

Member States **may** submit an opinion of the national equality bodies on the measures set out in points (ii) and (iii) with the proposal for a cooperation programme.

The first and second subparagraph shall not apply to cooperation programmes under Article 2(3)(b), (c) and (d).

4. Cooperation programmes under Article 2(3)(c) and (d) shall define the beneficiary or beneficiaries for such a cooperation programme and may specify the granting procedure.
5. The participating Member States and, **when they have accepted the invitation to participate in the cooperation programme,** third countries or territories, where applicable, shall confirm in writing their agreement to the contents of a cooperation programme prior to its submission to the Commission. This agreement shall also include a commitment of all participating Member States **and, where applicable third countries and territories,** to provide the co-financing necessary to implement the cooperation programme.
6. **The participating** Member States **and, when they have accepted the invitation to participate in the cooperation programme, third countries or territories** shall draft the cooperation programmes according to the model adopted by the Commission. **By derogation from paragraph 5, in the case of cooperation programmes involving Outermost Regions and third countries, the Member States concerned shall consult the respective third countries before submitting the programmes to the Commission. In this case, the agreements to the contents of the cooperation programmes and the possible contribution of the third countries can instead be expressed in the formally approved minutes of the consultation meetings with the third countries or the deliberations of the regional cooperation organisations.**
7. The Commission shall adopt that model by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2).

8. **The Commission shall adopt a decision, by means of implementing acts, approving all elements (including any of its future amendments) falling under this article except those falling under paragraph (2)(b)(vii), (c)(i), (d)(ii), (e)(i) (ii), (g)(i) and (3) of this Article, which remain under the responsibility of the participating Member States.**

9. **Any decision amending the elements of the operational programme not covered by the Commission decision pursuant to paragraph 8 shall be notified by the managing authority to the Commission within one month of the date of the decision. The decision shall specify the date of its entry into force, which shall not be earlier than the date of its adoption.**

Article 8

Joint Action Plan

Where a joint action plan referred to in Article 93(1) of Regulation (EU) No./2012 [CPR] is carried out under the responsibility of an EGTC as beneficiary, staff of the joint secretariat of the cooperation programme and members of the Assembly of the EGTC may become members of the steering committee referred to in Article 97(1) of Regulation (EU) No./2012 [CPR]. The members of the Assembly of the EGTC shall not form the majority within that steering committee.