

Texty nařízení předběžně schválené
Radou EU během dánského předsednictví
formou částečného obecného přístupu
**pro fondy Společného strategického rámce
a politiky soudržnosti:**

Obecné nařízení
Přílohy obecného nařízení
Nařízení pro ERDF
Nařízení o podpoře EÚS z ERDF
Nařízení pro ESF
Nařízení pro FS

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006

Recital 17

- (17) Member States should concentrate support to ensure a significant contribution to the achievement of Union objectives in line with their specific national and regional development needs. *Ex ante* conditionalities **as well as a concise and exhaustive set of objective criteria for their assessment** should be defined to ensure that the necessary **prerequisites** for the effective **and efficient** use of Union support are in place. **To this end, an *ex ante* conditionality should apply to a priority of a given programme only when it has a direct and genuine link to and a direct impact on the effective and efficient achievement of the specific objectives for an investment priority or a Union priority, while not every specific objective is necessarily linked to an *ex ante* conditionality laid down in the Fund-specific rules.** The fulfilment of **the applicable *ex ante* conditionalities** should be assessed by the **Member State** in the framework of its **establishment** of the Partnership **Agreement or** programmes, **taking account of the principle of proportionality.** **The Commission shall verify the consistency of this assessment in accordance with the principles of proportionality and subsidiarity and respecting national and regional competences to decide on the specific and adequate policy measures, including the content of strategies.** In cases where there is a failure to fulfil an **applicable *ex ante* conditionality within the defined deadline**, the Commission should have the power to suspend **interim** payments to the **affected parts of the** programme **under precisely pre-defined conditions.**

New Recital

Public Private Partnerships ("PPPs") can be an effective means of delivering projects that ensure the achievement of public policy objectives by bringing together different forms of public and private resources. In order to facilitate the use of CSF Funds to support operations structured as PPPs this Regulation takes account of certain characteristics specific to PPPs by adapting some of the common provisions.

New Recital

In order to optimise the added value from investments funded wholly or in part through the EU Budget in the field of research and innovation, synergies will be sought in particular between the operation of the CSF Funds and Horizon 2020 whilst respecting their distinct objectives. Key mechanisms for achieving these synergies will be the recognition of

simplified costs from Horizon 2020 for a similar operation and beneficiary and the possibility to combine funding from different Union instruments, including CSF funds and Horizon 2020, in the same project while avoiding double financing. In order to strengthen the research and innovation capacities of national and regional actors and to achieve the goal of building a "Stairway to excellence" in less developed regions, close synergies should be developed between the CSF Funds and Horizon 2020 in all relevant programme priorities.

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) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the European Regional Development Fund and repealing Regulation (EC) No 1080/2006² (the 'ERDF Regulation');

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- (2) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the European Social Fund and repealing Regulation (EC) No 1081/2006³ (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 1084/2006⁴ (the 'CF Regulation');
- (4) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on European territorial cooperation⁵ (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 1698/2005⁶ (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 1198/2006⁷ (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.

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 Union⁸ 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.

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4 OJ L , p. .

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OJ L 191, 23.7.2010, p.28.

- (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;
- (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.

Art. 2: new definition:

"Applicable *ex ante* conditionality" means a precisely pre-defined critical factor, which is a necessary prerequisite for and has a direct and genuine link to and direct impact on the effective and efficient achievement of the specific objective for an investment priority or a Union priority."

Art. 2: new definition:

"A specific objective is the result to which an investment priority or Union priority shall contribute in a specific national or regional context through actions or measures undertaken within a priority."

Art. 2: new definition:

"Public private partnerships" (PPPs) are forms of cooperation between public bodies and the private sector, which aim to improve the delivery of investments in infrastructure projects or other types of operations delivering public services through risk sharing, pooling of private sector expertise or additional sources of capital.

Art. 2: new definition:

"escrow account" means a bank account covered by a written agreement between the managing authority (or an intermediate body) and the entity implementing a financial instrument, or in the case of a PPP operation a written agreement between the public body beneficiary and the private partner approved by the managing authority (or an intermediate body), set up specifically to hold funds to be paid out after the eligibility period, exclusively for the purposes foreseen in Article 36(1)(c), Article 36(2), Article 36(2) bis and Article 54/C of this Regulation, or a bank account set up on terms providing equivalent guarantees on the payments out of the fund.

"fund of funds" means a fund set up with the objective to contribute support from programmes to several bodies implementing financial instruments. Where financial instruments are implemented through a fund of funds, the body implementing the fund of funds shall be considered the only beneficiary in the meaning of Article 2(8).

"beneficiary" means a public or private body responsible for initiating or initiating and implementing operations; in the context of State aid, the term 'beneficiary' means the body which receives the aid; in the context of financial instruments, the term 'beneficiary' means the body that implements the financial instrument, or the fund of funds as applicable;

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).

TITLE II

STRATEGIC APPROACH

CHAPTER I

Thematic objectives for the CSF Funds and Common Strategic Framework

Article 9

Thematic objectives

Each CSF Fund shall support the following thematic objectives in accordance with its mission in order to contribute to the Union strategy for smart, sustainable and inclusive growth:

- (1) strengthening research, technological development and innovation;
- (2) enhancing access to, and use and quality of, information and communication technologies;
- (3) enhancing the competitiveness of small and medium-sized enterprises, the agricultural sector (for the EAFRD) and the fisheries and aquaculture sector (for the EMFF);
- (4) supporting the shift towards a low-carbon economy in all sectors;
- (5) promoting climate change adaptation, risk prevention and management;
- (6) protecting the environment and promoting resource efficiency;
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures;

- (8) promoting employment and supporting labour mobility;
- (9) promoting social inclusion and combating poverty;
- (10) investing in education, skills and lifelong learning;
- (11) enhancing institutional capacity and an efficient public administration.

Thematic objectives shall be translated into priorities specific to each CSF Fund and set out in the Fund-specific rules.

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.**

CHAPTER III

Thematic concentration, *ex ante* conditionalities and performance review

Article 16
Thematic Concentration

Member States shall concentrate support, in accordance with the Fund-specific rules, on **interventions** bringing the greatest added value in relation to the Union strategy for smart, sustainable and inclusive growth **by making efficient use of specific territorial potentials taking into account national and regional needs, the Common Strategic Framework, [...]** the challenges identified in the **relevant** country-specific recommendations under Article 121(2) of the Treaty **on the Functioning of the European Union** and the relevant Council recommendations adopted under **Article 148(4) of the Treaty on the Functioning of the European Union [...]**. **Provisions on thematic concentration under the fund-specific rules do not apply to technical assistance.**

Article 17

Ex ante conditionalities

1. [...]
2. **In accordance with their specific institutional arrangements,** Member States shall assess **in the framework of their establishment of the Partnership Agreement or programmes,** whether the **ex ante conditionalities laid down in the respective fund-specific rules are applicable to the specific objectives pursued within the priorities of their programmes and whether the applicable ex ante conditionalities are fulfilled. Ex ante conditionalities shall apply only to the extent and provided that the definition laid down in Article 2 is complied with regarding the specific objectives pursued under the priorities of the programme. The assessment shall be limited to the criteria laid down in the fund-specific rules and may be proportional having regard to the level of support allocated.**
3. **A programme or the Partnership Agreement shall indicate the applicable ex ante conditionalities, which pursuant to the assessment referred to in paragraph 2,** are not fulfilled at the date of transmission of the Partnership **Agreement, together with the priorities affected, actions to be taken, and their timetable.** Member States shall [...] **fulfill these ex ante conditionalities not later than 31 December 2016 and report on their fulfillment not later than in the annual implementation report in 2017 or the progress report in 2017 in accordance with Article 44 (5) [...].**
4. [...]
4. a The Commission shall assess the **consistency and the adequacy of the** information provided **by the Member State** on the **applicability** of *ex ante* conditionalities **and on the fulfillment of applicable ex ante conditionalities** in the framework of its assessment of the Partnership

Agreement and/or programmes. This assessment shall be limited to the criteria laid down in the fund-specific rules, shall be proportional having regard to the level of support allocated and shall respect national and regional competences to decide on the specific and adequate policy measures including the content of strategies.

4 b In case of disagreement between the Commission and a Member State on the applicability of an *ex ante* conditionality to the specific objective of the priorities of a programme or its fulfillment, both the applicability in accordance with Article 2 and and the non-fulfillment shall be proven by the Commission.

5. [...] The Commission may decide, when adopting a programme, to suspend all or part of interim payments to the **relevant priority of this** programme pending the [...] completion of actions [...] **referred to in paragraph 3 where necessary to avoid significant prejudice to the effectiveness and efficiency of the achievement of the specific objectives of the priority concerned.** The failure to complete actions to fulfil an **applicable *ex ante* conditionality which has not been fulfilled at the date of submission of the respective programme,** by the deadline set out in **paragraph 3,** shall constitute a basis for suspending **interim** payments by the Commission **to the affected priorities of the programme. In both cases, the amount of suspension shall be proportional taking into account the actions to be taken and the funds at risk.**

5. a The provisions of paragraph 5 shall not be applicable in case of agreement between the Commission and the Member State on the non-applicability of an *ex ante* conditionality or on the fact that an applicable *ex ante* conditionality has been fulfilled, as indicated by the approval of the programme and the Partnership Agreement, or in the absence of Commission observations within 60 days of the submission of the report referred to in paragraph 3. [...]

5. b The Commission shall without delay lift the suspension of interim payments for a priority where a Member State has completed actions relating to the fulfilment of *ex ante* conditionalities applicable to that programme and which had not been fulfilled at the time of the decision of the Commission on the suspension. It shall also without delay lift the suspension where following an amendment of the programme related to the priority concerned the *ex ante* conditionality concerned is no longer applicable.

6. Paragraphs 1 to **5 b** shall not apply to programmes under the European territorial cooperation goal.

Performance review⁹

Article 19

Performance review

1. The Commission, in cooperation with the Member States, shall undertake a review of the performance of the programmes in each Member State in [...] 2019, with reference to the

⁹ Any agreement on this block is without prejudice to discussions on the performance reserve in the negotiation box.

performance framework set out in the respective [...]programmes. The method for establishing the performance framework is set out in Annex I.

2. The review shall examine the achievement of the milestones of the programmes at the level of priorities, on the basis of the information and the assessments presented in the **annual implementation reports or progress report in accordance with Article 44(5)** submitted by the Member States in the **year [...]** 2019.

Article 20

Application of the performance framework

1. [...].
2. [On the basis of the review undertaken in 2019, the Commission shall **within two months of the receipt of the respective annual implementation reports in the year 2019** adopt a decision, by means of implementing acts, to determine for each CSF Fund and Member State the programmes and priorities which have attained their milestones. The Member State shall propose the attribution of the performance reserve for the programmes and priorities set out in that Commission decision **no later than three months after its adoption**. The Commission shall approve the amendment of the programmes concerned **within two months of receiving the proposal from the Member State**. Where a Member State fails to submit the information in accordance with Article **44(4)** and **(5)**, the performance reserve for the programmes or the priorities concerned shall not be allocated **to the programmes concerned**.¹⁰
3. Where there is evidence resulting from a performance review that a priority has **seriously failed to achieve the milestones relating only to financial indicators, output indicators and key implementation steps** set out in the performance framework **due to clearly identified implementation weaknesses, which the Commission has previously communicated pursuant to Article 44 (7) following close consultations with the Member State concerned, and the Member State has failed to take the necessary corrective action to address such weaknesses**, the Commission may **not earlier than six months after its communication in accordance with Article 44(7)** suspend all or part of an interim payment of a priority of a programme in accordance with the procedure laid down in Fund-specific rules.

The Commission shall without delay lift the suspension of interim payments when the Member State has taken the necessary corrective action. Where the corrective action concerns the transfer of financial allocations to other programmes or priorities, which

¹⁰ Without prejudice to the MFF negotiations on the performance reserve, the content in brackets will constitute the Council's point of departure should negotiations on this issue resume at a later stage with a view to ensuring fastest possible attribution of a possible performance reserve.

have attained their milestones, the Commission shall approve, by means of an implementing act, the amendment of the programmes concerned within two months.

4. Where the Commission, based on the examination of the final implementation report of the programme, establishes a serious failure to achieve the targets **relating only to financial indicators, output indicators and key implementation steps** set out in the performance framework **due to clearly identified implementation weaknesses, which the Commission has previously communicated pursuant to Article 44(7) following close consultations**

with the Member State concerned, and the Member State has failed to take the necessary corrective action to address such weaknesses, the Commission may **notwithstanding Article 77** apply financial corrections in respect of the priorities concerned in accordance with Fund-specific rules.

When applying financial corrections, the Commission shall take into account - with due respect to the principle of proportionality - the absorption level, and external factors contributing to the failure.

Financial corrections shall not be applied where targets are not achieved because of significant socio-economic, environmental developments or implementation delays beyond the control of the Member State.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 to establish **detailed rules on** criteria [...] for determining the level of financial correction to be applied.

[The Commission shall adopt implementing acts in accordance with Article 143(3) with examination procedure concerning the methodology for determining financial, output and result indicator milestones for each priority.]¹¹

5. Paragraph 2 shall not apply to programmes under the European territorial cooperation goal and to Title V of the EMFF Regulation.

TITLE III

PROGRAMMING

¹¹ The question of implementing acts for indicators and the preferred place to regulate that question can be reviewed at a later stage in connection with discussions concerning the provisions on indicators in the Fund-specific rules.

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.**

Article 26

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.

Article 32

Financial instruments

1. The CSF Funds may be used to support financial instruments under **one or more** programmes, including when organised through funds of funds, in order to contribute to the achievement of specific objectives set out under a priority [...].

Financial instruments shall be implemented to support investments which are expected to be financially viable and do not give rise to sufficient funding from market sources. When applying this title, the managing authority, the fund of funds, and the bodies implementing the financial instrument shall comply with applicable Union and national law, in particular on state aid and public procurement.

2. **Support of financial instruments shall be** based on an *ex-ante* assessment which has **established evidence of** market failures or sub-optimal investment situations, **and the**

estimated level and scope of public investment needs, including types of financial instruments to be supported. Such *ex ante* assessment shall include:

- (a) An analysis of market failures, suboptimal investment situations, and investment needs for policy areas and thematic objectives or investment priorities to be addressed with a view to contribute to the strategy and results of the relevant programmes and to be supported through financial instruments. This analysis shall be based on available best practice methodology.**
- (b) An assessment of the value added of the financial instruments considered to be supported by the CSF Funds, consistency with other forms of public intervention addressing the same market, possible state aid implications, the proportionality of the envisaged intervention and measures to minimise market distortion.**
- (c) An estimate of additional public and private resources to be potentially raised by the financial instrument down to the level of the final recipient (expected leverage effect), including as appropriate an assessment of the need for, and level of, preferential remuneration to attract counterpart resources from private investors and/or a description of the mechanisms which will be used to establish the need for, and extent of, such preferential remuneration, such as a competitive or appropriately independent assessment process.**
- (d) An assessment of lessons learnt from similar instruments and *ex ante* assessments carried out by the Member State in the past, and how these lessons will be applied going forward.**
- (e) The proposed investment strategy, including an examination of options for implementation arrangements within the meaning of Article 33, financial products to be offered, final recipients targeted, envisaged combination with grant support as appropriate.**
- (f) A specification of the expected results and how the financial instrument concerned is expected to contribute to the achievement of the specific objectives and results of the relevant priority or measure including indicators for this contribution.**
- (g) Provisions allowing for the *ex ante* assessment to be reviewed and updated as required during the implementation of any financial instrument which has been implemented based upon such assessment, where during the implementation phase, the managing authority considers that the *ex ante* assessment may no longer accurately represent the market conditions existing at the time of implementation.**

2.bis The *ex ante* assessment may be performed in stages. It shall, in any event, be completed before the managing authority decides to make programme contributions to a financial instrument.

The summary findings and conclusions of *ex-ante* assessments in relation to financial instruments shall be published within three months from their date of finalisation.

The *ex-ante* assessment shall be submitted to the monitoring committee for information purposes in accordance with Fund-specific rules.

3. Where financial instruments support financing to enterprises, including SMEs, such support shall in particular target the establishment of new enterprises, early stage-capital, *i.e.*, seed capital and start-up capital, expansion capital,¹² or the realisation of new projects, penetration of new markets or new developments by existing enterprises without prejudice to applicable EU State aid rules. Support may include investment in both tangible and intangible assets as well as working capital within the limits of applicable EU State aid rules and with a view to stimulate the private sector as a supplier of funding to enterprises. It may also include the costs of transfer of proprietary rights in enterprises provided that such transfer takes place between independent investors. Financial instruments shall not support undertakings in difficulty within the meaning of Commission Regulation (EC) No. 800/2008.¹³

4. Where financial instruments support financing to capital projects, the support from the CSF shall not finance projects which have already been physically completed or refinance completed acquisitions unless as part of a reorganisation of a debt portfolio associated to new investment from the CSF.

5. Financial instruments may be combined with grants, interest rate subsidies and guarantee fee subsidies. Where CSF Funds support is provided by means of financial instruments and combined in a single operation, with other forms of support directly related to financial instruments targeting the same final recipients, including technical assistance, interest rate subsidies and guarantee fee subsidies, the provisions applicable to financial instruments shall apply to all forms of support within that operation. In such cases, applicable EU State aid rules shall be respected and separate records shall be maintained for each form of support.

¹² OJ, C 194, 18.8.2006, p. 2 point 2.2.

¹³ OJ, L 214, 9.8.2008, p.3. To take account of possible developments over time in the rules quoted the following transitional provision should be added at a later stage: "In the application of Article 32,3 those state aid rules shall be apply, which are in force at the time the investment decision is made."

- 6.** Final recipients supported by financial instruments may also receive grants or other assistance from a programme or from another instrument supported by the budget of the Union **in accordance with applicable EU State aid rules.** In this case, separate records must be maintained for each source of financing.
- 7.** **The combination of support provided through grants and financial instruments as referred to under paragraphs 5 and 6 may cover the same expenditure item provided that the sum of all forms of support combined does not exceed the total amount of the expenditure item concerned. Grants shall not be used to reimburse support received from financial instruments. Financial instruments shall not be used to pre-finance grants. Financial instruments may be combined to cover the same expenditure item provided that there is no double financing and subject to applicable EU State aid rules.**
- 8.** Contributions in kind are not eligible expenditure in respect of financial instruments, except for contributions of land or real estate in respect of investments with the objective of supporting **rural development,** urban development or urban regeneration, where the land or real estate forms part of the investment. Such contributions of land or real estate shall be eligible provided that the conditions in Article 59**(1)** are met.
- 9.** **[Placeholder for VAT]**¹⁴
- 10.** The Commission shall be empowered to adopt delegated acts in accordance with Article 142 laying down **additional specific rules on purchase of land and on combination of technical assistance with financial instruments.**

¹⁴ To be copied at a later stage from the solution to be reached in Art. 59(3)(c) which is part of the MFF/negotiating box.

Article 33

Implementation of financial instruments

1. In implementing Article 32, managing authorities may provide a financial contribution to the following financial instruments:
 - (a) financial instruments set up at Union level, managed directly or indirectly by the Commission;
 - (b) financial instruments set up at national, regional, transnational or cross-border level, managed by or under the responsibility of the managing authority.
2. Title [VIII] of the Financial Regulation shall apply to financial instruments referred to in paragraph 1(a). Contributions from the CSF Funds to financial instruments under paragraph 1(a) shall be placed in separate accounts and used, in accordance with the objectives of the respective CSF Funds, to support actions and final recipients consistent with the programme or programmes from which such contributions are made.
3. For financial instruments under paragraph 1(b), the managing authority may provide a financial contribution to the following financial instruments:
 - (a) financial instruments complying with the standard terms and conditions laid down by the Commission, by means of implementing acts in accordance with the examination procedure referred to in Article 143(3);
 - (b) already existing or newly created financial instruments which are specifically designed to achieve the intended purpose [...].

[...].
4. When supporting financial instruments referred to in paragraph 1(b) the managing authority may:
 - (a) invest in the capital of existing or newly created legal entities, including those financed from other CSF Funds, dedicated to implementing financial instruments consistent with the objectives of the respective CSF Funds, which will undertake **implementation** tasks; the support to such **entities** shall be limited to the amounts necessary to implement new [...] **investments without prejudice to Article 32(3) and** consistent with the objectives of this Regulation; or
 - (b) entrust implementation tasks to:
 - (i) **EIB**;

- (ii) international financial institutions in which a Member State is a shareholder, or financial institutions established in a Member State aiming at the achievement of public interest under the control of a public authority [...];
 - (iii) a body governed by public or private law [...].
- (c) undertake implementation tasks directly, in the case of financial instruments consisting solely of loans or guarantees. **In this case the managing authority is considered to be the beneficiary in the meaning of Article 2 (8).**

When implementing the financial instrument, the bodies referred to in a) b) and c) shall ensure compliance with applicable EU and national law, including rules covering CSF Funds, state aid, public procurement and relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud. They shall not be established and shall not maintain business relations with entities incorporated in territories, whose jurisdictions do not cooperate with the Union in relation to the application of the internationally agreed tax standards and shall transpose such requirements in their contracts with the selected financial intermediaries.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 laying down **additional specific rules on the role, liabilities and responsibility of the entities to which the implementation tasks are entrusted and related selection criteria. The Commission shall notify the delegated acts, adopted in accordance with Article 142, simultaneously to the European Parliament and the Council within four months of the adoption of this Regulation.**

5. Where a financial instrument is implemented under paragraphs (4)(a) and (b), subject to the implementation structure of the financial instrument, the terms and conditions for contributions from programmes to financial instruments shall be set out in funding agreements in accordance with ANNEX X at the following levels:

(a) where applicable, between the duly mandated representatives of the managing authority and the body that implements the fund of funds, and

(b) between the duly mandated representatives of the managing authority, or where applicable, the body that implements the fund of funds, and the body that implements the financial instrument.

5.bis For financial instruments implemented under paragraph (4)(c), the terms and conditions for contributions from programmes to financial instruments shall be set out in a strategy document in accordance with ANNEX X to be examined by the monitoring committee.

6. The entities referred to in paragraph 4(a) and (b), when implementing financial instruments [...] may further entrust part of the implementation to financial intermediaries provided that these entities ensure under their responsibility that the financial intermediaries satisfy the criteria laid down in Articles 57 and 131(1), (1a) and (3) of the Financial Regulation.¹⁵ Financial intermediaries shall be selected on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflicts of interests.
7. The entities referred to in paragraph 4(b) to which implementation tasks have been entrusted shall open fiduciary accounts in their name and on behalf of the managing authority, **or set up the financial instrument as a separate block of finance within a financial institution. In case of a separate block of finance, separate accounting shall distinguish programme resources invested in the financial instrument from the other resources available in the financial institution.** The assets held on [...] fiduciary accounts **and such separate blocks of finance** shall be managed in accordance with the principle of sound financial management following appropriate prudential rules and shall have appropriate liquidity.
8. **National public and private contributions, including where relevant in-kind contributions as referred to under Article 32(8) of the CPR, may be provided at the level of the fund of funds, the financial instrument or the level of final recipients.**
9. The Commission shall [...] adopt **implementing** acts in accordance with **the examination procedure laid down in** Article **143(3)** laying down **uniform conditions** regarding the **modalities of the** transfer and management of **programme contributions**, managed by the entities **referred to under Article 33(4).**

Article 34

Management and control of certain financial instruments

1. The [bodies accredited in accordance with Article 64] shall not carry out on-the-spot verifications of operations comprising financial instruments implemented under Article 33(1)(a). They shall receive regular control reports from the bodies entrusted with the implementation of these financial instruments.
2. The bodies responsible for the audit of programmes shall not carry out audits of operations comprising financial instruments implemented under Article 33(1)(a) and of management and control systems relating to these instruments. They shall receive regular control reports from the auditors designated in the agreements setting up of these financial instruments.
3. **The bodies responsible for the audit of programmes shall not carry out audits at the level of final recipients other than in the case of suspected fraud.**

¹⁵ References to be updated at a later stage according to developments/text reorderings in the triennially revised Financial Regulation.

- 4. The bodies entrusted with the implementation of financial instruments shall not impose record-keeping requirements on final recipients for records relevant to audits and controls which are kept at the level of such bodies in their ordinary course of business.**
- 5. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 concerning controls to be performed by managing and audit authorities, arrangements for keeping supporting documents, elements to be evidenced by supporting documents, and management and control and audit arrangements concerning financial instruments implemented by the bodies and institutions mentioned in Article 33(4)(b) taking into account the specificities, objectives and characteristics of financial instruments relative to other forms of support. The Commission shall notify the delegated acts, adopted in accordance with Article 142, simultaneously to the European Parliament and the Council within four months of the adoption of this Regulation.**

Article 35

Requests for payment including expenditure for financial instruments

1. As regards financial instruments referred to in Article 33(1)(a) **and financial instruments referred to in Article 33(1)(b) implemented in accordance with Article 33(4)(a) and (b), phased applications for interim payments shall be made for programme contributions** paid to the financial instrument **during the period of eligibility in accordance with the following conditions:**
- (a) The amount of the programme contribution paid to the financial instrument included in each application for interim payment submitted during the eligibility period indicated in Article 55(2) shall not exceed 25 per cent of the total amount of programme contributions committed to the financial instrument under the relevant funding agreement, corresponding to expenditure in the meaning of Article 36(1)(a), (b) and (d) expected to be paid during the eligibility period indicated in Article 55(2). Applications for interim payment submitted after the eligibility period indicated in Article 55(2) shall include the total amount of eligible expenditure in the meaning of Article 36.**
- (b) Each application for interim payment referred to in paragraph (a) may include up to 25 per cent of the total amount of the national co-financing as referred to in Article 33 (8) expected to be paid to the financial instrument, or at the level of final recipients for expenditure in the meaning of Article 36 (1) (a), (b) and (d), within the eligibility period indicated in Article 55(2).**
- (c) Subsequent applications for interim payment submitted during the eligibility period indicated in Article 55(2) shall only be made:**

- i. for the second application for interim payment, when at least 60 per cent of the amount included in the first application for interim payments has been spent as eligible expenditure in the meaning of Article 36(1)(a), (b) and (d).
- ii. for the third and subsequent applications for interim payment, when at least 85 per cent of the amounts included in the previous applications for interim payments have been spent as eligible expenditure in the meaning of Article 36(1)(a), (b) and (d).

(d) Each application for interim payment, which includes expenditure related to financial instruments, shall separately disclose the total amount of programme contributions paid to the financial instrument and the amounts paid as eligible expenditure in the meaning of Article 36(1)(a), (b) and (d).

At closure, the application for payment of the final balance shall include the total amount of eligible expenditure as referred to in Article 36.

- 2. As regards financial instruments referred to in Article 33(1)(b) implemented in accordance with Article 33(4)(c) [...], the applications for interim payments, and payment of the final balance shall include the total amount of the payments effected by the managing authority for investments in final recipients as referred to in Articles 36(1)(a) and (b).
- 3. [...].
- 4. [...].
- 3. The Commission shall [...] adopt, by means of **implementing act** in accordance with the examination procedure laid down in Article 143(3), uniform conditions concerning the model to be used when submitting additional information concerning financial instruments with the applications for payments to the Commission.

Article 36

Eligible expenditure at closure

- 1. At closure of a programme, the eligible expenditure of the financial instrument shall be the total amount of programme contributions effectively paid or, in the case of guarantees [...], committed, by the financial instrument within the eligibility period indicated in Article 55(2), corresponding to:
 - (a) payments to final recipients, and in the cases referred to under Article 32(5) payments to the benefit of final recipients;
 - (b) resources committed for guarantee contracts, whether outstanding or already come to maturity, in order to honour possible guarantee calls for losses, calculated according

to a prudent *ex ante* risk assessment, covering a multiple amount of underlying new loans or other risk-bearing instruments for new investments in final recipients;

- (c) capitalised interest rate subsidies or guarantee fee subsidies, due to be paid for a period not exceeding 10 years after the eligibility period laid down in Article 55(2), used in combination with financial instruments, paid into an escrow account specifically set up for that purpose, for effective disbursement after the eligibility period laid down in Article 55(2), but in respect of loans or other risk-bearing instruments disbursed for investments in final recipients within the eligibility period laid down in Article 55(2);
- (d) reimbursement of management costs incurred or payment of management fees of the financial instrument.

- 2. In the case of equity-based instruments and micro-credit, capitalised management costs or fees due to be paid for a period not exceeding 7 years after the eligibility period laid down in Article 55(2), in respect of investments in final recipients which occurred within that eligibility period and which cannot be covered by Articles 37 and 38, may be considered as eligible expenditure when paid into an escrow account specifically set up for that purpose.

2.bis In the case of equity-based instruments for enterprises, payments to final recipients and capitalised management costs or fees due to be paid for a period not exceeding 7 years after the eligibility period laid down in Article 55(2), in respect of investments in final recipients having received initial payments within that eligibility period, may be considered as eligible expenditure when paid into an escrow account specifically set up for that purpose. Payments to final recipients shall be in accordance with market standards and market standard contractual arrangements and limited to the minimum necessary to stimulate private sector co-investment, while ensuring continuity of financing for the target enterprises so that both public and private investors can benefit from investments. They shall not exceed 30% of the eligible expenditure of the financial instrument from which ceiling capital resources and gains returned to the financial instrument during the eligibility period shall be deducted. Any amounts which are not used for payments to final recipients in the period set out above shall be used in accordance with Article 39.

- 3. The eligible expenditure **disclosed** in accordance with paragraphs 1 and 2 shall not exceed the sum of the:
 - (i) total amount of the support from the CSF Funds paid **for the purposes of paragraphs 1 and 2**; and
 - (ii) corresponding national co-financing.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 concerning the establishment of a system of capitalisation of annual instalments for interest rate subsidies and guarantee fee subsidies. **The Commission shall notify the delegated acts, adopted in accordance with Article 142, simultaneously to the European Parliament and the Council within four months of the adoption of this Regulation.**
5. **Management cost and fees as referred to in paragraph (d) may be charged by the body implementing the fund of funds or bodies implementing financial instruments pursuant to Articles 33(4)(a) and (b) and shall not exceed the thresholds defined in the implementing act referred to in this paragraph. Whereas management costs shall comprise direct or indirect cost items reimbursed against evidence of expenditure, management fees shall refer to an agreed price for services rendered established via a competitive market process. Management costs and fees shall be based on a performance based calculation methodology.**

Management costs and fees may comprise arrangement fees. Where arrangement fees, or any part thereof, are charged to final recipients, they shall not be declared as eligible expenditure.

Management costs and fees, including those incurred for preparatory work in relation to the financial instrument before the signature of the relevant funding agreement, are eligible as from the date of signature of the relevant funding agreement.

The Commission shall adopt implementing acts in accordance with the examination procedure laid down in Article 143(3) laying down the methodology for calculating management costs and fees.

Article 37

Interest and other gains generated by support from the CSF Funds to financial instruments

1. Support from the CSF Funds paid to financial instruments shall be placed in interest-bearing accounts domiciled within financial institutions in Member States or invested on a temporary basis according to the principles of sound financial management.
2. Interest and other gains attributable to support from the CSF Funds paid to financial instruments shall be used for the same purposes, **including the reimbursement of management costs incurred or payment of management fees of the financial instrument in accordance with Article 36(1)(d), as the initial support from the CSF Funds either within the same financial instrument, or following the winding up of the financial instrument, in other financial instruments or forms of support in accordance with the aims of the programme or programmes, until the end of the eligibility period.**

3. The managing authority shall ensure that adequate records of the use of interest and other gains are maintained.

Article 38

**Re-use of resources attributable to the support from the CSF Funds until
the end of the eligibility period**

1. [...] Resources paid back to financial instruments from investments or from the release of resources committed for guarantee contracts, **including capital repayments and gains and other earnings or yields, such as interest, guarantee fees, dividends, capital gains or any other income generated by investments,** which are attributable to the support from the CSF Funds, shall be re-used for **the following purposes, up to the amounts necessary and in the order agreed in the relevant funding agreements:**
2. [...]:
 - (a) further investments through the same or other financial instruments, in accordance with the aims of the programme or programmes;
 - (b) **where applicable,** preferential remuneration of **private** investors, **or public investors** operating under the market economy principle, who provide counterpart resources to the support from the CSF Funds to the financial instrument or who co-invest at the level of final recipients;
 - (c) **where applicable,** reimbursement of management costs incurred and payment of management fees of the financial instrument;

The need for preferential remuneration pursuant to paragraph (b) shall be established in the *ex ante* assessment. The preferential remuneration shall not exceed what is necessary to create the incentives for attracting private counterpart resources and shall not overcompensate private investors, or public investors operating under the market economy principle. The alignment of interest shall be ensured through an appropriate sharing of risk and profit and must be carried out on a normal commercial basis and be compatible with EU State aid rules.

2. The managing authority shall ensure that adequate records of the use of the resources and gains referred to in paragraphs 1 and 2 are maintained.

Article 39

Use of [...] resources after the end of the eligibility period

Member States shall adopt the necessary measures to ensure that [...] resources **paid back to financial instruments, including capital repayments** and gains and other earnings or yields **generated during a period of at least 8 years after the end of the eligibility period, which are**

attributable to the support from the CSF Funds to financial instruments **pursuant to Article 32,** are used in accordance with the aims of the programme **or programmes, either within the same financial instrument or, following the exit of these resources from the financial instrument, in other financial instruments in both cases provided that an assessment of market conditions demonstrates a continuing need for such investment or in other forms of support.**

Article 40

Report on Implementation of Financial Instruments

1. The managing authority shall send to the Commission a specific report covering the operations comprising financial instruments as an annex to the annual implementation report.
2. The report referred to in paragraph 1 shall include, for each financial instrument, the following information:
 - (a) identification of the programme and of the priority from which support from the CSF Funds is provided;
 - (b) description of the financial instrument and implementation arrangements;
 - (c) identification of the bodies to whom implementation tasks have been entrusted;
 - (d) total amount of [...] programme **contributions by** priority or measure to the financial instrument included in requests for payment submitted to the Commission;
 - (e) total amount of support paid or committed in guarantee contracts by the financial instrument to the final recipients by programme and priority or measure included in requests for payment submitted to the Commission;
 - (f) revenues of, and repayments to, the financial instrument;
 - (g) **progress in achieving the expected leverage** effect of investments made by the financial instrument and value of investments and participations;
 - (h) contribution of the financial instrument to the achievement of the indicators of the [...] priority **or measure** concerned.

The information in g) and h) may be included only in the annex to the annual implementation reports submitted in 2017 and 2019 as well as in the final report. The monitoring obligations as set out in a)-h) shall not be applied at the level of final recipients.

3. The Commission shall adopt, by means of implementing act, in accordance with the examination procedure referred to in Article 143(3), the uniform conditions concerning the monitoring and provision of monitoring information to the Commission, including in respect of financial instruments referred to in Article 33(1)(a).
4. **Each year, starting in 2016, the Commission shall within 6 months of the receipt of the annual implementation reports provide a summary of the data on the progress made in financing and implementing the financial instruments, sent by the managing authorities in accordance with this Article.**

TITLE V

MONITORING AND EVALUATION

CHAPTER I

Monitoring

Section I

Monitoring of programmes

Article 41

Monitoring committee

1. Within three months of the date of notification to the Member State of the decision adopting a programme, the Member State shall set up a committee, **in accordance with national rules and practices**, to monitor implementation of the programme, in agreement with the managing authority.

A Member State may set up a single monitoring committee for **more than one** programme co-financed by the CSF Funds.

2. Each monitoring committee shall draw up and adopt its rules of procedure **within the institutional, legal and financial framework of the Member State concerned**.

Article 42

Composition of the monitoring committee

1. **The composition of the monitoring committee shall be decided by the Member State¹⁶, provided that** the monitoring committee **is** composed of representatives of the **relevant Member State authorities** and intermediate bodies and of representatives of the partners **referred to in Article 5. [...]**.

The monitoring committee of a programme under the European territorial cooperation goal shall also include representatives of any third country participating in that programme.

2. The Commission shall participate in the work of the monitoring committee in an advisory capacity.
3. If the EIB contributes to a programme, it may participate in the work of the monitoring committee in an advisory capacity.
4. The monitoring committee shall be chaired by a representative of the Member State or of the managing authority.

Article 43

Functions of the monitoring committee

1. The monitoring committee shall meet at least once a year and shall review implementation of the programme and progress towards achieving its objectives. In doing so, it shall have regard to the financial data, common and programme-specific indicators, including changes in **the value of** result indicators and progress towards quantified target values, and the milestones defined in the performance framework **referred to in Article 19(1), and, where relevant, the results of qualitative analyses.**
2. The monitoring committee shall examine [...] all issues that affect the performance of the programme.
3. The monitoring committee shall be consulted [...] on any amendment of the programme proposed by the managing authority.
4. The monitoring committee may **make observations** to the managing authority regarding implementation of the programme and its evaluation. It shall monitor actions taken as a result of its **observations.**

Article 44

Implementation reports

¹⁶ The issue of involvement of several Member States in the context of ETC programmes will be covered in a horizontal provision in the ETC Regulation.

1. From 2016 until and including 2022, the Member State shall submit to the Commission an annual report on implementation of the programme in the previous financial year.

The Member State shall submit a final report on implementation of the programme by **31 January 2024** for the ERDF, ESF and Cohesion Fund and an annual implementation report for the EAFRD and EMFF.

2. Annual implementation reports shall set out **summary** information on implementation of the programme and its priorities by reference to the financial data, common and programme-specific indicators and quantified target values, including changes in **the value of** result indicators, and **beginning from the report submitted in 2017** the milestones defined in the performance framework. The data transmitted shall relate to values for indicators for fully implemented operations and also, **where possible, having regard to the stage of implementation,** for selected operations. They shall also set out [...] any issues which affect the performance of the programme, and the [...] measures taken.
3. The annual implementation report submitted in 2017 shall set out and assess the information set out in paragraph 2 and progress towards achieving the objectives of the programme, including the contribution of the CSF Funds to changes in **the value of** result indicators, when evidence is available from evaluations. **It shall set out actions taken to fulfil the ex ante conditionalities not fulfilled at the time of adoption of the programmes.** It shall also assess the implementation of actions to take into account the principles set out in Articles [...] 7 and 8 and report on support used for climate change targets.
4. The annual implementation report submitted in 2019 and the final implementation report for the CSF Funds shall, in addition to the information and assessment set out in paragraphs 2 and 3, include information on [...] its contribution to achieving the Union strategy for smart, sustainable and inclusive growth.
5. The annual implementation reports referred to in paragraphs 1 to 4 shall be admissible where they contain all the information required in those paragraphs. **By derogation, the Member State may choose to report all the additional information set out in paragraph 3 and 4 in the progress report instead.** The Commission shall inform the Member State within 15 working days from the date of receipt of the annual implementation report if it is not admissible, failing which it shall be deemed admissible.
6. The Commission shall examine the annual **and final** implementation report and inform the Member State of its observations within two months of the receipt of the annual implementation report and within 5 months of receipt of the final **implementation** report. Where the Commission does not provide observations within these deadlines, the reports shall be deemed to be accepted.

7. The Commission may **make observations to the managing authority concerning** issues which **significantly** affect the implementation of the programme. Where such **observations** are made, the managing authority shall **provide all necessary information with regard to those observations and, where appropriate,** inform the Commission within three months of [...] measures taken.
8. A citizen's summary of the contents of the annual and the final implementation reports shall be made public.

Article 45

Annual review meeting

1. An annual review meeting shall be organised every year from 2016 until and including 2022 between the Commission and each Member State to examine the performance of each programme, taking account of the annual implementation report and the Commission's observations and recommendations, where applicable.
2. The annual review meeting may cover more than one programme. In 2017 and 2019, the annual review meeting shall cover all programmes in the Member State and shall also take account of the progress reports submitted by the Member State in accordance with Article 46 in those years.
3. The Member State and the Commission may agree not to organise an annual review meeting for a programme in years other than 2017 and 2019.
4. The annual review meeting shall be chaired by the Commission **or, if the Member State so requests, co-chaired by the Member State and the Commission.**
5. The Member State shall ensure that appropriate follow-up is given to [...] comments of the Commission following the meeting **concerning issues, which significantly affect the implementation of the programme.**

Section II

Strategic progress

Article 46

Progress report and strategic report

1. By **31 August** 2017 and by **31 August** 2019, the Member State shall submit to the Commission a progress report on implementation of the Partnership **Agreement** as at 31 December 2016 and 31 December 2018 respectively.
2. The progress report shall set out information on and assess:
 - (a) changes in the development needs in the Member State since the adoption of the Partnership **Agreement**;
 - (b) progress towards achievement of the Union strategy for smart, sustainable and inclusive growth, in particular in respect of the milestones set out for each programme **at the level of priorities** in the performance framework and the support used for climate change objectives;
 - (c) whether the actions taken to fulfil **the applicable** *ex ante* conditionalities not fulfilled at the date of adoption of the Partnership **Agreement** have been implemented in accordance with the timetable established. **This only applies to the 2017 progress report**;
 - (d) implementation of mechanisms to ensure coordination between the CSF Funds and other Union and national funding instruments and with the EIB;
 - (e) progress towards achievement of priority areas established for cooperation;
 - (f) **where appropriate**, actions taken to reinforce the capacity of the Member State authorities and [...] beneficiaries to administer and use the CSF Funds;
 - (g) actions planned [...] in the programmes to achieve a reduction in the administrative burden for beneficiaries;
 - (h) the role of the partners referred **to** in Article 5 in the implementation of the Partnership **Agreement**.
2. Where the Commission determines, within **two** months of the date of submission of the progress report that the information submitted is incomplete or unclear **in a manner which significantly affect the quality and reliability of the assessment concerned**, it may **without causing unjustified delays and providing reasons for the alleged lack of quality and reliability** request additional information from the Member State. The Member State shall provide to the Commission the information requested within three months and, where appropriate, shall revise the progress report accordingly.
3. In 2017 and 2019, the Commission shall prepare a strategic report summarising the progress reports of the Member States, which it shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

4. In 2018 and 2020, the Commission shall include in its Annual Progress Report to the spring meeting of the European Council a section summarising the strategic report, in particular with regard to progress made towards Union strategy for smart, sustainable and inclusive growth.

CHAPTER II

Evaluation

Article 47

General Provisions

1. Evaluations shall be carried out to improve the quality of the design and implementation of programmes, as well as to assess their effectiveness, efficiency and impact. Impact of programmes shall be evaluated in accordance with the mission of the respective CSF Funds in relation to the targets for the Union strategy for smart, sustainable and inclusive growth¹⁷ **and having regard to the size of the programme** in relation to Gross Domestic Product (GDP) and unemployment **of the programme area concerned**, where appropriate.
2. Member States shall provide the resources necessary for carrying out evaluations, and shall ensure that procedures are in place to produce and collect the data necessary for evaluations, including data related to common and where appropriate programme-specific indicators.
3. Evaluations shall be carried out by **internal or external** experts that are functionally independent of the authorities responsible for programme implementation. The Commission shall provide guidance on how to carry out evaluations.
4. All evaluations shall be made public [...].

Article 48

Ex ante evaluation

1. Member States shall carry out *ex ante* evaluations to improve the quality of the design of each programme.
2. *Ex ante* evaluations shall be carried out under the responsibility of the authority responsible for the preparation of the programmes. They shall be submitted to the Commission at the same time as the programme, together with an executive summary. The Fund-specific rules

¹⁷ Ref. EU2020 headline targets.

may establish thresholds under which the *ex ante* evaluation may be combined with the evaluation for another programme.

3. *Ex ante* evaluations shall appraise:

- (a) the contribution to the Union strategy for smart, sustainable and inclusive growth, having regard to the selected thematic objectives and priorities, taking into account national and regional needs **and potential for development as well as lessons drawn from previous programming periods;**
- (b) the internal coherence of the proposed programme or activity and its relation with other relevant instruments;
- (c) the consistency of the allocation of budgetary resources with the objectives of the programme;
- (d) the consistency of the selected thematic objectives, the priorities and corresponding objectives of the programmes with the Common Strategic Framework, the Partnership **Agreement** and the **relevant** country-specific **Council** recommendations under Article 121(2) **TFEU** and the **relevant** Council recommendations adopted under Article 148(4) **TFEU**;
- (e) the relevance and clarity of the proposed programme indicators;
- (f) how the expected outputs will contribute to results;
- (g) whether the quantified target values for indicators are realistic, having regard to the support from the CSF Funds envisaged;
- (h) the rationale for the form of support proposed;
- (i) the adequacy of human resources and administrative capacity for management of the programme;
- (j) the suitability of the procedures for monitoring the programme and for collecting the data necessary to carry out evaluations;
- (k) the suitability of the milestones selected for the performance framework;
- (l) the adequacy of planned measures to promote equal opportunities between men and women and to prevent discrimination;
- (m) the adequacy of planned measures to promote sustainable development.

4. *Ex ante* evaluations shall incorporate, where appropriate, the requirements for Strategic Environmental Assessment set out in implementation of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment¹⁸.

Article 49

Evaluation during the programming period

1. An evaluation plan shall be drawn up by the managing authority **or Member State and may cover more than one** programme. **It shall be** submitted in accordance with the Fund-specific rules.
2. Member States shall ensure that appropriate evaluation capacity is available.
3. During the programming period, **the** managing authority shall **ensure that evaluations are carried out** including evaluations to assess effectiveness, efficiency and impact, for each programme on the basis of the evaluation plan. **Such evaluations may cover more than one programme.** At least once during the programming period, an evaluation shall assess how support from the CSF Funds has contributed to the objectives for each priority. All evaluations shall be examined by the monitoring committee and sent to the Commission.
4. The Commission may carry out, at its own initiative, evaluations of programmes. **It shall inform the Managing Authority and the results shall be sent to the Managing Authority and presented to the monitoring committee concerned.**

Article 50

***Ex post* evaluation**

The *ex post* evaluations shall be carried out by the Commission or by the Member States, in close cooperation. *Ex post* evaluations shall examine the effectiveness and efficiency of the CSF Funds and their contribution to the Union strategy for smart, sustainable and inclusive growth in accordance with specific requirements established in the Fund-specific rules. *Ex post* evaluations shall be completed by 31 December 2023.

Article 54

Operations generating net revenue after completion

¹⁸ OJ L 197, 21.7.2001, p. 30.

1. This article shall apply to operations which generate net revenue after their completion. For the purposes of this article 'net revenue' shall mean cash in-flows directly paid by users for the goods or services provided by the operation, such as charges borne directly by users for the use of infrastructure, sale or rent of land or buildings, or payments for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period. Operating cost-savings generated by the operation shall be included in the net revenue unless they are offset by an equal reduction in operating subsidies.

Where not all the investment cost is eligible for co-financing, the net revenue shall be allocated *pro rata* to the eligible and non-eligible parts of the investment cost.

2. The eligible expenditure of the operation to be co-financed **from the Funds shall be reduced in advance taking into account the potential of the operation to generate net revenue over a specific reference period that covers both implementation of the operation and the period after completion.**

3. The potential net revenue of the operation shall be determined in advance by one of the following methods chosen by the managing authority for a sector, subsector or type of operation:

(a) application of a flat rate net revenue percentage for the **sector or subsector applicable to the operation as defined in Annex [XXX] or in any of the delegated acts hereinafter referred to.**

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 to carry out technical adjustments to the flat rates established in Annex [XXX] taking into account historic data and the potential for cost recovery and the polluter-pays principle where applicable.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 **within 3 months of the entry into force of this Regulation establishing flat rates for sectors or subsectors within the fields of ICT, research, development and innovation and energy efficiency.**

In addition, the Commission shall be empowered to adopt delegated acts in accordance with Article 142 in duly justified cases for additional sectors or subsectors other than those in the Annex [XXX] falling under the thematic objectives defined in Article 9 and supported by the CSF Funds.

Where this method is applied, all the net revenue generated during implementation and after completion of the operation is considered to be taken into account by the application of the flat rate and is therefore not deducted subsequently from the eligible expenditure of the operation.

- (b) calculation of **discounted** net revenue of the operation, taking into account the **reference period appropriate to the sector or subsector applicable to the operation, the profitability normally expected of the category of investment concerned,** application of the polluter-pays principle and, if appropriate, considerations of equity linked to the relative prosperity of the Member State or region concerned. The Commission shall adopt the methodology [...] by means of implementing acts in accordance with the examination procedure referred to in Article 143(3).

Where this method is applied, the net revenue generated during implementation of the operation, resulting from sources of revenue not taken into account in determining the potential net revenue of the operation, is deducted from the eligible expenditure of the operation, no later than at the final payment claim submitted by the beneficiary.

4. **The method for deducting the net revenue determined in accordance with paragraph 3 shall be determined in accordance with national rules.**
5. **As an alternative to the application of the methods laid down in paragraph 3, the maximum co-financing rate referred to in Article 53(1) may at the request of a Member State be decreased at the moment of adoption of a programme for a priority under which all operations to be supported under that priority could apply a uniform flat rate in accordance with paragraph 3(a). The decrease shall be not less than the amount calculated by multiplying the maximum Union co-financing rate applicable under the Fund-specific rules by the relevant flat rate referred to in paragraph 3(a).**

Where this method is applied, all the net revenue generated during implementation and after completion of the operation is considered to be taken into account by application of the decreased co-financing rate and is therefore not deducted subsequently from the eligible expenditure of the operations.

6. Where it is objectively not possible to determine the revenue in advance according to **one of the methods set out in paragraphs 3 or 5,** the net revenue generated within three years of the completion of an operation or by 30 September 2023, whichever is earlier, shall be deducted from the expenditure declared to the Commission.

7. Paragraphs 1 to 6 shall not apply to:

- (a) **operations or parts of operations supported solely by the ESF,**
- (b) **operations whose total eligible cost before application of paragraphs 1-6 does not exceed EUR 1 000 000,**

- (c) repayable assistance subject to an obligation for full repayment and prizes,
- (d) technical assistance,
- (e) support to or from financial instruments,
- (f) operations for which public support take the form of lump sums or standard scale unit costs,
- (g) operations implemented under a joint action plan,
- (h) operations for which amounts or rates of support are defined in Annex 1 to EAFRD Regulation.

By derogation from paragraph 7(b), a managing authority may apply the provisions of paragraphs 1 to 6 to operations below the threshold.

8. In addition, paragraphs 1 to 6 shall not apply to operations for which support under the programme constitutes:

- (a) de minimis aid
- (b) compatible State aid, where an aid intensity limit is applied or where it is subject to individual verification of financing needs under State aid rules.

Title VII

New Chapter II¹⁹

Special rules on support from the CSF Funds to public private partnerships

Article 54/A

Public private partnerships (PPPs)

The CSF Funds may be used to support operations which are implemented or intended to be implemented under a PPP structure ("PPP operation") in the form of grants or other forms of support in accordance with Article 56. Such PPP operations shall comply with applicable Union and national law, in particular on State aid and public procurement.

Article 54/B

Beneficiary under PPP operations

¹⁹ Old chapter II becomes new Chapter III and so forth.

1. **In relation to a PPP operation, and by way of derogation from Article 2(8), the beneficiary may be either:**
 - (a) **the public law body initiating the operation, or**
 - (b) **a body governed by private law of a Member State (the "private partner") selected or to be selected for the implementation of the operation).**
2. **The public law body initiating the operation may propose that the private partner to be selected after approval of the operation shall be the beneficiary for the purposes of the support by the CSF Funds. In this case, the approval decision shall be conditional on the managing authority satisfying itself that the selected private partner fulfils and assumes all the corresponding obligations of a beneficiary under this Regulation.**
3. **The private partner selected to implement the operation may be replaced as beneficiary during implementation where this is required under the terms and conditions of the PPP** or the financing agreement between the private partner and the financial institution co-financing the operation. **In this case the replacement private partner or public law body shall become the beneficiary provided that the managing authority satisfies itself that the replacement partner fulfils and assumes all the corresponding obligations of a beneficiary under this Regulation.**
4. **The Commission shall be empowered to adopt delegated acts in accordance with Article 142 laying down additional rules on the change in beneficiary and the related responsibilities.**
5. **A change of the beneficiary that respects the applicable conditions set out in paragraph 3 and the delegated act adopted pursuant to paragraph 4 shall not be considered a change in ownership within the meaning of Article 61(1)(b).**

Article 54/C

Support for PPP operations

1. **In the case of a PPP operation where the beneficiary is a public body, expenditure under a PPP operation which has been incurred and paid by the private partner may, by way of derogation from Article 55 (2)²⁰, be considered as incurred and paid by a beneficiary and included in a request for payment to the Commission provided that the following conditions are met:**

²⁰ The implications for Article 121,1,a and 128,1,a shall be dealt with at a later stage in the context of negotiations on the financial management block in order to ensure that these provisions are consistent with this article.

- a. the beneficiary has entered into a PPP agreement with a private partner;
 - b. the managing authority has verified that the expenditure declared by the beneficiary has been paid by the private partner and that the operation complies with applicable Union and national law, the programme and the conditions for support of the operation.
2. Payments to beneficiaries made in respect of expenditure included in a request for payment in accordance with paragraph 1 shall be paid into an escrow account²¹ set up for that purpose in the name of the beneficiary.
 3. The funds paid into the escrow account referred to in paragraph 2 shall be used for payments in accordance with the PPP agreement, including any payments to be made in the event of termination of the PPP agreement.
 4. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 to lay down the minimum requirements to be included in PPP agreements which are necessary for the application of the derogation specified in paragraph 1, including provisions related to termination of the PPP agreement and to ensure an adequate audit trail.

Article 55²²

Eligibility

6. This paragraph shall apply to operations which generate revenue during their implementation and to which the provisions of Article 54, paragraphs 1-6 do not apply.

The eligible expenditure of the operation to be co-financed from the CSF Funds shall be reduced by the net revenue not taken into account at the time of approval of the operation directly generated only during its implementation, not later than at the final payment claim submitted by the beneficiary. Where not all the costs are eligible for co-financing, the net revenue shall be allocated *pro rata* to the eligible and non-eligible parts of the cost.

This rule shall not apply to technical assistance, financial instruments, repayable assistance subject to an obligation for full repayment, prizes, operations subject to the rules on State aid, operations for which public support take the form of lump sums or standard scale unit costs, operations implemented under a joint action plan,

²¹ Cf. definition in ADD 2

²² Amendments to Article 55(6) as a consequence of Article 54 as set out above. This text therefore replaces the text provisionally agreed at the General Affairs Council on 24 April 2012, cf.doc. 8207/12 ADD 5 REV 2.

operations for which amounts or rates of support are defined in Annex 1 to EAFRD Regulation, or operations for which the total eligible cost does not exceed EUR 50 000.

For the purposes of this article and Article 54, any payment received by the beneficiary arising from a contractual condition on a breach of contract between the beneficiary and third parties (contractual penalties) or has occurred as a result of the withdrawal of its offer by a third party chosen in public procurement rules (deposit) shall not be considered as revenue and shall not be deducted from the eligible expenditure of the operation.

Article 56

Forms of support

The CSF Funds shall be used to provide support in the form of grants, prizes, repayable assistance and financial instruments, or a combination thereof.

In the case of repayable assistance, the support repaid to the body that provided it, or to another competent authority of the Member State, shall be kept in a separate account **or separated with accounting codes** and reused for the same purpose or in accordance with the objectives of the programme.

Article 57

Forms of grants and repayable assistance

1. Grants **and repayable assistance** may take any of the following forms:
 - (a) reimbursement of eligible costs actually incurred and paid, together with, where applicable, in-kind contributions and depreciation;
 - (b) standard scales of unit costs;
 - (c) lump sums not exceeding EUR 100 000 of public contribution;
 - (d) flat-rate financing, determined by the application of a percentage to one or several defined categories of costs.
2. The options referred to in paragraph 1 may be combined only where each covers different categories of costs or where they are used for different projects forming a part of an operation or for successive phases of an operation.
3. **Without prejudice to art. 14(4) of [ESF regulation]** where an operation or a project forming a part of an operation is implemented exclusively through the **public** procurement of works, goods or services, only paragraph 1(a) shall apply. Where the procurement within

an operation or project forming part of an operation is limited to certain categories of costs, all the options referred to in paragraph 1 may be applied.

4. The amounts referred to in paragraph 1(b), (c) and (d) shall be established **in one of the following ways**:
 - (a) a fair, equitable and verifiable calculation method based on:
 - (i) statistical data or other objective information; or
 - (ii) the verified historical data of individual beneficiaries; or
 - (iii) the application of **the** usual cost accounting practices **of individual beneficiaries**;
 - (b) **in accordance with the rules for application of corresponding** scales of unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation and beneficiary;
 - (c) **in accordance with the rules for application of corresponding** scales of unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of operation and beneficiary;
 - (d) rates established by this Regulation or the Fund-specific rules.
5. The document setting out the conditions for support for each operation shall set out the method to be applied for determining the costs of the operation and the conditions for payment of the grant.

Joint Statement by the Council and the Commission

on Article 57 of the Common Provisions Regulation (CPR)

"The Council and the Commission agree that Article 57 (3) which excludes the application of simplified costs set out in Article 57 (1) (b)-(d) in cases where an operation or a project forming part of an operation is implemented exclusively through public procurement procedures does not preclude the implementation of an operation through public procurement procedures which result in payments by the beneficiary to the contractor based on pre-defined unit costs. The Council and the Commission agree that the costs determined and paid by the beneficiary based on these unit costs established through public procurement procedures shall constitute real costs actually incurred and paid by the beneficiary under Article 57 (1) (a)."

Article 58

Flat rate financing for indirect costs and staff costs for grants and repayable assistance

- 1.** Where the implementation of an operation gives rise to indirect costs, they may be calculated as a flat rate in one of the following ways:
- (a) a flat rate of up to **25** % of eligible direct costs, **provided that** the rate is calculated on the basis of a fair, equitable and verifiable calculation method or a method applied under schemes for grants funded entirely by the Member State for a similar type of operation and beneficiary;
 - (b) a flat rate of up to 15 % of eligible direct staff costs **without a requirement for the Member State to execute any calculation to determine the applicable rate;**
 - (c) a flat rate applied to eligible direct costs based on existing methods and corresponding rates, applicable in Union policies for a similar type of operation and beneficiary.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 concerning the definition of the flat rate and the related methods referred to in point (c) above.

- 2. Staff costs relating to the implementation of an operation may be calculated by dividing the latest documented annual gross employment costs by 1650 hours.**

Article 59

Specific eligibility rules for grants and repayable assistance

1. Contributions in kind in the form of provision of works, goods, services, land and real estate for which no cash payment supported by invoices or documents of equivalent probative value has been made, may be eligible provided that the eligibility rules of the CSF Funds and the programme allow for it and that all the following conditions are fulfilled:
- (a) the public support paid to the operation which includes contributions in kind shall not exceed the total eligible expenditure, excluding contributions in kind, at the end of the operation;
 - (b) the value attributed to contributions in kind does not exceed the costs generally accepted on the market in question;

- (c) the value and the delivery of the contribution can be independently assessed and verified;
- (d) in the case of provision of land or real estate, **a cash payment for the purposes of a lease agreement of a nominal amount per annum not exceeding a single unit of the currency of the Member State may be made.** The value **of the land or real estate must be** certified by an independent qualified expert or duly authorised official body and does not exceed the limit laid down in paragraph 3(b);
- (e) in the case of contributions in kind in the form of unpaid work, the value of that work is determined taking into account the verified time spent and the rate of remuneration for equivalent work.

Declaration on Article 59(1) CPR (contributions in kind)

"Poland considers that Article 59(1) does not exclude the possibility for a beneficiary to declare the value of project documentation, land and real estate which was purchased and paid by the beneficiary before the beginning of the eligibility period for the operational programme as eligible contribution in kind."

2. Depreciation costs may be considered as eligible under the following conditions:
 - (a) the eligibility rules of the programme allow for it;
 - (b) the amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices where reimbursed in the form referred to in Article 57(1)(a);
 - (c) the costs relate exclusively to the period of support for the operation;
 - (d) public grants have not contributed towards the acquisition of the depreciated assets.
3. The following costs shall not be eligible for a contribution from the CSF Funds:
 - (a) interest on debt;
 - (b) the purchase of land not built on and land built on in the amount exceeding 10% of the total eligible expenditure for the operation concerned. In exceptional and duly justified cases, a higher percentage may be permitted for operations concerning environmental conservation;
 - (c) [value added tax. However, VAT amounts shall be eligible where they are not recoverable under national VAT legislation and are paid by a beneficiary other than non-taxable person as defined in the first subparagraph of Article 13(1) of Directive

2006/112/EC, provided that such VAT amounts are not incurred in relation to the provision of infrastructure.²³

Article 60

Eligibility of operations depending on location

1. Operations supported by the CSF Funds, subject to the derogations referred to in paragraphs 2 and 3, and the Fund-specific rules, shall be located in the area covered by the programme under which they are supported (the 'programme area').
2. The managing authority may accept that an operation is implemented outside the programme area but within the Union, provided that all the following conditions are satisfied:
 - (a) the operation is for the benefit of the programme area;
 - (b) the total amount allocated under the programme to operations located outside the programme area does not exceed **15** % of the support from the ERDF, Cohesion Fund and EMFF at the level of the priority, or **5** % of the support from the EAFRD at the level of the programme;
 - (c) the monitoring committee has given its agreement to the operation or types of operations concerned;
 - (d) the obligations of the authorities for the programme in relation to management, control and audit concerning the operation are fulfilled by the authorities responsible for the programme under which that operation is supported or they enter into agreements with authorities in the area in which the operation is implemented.
3. For operations concerning **Technical Assistance or** promotional activities, expenditure may be incurred outside the Union provided that the conditions set out in paragraph 2 (a) and the obligations in relation to management, control and audit concerning the operation are fulfilled.
4. Paragraphs 1 to 3 shall not apply to programmes under the European territorial cooperation goal and paragraphs 2 and 3 shall not apply to operations supported by the ESF.

Article 61

Durability of operations

²³ Not discussed in Structural Actions Working Group

1. An operation comprising investment in infrastructure or productive investment shall repay the contribution from the CSF Funds if within five years from the final payment to the beneficiary or within the period of time set out in the State aid rules, where applicable, it is subject to:
 - (a) a cessation or relocation of a productive activity **outside of the programme area; or**
 - (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage; or
 - (c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.

Sums unduly paid in respect of the operation shall be recovered by the Member State **in proportion to the period for which the requirements have not been fulfilled.**

Member States may reduce the time limit set out in the first subparagraph to three years in cases concerning the maintenance of investments or jobs created by SMEs.

2. Operations supported by the ESF and operations supported by the other CSF Funds that are not investment in infrastructure or productive investments shall repay the contribution from the Fund only where they are subject to an obligation for maintenance of investment under the applicable State aid rules and where they undergo a cessation or relocation of a productive activity within the period laid down in those rules.
3. Paragraphs 1 and 2 shall not apply to contributions to or by financial instruments or to any operation which undergoes cessation of a productive activity due to a non-fraudulent bankruptcy.
4. Paragraphs 1 and 2 shall not apply to natural persons who are beneficiary of investment support and, after the completion of the investment operation, become eligible for and receive support under the EGF (Regulation [2012] setting a European Globalisation Fund) where the investment concerned is directly linked to the type of activity identified as eligible for EGF support.

TITLE VIII

MANAGEMENT AND CONTROL

CHAPTER I

Management and control systems

Article 62

General principles of management and control systems

Management and control systems shall provide for:

- (a) a description of the functions of each body concerned in management and control, and the allocation of functions within each body;
- (b) compliance with the principle of separation of functions between and within such bodies;
- (c) procedures for ensuring the correctness and regularity of expenditure declared;
- (d) computerised systems for accounting, for the storage and transmission of financial data and data on indicators, for monitoring and for reporting;
- (e) systems for reporting and monitoring where the responsible body entrusts execution of tasks to another body;
- (f) arrangements for auditing the functioning of the management and control systems;
- (g) systems and procedures to ensure an adequate audit trail;
- (h) the prevention, detection and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest **on late payments**.

Article 62 bis

Responsibilities under Shared Management

In accordance with the principle of shared management, Member States and the Commission shall be responsible for the management and control of programmes in accordance with their respective responsibilities laid down in this Regulation and the fund specific rules.

Article 63

Responsibilities of Member States

1. Member States shall fulfil the management, control and audit obligations and assume the resulting responsibilities laid down in the rules on shared management set out in the Financial Regulation and the Fund-specific rules. [...]
2. Member States shall ensure that their management and control systems for programmes are set up in accordance with the provisions of the Fund-specific rules and that **those** systems function effectively.
3. Member States shall **ensure effective arrangements for the examination of complaints concerning the CSF Funds. The set-up of the system, including the scope and decision-making modalities covered by the arrangements, shall be the responsibility of Member States in accordance with applicable national law and practice.** [...] Member States shall **inform the Commission of** the results of such examinations [...] upon request.

Declaration on Article 63(3) CPR (examination of complaints)

"Poland understands that under Article 63(3) the scope of the system of the examination of complaints is subject to the sole decision of the Member State concerned and therefore may be limited only to the stage of selection of operations for co-financing, if the Member State deems it appropriate."

4. All official exchanges of information between the Member State and the Commission shall be carried out using an electronic data exchange system established in compliance with the terms and conditions laid down by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 143(3).

CHAPTER III

Commission powers and responsibilities

Article 65

Commission powers and responsibilities

1. The Commission shall satisfy itself on the basis of available information, including the [accreditation procedure], **statement of management responsibilities** [...], [annual]

control reports, [annual] audit opinion²⁴, annual implementation report and audits carried out by national and Union bodies, that the Member States have set up management and control systems that comply with this Regulation and the Fund-specific rules and that these systems function effectively during the implementation of programmes.

2. [...] Commission officials or authorised Commission representatives may carry out on-the-spot audits or checks upon giving **at least fifteen working days** notice **to the competent national authority, subject to the on-the-spot audit or check except in urgent cases. The Commission shall respect the principle of proportionality by taking into account the need to avoid unjustified duplication of audits or checks carried out by Member States, the level of risk to the Union budget and the need to minimise administrative burdens for beneficiaries in accordance with the Fund-specific rules.** The scope of such audits or checks may include, in particular, verification of the effective functioning of management and control systems in a programme or a part thereof, operations and assessment of the sound financial management of operations or programmes. Officials or authorised representatives of the Member State may take part in such audits **or checks**.

Commission officials or authorised Commission representatives, duly empowered to carry out on-the-spot audits **or checks**, shall have access to all **necessary** records, documents and metadata, irrespective of the medium in which they are stored, relating to operations supported by the CSF Funds or to management and control systems. Member States shall provide copies of such records, documents and metadata to the Commission upon request.

The powers set out in this paragraph shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national legislation. Commission officials and authorised representatives shall not take part, inter alia, in home visits or the formal questioning of persons within the framework of national legislation. However, they shall have access to the information thus obtained **without prejudice to the competences of national courts and in full respect of the fundamental rights of the concerned legal subjects.**

3. The Commission may require a Member State to take the actions necessary to ensure the effective functioning of their management and control systems or the correctness of expenditure in accordance with the Fund-specific rules.
4. [...].

²⁴ The brackets and amendments made follow the mandate agreed in COMBUD on 12 December 2011 concerning art. 56 of the proposed triennial revised Financial Regulation, cf. in particular Art. 56 Paragraphs 3 and 5 (a). All brackets in this document indicate that the content depends on the outcome of negotiations on said regulation proposal and cannot be negotiated at present.

CHAPTER II

Financial framework

Article 84

Resources for Investment for growth and jobs and for European territorial cooperation

3. **In order to ensure sufficient investment is targeted at youth, employment, knowledge and social inclusion, Member States shall concentrate resources to the thematic objectives set out in points 8, 9 and 10 of Article 9 of this Regulation with minimum levels in the following ranges:**
- (a) **In more developed regions between 45% and 50% of Structural Funds resources;**
- (b) **In [transition regions]²⁵ between 35% and 40% of the Structural Funds resources;**
- (c) **In less developed regions between 20% and 25% of the Structural Funds resources.**

By way of derogation, the minimum share for a category of region may be lower than the minimum level in the ranges set out above provided that such a decrease is compensated by an increase in other categories of regions. The resulting sum at national level for all categories of regions shall accordingly not be less than the sum at national level resulting from applying the minimum levels in the ranges set out above.

[For the purposes of this provision, the support to a Member State through the [Food for deprived people instrument] shall be considered as part of the share of Structural Funds allocated to the ESF.]²⁶

²⁵ To be reviewed at a later stage depending on the outcome of the MFF/negotiating box.

²⁶ To be reviewed at a later stage depending on the outcome of the MFF/negotiating box.

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.**

TITLE II

PROGRAMMING

CHAPTER I

General provisions on the Funds

Article 88

Joint support from the Funds

1. The Funds may jointly provide support for operational programmes under the Investment for growth and jobs goal.
2. The ERDF and the ESF may finance, in a complementary manner and subject to a limit of **10** % of Union funding for each priority axis of an operational programme, a part of an operation for which the costs are eligible for support from the other Fund on the basis of eligibility rules applied to that Fund, provided that they are necessary for the satisfactory implementation of the operation and are directly linked to it.

3. Paragraphs 1 and 2 shall not apply to programmes under the European territorial cooperation goal.

MAJOR PROJECTS²⁷

Article 90

Content

As part of an operational programme or operational programmes, **which have been subject to a Commission decision under Article 87(10)**, the ERDF and the **CF** may support an operation comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and **for which the total eligible cost exceeds EUR 50 000 000 and in the case of operations contributing to the thematic objective under Article 9(7) where the total eligible cost exceeds EUR 75 000 000** (a 'major project'). Financial instruments shall not be considered major projects.

Article 91

Information necessary for the approval of major projects [...]

1. **[...] Before a major project is approved, the managing authority shall ensure that the following information is available:**
 - (a) [...] the body responsible for implementation of the major project, and its capacity;
 - (b) a description of [...] the investment and its location;
 - (c) total cost and total eligible cost, taking account of the requirements set out in Article 54;
 - (d) [...] feasibility studies carried out, including the options analysis, **and** the results, [...];
 - (e) a cost-benefit analysis, including an economic and a financial analysis, and a risk assessment;
 - (f) an analysis of the environmental impact, taking into account climate change adaptation and mitigation needs, and disaster resilience;

²⁷ Where an approval decision on a major project has been made in the 2007-13 programming period, but the implementation of that project spans the programming period governed by the CPR-regulation, the possibility and the modalities of the continuation of support for such projects should be laid down in Article 145 of the CPR-regulation.

- (g) the consistency with the relevant priority axes of the operational programme or **operational** programmes concerned, and its expected contribution to achieving the specific objectives of those priority axes;
- (h) the financing plan showing the total planned financial resources and the planned support from the Funds, the EIB, and all other sources of financing, together with physical and financial indicators for monitoring progress, taking account of the identified risks;
- (i) the timetable for implementing the major project and, where the implementation period is expected to be longer than the programming period, the phases for which support from the Funds is requested during the 2014 to 2020 programming period.

The Commission shall provide indicative guidance on the methodology to be used in carrying out the cost-benefit analysis referred to in point (e) [...] in accordance with the advisory procedure referred to in Article 143(2).

At the initiative of a Member State, the information in Article 91(a) to (i) may be assessed by independent experts supported by technical assistance of the Commission or, in agreement with the Commission, by other independent experts. In other cases, the Member State shall submit to the Commission the information set out in Article 91(a) to (i) as soon as it is available.

[...] **The Commission shall provide guidance on the methodology to be used in carrying out a quality review of a major project and shall establish the format for the submission of the information set out in Article 91 (a) to (i) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 143(3).**

2. [...]

Article 92

Decision on a major project

1. **Where the information referred to in Article 91 has been appraised positively by a quality review by independent experts, the Member State may proceed with the selection of the major project in accordance with article 114 paragraph 3. The Managing Authority shall notify the Commission of the selected major project. The notification shall consist of the following elements:**

(a) the document referred to in Article 114(3)(c) setting out:

(i) the body to be responsible for implementation of the major project;

- (ii) a description of the investment, its location, timetable and expected contribution of the major project to the objectives of the relevant priority axis or axes;**
- (iii) total cost and total eligible cost, taking account of the requirements set out in Article 54 and;**
- (iv) the financing plan, and the physical and financial indicators for monitoring progress, taking account of identified risks;**
- (b) the quality review of the independent experts, providing clear statements on the investment's feasibility and economic viability.**

The major project shall be deemed to be approved by the Commission in the absence of a decision, by means of an implementing act, refusing the major project within two months of the date of notification. The Commission shall refuse a major project only on the grounds that it has established a significant weakness in the independent quality review.²⁸

The Commission shall establish the format for the notification by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 143(3).

2. **In other cases the Commission shall appraise the major project on the basis of the information referred to in Article 91 in order to determine whether the selection of the major project by the managing authority in accordance with Article 114 (3) is justified.** The Commission shall adopt a decision **on the approval of a major project**, by means of an implementing act, no later than three months after the date of submission of the information referred to in Article 91. [...]
3. The approval **by the Commission under 92(1) and 92(2)** shall be conditional on the first works contract being concluded, **or in the case of operations implemented under PPP structures the signing of the PPP contract between the public body and the private sector body**, within **three** years of the date of the **approval**. **At the duly motivated request of the Member State, in particular in the case of delays resulting from**

²⁸ In order to give equal legal certainty to the different types of proceedings in this Article.

administrative and legal proceedings related to the implementation of major projects, and made within the three year period, the Commission may adopt a decision, by means of an implementing act, on the extension of the period by not more than two years.

4. **Where the Commission does not approve the major project it shall give in its decision the reasons for its refusal.**
5. **Major projects notified to the Commission under paragraph 1 or submitted for approval under paragraph 2 shall be contained in the list of major projects in an operational programme.**
6. Expenditure relating to a major project **may be included in a request for payment after the notification referred to in paragraph 1 of this Article or after the submission for approval referred to in paragraph 2. When the Commission does not approve the major project, the expenditure declaration following the adoption of the Commission decision must be rectified accordingly.**

Declaration on Articles 91-92 CPR (major projects)

"Poland understands that under Articles 91-92 it is the right of Member States to submit, in particular due to cost overruns, a revised application requesting an amendment of a previously approved major project. Such an amended application should be assessed on its own merit."

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.

MONITORING, EVALUATION, INFORMATION AND COMMUNICATION

CHAPTER I

Monitoring and evaluation

Article 100

Functions of the monitoring committee

1. The monitoring committee shall examine in particular:
 - (a) any issues that affect the performance of the operational programme;
 - (b) progress in implementation of the evaluation plan and the follow-up given to findings of evaluations;
 - (c) implementation of the communication strategy;
 - (d) implementation of major projects;
 - (e) implementation of joint action plans;
 - (f) actions to promote equality between men and women, equal opportunities, and non-discrimination, including accessibility for disabled persons;
 - (g) actions to promote sustainable development;
 - (h) actions in the operational programme relating to the fulfilment of *ex ante* conditionalities, **which falls within the responsibilities of the Managing Authority, and be informed of actions relating to the fulfilment of other *ex ante* conditionalities;**
 - (i) financial instruments.
2. **By derogation from Article 43,** the monitoring committee shall examine and approve:
 - (a) the methodology and criteria for selection of operations;
 - (b) the annual and final implementation reports;
 - (c) the evaluation plan for the operational programme and any amendment of the plan, **including where part of a common evaluation plan pursuant to the last sentence of Article 104(1);**
 - (d) the communication strategy for the operational programme and any amendment of the strategy;
 - (e) any proposal by the managing authority for any amendment to the operational programme.

Article 101

Implementation reports for the Investment for growth and jobs goal

1. By **30 June** 2016 and by **30 June** of each subsequent year until and including 2022 the Member State shall submit to the Commission an annual **implementation** report in

accordance with Article 44(1). The report submitted in 2016 shall cover the financial years 2014 and 2015, as well as the period between the starting date for eligibility of expenditure and 31 December 2013.

2. Annual implementation reports shall set out information on:
 - (a) implementation of the operational programme in accordance with Article 44(2);
 - (b) progress in preparation and implementation of major projects and joint action plans.
3. The annual implementation reports submitted in 2017 and 2019 shall set out and assess the information required under Articles 44(3) and (4) respectively, the information set out in paragraph 2 **together with information on the elements set out under (d), (g) and (j) below and may depend on the content and objectives of operational programmes add information on the other elements:**
 - (a) progress in implementation of the integrated approach to territorial development, including sustainable urban development, and community-led local development under the operational programme;
 - (b) **where appropriate**, progress in implementation of actions to reinforce the capacity of Member State authorities and beneficiaries to administer and use the Funds;
 - (c) progress in implementation of any interregional and transnational actions;
 - (d) progress in implementation of the evaluation plan and the follow-up given to the findings of evaluations;
 - (e) the specific actions taken to promote equality between men and women and to **promote non-**discrimination, including accessibility for disabled persons, and the arrangements implemented to ensure the integration of the gender perspective in the operational programme and operations;
 - (f) actions taken to promote sustainable development in accordance with Article 8;
 - (g) the results of the information and publicity measures of the Funds carried out under the communication strategy;
 - (h) progress in the implementation of actions in the field of social innovation, where appropriate;
 - (i) progress in the implementation of measures 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 including, where appropriate, the financial resources used;

- (j) the involvement of the partners in the implementation, monitoring and evaluation of the operational programme.

The Member State may choose to report the additional information set out above in the progress report instead.

- 4. The annual and final implementation reports shall be drawn up following models adopted by the Commission by means of implementing acts. These implementing acts shall be adopted in accordance with the **examination** procedure referred to in Article 143(3).

Article 102

Transmission of financial data

- 1. By 31 January, [...] **and** 31 July [...], the **Member State** shall transmit electronically to the Commission for monitoring purposes, for each operational programme and by priority axis:
 - (a) the total and public eligible cost of the operations and the number of operations selected for support;

[...];

 - (b) the total eligible expenditure declared by beneficiaries to the managing authority.
- 2. In addition, the transmission **made by** 31 January shall contain the above data broken down by category of intervention. This transmission shall be considered to fulfil the requirement for the submission of financial data referred to in Article 44(2).
- 3. A forecast of the amount for which Member States expect to submit payment applications for the current financial year and the subsequent financial year shall accompany the transmissions to be made by 31 January and 31 July.
- 4. The cut-off date for the data submitted under this Article shall be the end of the month preceding the month of submission.

Article 103

Cohesion Report

The report of the Commission referred to in Article 175 **TFEU** shall include:

- (a) a record of progress made on economic, social and territorial cohesion, including the socio-economic situation and development of the regions, as well as the integration of the Union's priorities;

- (b) a record of the role of the Funds, the EIB and the other instruments, as well as the effect of other Union and national policies, in the progress made.

Article 104

Evaluation

1. An evaluation plan shall be drawn up by the managing authority **or Member State** for **one or more** operational programmes. The evaluation plan shall be submitted to [...] the monitoring committee **no later than a year after the adoption of the programme.**
2. By 31 December **2021**, managing authorities shall submit to the Commission, for each programme, a report summarising the findings of evaluations carried out during the programming period [...] **and** the main outputs and results of the programme, **providing comments on the reported information.**
3. The Commission shall carry out *ex post* evaluations in close cooperation with the Member States and managing authorities.

TITLE VI

MANAGEMENT AND CONTROL

CHAPTER I

Management and control systems

Article 112

Responsibilities of Member States

1. Member States shall ensure that management and control systems for operational programmes are set up in accordance with Articles 62 and 63.
2. Member States shall prevent, detect and correct irregularities and shall recover amounts unduly paid, together with any interest on late payments. They shall notify [...] irregularities **that exceed EUR 10 000 in contribution from the Funds** to the Commission and shall keep the Commission informed of the **outcome** of related administrative and legal proceedings.

The Member States shall not notify irregularities to the Commission in the following cases:

- (a) cases where the irregularity consists solely in the failure to execute, in whole or in part, an operation included in the co-financed operational program owing to the bankruptcy of the beneficiary;**
- (b) cases brought to the attention of the managing authority or certifying authority by the beneficiary voluntarily and before detection by either of them, whether before or after the payment of the public contribution;**
- (c) cases which are detected and corrected by the managing authority or certifying authority before inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.**

In all the other cases, in particular those preceding a bankruptcy or in cases of suspected fraud, the detected irregularities with the associated preventing and correcting measures shall be reported to the Commission.²⁹

When amounts unduly paid to a beneficiary cannot be recovered and this is as a result of fault or negligence on the part of a Member State, the Member State shall be responsible for reimbursing the amounts concerned to the general budget of the Union. **Member States may decide not to recover an amount unduly paid if the amount to be recovered from the beneficiary, not including interests, does not exceed EUR 250 in contribution from the Funds.**

The Commission shall [...] adopt **implementing** acts in accordance with **the examination procedure referred to in** Article **143 (3)** laying down **uniform conditions concerning the reporting modalities and formalities on irregularities specified in this paragraph.**

3. Member States shall ensure that no later than 31 December **2016**, all exchanges of information between beneficiaries and **a** managing authority, certifying authority, audit authority and intermediate bodies can be carried out [...] by means of electronic data exchange systems.

The systems shall facilitate interoperability with national and Union frameworks and allow for the beneficiaries to submit all information referred to in the first sub-paragraph only once.

The Commission shall adopt, by means of implementing acts, detailed rules concerning the exchanges of information under this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 143(3).

²⁹ Cf. Cion. Reg. 1828/06 art.28.2

CHAPTER II

Management and control authorities

Article 113

Designation of authorities

1. The Member State shall designate, for each operational programme, a national, regional or local public authority or body **or a private body** as managing authority. The same [...] **managing authority** may be designated [...] for more than one operational programme.
2. The Member State shall designate, for each operational programme, a national, regional or local public authority or body as a certifying authority, without prejudice to paragraph 3. The same certifying authority may be designated for more than one operational programme.
3. The Member State may designate for an operational programme a managing authority, which **is a public authority or body, to** carry out in addition the functions of the certifying authority.
4. The Member State shall designate, for each operational programme, a national, regional or local public authority or body, functionally independent from the managing authority and the certifying authority, as audit authority. The same audit authority may be designated for more than one operational programme.
5. For the Investment for growth and jobs goal, provided that the principle of separation of functions is respected, the managing authority, the certifying authority, where applicable, and the audit authority may be part of the same public authority or body. [...] For those operational programmes for which the total amount of support from the Funds exceeds EUR 250 000 000, the audit authority may [...] be part of the same public authority or body as the managing authority **either if, pursuant to the applicable provisions for the previous programming period³⁰, the Commission has informed the Member State of its conclusion that it can rely principally on its audit opinion, or if the Commission is satisfied on the basis of the experience of the previous programming period that the institutional organisation and accountability of the audit authority provide adequate guarantees of its functional independence and reliability.**

³⁰ As a consequence a new third paragraph needs to be added to Article 145 along the following lines: "*When applying Article 113 (5), the Commission assessment and conclusion in accordance with Article 73 (3) of Council Regulation (EC) No 1083/2006 can be made until the date of the approval of the first operational programme of the Member State concerned pursuant to this Regulation*".

Statement by the Commission on Article 113 paragraph 5 CPR

The purpose of this Article is to ensure that there are guarantees of the real independence of audit authorities where the size of the operational programme means that the risk is higher, without putting in question the organisational arrangements of those audit authorities for which the experience of the 2007-2013 programming period demonstrates their effective independence and reliability.

The Commission will actively seek to apply the provisions of Article 73(3) of Council Regulation (EC) N° 1083/2006 so that in the cases where it is able to conclude that the criteria are fulfilled, it will be able to inform the Member State as soon as possible, and before the end of 2013, that it can rely principally on the opinion of the audit authority.

6. The Member State may designate one or more intermediate bodies to carry out certain tasks of the managing or the certifying authority under the responsibility of that authority. The relevant arrangements between the managing authority or certifying authority and the intermediate bodies shall be formally recorded in writing.
7. The Member State or the managing authority may entrust the management of part of an operational programme to an intermediate body by way of an agreement in writing between the intermediate body and the Member State or managing authority (a 'global grant'). The intermediate body shall provide guarantees of its solvency and competence in the domain concerned, as well as its administrative and financial management.
8. The Member State shall lay down in writing rules governing its relations with the managing authorities, certifying authorities and audit authorities, the relations between such authorities, and the relations of such authorities with the Commission.

Article 114

Functions of the managing authority

1. The managing authority shall be responsible for managing the operational programme in accordance with the principle of sound financial management.
2. As regards the [...] management of the operational programme, the managing authority shall:
 - (a) support the work of the monitoring committee **referred to in Article 41** and provide it with the information it requires to carry out its tasks, in particular data relating to the progress of the operational programme in achieving its objectives, financial data and data relating to indicators and milestones;

- (b) draw up and, after approval by the monitoring committee, submit to the Commission annual and final implementation reports **referred to in Article 44**;
 - (c) make available to intermediate bodies and beneficiaries information that is relevant to the execution of their tasks and the implementation of operations respectively;
 - (d) establish a system to record and store in computerised form data on each operation necessary for monitoring, evaluation, financial management, verification and audit, including data on individual participants in operations, where applicable;
 - (e) ensure that the data referred to in point (d) is collected, entered and stored in the system, and that data on indicators is broken down by gender where required by Annex I of the ESF Regulation.
3. As regards the selection of operations, the managing authority shall:
- (a) draw up and, once approved, apply appropriate selection procedures and criteria that:
 - (i) **ensure the contribution of operations to the achievement of the specific objectives and results of the relevant priority axes**;
 - (ii) are non-discriminatory and transparent;
 - (iii) take into account the general principles set out in Articles 7 and 8;
 - (b) ensure that a selected operation falls within the scope of the Fund or Funds concerned and **can be attributed to** a category of intervention identified in the priority axis or axes of the operational programme;
 - (c) **ensure that** the beneficiary **is provided with** a document setting out the conditions for support for each operation including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, and the time-limit for execution;
 - (d) satisfy itself that the beneficiary has the administrative, financial and operational capacity to fulfil the conditions defined in point (c) before approval of the operation;
 - (e) satisfy itself that, where the operation has started before the submission of an application for funding to the managing authority, Union and national rules relevant for the operation have been complied with;
 - (f) ensure that an applicant does not receive support from the Funds where it has been, or should have been, subject to a procedure of recovery in accordance with Article 61 following the relocation of a productive activity within the Union;

- (g) determine the category of intervention to which the expenditure of an operation shall be attributed.
4. As regards the financial management and control of the operational programme, the managing authority shall:
- (a) verify that the co-financed products and services have been delivered and that expenditure declared by the beneficiaries has been paid [...] and that it complies with applicable Union and national law, the operational programme and the conditions for support of the operation;
 - (b) ensure that beneficiaries involved in the implementation of operations reimbursed on the basis of eligible costs actually incurred maintain either a separate accounting system or an adequate accounting code for all transactions relating to an operation;
 - (c) put in place effective and proportionate anti-fraud measures taking into account the risks identified;
 - (d) set up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held in accordance with the requirements of Article 62(g);
 - (e) [draw up the **statement of management responsibilities** [...] on the functioning of the management and control system, the legality and regularity of underlying transactions and the respect of the principle of sound financial management, together with a report setting out the results of management controls carried out, any weaknesses identified in the management and control system and any corrective action taken].
5. Verifications pursuant to paragraph 4(a) shall include the following procedures:
- (a) administrative verifications in respect of each application for reimbursement by beneficiaries;
 - (b) on-the-spot verifications of operations.

The frequency and coverage of the on-the-spot verifications shall be proportionate to the amount of public support to an operation and **to** the level of risk identified by these verifications and audits by the audit authority for the management and control system as a whole.

6. On-the-spot verifications of individual operations pursuant to paragraph (5)(b) may be carried out on a sample basis.

7. Where the managing authority is also a beneficiary under the operational programme, arrangements for the verifications referred to in paragraph 4(a) shall ensure adequate separation of functions.
8. The Commission shall adopt **implementing** acts, in accordance with **the examination procedure referred to in** Article **143 (3)**, laying down the modalities of the exchange of information in paragraph 2(d).
9. The Commission shall adopt **implementing** acts, in accordance with **the examination procedure referred to in** Article **143 (3)**, laying down rules concerning arrangements for the audit trail referred to in paragraph 4(d) **of this Article**.
10. [The Commission shall adopt, by means of implementing acts, the model for the **statement of management responsibilities** referred to in paragraph 4(e). Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 143(2)].

Article 115

Functions of the certifying authority

The certifying authority of an operational programme shall be responsible in particular for:

- (a) drawing up and submitting to the Commission payment applications and certifying that these result from reliable accounting systems, are based on verifiable supporting documents and have been subject to verifications by the managing authority;
- (b) drawing up the [annual] accounts;
- (c) certifying the completeness, accuracy and veracity of the [annual] accounts and that the expenditure entered in the accounts complies with applicable Union and national rules and has been incurred in respect of operations selected for funding in accordance with the criteria applicable to the operational programme and complying with Union and national rules;
- (d) ensuring that there is a system which records and stores, in computerised form, accounting records for each operation, and which supports all the data required for drawing up payment applications and [annual] accounts, including records of amounts recoverable, amounts recovered and amounts withdrawn following cancellation of all or part of the contribution for an operation or operational programme;
- (e) ensuring for the purposes of drawing up and submission of payment applications that it has received adequate information from the managing authority on the procedures and verifications carried out in relation to expenditure;

- (f) taking account when drawing up and submitting payment applications **of** the results of all audits carried out by or under the responsibility of the audit authority;
- (g) maintaining accounting records in a computerised form of expenditure declared to the Commission and the corresponding public contribution paid to beneficiaries;
- (h) keeping an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation. Amounts recovered shall be repaid to the general budget of the Union prior to the closure of the operational programme by deducting them from the next statement of expenditure.

Article 116

Functions of the audit authority

1. The audit authority shall ensure that audits are carried out on the **proper functioning of the management and control system of the operational programme. The audit authority shall ensure that audits are carried out on an appropriate sample of operations on the basis of the declared expenditure. Appropriate are all statistical or non-statistical methods, which include a representative sample of declared expenditure. In case of non-statistical sampling it must be ensured that at least 5% of the declared expenditure is audited.**

The Commission shall [...] adopt **implementing** acts in accordance with **the examination procedure referred to in** Article **143 (3), laying down the modalities of appropriate statistical or non-statistical sampling methods.**

2. Where audits are carried out by a body other than the audit authority, the audit authority shall ensure that any such body has the necessary functional independence.
3. The audit authority shall ensure that audit work takes account of internationally accepted audit standards.
4. The audit authority shall, within **eight** months of adoption of an operational programme, prepare an audit strategy for performance of audits. The audit strategy shall set out the audit methodology, the sampling method for audits on operations and the planning of audits in relation to the current accounting year and the two subsequent accounting years. The audit strategy shall be updated annually from 2016 until and including 2022. Where a common management and control system applies to more than one operational programme, a single audit strategy may be prepared for the operational programmes concerned. The audit authority shall submit the audit strategy to the Commission upon request.
5. The audit authority shall draw up:

- (i) an audit opinion on the **accuracy of the declarations of expenditure of the [...]** **previous** accounting year, **the legality and regularity of the underlying transactions** [...] **as well as** the **proper** functioning of the management and control system [...];
- (ii) [...] a control report setting out the **main** findings of the audits **carried out according to paragraph 1 and the suggested and implemented corrective measures** [...].

The report under point (ii) shall set out [...] deficiencies found in the management and control system and [...] corrective measures taken or proposed to be taken.

Where a common management and control system applies to more than one operational programme, the information required under point (ii) may be grouped in a single report.

6. The Commission shall adopt, by means of implementing acts, models for the audit strategy, the audit opinion and the [annual] control report [...]. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 143(3).
7. **The Commission shall adopt, by means** of implementing **acts**, rules concerning the use of data collected during audits carried out by Commission officials or authorised Commission representatives. **Those implementing acts** shall be adopted [...] in accordance with the examination procedure referred to in Article 143(3).

Article 118

Cooperation with audit authorities

1. The Commission shall cooperate with audit authorities to coordinate their audit plans and methods and shall immediately exchange **with those authorities** the results of audits carried out on management and control systems.
2. To facilitate this cooperation in cases where a Member State designates more than one audit authority, the Member State may designate a coordination body.
3. The Commission, the audit authorities and any coordination body shall meet on a regular basis and, **as a general rule**, at least once a year, unless otherwise agreed, to examine the [annual] control report, the **audit** opinion and the audit strategy, and to exchange views on issues relating to improvement of the management and control systems.

TITLE VIII

Proportional control of operational programmes

Proportional control of operational programmes

1. Operations for which the total eligible expenditure does not exceed EUR **200 000** shall not be subject to more than one audit by either the audit authority or the Commission prior to the closure of all the expenditure concerned [under Article 131]. Other operations shall not be subject to more than one audit per [accounting year] by **either** the audit authority **or** the Commission prior to the closure of all the expenditure concerned [under Article 131]. These provisions are without prejudice to paragraph 4. **Operations shall not be subject to an audit by the Commission or the audit authority in any year if there has already been an audit in that year by the European Court of Auditors.**
2. For operational programmes for which the most recent audit opinion indicates that there are no significant deficiencies, the Commission may agree with the audit authority in the subsequent meeting referred to in Article 118(3) that the level of audit work required may be reduced so that it is proportionate to the risk established. In such cases, the Commission will not carry out its own on-the-spot audits unless there is evidence suggesting deficiencies in the management and control system affecting expenditure declared to the Commission in an [accounting year] for which the accounts have been the subject of a clearance decision.
3. For operational programmes for which the Commission concludes that it can rely on the opinion of the audit authority, it may agree with the audit authority to limit its own on the spot audits to audit the work of the audit authority unless there is evidence of deficiencies in the work of the audit authority work for an [accounting year] for which the accounts have been subject to a clearance decision.
4. [...] The audit authority and the Commission may carry out audits of operations in case a risk assessment establishes a specific risk of irregularity or fraud, in case of evidence of serious deficiencies in the management and control system of the operational programme concerned, and, during the 3 years following closure of all the expenditure of an operation [under Article 131], as part of an audit sample. The Commission may at any time carry out audits of operations for the purpose of assessing the work of an audit authority by **reviewing the audit trail of the audit authority or taking part in the on-the-spot audits of the audit authority. Only if the Commission does not obtain necessary assurance as to the effective functioning of the audit authority by these means, may it carry out a re-performance of its audit activity.**

ANNEX I

Method for establishing the performance framework

1. The performance framework shall consist of milestones established for each priority, where appropriate, for the **year** [...] 2018 and targets established for 2022. The milestones and targets shall be presented in accordance with the format set out in table 1.

Table 1: Standard format for the performance framework

Priority	Indicator and measurement unit, where appropriate	[...]	Milestone for 2018	Target for 2022

2. Milestones are intermediate targets, **directly linked to** the achievement of the specific objective of a priority, where appropriate, expressing the intended progress towards the targets set for the end of the period. [...]. Milestones established for 2018 shall include financial indicators, output indicators and where appropriate, result indicators, **which are closely linked to the supported policy interventions.** **Result indicators shall not be taken into account for the purposes of Article 20(3) and Article 20(4).** Milestones may also be established for key implementation steps.

3. Milestones **and targets** shall be:

- **realistic, achievable,** relevant, capturing essential information on the progress of a priority;
- **consistent with the nature and character of the specific objectives of the priority;**
- transparent, with objectively verifiable targets and the source data identified and, **where possible,** publicly available;
- verifiable, without imposing a disproportionate administrative burden;
- consistent across operational programmes, where appropriate.

4. In duly justified cases, such as a significant change in the economic, environmental and labour market conditions in a Member State or region, and in addition to amendments resulting from changes in allocations for a given priority, the Member State may propose the revision of milestones and targets in accordance with Article 26 of this Regulation.

ANNEX IV

Ex ante conditionalities

Thematic *ex ante* conditionalities

Thematic objectives	Investment priorities	<i>Ex ante</i> conditionality	Criteria for fulfilment
1. Strengthening research, technological development and innovation (<i>R&D target</i>) (referred to in Article 9(1))	ERDF: - All investment priorities under thematic objective no. 1	1.1. <i>Research and innovation</i> : The existence of a national or regional research and innovation strategic policy framework for smart specialisation, where appropriate, in line with the National Reform Programme, to leverage private research and innovation expenditure.	<ul style="list-style-type: none">- A national or regional research and innovation strategic policy framework for smart specialisation is in place that:<ul style="list-style-type: none">- is based on a SWOT or similar analysis to concentrate resources on a limited set of research and innovation priorities;- outlines measures to stimulate private RTD investment;- contains a monitoring mechanism.- A framework outlining available budgetary resources for research and innovation has been adopted.
	ERDF: - Enhancing research and innovation infrastructure (R&I) and capacities to develop R&I excellence and promoting centres of competence, in particular those of European interest	1.2 The existence of a multi-annual plan for budgeting and prioritization of investments.	<ul style="list-style-type: none">- An indicative multi-annual plan for budgeting and prioritization of investments linked to EU priorities, and, where appropriate, the European Strategy Forum on Research Infrastructures - ESFRI has been adopted.

<p>2. Enhancing access to and use and quality of information and communication technologies (Broadband target) (referred to in Article 9(2))</p>	<p>ERDF: - developing ICT products and services, e-commerce and enhancing demand for ICT - strengthening ICT applications for e-government, e-learning, e-inclusion, e-culture and e-health</p>	<p>2.1. <i>Digital growth</i>: A strategic policy framework for digital growth to stimulate demand for affordable, good quality and interoperable ICT-enabled private and public services and increase uptake by citizens, including vulnerable groups, businesses and public administrations including cross border initiatives.</p>	<ul style="list-style-type: none"> - A strategic policy framework for digital growth, for instance, within the national or regional innovation strategic policy framework for smart specialisation is in place that contains: <ul style="list-style-type: none"> - budgeting and prioritisation of actions through a SWOT or similar analysis consistent with the Scoreboard of the Digital Agenda for Europe; - an analysis of balancing support for demand and supply of information and communication technologies (ICT) should have been conducted; - indicators to measure progress of interventions in areas such as digital literacy, e-inclusion, e-accessibility, and of e-health within the limits of Article 168 TFEU which are aligned with existing relevant sectoral national or regional strategies; - assessment of needs to reinforce ICT capacity-building.
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	<p>ERDF: - extending broadband deployment and the roll-out of high-speed networks and supporting the adoption of future and emerging technologies and networks for the digital economy</p>	<p>2.2. <i>Next Generation Access (NGA) Infrastructure</i>: The existence of national or regional NGA Plans which take account of regional actions in order to reach the EU high-speed Internet access targets, focusing on areas where the market fails to provide an open infrastructure at an affordable cost and to a quality in line with the EU competition and state aid rules, and provide accessible services to vulnerable groups.</p>	<p>– A national and/or regional NGA Plan is in place that contains:</p> <ul style="list-style-type: none"> – a plan of infrastructure investments based on an economic analysis taking account of existing infrastructure and published private investment plans; – sustainable investment models that enhance competition and provide access to open, affordable, quality and future proof infrastructure and services; – measures to stimulate private investment.
<p>3. Enhancing the competitiveness of small and medium-sized enterprises (SMEs) (referred to in Article 9(3))</p>	<p>ERDF: - promoting entrepreneurship, in particular by facilitating the economic exploitation of new ideas and fostering the creation of new firms, including through business incubators</p>	<p>3.1. Specific actions have been carried out to underpin the promotion of entrepreneurship taking into account the Small Business Act (SBA).</p>	<p>– The specific actions are:</p> <ul style="list-style-type: none"> – measures to reduce the cost and time to set-up businesses; – measures to reduce the time needed to get licenses and permits to take up and perform the specific activity of an enterprise.

<p>4. Supporting the shift towards a low-carbon economy in all sectors</p> <p>(referred to in Article 9(4))</p>	<p>ERDF + CF:</p> <ul style="list-style-type: none"> - supporting energy efficiency and renewable energy use in public infrastructures, including in public buildings and in the housing sector 	<p>4.1. Actions have been carried out to promote cost-effective improvements of energy end use efficiency and cost-effective investment in <i>Energy efficiency</i> when constructing or renovating buildings.</p>	<p>–</p> <p>The actions are:</p> <ul style="list-style-type: none"> – Measures to ensure minimum requirements are in place related to the energy performance of buildings consistent with Article 3, Article 4 and Article 5 of Directive 2010/31/EU. – Measures necessary to establish a system of certification of the energy performance of buildings consistent with Article 11 of Directive 2010/31/EU. – Measures consistent with art. 13 of Directive 2006/32/EC on energy end-use efficiency and energy services to ensure the provision to final customers of individual meters in so far as it is technically possible, financially reasonable and proportionate in relation to the potential energy savings.
	<p>ERDF:</p> <ul style="list-style-type: none"> - promotion of high-efficiency co-generation of heat and power 	<p>4.2. Actions have been carried out to promote high-efficiency co-generation of heat and power.</p>	<p>–</p> <p>The actions are:</p> <ul style="list-style-type: none"> – Support for co-generation is based on useful heat demand and primary energy savings consistent with Article 7.1 and 9.1. (a) and (b) of Directive 2004/8/EC), Member States or their competent bodies have evaluated the existing legislative and regulatory framework with regard to authorisation procedures or other procedures in order to: <ul style="list-style-type: none"> – a) encourage the design of co-generation units to match economically justifiable demands for useful heat output and avoid production of more heat than useful heat; and – b) reduce the regulatory and non-regulatory barriers to an increase in co-generation.

	ERDF + CF: - promoting the production and distribution of renewable energy sources	4.3. Actions have been carried out to promote the production and distribution of renewable energy sources. ¹	<ul style="list-style-type: none"> – Transparent support schemes, priority in grid access or guaranteed access and priority in dispatching, as well as standard rules relating to the bearing and sharing of costs of technical adaptations which have been made public are in place consistent with Article 14 (1) Article 16 (2) and 16 (3) of Directive 2009/28/EC. – A Member State has adopted a national renewable energy action plan consistent with Article 4 of Directive 2009/28/EC.
5. Promoting climate change adaptation and risk prevention <i>(Climate change target)</i> (referred to in Article 9(5))	ERDF + CF: - promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems	5.1. <i>Risk prevention and risk management</i> : The existence of national or regional risk assessments for disaster management taking into account climate change adaptation	<ul style="list-style-type: none"> – A national or regional risk assessment with the following elements shall be in place: <ul style="list-style-type: none"> – A description of the process, methodology, methods and non-sensitive data used for risk assessment as well as of the risk-based criteria for the prioritisation of investment; – A description of single-risk and multi-risk scenarios; – Taking into account, where appropriate, national climate change adaptation strategies.

¹ OJ L 140, 5.6.2009, p. 16.

<p>6. Protecting the environment and promoting the sustainable use of resources (referred to in Article 9(6))</p>	<p>ERDF + CF: - addressing the significant needs for investment in the water sector to meet the requirements of the environmental acquis</p>	<p>6.1. <i>Water sector</i>: The existence of a) a water pricing policy which provides adequate incentives for users to use water resources efficiently and b) an adequate contribution of the different water uses to the recovery of the costs of water services at a rate determined in the approved river basin management plan for investment supported by the programmes.</p>	<ul style="list-style-type: none"> – A Member State has ensured a contribution of the different water uses to the recovery of the costs of water services by sector consistent with Article 9, paragraph 1, first indent of Directive 2000/60/EC having regard, where appropriate, to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected. – The adoption of a river basin management plan for the river basin district with a justified concentration of investments consistent with Article 13 of Directive 2000/60/EC² of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.
	<p>ERDF + CF: - addressing the significant needs for investment in the waste sector to meet the requirements of the environmental acquis</p>	<p>6.2. <i>Waste sector</i>: Promoting economically and environmentally sustainable investments in the waste sector particularly by the development of waste management plans consistent with Directive 2008/98/EC on waste, and with the waste hierarchy.</p>	<ul style="list-style-type: none"> – A report has been submitted to the Commission on progress towards targets of Article 11 of Directive 2008/98/EC and intended actions to meet the targets. – The existence of one or more waste management plans as required by Article 28 of Directive 2008/98/EC. – A Member State has established, consistent with Articles 1 and 4 of Directive 2008/98/EC, waste prevention programmes, as required by Article 29 of the Directive. – Necessary measures to achieve the target on re-use and recycling by 2020 consistent with Article 11.2 of Directive 2008/98/EC have been adopted.

² OJ L 327, 22.12.2000, p. 1.

<p>7. Promoting sustainable transport and removing bottlenecks in key network infrastructures (referred to in Article 9(7))</p>	<p>ERDF + CF: - supporting a multimodal Single European Transport Area by investing in the Trans-European Transport Network (TEN-T) network</p> <p>ERDF: - enhancing regional mobility through connecting secondary and tertiary nodes to TEN-T infrastructure</p>	<p>7.1. <i>Road</i>: The existence of a comprehensive plan(s) or framework(s) for transport investment in accordance with the Member States' institutional set-up (including public transport at regional and local level) which supports infrastructure development and improves connectivity to the TEN-T comprehensive and core networks.</p>	<ul style="list-style-type: none"> - The existence of a comprehensive transport plan(s) or framework(s) for transport investment which fulfills legal requirements for strategic environmental assessment and sets out: <ul style="list-style-type: none"> - the contribution to the single European Transport Area consistent with Article 10 of Regulation No. [TEN-T], including priorities for investments in: <ul style="list-style-type: none"> - the core TEN-T network and the comprehensive network where investment from the ERDF and CF is envisaged; and - secondary connectivity. - a realistic and mature pipeline for projects envisaged for support from the ERDF and CF. - Measures to ensure the capacity of intermediary bodies and beneficiaries to deliver the project pipeline.
	<p>ERDF + CF: - supporting a multimodal Single European Transport Area by investing in the Trans-European Transport Network (TEN-T) network</p> <p>- developing comprehensive, high quality and interoperable railway systems</p> <p>ERDF: - enhancing regional mobility through connecting secondary and tertiary nodes to TEN-T</p>	<p>7.2. <i>Railway</i>: The existence within the comprehensive transport plan(s) or framework(s) of an explicit section on railway development in accordance with the Member States' institutional set-up (including public transport at regional and local level) which supports infrastructure development and improves connectivity to the TEN-T comprehensive and core networks. The investments cover mobile assets, interoperability and capacity building.</p>	<ul style="list-style-type: none"> - The existence of a section on railway development within the transport plan(s) or framework(s) as set out above which fulfills legal requirements for strategic environmental assessment and sets out a realistic and mature project pipeline (including a timetable, budgetary framework); - Measures to ensure the capacity of intermediary bodies and beneficiaries to deliver the project pipeline.

	infrastructure		
8. Promoting employment and supporting labour mobility (Employment target) (referred to in Article 9(8))	ESF: - Access to employment for job-seekers and inactive people, including local employment initiatives and support for labour mobility	8.1. Active labour market policies are designed and delivered in the light of the Employment guidelines.	<ul style="list-style-type: none"> - Employment services have the capacity to and do deliver: <ul style="list-style-type: none"> - personalised services and active and preventive labour market measures at an early stage, which prioritise the most vulnerable while being open for all jobseekers; - information on new job vacancies. - Employment services have set up formal or informal cooperation arrangements with relevant stakeholders.
	ESF: - Self-employment, entrepreneurship and business creation ERDF: - development of business incubators and investment support for self-employment, micro-enterprises and business creation	8.2. <i>Self-employment, entrepreneurship and business creation</i> : the existence of a strategic policy framework for inclusive start-up.	<ul style="list-style-type: none"> - A strategic policy framework for inclusive start-up support is in place with the following elements: <ul style="list-style-type: none"> - measures to reduce the cost and time to set up businesses; - measures to reduce the time needed to get licenses and permits to take up and perform the specific activity of an enterprise business; - actions linking suitable business development services and financial services (access to capital), including the outreach to disadvantaged groups and/or areas where needed.
	ESF: - Modernisation and strengthening of labour market institutions, including actions to enhance transnational labour mobility ERDF: - investing in infrastructure for public employment services	8.3. - Labour market institutions are modernised and strengthened in the light of the Employment Guidelines; - Reforms of labour market institutions will be preceded by a clear strategic policy framework and <i>ex ante</i> assessment including the gender dimension	<ul style="list-style-type: none"> - Actions to reform employment services, aiming at providing them with the capacity to deliver: <ul style="list-style-type: none"> - personalised services and active and preventive labour market measures at an early stage, which prioritise the most vulnerable jobseekers; - information on new job openings. - Reform of employment services will include the creation of formal or informal cooperation arrangements with relevant stakeholders.

	<p>ESF: - Active and healthy ageing</p>	<p>8.4. <i>Active and healthy ageing:</i> Active ageing policies are designed in the light of the Employment Guidelines.</p>	<p>– Actions to deliver on active and healthy ageing challenges:</p> <ul style="list-style-type: none"> – Relevant stakeholders are involved in the design and follow-up of active ageing policies with a view to retaining elderly workers on the labour market and promote their employment.
	<p>ESF: - Adaptation of workers, enterprises and entrepreneurs to change</p>	<p>8.5. <i>Adaptation of workers, enterprises and entrepreneurs to change:</i> The existence of policies aimed at favouring anticipation and good management of change and restructuring.</p>	<p>– A limited number of basic instruments are in place to support social partners and public authorities to develop proactive approaches towards change and restructuring, in particular the existence of policies aimed at favouring anticipation and good management of change and restructuring.</p>

<p>9. Investing in skills, education and lifelong learning (Education target) (referred to in Article 9(10))</p>	<p>ESF: - preventing and reducing early school-leaving</p>	<p>9.1. <i>Early school leaving</i>: The existence of a strategic policy framework to reduce early school leaving (ESL) within the limits of Article 165 TFEU.</p>	<ul style="list-style-type: none"> - A system for collecting and analysing data and information on ESL at relevant levels is in place that: <ul style="list-style-type: none"> - provides a sufficient evidence-base to develop targeted policies and monitors developments. - A strategic policy framework on ESL is in place that: <ul style="list-style-type: none"> - is based on evidence; - covers relevant educational sectors, including early childhood development, and addresses prevention, intervention and compensation measures; - involves all policy sectors and stakeholders that are relevant to address ESL.
	<p>ESF: - Improving the quality, efficiency and openness of tertiary and equivalent education with a view to increasing participation and attainment levels</p>	<p>9.2. <i>Higher education</i>: The existence of a national or regional strategic policy framework for increasing tertiary education attainment, quality and efficiency within the limits of Article 165 TFEU.</p>	<ul style="list-style-type: none"> - A national or regional strategic policy framework for tertiary education is in place with the following elements: <ul style="list-style-type: none"> - where necessary, measures to increase participation and attainment that: <ul style="list-style-type: none"> - increase higher education participation among low income groups and other under-represented groups; - reduce drop-out rates/improve completion rates. - measures to increase employability and entrepreneurship that: <ul style="list-style-type: none"> - encourage the development of "transversal skills", including entrepreneurship in relevant higher education programmes; - reduce gender differences in terms of academic and vocational choices.

	<p>ESF: - Enhancing access to lifelong learning, upgrading the skills and competences of the workforce</p>	<p>9.3. <i>Lifelong learning</i>: The existence of a national and/or regional strategic policy framework for lifelong learning within the limits of Article 165, TFEU.</p>	<p>– A national or regional strategic policy framework for lifelong learning is in place that contains:</p> <ul style="list-style-type: none"> – measures to support lifelong learning (LLL) implementation and skills upgrading and providing for the involvement of, and partnership with relevant stakeholders; – measures for the provision of skills development corresponding to the needs of various target groups where these are identified as priorities in national or regional strategic policy frameworks (for example young people in vocational training, adults, parents returning in the labour market, low skilled and older workers, migrants and other disadvantaged groups); – measures to widen access to LLL including through efforts to effectively implement transparency tools (for example the European Qualifications Framework, National Qualifications Framework, European Credit system for Vocational Education and Training, European Quality Assurance in Vocational Education and Training).
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<p>10. Promoting social inclusion and combating poverty (<i>poverty target</i>) (referred to in Article 9(9))</p>	<p>ESF: - Active inclusion with a view to improving employment opportunities</p>	<p>10.1. The existence and the implementation of a national strategic policy framework for poverty reduction aiming at the active inclusion of people excluded from the labour market in the light of the Employment guidelines.</p>	<ul style="list-style-type: none"> - A national strategic policy framework for poverty reduction, aiming at active inclusion, is in place that: <ul style="list-style-type: none"> - provides a sufficient evidence base to develop policies for poverty reduction and monitor developments; - is in accordance with the national poverty and social exclusion target (as defined in the National Reform Programme), which includes the extension of employment opportunities for disadvantaged groups; - involves relevant stakeholders in combating poverty; - Upon request and where necessary relevant stakeholders can be provided with support for submitting project applications and for implementing and managing the selected projects.
	<p>ESF: - Integration of marginalised Roma communities</p>	<p>10.2. A national Roma inclusion strategic policy framework is in place.</p>	<ul style="list-style-type: none"> - A national Roma inclusion strategy is in place that: <ul style="list-style-type: none"> - sets achievable national goals for Roma integration to bridge the gap with the general population. These targets should address the four EU Roma integration goals relating to access to education, employment, healthcare and housing; - identifies where relevant those disadvantaged micro-regions or segregated neighbourhoods, where communities are most deprived, using already available socio-economic and territorial indicators (i.e. very low educational level, long-term unemployment, etc); - includes strong monitoring methods to evaluate the impact of Roma integration actions and a review mechanism for the adaptation of the strategy. - is designed, implemented and monitored in close cooperation

			<p>and continuous dialogue with Roma civil society, regional and local authorities.</p> <ul style="list-style-type: none"> – Upon request and where necessary relevant stakeholders can be provided with support for submitting project applications and for implementing and managing the selected projects.
	<p>ESF: - Enhancing access to affordable, sustainable and high-quality health care</p> <p>ERDF: - investing in health infrastructure which contribute to national, regional and local development, reducing inequalities in terms of health status</p>	<p>10.3. <i>Health</i>: The existence of a national or regional strategic policy framework for health within the limits of Article 168 TFEU ensuring economic sustainability.</p>	<ul style="list-style-type: none"> – A national or regional strategic policy framework for health is in place that: <ul style="list-style-type: none"> – contains coordinated measures to improve access to health services; – contains measures to stimulate efficiency in the health sector through deployment of service delivery models and infrastructure; – contains a monitoring and review system. – A Member State or region has adopted a framework outlining available budgetary resources on an indicative basis and a cost-effective concentration of resources on prioritised needs for health care.

<p>11. Enhancing institutional capacity and efficient public administration (referred to in Article 9(11))</p>	<p>Member States administrative efficiency</p>	<p><i>Member States administrative efficiency:</i></p> <ul style="list-style-type: none"> - The existence of a strategic policy framework for reinforcing the Member State's administrative efficiency including public administration reform 	<ul style="list-style-type: none"> - A strategic policy framework for reinforcing a Member State's administrative efficiency with the following elements are in place and in the process of being implemented: <ul style="list-style-type: none"> - an analysis and strategic planning of legal, organisational and/or procedural reform actions; - the development of quality management systems; - integrated actions for simplification and rationalisation of administrative procedures; - the development and implementation of human resources strategies and policies covering identified main gaps in this field; - the development of skills; - the development of procedures and tools for monitoring and evaluation.
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ANNEX X (CPR)

IMPLEMENTATION OF FINANCIAL INSTRUMENTS:

FUNDING AGREEMENTS

1. **When a financial instrument is implemented under paragraphs 4(a) and 4(b) of Article 33 of this Regulation, the funding agreement shall include the terms and conditions for making contributions from the operational programme to the financial instrument and shall include at least the following elements:**
 - (a) **the investment strategy or policy including implementation arrangements, financial products to be offered, final recipients targeted, and envisaged combination with grant support (as appropriate);**
 - (b) **a business plan or equivalent documents for the financial instrument to be implemented, including the expected leverage effect referred to in Article 32(2);**
 - (c) **the target results the financial instrument concerned is expected to achieve to contribute to the specific objectives and results of the relevant priority or measure;**
 - (d) **provisions for monitoring of the implementation of investments and of deal flows including reporting by the financial instrument to the fund of funds and/or the managing authority to ensure compliance with Article 40;**
 - (e) **audit requirements, such as minimum requirements for documentation to be kept at the level of the financial instrument (and at the level of the fund of funds where appropriate), and requirements in relation to the maintenance of separate records for the different forms of support in compliance with Article 32(5) and (6) (where applicable), including provisions and requirements regarding access to documents by national audit authorities, Commission auditors and the European Court of Auditors in order to ensure a clear audit trail in accordance with Article 34;**
 - (f) **requirements and procedures for managing the phased contribution provided by the operational programme in accordance**

with Article 35 and for the forecast of deal flows, including requirements for fiduciary/separate accounting as set out in Article 33(8);

- (g) requirements and procedures for managing interest and other gains generated within the meaning of Article 37, including acceptable treasury operations/investments, and the responsibilities and liabilities of the parties concerned;**
- (h) provisions regarding the calculation and payment of management costs incurred or the management fees of the financial instrument;**
- (i) provisions regarding the re-utilisation of resources attributable to the support of the CSF Funds until the end of the eligibility period in compliance with Article 38;**
- (j) provisions regarding the use of resources attributable to the support of the CSF Funds following the end of the eligibility period in compliance with Article 39 and an exit policy for the contribution from the CSF Funds out of the financial instrument;**
- (k) conditions for a possible withdrawal or partial withdrawal of programme contributions from programmes to financial instruments, including the fund of funds where applicable;**
- (l) provisions to ensure that bodies implementing financial instruments manage financial instruments with independence and in accordance with the relevant professional standards, act in the exclusive interest of the parties providing contributions to the financial instrument;**
- (m) provisions for the winding-up of the financial instrument.**

In addition, where financial instruments are organised through a fund of funds, the funding agreement between the managing authority and the body that implements the fund of funds must also make provisions for the appraisal and selection of bodies implementing the financial instruments, including calls for expression of interest or public procurement procedures.

2. **Strategy documents referred to under Article 33(4) for financial instruments implemented under Article 33(4)(c) shall include at least the following elements:**
- (a) **the investment strategy or policy of the financial instrument, general terms and conditions of envisaged debt products, target recipients and actions to be supported;**
 - (b) **a business plan or equivalent documents for the financial instrument to be implemented, including the expected leverage effect referred to in Article 32(2);**
 - (c) **the use and re-use of resources attributable to the support of the CSF Funds in accordance with Articles 37, 38 and 39 of the CPR;**
 - (d) **monitoring and reporting of the implementation of the financial instrument to ensure compliance with Article 40;**
 - (e) **audit requirements, such as minimum requirements for documentation to be kept by the managing authority in order to ensure a clear audit trail (including requirements to access documents by national audit authorities, Commission auditors or European Court of Auditors).**

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Recital 4

- (4) In order to address the specific needs of the ERDF, and in line with the Europe 2020 strategy¹ that cohesion policy should support the need to deliver smart, sustainable and inclusive growth, it is necessary to set out within each thematic objective laid down in Article 9 of Regulation (EU) No [...] /2012 [CPR] 'investment priorities' **which shall set out detailed objectives, which are not mutually exclusive, to which the ERDF shall contribute. These investment priorities should form the basis for the definition of specific objectives within programmes that take into account the needs and characteristics of the programme area**².

New Recital

In order to maximise their contribution to the objective of supporting employment friendly growth, activities supporting sustainable tourism, culture and natural heritage should be part of a territorial strategy for specific areas, including the conversion of declining industrial regions. Support for such activities should also contribute to strengthening innovation and the use of ICT, SMEs, environment and resource efficiency or the promotion of social inclusion.

Chapter I

Article 3

Scope of support [...]

1. The ERDF shall support **the following activities in order to contribute to the investment priorities set out in Article 5:**
 - (a) productive investment, which contributes to creating and safeguarding sustainable jobs, through direct aid to investment in small and medium-sized enterprises (SMEs);
 - (b) Productive investment contributing to the investment priorities set out in Article 5.1 and 5.4 irrespectively of the size of the enterprise.**

¹ Communication from the Commission: Europe 2020 - A strategy for smart, sustainable and inclusive growth, COM(2010) 2020 final, 3.3.2010.

² Similar amendments to be added at a later stage to the CF, ETC and ESF recitals.

- (c) investments in infrastructure providing basic services to citizens in the areas of energy, environment, transport, and information and communication technologies (ICT);
- (d) investments in **business**, social, health, **research, innovation** and educational infrastructure;
- (e) **investment in the development of** endogenous potential **through** [...] fixed investment in equipment and small-scale infrastructure; [...] services to enterprises [...], support to [...] research and innovation bodies [...]; **and investment in technology and applied research in enterprises;**
- (f) networking, cooperation, **capacity building, studies, preparatory actions** and exchange of experience [...];

[...]

[...]

2. The ERDF shall not support:

- (a) the decommissioning of nuclear power stations;
- (b) **investment to achieve** the reduction of greenhouse gas emissions **from activities** falling under **annex 1 of** Directive 2003/87/EC;
- (c) the manufacturing, processing and marketing of tobacco and tobacco products;
- (d) undertakings in difficulties as defined under Union State aid rules.

3. **Under the European Territorial Cooperation goal, the ERDF may support the sharing of human resources and facilities and all types of infrastructure across borders in all regions.**

Article 4

Thematic concentration

- 1.** The thematic objectives set out in Article 9 of Regulation (EU) No [...]/2012 [CPR] and corresponding investment priorities set out in Article 5 of this Regulation to which the ERDF may contribute **under the investment for jobs and growth goal** shall be concentrated as follows:
 - (a) in more developed regions and [transition regions]³:

³ To be reviewed at a later stage depending on the outcome of the MFF/negotiating box.

- (i) at least 80% of the total ERDF resources at national level shall be allocated to **one or more of** the thematic objectives set out in points 1, **2**, 3 and 4 of Article 9 of Regulation (EU) No [...] /2012 [CPR] ; and
 - (ii) at least 20% of the total ERDF resources at national level shall be allocated to the thematic objective set out in point 4 of Article 9 of Regulation (EU) No [...] /2012 [CPR] ;
- (b) in less developed regions:
- (i) at least 50% of the total ERDF resources at national level shall be allocated to **one or more of** the thematic objectives set in out in point 1, **2**, 3 and 4 of Article 9 of Regulation (EU) No [...] /2012 [CPR] .
 - (ii) at least **10%** of the total ERDF resources at national level shall be allocated to the thematic objective set out in point 4 of Article 9 of Regulation (EU) No [...] /2012 [CPR].

By derogation from point (a) (i), in those regions whose GDP per capita for the 2007-13 period was less than 75% of the average GDP of the EU-25 for the reference period but which are eligible under the category of [transition]⁴ or more developed regions as defined in Article 82(2)(b) and (c) of Regulation (EU) No []/2012 [CPR] in the 2014-2020 period, at least 60% of the total ERDF resources at national level shall be allocated to **one or more** of the thematic objectives set in out in points 1, **2**, 3 and 4 of Article 9 of Regulation (EU) No [...] /2012 [CPR].

2. By way of derogation the minimum ERDF share allocated to a category of region may be lower than set out in paragraph 1 provided that such a decrease is compensated by an increase in other categories of regions. The resulting sum at national level of the amounts for all categories of region respectively for:

- (a) **the thematic objectives set out in points 1, 2, 3 and 4 of Article 9 of Regulation (EU) No [...] /2012 [CPR] and;**
- (b) **the thematic objective set out in point 4 of Article 9 of Regulation (EU) No [...] /2012 [CPR];**

shall accordingly not be less than the sum at national level resulting from applying the minimum ERDF shares set out in paragraph 1.

⁴ To be reviewed at a later stage depending on the outcome of the MFF/negotiating box.

- 3. By way of derogation, Cohesion Fund resources allocated to supporting the investment priorities set out in Article 3(a)(i) and (iii) of Regulation (EU) No [...] /2012 [CF] may be counted towards achieving the minimum shares set out in paragraph 1(a)(ii) and 1(b)(ii). In such a case, the share referred to in paragraph 1(b)(ii) shall be increased to 12%. Where applicable, these resources shall be allocated *pro rata* to the different categories of region based on their relative shares of the total population of the Member State concerned.**

Article 5

Investment priorities

The ERDF shall support the following investment priorities within the thematic objectives set out in Article 9 of Regulation (EU) No [...] /2012 [CPR]:

- (1) strengthening research, technological development and innovation **through**:
 - (a) enhancing research and innovation **(R&I)** infrastructure [...] and capacities to develop R&I excellence and promoting centres of competence, in particular those of European interest;
 - (b) promoting business [...] investment **in innovation and research, and developing links and synergies between enterprises, R&D centres and higher education, in particular** product and service development, technology transfer, social innovation and public service applications, demand stimulation, networking, clusters and open innovation through smart specialisation [...] supporting technological and applied research, pilot lines, early product validation actions, advanced manufacturing capabilities and first production in Key Enabling Technologies and diffusion of general purpose technologies;
- (2) enhancing access to and use and quality of ICT **through**:
 - (a) extending broadband deployment and the roll-out of high-speed networks **and supporting the adoption of emerging technologies and networks for the digital economy**;
 - (b) developing ICT products and services, e-commerce and enhancing demand for ICT;
 - (c) strengthening ICT applications for e-government, e-learning, e-inclusion, **e-culture** and e-health;
- (3) enhancing the competitiveness of SMEs **through**:
 - (a) promoting entrepreneurship, in particular by facilitating the economic exploitation of new ideas and fostering the creation of new firms, **including through business incubators**;

- (b) developing **and implementing** new business models for SMEs, in particular for internationalisation;
 - (c) **supporting the creation and the extension of advanced capacities for product and service development;**
 - (d) **supporting the capacity of SMEs to engage in growth and innovation processes;**
- (4) supporting the shift towards a low-carbon economy in all sectors **through**:
- (a) promoting the production and distribution of renewable energy sources;
 - (b) promoting energy efficiency and renewable energy use in **enterprises**;
 - (c) supporting energy efficiency and renewable energy use in public infrastructures, **including in public buildings** and in the housing sector;
 - (d) developing **and implementing** smart distribution systems at low **and medium** voltage levels;
 - (e) promoting low-carbon strategies for **all types of territories, in particular** urban areas, **including the promotion of sustainable urban mobility and mitigation relevant adaptation measures**;
 - (f) **promoting research, innovation and adoption of low-carbon technologies;**
 - (g) **promoting the use of high-efficiency co-generation of heat and power based on useful heat demand;**
- (5) promoting climate change adaptation, risk prevention and management **through**:
- (a) supporting [...] investment for adaptation to climate change;
 - (b) promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems;
- (6) protecting the environment and promoting resource efficiency, **through**:
- (a) addressing the significant needs for investment in the waste sector to meet the requirements of the **Union's** environmental *acquis*;
 - (b) addressing the significant needs for investment in the water sector to meet the requirements of the **Union's** environmental *acquis*;
 - (c) protecting, promoting and developing cultural **and natural** heritage;

- (d) protecting **and restoring** biodiversity, soil protection **and restoration** and promoting ecosystem services including NATURA 2000⁵ and green infrastructures;
- (e) action to improve the urban environment, [...] regeneration of brownfield sites and reduction of air pollution;
- (f) promoting innovative technologies to improve environmental protection and resource efficiency in the waste sector, water sector, soil protection or to reduce air pollution;**
- (g) supporting industrial transition towards a resource-efficient economy and promoting green growth;**
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures **through:**
 - (a) supporting a multimodal Single European Transport Area by investing in the Trans-European Transport Network (TEN-T) network;
 - (b) enhancing regional mobility through connecting secondary and tertiary nodes to TEN-T infrastructure;
 - (c) developing environment-friendly and low-carbon transport systems **including river and sea transport, ports and multimodal links [...];**
 - (d) developing **and rehabilitating** comprehensive, high quality and interoperable railway system;
 - (e) developing smart gas and power distribution, storage and transmission systems;**
- (8) promoting employment and supporting labour mobility **through:**
 - (a) development of business incubators and investment support for self-employment, **micro-enterprises** and business creation;
 - (b) supporting employment friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to and development of specific natural and cultural resources;**

⁵ Set up as a coherent European ecological network of special areas of conservation pursuant to Article 3(1) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206, 22.7.1992, p. 7.

- (c) local development initiatives and aid for structures providing neighbourhood services to create new jobs, where such actions are outside the scope of Regulation (EU) No [...]/2012 [ESF];
- (c) investing in infrastructure for public employment services;
- (9) promoting social inclusion and combating poverty **through**:
 - (a) investing in health and social infrastructure which contribute to national, regional and local development, reducing inequalities in terms of health status, and transition from institutional to community-based services;
 - (b) support for physical [...] economic **and social** regeneration of deprived urban and rural communities **and areas**;
 - (c) support for social enterprises;
- (10) investing in education, skills and lifelong learning by developing education and training infrastructure;
- (11) enhancing institutional capacity and an efficient public administration by strengthening of institutional capacity and the efficiency of public administrations and public services related to implementation of the ERDF, and in support of actions in institutional capacity and in the efficiency of public administration supported by the ESF.

Chapter III

Specific provisions on the treatment of particular territorial features

Article 11

Outermost regions

1. The specific additional allocation for the outermost regions shall **not be subject to Article 4 and** be used to offset the additional costs, linked to the **characteristics and constraints** referred **to** in Article 349 of the Treaty **on the Functioning of the European Union**, incurred in the outermost regions in supporting:
 - (a) the thematic objectives set out in Article 9 of Regulation (EU) No [...]/2012 [CPR];
 - (b) freight transport services and start-up aid for transport services;
 - (c) operations linked to storage constraints, the excessive size and maintenance of production tools, and lack of human capital in the local market.
- [...].

2. The specific additional allocation may also be used to help finance operating aid and expenditure covering public service obligations and contracts in the outermost regions.
3. The amount to which the rate of co-financing applies shall be proportionate to the additional costs referred to in paragraph 1 incurred by the beneficiary in the case of operating aid and expenditure covering public service obligations and contracts only, and may cover the total eligible costs in the case of expenditure for investment.
4. Financing under this Article shall not be used to support:
 - (a) operations involving products falling within Annex I to the Treaty **on the Functioning of the European Union**;
 - (b) aids to transport of persons authorised under Article 107(2)(a) of the Treaty **on the Functioning of the European Union**;
 - (c) tax exemptions and exemption of social charges.
5. **By derogation from Article 3(1), points a) and b), the ERDF may support productive investments in enterprises in the outermost regions, irrespectively of their size.**

Art. 11 bis

Northern sparsely populated regions

The specific additional allocation for the Northern sparsely populated regions shall not be subject to Article 4 and shall be allocated to the thematic objectives set out in points 1, 2, 3, 4 and 7 of Article 9 of Regulation EU No.../2012 (CPR).

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CHAPTER II

THEMATIC CONCENTRATION AND INVESTMENT PRIORITIES

Article 5

Thematic concentration

- 1. At least 80% of the ERDF allocation to each cross-border cooperation and transnational programme** shall be concentrated **on** up to 4 thematic objectives **set out** in Article 9 of Regulation (EU) No [...]/2012 [the CPR] [...];
- 2.** All thematic objectives may be selected for interregional cooperation programmes pursuant to Article 2(3)(a).

Article 6

Investment priorities

In addition to **the investment priorities set out in** Article 5 of Regulation (EU) No [...]/2012 [the ERDF Regulation], the ERDF **may** support [...] the following investment priorities within the thematic objectives:

- (a) under cross-border cooperation:
 - (i) integrating cross-border labour markets, including cross-border mobility, joint local employment initiatives and joint training (within the thematic objective of promoting employment and supporting labour mobility);
 - (ii) promoting gender equality and equal opportunities across borders, as well as promoting social inclusion across borders (within the thematic objective of promoting social inclusion and combating poverty);
 - (iii) developing and implementing joint education and training schemes (within the thematic objective of investing in skills, education and lifelong learning);

- (iv) promoting legal and administrative cooperation and cooperation between citizens and institutions (within the thematic objective of enhancing institutional capacity and an efficient public administration);
- (b) under transnational cooperation: development and **coordination** of macro-regional and sea-basin strategies (within the thematic objective of enhancing institutional capacity and an efficient public administration).
- (c) **In the case of any cross-border programme between Northern Ireland and the border counties of Ireland in support of peace and reconciliation, the ERDF shall also contribute to promote social and economic stability in the regions concerned, notably by actions to promote cohesion between communities (within the thematic objective of promoting social inclusion and combating poverty).**

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.

CHAPTER VI

ELIGIBILITY

Article 17

General rules on eligibility of expenditure

1. The Commission shall [...] adopt delegated acts in accordance with Article 29 to set **up** [...] specific rules on eligibility of expenditure for cooperation programmes **with regard to staff costs, office and administrative expenditure, travel and accommodation costs,**

external expertise and services costs and equipment expenditure. The Commission shall notify the delegated acts, adopted in accordance with article 29, simultaneously to the European Parliament and to the Council within four months of the adoption of this Regulation.

2. Without prejudice to the eligibility rules laid down in or on the basis of Articles 55 to 61 of Regulation (EU) No [...]/2012 [CPR], Regulation (EU) No [...]/2012 [ERDF], [...] this Regulation **or the delegated act, referred to in paragraph (1), the participating Member States in the monitoring committee,** shall establish **additional** eligibility rules for the cooperation programme as a whole.
3. For matters not covered by eligibility rules laid down in or on the basis of Articles 55 to 61 of Regulation (EU) No [...]/2012 [CPR], Regulation (EU) No [...]/2012 [ERDF], **in the delegated act referred to in paragraph (1) or in rules, established jointly by the participating Member States in accordance with paragraph (2),** the national rules of the **Member State** in which the expenditure is incurred shall apply.

Article 18

Staff costs

Staff costs of an operation may be calculated as a flat rate of up to **20** % of the direct costs other than the staff costs of that operation.

Article 19

Eligibility of operations in cooperation programmes depending on location

1. Operations under cooperation programmes, subject to the derogations referred to in paragraphs 2 and 3, shall be located in the part of the programme area comprising Union territory (the "Union part of the programme area").
2. The managing authority may accept that all or part of an operation is implemented outside the Union part of the programme area, provided that all the following conditions are satisfied:
 - (a) the operation is for the benefit of the programme area;

- (b) the total amount allocated under the cooperation programme to operations located outside the Union part programme area does not exceed 20% of the support from the ERDF at programme level, or 30% in the case of cooperation programmes for which the Union part of the programme consists of outermost regions;
 - (c) the obligations of the managing and audit authorities in relation to management, control and audit concerning the operation are fulfilled by the cooperation programme authorities or they enter into agreements with authorities in the Member State or third country or territory in which the operation is implemented.
3. For operations concerning promotional activities and capacity-building, expenditure may be incurred outside the Union part of the programme area provided that the conditions in paragraphs 2(a) and 2(c) are fulfilled.

CHAPTER VII

MANAGEMENT, CONTROL AND ACCREDITATION

Article 20

Designation of authorities

1. For the purposes of Articles 113(1) [...] of Regulation (EU) No [...]/2012 [CPR], Member States participating in a cooperation programme shall appoint a single managing authority [...], **for the purpose of Article 113(2) of that Regulation, a single certifying authority, and** for the purpose of Article 113(4) of that Regulation, a single audit authority. **The managing authority and the audit authority** shall be situated in the same Member State. **The Member States participating in a cooperation programme may designate the single managing authority to carry out the functions of the certifying authority. The appointments are without prejudice to the apportionment of liabilities in relation to the application of financial corrections among the participating Member States as laid down in the cooperation programme.**
2. The **certifying** authority shall receive the payments made by the Commission and shall, **as a general rule,** make payments to the lead beneficiary in accordance with Article 122 of Regulation (EU) No [...]/2012 [CPR].

Article 21

European grouping of territorial cooperation

Member States participating in a cooperation programme may make use of an EGTC with a view to making the grouping responsible for managing the cooperation programme or part thereof, notably by conferring on it the responsibilities of a managing authority.

Article 22

Functions of the managing authority

1. The managing authority of a cooperation programme shall carry out the functions [...] laid down in Article 114 [...] of Regulation (EU) No [...]/2012 [CPR], **without prejudice to paragraph 4 of this Article.**
2. The managing authority, after consultation with the Member States and any third countries participating in a cooperation programme, shall set up a joint secretariat.

The joint secretariat shall assist the managing authority and the monitoring committee in carrying out their respective functions. The joint secretariat shall also provide information to potential beneficiaries about funding opportunities under cooperation programmes and shall assist beneficiaries in the implementation of operations.

3. Verifications under Article 114(4)(a) of Regulation (EU) No [...]/2012 [CPR] shall be carried out by the managing authority for the whole programme area where the managing authority is an EGTC.
4. Where the managing authority **does** not carry out verifications under Article 114(4)(a) of Regulation (EU) No [...]/2012 [CPR] throughout the whole programme area, each Member State or, **when it has accepted the invitation to participate in the cooperation programme, the** third country shall designate the body or person responsible for carrying out such verifications in relation to beneficiaries on its territory ("controller(s)"). **In this connection, the managing authority shall satisfy itself that the expenditure of each beneficiary participating in an operation has been verified by a designated controller. Each Member State shall ensure that the expenditure can be verified within a period of three months from the submission of the documents by the beneficiary.**

Those controllers **may** [...] be the same bodies responsible for carrying out such verifications for the operational programmes under the Investment for growth and jobs goal or, in the case of third countries, for carrying out comparable verifications under external policy instruments of the Union.

Each Member State or, **when it has accepted the invitation to participate in the cooperation programme, the** third country shall be responsible for verifications carried out on its territory.

5. Where the delivery of co-financed products or services can be verified only in respect of an entire operation, the verification shall be performed by the managing authority or by the controller of the Member State where the lead beneficiary is located.

Article 22 bis

Functions of the certifying authority

The certifying authority of a cooperation programme shall carry out the functions laid down in Article 115 of Regulation (EU) No [...] /2012 [CPR].

Article 23

Functions of the audit authority

1. The Member States and third countries participating in a cooperation programme may decide that the audit authority is authorised to carry out directly the functions provided for in Article 116 of Regulation (EU) No [...] /2012 [CPR] in the whole of the territory covered by a cooperation programme. They shall specify when the audit authority shall be accompanied by an auditor of a Member State or a third country.
2. Where the audit authority does not have the authorisation referred to in paragraph 1, it shall be assisted by a group of auditors composed of a representative from each Member State or third country participating in the cooperation programme and carrying out the functions provided for in Article 116 of Regulation (EU) No [...] /2012 [CPR]. **Each Member State or third country shall be responsible for audits carried out on its territory.**

Each representative shall be responsible for providing the factual elements relating to expenditure on its territory that is required by the audit authority in order to perform its assessment.

The group of auditors shall be set up at the latest within three months of the decision approving the cooperation programme. It shall draw up its own rules of procedure and be chaired by the audit authority for the cooperation programme.

3. The auditors shall be functionally independent from controllers who carry out verifications under Article 22.

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Chapter I

General provisions

Article 3

Investment priorities

1. Under the thematic objectives listed below, and in accordance with Article 9 of Regulation (EU) No [...], the ESF shall support the following investment priorities:
 - (a) Promoting employment and supporting labour mobility through:
 - (i) Access to employment for job-seekers and inactive people, including local employment initiatives and support for labour mobility;
 - (ii) Sustainable integration of young people, **in particular those** not in employment, education or training into the labour market;
 - (iii) Self-employment, entrepreneurship and business creation;
 - (iv) Equality between men and women and reconciliation between work and private life;
 - (v) Adaptation of workers, enterprises and entrepreneurs to change;
 - (vi) Active and healthy ageing;
 - (vii) Modernisation and strengthening of labour market institutions, including actions to enhance transnational labour mobility;
 - (b)**¹ Promoting social inclusion and combating poverty through:
 - (i) Active inclusion **in particular with a view to improving employability**;
 - (ii) Integration of marginalised communities such as the Roma;
 - (iii) Combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;

¹ Point "(b)" has originally been point "(c)".

- (iv) Enhancing access to affordable, sustainable and high-quality services, including health care and social services of general interest;
 - (v) Promoting the social economy and social enterprises;
 - (vi) Community-led local development strategies;
- (c)** Investing in education, skills and life-long learning through:
- (i) **Preventing and** reducing early school-leaving; [...] promoting equal access to good-quality early-childhood, primary and secondary education;
 - (ii) Improving the quality, efficiency and openness of tertiary and equivalent education with a view to increasing participation and attainment levels;
 - (iii) Enhancing access to lifelong learning, upgrading the skills and competences of the workforce and increasing the labour market relevance of education and training systems; **including improving the quality of vocational education and training and the establishment and development of work-based learning and apprenticeship schemes such as dual learning systems.**
- (d) Enhancing institutional capacity and efficient public administration through:
- (i) Investment in institutional capacity and in the efficiency of public administrations and public services with a view to reforms, better regulation and good governance;

This investment priority is only applicable throughout the territory of the Member States which have at least one NUTS level 2 region as defined in Article 82(2)(a) of Regulation (EU) No [...] or in Member States eligible for Cohesion Fund support;
 - (ii) Capacity building for stakeholders delivering employment, education and social policies and sectoral and territorial pacts to mobilise for reform at national, regional and local level.
2. Through the investment priorities listed in paragraph 1, the ESF shall also contribute to the other thematic objectives listed in Article 9 of Regulation (EU) No [...], primarily by:
- (a) Supporting the shift towards a low-carbon, climate-resilient, resource-efficient and environmentally sustainable economy, through reform of education and training systems, adaptation of skills and qualifications, up-skilling of the labour force, and the creation of new jobs in sectors related to the environment and energy;

- (b) Enhancing the accessibility, use and quality of information and communication technologies, through the development of digital literacy **and e-learning**, investment in e-inclusion, e-skills and related entrepreneurial skills;
- (c) Strengthening research, technological development and innovation, through the development of post-graduate studies, the training of researchers, networking activities and partnerships between higher education institutions, research and technological centres and enterprises;
- (d) Enhancing the competitiveness of small and medium-sized enterprises, through promoting the adaptability of enterprises and workers and increased investment in human capital.

Article 4

Consistency and thematic concentration

1. Member States shall ensure that the strategy and actions set out in the Operational Programmes are consistent and focused on addressing the challenges identified in the National Reform Programmes and the relevant Council Recommendations made under Article 148(4) of the Treaty **on the Functioning of the European Union**, in order to contribute to achieving the headline targets of the Europe 2020 strategy on employment, education and poverty reduction.
2. At least 20% of the total ESF resources in each Member State shall be allocated to the thematic objective "promoting social inclusion and combating poverty" set out in Article 9(9) of Regulation (EU) No [...]. **By way of derogation, resources allocated from the ERDF to the thematic objective set out in point (9) of Article 9 of Regulation (EU) No [..]/2012 [CPR] may be counted towards compliance with the minimum share set out in this paragraph.**
3. Member States shall pursue thematic concentration according to the following modalities:
 - (a) For more developed regions, Member States shall concentrate **at least** 80% of the ESF allocation to each operational programme on up to four of the investment priorities set out in Article 3(1).
 - (b) For [transition regions]², Member States shall concentrate **at least** 70% of the ESF allocation to each operational programme on up to four of the investment priorities set out in Article 3(1).

² To be reviewed at a later stage depending on the outcome of the MFF/negotiating box.

- (c) For less developed regions, Member States shall concentrate **at least** 60 % of the ESF allocation to each operational programme on up to four of the investment priorities set out in Article 3(1).

By way of derogation, operational programmes that cover the entire territory of a Member State shall concentrate the applicable share set out above on up to five of the investment priorities set out in Article 3(1).

The priority axes referred to in Article 11 (1) shall be excluded from the calculation of the percentages specified in art. 4(2) and (3).

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.

Chapter III

Specific provisions for financial management

Article 13

Eligibility of expenditure

1. The ESF shall provide support for eligible expenditure, which, notwithstanding Article 110(2)(b) of Regulation (EU) No [...], may include any financial resources collectively constituted by employers and workers.

 2. The ESF may provide support for expenditure incurred for operations which take place outside the programme area, but within the Union, provided that the two following conditions are satisfied:
 - (a) the operation is for the benefit of the programme area;
 - (b) the obligations of the authorities for the programme in relation to management, control and audit concerning the operation are fulfilled by the authorities responsible for the programme under which that operation is supported or they enter into agreements with authorities in the Member State in which the operation is implemented provided that the conditions set out in paragraph 2 (a) and the obligations in relation to management, control and audit concerning the operation are fulfilled.
- Within 5% of the budget of the ESF operational programme, expenditure under such operations and provided they concern research and innovation, education and training is eligible outside the Union if incurred and paid according to the Member state and EU rules applicable to the operational programme. If a programme is funded through more than one fund, cf. art. 87(1) of Regulation (EU) No [CPR...] the maximum of 5% is calculated on the basis of the allocation to the programme from the ESF.**
3. In addition to the expenditure referred to in Article 59(3) of Regulation (EU) No [...], the purchase of infrastructure, land and real estate shall not be eligible for a contribution from the ESF.

 4. Contributions in kind in the form of allowances or salaries disbursed by a third party for the benefit of the participants in an operation may be eligible for a contribution from the ESF provided that its value does not exceed the cost borne by the third party and that it is incurred in accordance with national rules, including accountancy rules.

Article 14

Simplified cost options

1. In addition to the methods referred to in Article 57 of Regulation (EU) No [...], the Commission may reimburse expenditure paid by Member States on the basis of standard scales of unit costs and lump sums defined by the Commission. The amounts calculated on this basis shall be regarded as public support paid to beneficiaries and as eligible expenditure for the purpose of applying **Regulation (EU) No (..) /2012 (CPR)**.

For this purpose the Commission shall be empowered to adopt delegated acts in accordance with Article 16 concerning the type of operations covered, the definitions of the standard scales of unit costs and lump sums and their maximum amounts, which may be adjusted according to the applicable commonly agreed methods.

Financial audit shall exclusively aim at verifying that the conditions for reimbursements by the Commission on the basis of standard scales of unit costs and lump sums have been fulfilled.

Where these forms of funding are used, the Member State may apply its accounting practices to support operations. For the purpose of this regulation and Regulation (EU) No [...] these accounting practices and the resulting amounts shall not be subject to audit by the audit authority or by the Commission.

2. In accordance with Article 57(1)(d) and (4)(d) of Regulation (EU) No [...], a flat rate of up to 40% of the eligible direct staff costs may be used in order to cover the remaining eligible costs of an operation **without a requirement for the Member State to execute any calculation to determine the applicable rate.**
3. **In addition to the methods stipulated in Article 57(4) of Regulation (EU) No [...], where the public support for grants and repayable assistance does not exceed EUR 100 000, the amounts referred to in paragraph 57(1) (b), (c) and (d) of Regulation (EU) No [...] may be established on a case-by-case basis by reference to a draft budget agreed ex-ante by the Managing Authority.**
4. Grants for which the public support does not exceed EUR 50 000 shall take the form of lump sums, [...] standard scales of unit costs in accordance with paragraph 1 or Article 57 of Regulation (EU) No [...] **or flat rates**, except for operations receiving support within the framework of a state aid scheme. **Where flat rate financing is used, the categories of costs which are used to calculate the rate, are reimbursed in accordance with Article 57(1) (a) of Regulation (EU) No (..) /2012 (CPR).**

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Recital 3

- (3) The Union may, through the Cohesion Fund, contribute to actions in pursuit of the Union's environmental objectives specified in Articles 11 and 191 of the Treaty **on the Functioning of the European Union, including the development of environment friendly and low carbon transport systems outside the Trans-European networks namely river and sea transport, including ports, intermodal transport systems, and their interoperability, management of road, sea and air traffic, clean urban transport and public transport.**

Article 2

Scope of support from the Cohesion Fund

1. The Cohesion Fund shall, while ensuring an appropriate balance and according to the investment and infrastructure needs specific to each Member State, support:
 - (a) investments in the environment, including areas related to sustainable development and energy which present environmental benefits;
 - (b) trans-European networks in the area of transport infrastructure, in compliance with the guidelines adopted by Decision No 661/2010/EU;
 - (c) technical assistance.
2. The Cohesion Fund shall not support:
 - (a) the decommissioning of nuclear power stations;
 - (b) **investment to achieve** the reduction of greenhouse gas emissions **from activities** falling under **annex I of** Directive 2003/87/EC;
 - (c) housing **except for promoting energy efficiency and renewable energy use.**

Article 3

Investment priorities

In accordance with Article 16 of Regulation (EU) No [...] /2012 [CPR], the Cohesion Fund shall support the following investment priorities within the thematic objectives set out in Article 9 of Regulation (EU) No [...] /2012 [CPR]:

- (a) supporting the shift towards a low-carbon economy in all sectors by:
 - (i) promoting the production and distribution of renewable energy sources;

- (ii) promoting energy efficiency and renewable energy use in [...] enterprises;
 - (iii) supporting energy efficiency and renewable energy use in public infrastructures **and in the housing sector**;
 - (iv) developing smart distribution systems at low **and medium** voltage levels;
 - (v) promoting low-carbon strategies for **all types of territories, in particular** urban areas, **including the promotion of sustainable urban mobility and mitigation relevant adaptation measures**;
- (b) promoting climate change adaptation, risk prevention and management by:
- (i) supporting [...] investment for adaptation to climate change;
 - (ii) promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems;
- (c) protecting the environment and promoting resource efficiency by:
- (i) addressing the significant needs for investment in the waste sector to meet the requirements of the Union's environmental *acquis*;
 - (ii) addressing the significant needs for investment in the water sector to meet the requirements of the Union's environmental *acquis*;
 - (iii) protecting and restoring biodiversity, including through green infrastructures;
 - (iv) improving the urban environment, [...] regeneration of brownfield sites and reduction of air pollution.
- (d) promoting sustainable transport and removing bottlenecks in key network infrastructures, by:
- (i) supporting a multi-modal Single European Transport Area by investing in the Trans-European Transport Network;
 - (ii) developing environment-friendly and low-carbon transport systems **and** promoting sustainable urban mobility, **including river and sea transport, ports and multimodal links**;
 - (iii) developing **and rehabilitating** comprehensive, high quality and interoperable railway systems;
- (e) enhancing institutional capacity and an efficient public administration by strengthening of institutional capacity and the efficiency of public administrations and public services related to implementation of the Cohesion Fund.

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Čl. 4 Obecné zásady		
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Čl. 110 Stanovení míry spolufinancování		
Čl. 112 – 116 Zodpovědnost ČS za nastavení řídicích a kontrolních systémů		
Čl. 117 Udělení a odejmutí akreditace		
Čl. 118 Spolupráce s auditními orgány		
Čl. 119 – 127 Finanční řízení		
Čl. 128 – 132 Zúčtování		
Čl. 133 Uzavírání OP		
Čl. 134 Pozastavení plateb		
Čl. 135 Finanční opravy ČS		
Čl. 136 – 139 Finanční opravy EK		
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Příloha I. Způsob stanovení výkonnostního rámce		
Příloha IV. Ex-ante kondicionality		
Příloha X (CPR) Provádění finančních nástrojů		
Příloha XXX Definice paušální sazby pro operace vytvářející čisté příjmy		

Nařízení o ERDF

Článek	Stav projednání	Poznámka
Čl. 1 Předmět		
Čl. 2 Úkoly EFRR		
Čl. 3 Rozsah podpory z EFRR		
Čl. 4 Tematické zaměření		
Čl. 5 Investiční priority		
Čl. 6 Ukazatele pro cíl „Investice pro růst a zaměstnanost“		
Čl. 7 Udržitelný rozvoj měst		
Čl. 8 Platforma pro rozvoj		

měst		
Čl. 9 Inovační opatření v oblasti udržitelného rozvoje měst		
Čl. 10 Oblasti znevýhodněné přírodními nebo demografickými podmínkami		
Čl. 11 Nejvzdálenější regiony		
Čl. 12 Přechodná ustanovení		
Čl. 13 Výkon přenesené pravomoci		
Čl. 14 Postup projednávání ve výborech		
Čl. 15 Zrušení		
Čl. 16 Přezkum		
Čl. 17 Vstup v platnost		

Nařízení o ESF

Článek	Stav projednání	Poznámka
Čl. 1 Předmět		
Čl. 2 Poslání		
Čl. 3 Rozsah pomoci		
Čl. 4 Provázanost a tematické zaměření		
Čl. 5 Ukazatele		
Čl. 6 Zapojení partnerů		
Čl. 7 Podpora rovnosti žen a mužů		
Čl. 8 Podpora rovných příležitostí a nediskriminace		
Čl. 9 Sociální inovace		
Čl. 10 Nadnárodní spolupráce		
Čl. 11 Zvláštní ustanovení fondu týkající se OP		
Čl. 12 Zvláštní ustanovení pro území se zvláštní charakteristikou		
Čl. 13 Způsobilost výdajů		
Čl. 14 Zjednodušené vykazování nákladů		
Čl. 15 Finanční nástroje		
Čl. 16 Výkon přenesené pravomoci		
Čl. 17 Zrušení		

Čl. 18 Ustanovení o přezkumu		
Čl. 19 Platnost		

Nařízení o Fondu soudržnosti

Článek	Stav projednání	Poznámka
Čl. 1 Předmět		
Čl. 2 Rozsah podpory z Fondu soudržnosti		
Čl. 3 Investiční priority		
Čl. 4 Ukazatele		
Čl. 5 Přejícná ustanovení		
Čl. 6 Zrušení		
Čl. 7 Přezkum		
Čl. 8 Vstup v platnost		

Nařízení o EÚS

Článek	Stav projednání	Poznámka
Čl. 1 Působnost		
Čl. 2 Složky cíle evropská EÚS		
Čl. 3 Zeměpisné pokrytí		
Čl. 4 Zdroje pro evropskou územní spolupráci		
Čl. 5 Tematické soustředění		
Čl. 6 Investiční priority		
Čl. 7 Obsah programů spolupráce		
Čl. 8 Společný akční plán		
Čl. 9 Místní rozvoj se zapojením místních komunit		
Čl. 10 Integrované územní investice		
Čl. 11 Výběr operací		
Čl. 12 Příjemci		
Čl. 13 Zprávy o provádění		
Čl. 14 Každoroční přezkum		
Čl. 15 Ukazatele pro cíl EÚS		
Čl. 16 Technická pomoc		
Čl. 17 Způsobilost výdajů		
Čl. 18 Náklady na zaměstnance		
Čl. 19 Způsobilost operací		
Čl. 20 Určení orgánů		
Čl. 21 Evropské seskupení pro územní spolupráci		

Čl. 22 Funkce řídicího orgánu		
Čl. 23 Funkce auditního orgánu		
Čl. 24 Akreditace		
Čl. 25 Rozpočtové závazky platby a zpětně získávané prostředky		
Čl. 26 Použití Eura		
Čl. 27 Zrušení závazků		
Čl. 28 Účast třetích zemí		
Čl. 29 Výkon přenesené pravomoci		
Čl. 30 Postup projednávání ve výboru		
Čl. 31 Přejícná ustanovení		
Čl. 32 Přezkum		
Čl. 33 Platnost		

Zeleně označené články byly projednány na SAWP a dne 24. 4. 2012 byly předběžně schváleny Radou GAC.

Modře označené články byly projednány na SAWP a dne 26. 6. 2012 budou předběžně schváleny Radou GAC.

Červeně označené články nebyly zatím projednány.

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